

# the social contract

*/ˈtʰeɪ/ /'səʊʃəl/ /'kɒn trækt/*

*noun. 1: An agreement among the members of an organized society*

volume nine - 2013/2014

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WESTERN UNIVERSITY'S UNDERGRADUATE  
POLITICAL SCIENCE ACADEMIC JOURNAL

**The Social Contract** | Stan-McCallum Marketing & Design | **April 2014** *Western University, Canada*

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## LETTER FROM THE EDITOR



*I am proud and honored to present The Social Contract in its ninth year of publication. As an academic journal, The Social Contract has grown enormously in my time at Western University, becoming an important fixture in the Department of Political Science. This publication not only allows us to recognize the achievements of our published authors but also serves as a valuable tool for all Political Science students by providing examples of outstanding essays written by fellow undergraduates.*

*The publication of The Social Contract this year would not have been possible without the hard work and input of countless students that have volunteered endless hours, sleepless nights and very short deadlines. I would like to thank each of the section editors for dedicating their time and effort to reading the submissions and for lending their invaluable insights to the published essays. To the Editorial Board—Rishita and Danika, I cannot thank you enough for your commitment and enthusiasm throughout this entire process, regardless of the short time span we had. I look forward to seeing The Social Contract grow into its tenth milestone year under the exceptional leadership of you two individuals, who will assume the role of Co-Editors-in-Chief next year. I would also like to thank Professor Nigmendra Narain, without whose support and guidance the journal could never have made it this far. Also, a huge thank you to our design director this year Gregory Rogers who put together an incredibly aesthetically pleasing journal and allowed me to be meticulous and shared my attention to detail while putting together a piece of art. Finally, thank you to all those who submitted their essays. The quality of papers we received was outstanding, and I could not be more proud to call myself a Political Science student and be graduating amongst such a bright set of individuals.*

*The diversity of topics and perspectives represented in this volume of The Social Contract will no doubt engage, stimulate, and trouble readers. My hope is that the discussions sparked by these essays will help foster a vibrant public sphere in which old ideas are challenged and new ideas are born. To any first year student who has picked up this journal, I encourage you to read these essays, learn from them, and question them. Perhaps the most exciting part of being a member of this Department is grappling with the complex issues of the day, and I hope The Social Contract serves as an example of the kind of relevant and fascinating work you can accomplish as a student of politics. As a writer myself, all I can hope for is for what I scribe to resonate with and inspire people to think beyond my own words and into their own thoughts. While writing can be a highly cathartic mechanism, you want it to send waves down readers and cause their perspectives to shift like tectonic plates. At that point you know you have added something of substance to the dialogue.*

*Best wishes,*

*Dana El-Tavil  
Editor-in-Chief*



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# SPECIAL THANKS

## POLITICAL SCIENCE DEPARTMENT

*We would like to thank the Political Science Department, Professor Nigmendra Narain, and Professor Charles Jones for providing this platform to showcase undergraduate writing.*

## SOCIAL SCIENCE STUDENT'S COUNCIL

*We would like to thank the Social Science Student's Council and the Finance Committee for their significant contribution to assisting in the publication of this journal.*



## MEETING OF THE MASKS: BILL C-309 AND THE PRESERVATION OF THE CANADIAN LEVIATHAN

A CRIMINAL PRICE IS BEING PUT, NOT ON THE HEADS OF PROTESTERS,  
BUT ON THEIR FACELESSNESS.

Written By Philip Henderson

### ABSTRACT

*In 2011, following a series of protests in which faces became increasingly opaque, the Canada Conservative Party introduced Bill C-309. Making its way easily through the legislative process, this bill made the concealing of one's face (i.e. wearing a mask) at a riot or unlawful assembly a crime punishable by up to ten years in prison. This while a separate section of the Criminal Code of Canada has long prohibited the concealing one's identity during the commission of a crime. Something must be particular troubling, from a statist perspective, about protestors wearing masking. Applying both anthropological and political theory, this paper seeks to understand the challenge to sovereign authority represented by the masked protestor.*



## INTRODUCTION

*“This visage, no mere veneer of vanity, is a vestige of the vox populi, now vacant, vanished.” - V<sup>1</sup>*

From Occupy to the Arab Spring, the public voice is being expressed from behind the smiling face of Guy Fawkes. The ubiquitous symbols of 21st Century subversion, Masks bearing the Jacobean anti-hero’s likeliness are a popular method of expressing dissent. However, just as this definitive image emerges, amendments to the Criminal Code have effectively banned all Masks at protests in Canada. A criminal price is being put, not on the heads of protestors, but one their facelessness. While tactical reasons have been offered to explain the necessity of this ban, nothing has adequately accounted for the vigor with which the state opposes Masks at protests. Historically, Masks have been understood to confer power and authority on the wearer. When situated within the protest zone—by its nature a space outside of, or in opposition to the state—Masks are a challenge to the state’s authority. By allowing only banal usage of Masks, these amendments are an effort by the Canadian state to perpetuate its Leviathan. To support this assertion, Bill C-309’s amendments to the Criminal Code will be properly enumerated and contextualized. Referencing Parliamentary proceedings and academic literature on the nature of policing in the protest zone, this Bill will be proven incapable of decreasing crime. Finally, the idea of Masks will be theorized to properly explain how they produce power and how this power subverts the modern state when situated in the protest zone.

## MASK AND PROTEST ZONE, DEFINED

For the purpose of clarity, two key concepts must be defined: Masks and protest zone. It is important to make a distinction between a mask (an inanimate face-covering), and Masks: which Tonkin defines as the “mask-in-action.”<sup>2</sup> When not worn a mask is nothing more than the face-like piece of wood, plastic, etc. However, when worn that same object becomes a Mask, creating a “new form” and personality for the

wearer.<sup>3</sup> A mask, therefore, is passive, but Masks actively project themselves into the world. When reviewing the legislation, note that while the term ‘mask’ is used, what is actually meant are Masks. Additionally, the term protest zone is employed to signify the physical, technological or psychological space, wherein individuals engage in acts of direct advocacy. This advocacy can take the form of marches, rallies, sit-ins, direct-action, and various other methods traditionally used to draw attention to matters of public importance.

## AMENDMENTS TO BILL C-309 AND THE THREAT OF ANONYMITY

In 2011, Conservative MP Blake Richards sought to amend the Criminal Code (CC). Citing the Vancouver hockey riots and the G20/G8 protests which gripped Toronto, Richards introduced a private member’s motion to ban Masks in protest zones. He asserted that Bill C-309 would “make it an offense to wear a [M]ask” at an unlawful assembly or riot.<sup>4</sup> Bill C-309 proposed amending Section 65, regarding the punishment of rioters, and Section 66, which punishes those involved in an unlawful assembly.<sup>5</sup> Under amended Section 65, arrest for participation in a riot while wearing a Mask brings a maximum sentence of ten years in prison; a Masked person who partakes in an unlawful assembly risks imprisonment up to five years under the amended section 66.<sup>6</sup> These new punishments are far more aggressive than the current penalties for participating in a riot or unlawful assembly: two years and summary conviction, respectively.<sup>7</sup>

Many reasons have been given to explain why this legislation provides a tactical advantage to police operating in the protest zone, namely through ensuring easier prosecution of criminals. Police officials have continually stated that they believe the use of Masks to be almost solely for the purposes of avoiding “identification by authorities.”<sup>8</sup> Without proper facial identification, prosecution becomes nearly impossible. As Taussig observes, the face is “the evidence that makes evidence possible,” without facial recognition charging any protestor who committed an offense would require conclusive DNA evidence.<sup>9</sup> As this is incredibly difficult



to attain in protest zones it presents major challenges for the criminal justice system. Furthermore, state officials assert that those who wear Masks pose a greater threat to others. Conservative MP Rob Clarke has stated that he believes it to be “common sense” that those who would wear a Mask at a protest cannot have any good intentions.<sup>10</sup> Officials often cite psychological studies arguing that anonymity, such as that provided by a Mask, can make one “more likely to engage in violence.”<sup>11</sup> This is because those who become violent are less concerned by the prospect of being identified and arrested. By banning the instrument of incitement, officials hope to ease the task of policing protests.

The language of Bill C-309 suggests that only those who wear masks during unlawful assemblies and riots are targeted. However, the definition of unlawful assemblies and riots in the CC ensures that all protestors will be forced to abstain from the use of Masks out of prudence. This is because, under Canadian law, the threshold for declaring an assembly unlawful is remarkably low; as Paul Champ (legal counsel for the BCCLU) said, it is very unclear when lawful assemblies become unlawful.<sup>12</sup> Section 63 of the CC indicates that an assembly may be declared unlawful when three persons “of any common purpose,” cause others in the vicinity of the gathering to “fear, on reasonable grounds” that those assembled will “disturb the peace tumultuously” or cause others to do so.<sup>13</sup> Therefore, any peaceful protest may be declared unlawful, should a police officer feel it reasonable to believe that the assembly has potential to act in a raucous manner. The only measurements for judging lawfulness are entirely subjective and at the discretion of attending officers. This constitutes a worryingly low bar by which to judge the legality of any assembly.

Moreover, once Masks have been specifically targeted in protest legislation, police will deem the mere presence of a Mask to be evidence of criminal intent. This is what Monaghan and Walby refer to as “threat amplification,” the process whereby unclear images of what a criminal is “become[s] represented as evidence” of criminality.<sup>14</sup> In *R v Puddy*, it was determined that police had illegally arrested the defendant based on the ‘evidence’ that he fit their description of anarchist protestors attending the G20/G8 summits.<sup>15</sup> It is inevitable that police will

associate Masks with criminality, in the same manner that Mr. Puddy’s mohawk made him an anarchist. Despite the likelihood that innocent people will be targeted by this legislation, Parliament proceeded to pass the bill into law in late 2012.

Additionally, Section 351(2) of the Criminal Code had previously indicated that anyone who wears a Mask “with intent to commit an indictable offence” can be imprisoned for up to ten years.<sup>16</sup> This legislation has historically been used to prosecute all Masked criminals. Osgoode Law professor James Stribopoulos believes that there is no deficiency with Section 351(2) which Bill C-309 can correct and that this bill is “a solution in search of problem.”<sup>17</sup> The apparent redundancy of C-309 can be accounted for, only if there is a threat of great enough importance to warrant prohibiting the specific combination of Masks and protests.

To understand the state’s true opposition to Masks, a new theoretical approach must be employed. Definitive of the modern state is its claim to Leviathan-like authority within its territory. However, as argued above, the ability of Masks to produce and confer social power is immense. Taussig argues that believing Masks are a “utilitarian device for thwarting... identification,” ignores

***“It is inevitable that police will associate Masks with criminality, in the same manner that Mr. Puddy’s mohawk made him an anarchist.”***

their reconfigurative and transformative power.<sup>18</sup> When this power operates in the protest zone it is necessarily external—if not in direct opposition—to the authority of the state. Therefore, it is requisite for the preservation of the Leviathan that oppositional powers, operating within the state’s territory, be quashed. Bill C-309 is an implicit attempt by the state to destroy this alterity, thus ensuring its hegemonic power. In order to prove this assertion, the remainder of this paper will be divided between three pursuits: first, by outlining how Masks



produce power and what that power entails; second, through examining the state itself as a Mask; and finally, by understanding why these dueling Masks conflict, and the form of said conflict.

## THE POWER BEHIND THE MASK

Political theory lags well behind other social sciences, such as anthropology and psychology, in understanding the social power created by Masks. As observed above, the objective of a Mask is not the “obliterating [of] a face,” rather it is transformation “into a new form.”<sup>19</sup> In essence, a Mask creates a new persona which the wearer embodies. Thus, it is literally the power of a Mask, as a mimetic device, to “represent” reality.<sup>20</sup> The power to explain the world, in essence, is the power to “control it.”<sup>21</sup> Put differently, if one has the ability to substantially alter how another views the world, for all purposes the alterer has actually modified that person’s reality. To provide an example, if a person actively believed that the Earth was flat and had no reason (other than texts) to believe otherwise, then from that person’s understanding the planet really is flat. If that same person were to be put into a shuttle and sent into space, where they could see the globe in its entirety, they would see a different representation of the world. Though not necessarily more complete than the previous representation, the way in which this person sees the reality of the world will be permanently changed. Similar to the shuttle, Masks are a medium through which the world can be re-represented.

In addition to being the medium of representation, Champ asserted in his testimony against Bill C-309, that the Mask is also “part of the message.”<sup>22</sup> The message being conveyed is specific to each Mask, and emerges over the course of time. For example, the face of Guy Fawkes has come to symbolize “resistance to corrupt authority.”<sup>23</sup> Its status brought to wide attention following Alan Moore’s graphic novel, *V for Vendetta*, and the 2005 film of the same name. The story features the protagonist V locked in a battle for moral supremacy against a dictatorial government. Moreover, despite how potent these texts may have been, their initial influence has certainly been eclipsed by the presence of the Mask

at actual acts of social resistance. In other words, the message of a Mask is always iterative, and often that message is one of empowerment, providing a face for the collective.<sup>25</sup>

## A MIRRORED REFLECTION: THE STATE AS A MASK

In this way it is possible to understand the modern state as a form of Mask. Despite formally indicating a “desire for symbolic openness,”<sup>26</sup> the state is “the most masked entity” that has ever been created by the “human imagination.”<sup>27</sup> Devoid of a physical reality, the state perpetuates itself through representations of its power in the public sphere.<sup>28</sup> Every police officer at a protest and every courthouse is really a part of the Mask which the state has created to symbolize its raw power. Some might argue that the state must wear one of two Masks: liberal or despotic. But the Mask of the liberal state actually encompasses both of these principles. Even when the actions of a liberal state appear inconsistent with the supposed values of democracy, the Mask is unaltered. This is Agamben’s observation, that when threats to the “life of the nation” arise, it is the power of the democratic state to declare a state of exception to its own laws in order to afford itself the transgressive powers necessary for defense thereof.<sup>29</sup>

Moreover, the modern state has become surprisingly adept at managing the meaning of its Mask. This is in part due to a recognition that the Mask of the state must appear more natural than others in order to remain unchallenged. Thus, it is natural that enormous energy is exerted to support the illusion; for example under the Carter Administration, more than thirty percent of the White House staff was employed solely to handle media.<sup>30</sup> It would seem narcissistic to waste so much on image management, were it not so fundamental to state stability. Society’s understanding of the necessity of a state would dissipate, should the state ever be unmasked and revealed as organized violence. This is the “inherent instability” of the state.<sup>31</sup> To maintain the validity of its own Mask it must destroy the power of others to represent the world in ways severely divergent from its own.



## MASK V. MASK: A CONFLICTING RELATIONSHIP

All this is very troubling because, though the individual who wears a Mask knows what is really underneath, the society governed by a Mask can never know itself.<sup>32</sup> Such a society can only ever experience itself through a reality transformed and reconfigured by the Mask of the state. As has been noted, part of what legitimizes the state is the perception that its existence is part of the natural order. In other words, the reality which it presents is so totalizing that most people cannot see the edges of the Mask which creates their reality. To maintain this appearance of neutrality, the state continually seeks a

***“Though the individual who wears a Mask knows what is really underneath, the society governed by a Mask can never know itself.”***

prohibition on “transformations and becomings.”<sup>33</sup> To ensure this, identities are given to citizens, in the form of their lifeless faces on state-issued ID cards.<sup>34</sup> However, this stability is exactly what Masked protestors threaten (even unintentionally) to subvert, through their presentation of powerful alternative realities.

Taking the case of the Guy Fawkes Masks, used in protest against the state, provides an example of this duality. The state’s Mask is one of order, protection, and general benevolence, diverging from this only in times of crisis. In contrast, Guy Fawkes Masks are widely associated with resisting corruption.<sup>35</sup> When this Mask appears in spaces opposed to the state (such as the protest zone), it insinuates that those qualities which it resists are present in the state. In the opposition of their realities, the Fawkes Mask has the power to explode the Mask of the state and the state has the power to banish Fawkes; these identities necessarily suppress each other.<sup>36</sup> Hence the state’s desire to “manipulate” the symbolism of Masked protestors,<sup>37</sup> labeling them thugs and criminals before they are able to define their

own image; or better yet, to prohibit the use of Masks altogether.<sup>38</sup>

Unless prohibited, the use of Masks at protests will continually undermine the state’s monopoly of representative powers. Subversive Masks have the ability to show the state as only one Mask in a multiplicity of others. When allowed to persist, this challenge to authority engenders institutionalized “discursive discontinuity” whereby the state is constantly called upon to justify all of its actions to explain the reality it has constructed and to account for its own existence.<sup>39</sup> This is anathema to the Leviathan, which must be able to project its authority—its reality—above all others, at all times. It is thus the state’s purpose to “dissuade people from continuing an act of empowerment,” and to ban the use of Masks in spaces oppositional to the authority of the state.<sup>40</sup>

## CONCLUSION

Ostensibly, MP Blake Richards introduced Bill C-309 to facilitate the arrest of those who would conceal their identity at riots or unlawful assemblies. However, the language of Canada’s riot laws and the decision-making power entrusted to police officers make it inevitable that C-309 will target all protestors who use Masks. Additionally, as Section 351(2) already prohibits the wearing of a disguise during the commission of a crime, this Bill does not actually enhance the fighting of crime. To understand the true nature of this Bill, this paper has established a theory of the power of Masks as tools which subvert the hegemony of the state. Masks are understood to enable the representation of reality, a power over which the state claims sole proprietorship. When conceptualized as a Mask itself, the logic of the state’s need to unmask others becomes clear; it is necessary to naturalize its own fabricated reality. This is the importance of Bill C-309: to disempower protestors and minimize their ability to challenge the state, and thereby reasserting its Leviathan.



## NOTES

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## METAPHORICAL MONSTERS: GLOBAL SECURITY AND THE UNDEAD

THE PROLIFERATION OF ZOMBIES IN POPULAR CULTURE SIGNIFIES MORE THAN CONSUMER TASTE; IT REPRESENTS A MATERIALIZATION OF OUR DEEPEST INSECURITIES.

Written By Katherine MacPhail

### ABSTRACT

*Popular culture is often more than just a form of entertainment; it becomes a window into the unstated subconscious of citizens. In this light, the growing pervasiveness of zombie culture reveals public insecurities about living in the modern world, where globalization has shifted notions about security and warfare. This increase in popularity owes itself in part to the fact that the conceptual nature of zombies feeds easily on the pre-existing anxieties of society. More specifically, security threats have moved beyond the state to the individual. I contend that the obsession with this impending “zombie apocalypse” reflects our vision of a post-apocalyptic world, and reveals our fixation on the thought of death. The ideas of necro-politics and the differentiation between national and human security will also be discussed to further this analysis.*



## 1. INTRODUCTION

*As monsters from the id, zombies win out over vampires and werewolves when it comes to the title of Most Potent Metaphorical Monster. Where their pointy-toothed cousins are all about sex and bestial savagery, the zombie trumps all by personifying our deepest fear: death. Zombies are our destiny writ large. Slow and steady in their approach, weak, clumsy, often absurd, the zombie relentlessly closes in, unstoppable, intractable.<sup>1</sup>*

Zombies are monsters that straddle the lines between life and death and have become a cultural cornerstone in recent popular culture. As alluded to by Simon Pegg (actor and co-writer of the 2004 British zombie parody film *Shaun of The Dead*), zombies, more than any other popular monster, have the unique characteristic of representing the underlying fears of the general population. Popular culture is often more than just a form of entertainment; it becomes a window into the unstated subconscious of citizens.<sup>2</sup> Thus, in the light of more in-depth analysis, the pervasiveness of zombie culture reveals public anxieties about living in the modern world. Globalization over the course of the 21<sup>st</sup> century has resulted in shifting notions of security and warfare: security threats have moved beyond just the state to individuals, creating the notion that ‘human security’ is distinct from national security. This essay will seek to demonstrate the ways in which the obsession with an impending ‘zombie apocalypse’ reflects the popular vision of a post-apocalyptic world and a growing fixation on the idea of death and other modern insecurities. To begin, a brief outline of the rise of this cultural infatuation with the undead will be provided, followed by an introduction to the ideas of necro-politics and other relevant concepts of global and human security. Finally, the relationship between zombies and the issues of human security and global threats in the modern world will be discussed.

### ZOMBIE CULTURE IN THE TWENTY-FIRST CENTURY

The basic features of zombie-ism have played a crucial factor in their rise to popularity, so it is necessary to firstly

provide a brief definition of what, exactly, the term ‘zombie’ means. The website *Zombie Biology* (which seeks to bring accurate and scientific information to the public regarding zombies) emphasizes that although there are different ‘categories’ of zombie, all zombies are a product of human death. They describe general classifications that are visible in popular narratives such as the ‘regular’, ‘fast’, ‘super’, and ‘infected’ zombie varieties.<sup>3</sup> They also note that zombies were human—humans who have died in some way and have become re-animated with a functioning central nervous system, but without a beating heart.<sup>4</sup> Although there are

**“Popular culture is often more than just a form of entertainment; it becomes a window into the unstated subconscious of citizens.”**

variations in the zombie-ism portrayed by mass media, the most important characteristics for the purposes of this paper are as follows: zombies are typically human, they hunger primarily for human flesh (or brains), and can only be killed if their brains are destroyed.<sup>5</sup> It is also interesting to note that zombie-ism is transferable through infection or exposure—comparable to diseases such as the HIV/AIDS virus.<sup>6</sup>

It is difficult to ignore the fact that these flesh-eating brain-dead ghouls have increased in popularity as a narrative in recent years. Their presence in the worlds of film, television, literature, and gaming is expanding. More than one third of all zombie films have been released in only the past 13 years, and they have become the largest category of post-apocalyptic film.<sup>7</sup> Some of the more popular titles include *Resident Evil* (2002), *Dawn of the Dead* (2004), and the satirical *Shaun of the Dead* (2004). Games such as *Left 4 Dead* and *Resident Evil* have also experienced immense success, while AMC’s *The Walking Dead* has captured the attention of millions of viewers. The phenomenon is so pervasive, even the government of British Columbia has acknowledged the power of the movement by releasing tips for zombie preparedness on the official



government Emergency Information website. As stated on the site, “if you’re ready for zombies, you’re ready for a disaster,” clearly emphasizing the parallels between the zombie apocalypse and more conventional threats felt by the citizens (such as earthquakes).<sup>8</sup>

This increase in popularity owes itself in part to the fact that the conceptual nature of zombies feeds easily on the pre-existing anxieties of society. The characteristics discussed above, that which makes a zombie a zombie, are reflective of ‘real world’ sources of fear – making the threat of the brain-munching monsters a closer reality than is immediately apparent. As such, these zombie narratives have been incorporated more and more into mainstream media and culture. In order to address the connection between these fears and the ever-increasing zombie culture, it is necessary to first of all introduce the relevant terms and theories. These anxieties will be discussed below from the perspective of global security and as a part of a growing phenomenon of insecurity on the part of citizens.

### **GLOBAL SECURITY CONCERNS IN THE 21<sup>ST</sup> CENTURY**

Fear of death is perhaps the most obvious parallel between the undead and the sub-conscious of citizens. It is the way in which zombies are able to embody this fear and the nature of the zombie threat that make them unique and relevant in terms of security studies. In a modern world trademarked by globalization, citizens are faced with a growing insecurity and it is from this pool of anxieties that zombies are able to gain their popularity. Thus, it will now be pertinent to discuss the nature of this growing insecurity before finally reflecting on how exactly the ‘walking dead’ can be seen as more than just a pop-culture phenomenon, but a commentary on security issues of the 21<sup>st</sup> century.

#### *The Politics of Life and Death*

Since zombies are the dead reincarnate, it is logical to first of all discuss the idea of necro-politics (as well as the related concept of bio-power) and their relationship to growing insecurities surrounding death in the 21<sup>st</sup>

century. Achilles Mbembé defines necro-politics as “... the power and capacity to dictate those who may live and those who must die.”<sup>9</sup> Necro-politics is, therefore, associated with the state as the arbiter of death as well as of life. Mbembé’s research also touches on how death moves beyond the individual who dies and actually structures the very shape of politics and sovereignty.<sup>10</sup> Parallels can also be drawn between necro-politics and French philosopher Michel Foucault’s notion of ‘bio-power,’ or having power over the domain of ‘life.’<sup>11</sup> Foucault’s conception that states have an interest in controlling the ‘bodies’ of its citizens highlights that, in the modern world, being alive is inherently associated with vulnerability and with death.<sup>12</sup> The Nazi death camps of World War Two are often cited as the most obvious real-world example of necro-politics and a metaphor for the potentially terrifying extent of state power.<sup>13</sup>

The discourse surrounding necro-politics and bio-power is an indicator of the growing interest in the boundaries between life and death in a world where global citizens are arguably feeling less and less secure. Conflicts are not only rapidly becoming more destructive, but increasingly privatized and global.<sup>14</sup> It is because of this that death has taken on a different status in daily life. In the contemporary world, weapons are intended to cause as much death and destruction as possible, creating a state of living where individuals may be constantly under threat as well as a global air of ‘living death.’<sup>15</sup> Furthermore, the image of the corpse is inescapably present both on the news and in forms of entertainment as the modern-day ‘politics of life’ simultaneously instill a persistent fear of death in large populations across the globe.<sup>16</sup> This framework, which emphasizes the importance of the politics surrounding the boundaries between life and death, reveals an ever-increasing number of security concerns for civilians.

#### *Globalization and Other Security Issues*

The discussions of necro-politics and bio-power fit well within the context of the globalized 21<sup>st</sup> century. The shifting relationship between the living and the dying, as well as the growing popularity of these concepts, are both visibly linked to the changing nature of security



concerns for individuals. Related to this shift, there has been an observable change in the focus of security issues to the individual rather than the state.<sup>17</sup> The concept of ‘human-security’ has been introduced and is focused on the safety of the individual from harm and fear in a world where perceived threats are becoming more and more pervasive.<sup>18</sup> Human security demonstrates concerns that traditional notions of security are too focused on the ‘nation’ and as such fail to adequately protect citizens from chronic threats—both internal and external.<sup>19</sup> This concept has been criticized as too broad to be useful for studies on global security. For the purposes of this paper; however, it is inherently useful to consider that the nature of global conflicts have created an ever-present feeling of insecurity in citizens. There is an apparent paradigm at work in which, on one hand, the state controls the boundaries between life and death, but on the other, there is an awareness that it is not doing enough to protect individuals.

Without being exhaustive, some examples of sources of insecurity produced by this modern world include: terrorism, natural disaster, climate change, refugees and displaced persons, religious and ethnic conflicts, resource warfare, food security, disease, and cyber warfare.<sup>20</sup> Admittedly, many of these threats have been issues on the global consciousness since well before the start of the 21<sup>st</sup> century. The late 20<sup>th</sup> and early 21<sup>st</sup> century, however, have not only seen an increased focus on more ‘traditional’ sources of risk, but have

***“In the minds of the public, the body itself now constitutes a security threat.”***

been marked by the emergence of new dangers. Events such as 9/11 and the 2001 terrorist anthrax attacks have increased the perception of threat domestically; especially in the United States.<sup>21</sup> Even anxieties over border protection have increased in the past decade as the number of applications for asylum has increased in western nations since the beginning of the century.<sup>22</sup> It cannot be purely coincidental that, as individuals begin to feel less and less secure, the notion of an undead apocalypse has witnessed a marked increase in

popularity. The unique way in which zombies are able to reflect many of these sources of insecurity back at the citizens will be demonstrated below in order to explain the place the flesh-eating monsters have come to occupy in popular culture.

## **THE UNDEAD AS SECURITY THREATS**

This section will relate the previously discussed issues of global security, the politics associated with life and death, and zombies in order to emphasize the ways in which the undead narrative reflects a plurality of societal anxieties in the form of a hypothetical post-apocalyptic future. Not only are many modern sources of insecurity becoming progressively ‘close’ to individuals through the process of globalization, many of them also involve the securitization of the body. In other words, the threats posed by immigration, disease, and terrorism all necessarily involve the use of the human body as a type of vehicle, whereas security threats such as nuclear warfare do not use the body in this way. The state has considerable control over the bodies of its citizens (bio-power) but populations are increasingly becoming concerned that the state cannot protect them as individuals. Modern security threats such as disease, ethnic conflict, and terrorism have received increasing interest from the citizenry in the form of human security because of this. It is in this conflict – between the power of the state and the public distrust – that the threat of a zombie apocalypse becomes increasingly relevant. The rise of zombie culture is reflective of this change and further reveals that, in the minds of the public, the body itself now constitutes a security threat. As an extension of this ‘securitization of the body,’ connections are evident between zombies and perceived security threats such as displaced people and the spread of infectious diseases.

The perceived influx of refugees and displaced people moving across borders has resulted in palpable anxiety on the part of many societies across the globe.<sup>23</sup> Zombie narratives, more so than those of any other mythical creatures, embody the associated fear of being overwhelmed and destabilized by an influx of those bodies seeking refuge from their home states.<sup>24</sup> Since they are not controllable by any group (government



or otherwise), zombies move across borders as freely as defense structures (or lack thereof) permit them to. Zombies are representative of historical ‘border crossers’ such as asylum seekers in that they invade political spaces.<sup>25</sup> The trope of a group of individuals defending their territory against an incoming zombie invasion is not uncommon. In this way, zombies can easily be read as immigrants threatening the lifestyles of societies or groups of individuals.<sup>26</sup>

The zombie threat can be further connected to the securitization of the body via the security risk posed by the spread of infectious disease. A quarter of all global deaths are due to infectious diseases such as HIV/AIDS, tuberculosis, and malaria.<sup>27</sup> This makes them a fairly significant threat to global security, both at the national and human level. The parallels between the security threats posed by such disease and the spread of a zombie epidemic are not difficult to see. In most portrayals, zombie-ism is contagious and is most often transmitted in much the same ways as traditional deadly diseases (through close contact).<sup>28</sup> Zombie-ism, like other variations of infectious disease, spreads via a host body and threatens to infect those in the vicinity. Thus, the spread and scope of the zombie threat is a mirror image to that of infectious disease.

Zombies clearly and easily mimic public fears regarding the securitization of the body as a threat. It is also worth noting, however, that both of these threats are driven by the increasingly open nature of borders and boundaries resulting from globalization in the 21<sup>st</sup> century. As a result of this increasing openness, threats are able to cross borders in multiple ways, which amplifies and expands both their scope and destructiveness. In this sense, zombies are able to cross both physical (land) borders in order to threaten populations and political spaces, as well as the borders between life and death.<sup>29</sup> Border crossing is therefore an underlying theme in the connection between zombies and underlying social anxieties. Since the 9/11 terrorists attacks on New York City, fascination regarding threats that can cross borders has only increased, especially in western nations.<sup>30</sup> Thus, zombies become allegories for a variety of threats that have the ability to threaten larger populations by crossing political borders, including terrorism.<sup>31</sup> This can be

exemplified by further analyzing the parallels between zombies and infectious diseases in global security.

In comparison to the years before the cold war, borders in the modern world are increasingly open, allowing the pace of travel, migration, and commerce to increase dramatically within a short time frame.<sup>32</sup> In 2003, the SARS virus spread from China to 30 different countries within a few months, further exemplifying the relationship between disease and globalization.<sup>33</sup> Furthermore, infectious disease is not a static threat; new strains and varieties of disease are constantly arising (at a rate of one per year), creating a constant source of insecurity for individuals.<sup>34</sup> The threat of disease becomes a growing insecurity as the degree of globalization in the world also increases. Similarly, the fact that zombies are not only the product of infection or disease, but also that they possess the physical ability to cross borders, is evocative of the ability of disease to move across borders in a similar manner.

The popularity of zombie culture has led to the creation of a variety of ‘survival guides’ and manuals for surviving the impending zombie apocalypse. In many popular iterations of the zombie tale, survival tips are provided for the audience. What is perhaps the most relevant, however, is how these survival tips are often applicable to more than just a zombie apocalypse. As stated on the British Columbian Government’s emergency zombie preparedness guide, “... if you’re ready for zombies, you’re ready for any disaster.”<sup>35</sup> Public willingness to prepare for a fictional threat (albeit one that closely simulates more plausible dangers) such as zombies again indicates an underlying fear. While it may not be zombies, the desire to prepare for a post-apocalyptic future as imagined in these narratives indicates a real fear that the world is seriously threatened. The extent to which individuals feel anxious about the security threats personified by the zombie threat is forecasted by the existence of such manuals.

Zombies simultaneously represent our loss of faith in the state as protectors of human security and the vulnerability of state structures to these security threats. The infamous ghouls—dead, infectious, hostile, and migratory—are simply the fears of the public



reincarnate. To the extent that zombies represent a culmination of underlying societal anxieties, they are equally a vehicle for discussing the related concepts of bio-power and necro-politics. In a variety of zombie narratives, including *Left 4 Dead*, *The Walking Dead*, and *Zombieland*, the state is wholly ineffective in stopping the escalation and spread of the epidemic and the zombies inevitably take over. As individuals die they return as monsters that in turn threaten the state. In these narratives, for the most part, it is groups of individuals rather than states or global institutions that manage to survive the zombie apocalypse. Despite having considerable power over the living bodies of populations, the state is incapable of protecting itself or its general population from these same bodies once they have passed and become reanimated.

## CONCLUSION

As previously stated, Zombies are more than simply an entertainment vehicle. They are metaphors for everything that is threatening about the 21<sup>st</sup> century. Zombies feed, not only on flesh, but also on the underlying fears of a world that has become increasingly connected and simultaneously threatened in modern years. It would be a mistake to write off the influence of films such as *Resident Evil* and *Zombieland*, or webpages such as The Zombie Research Society as strictly pop-culture phenomenon. These works can be, and indeed should be, interpreted as cultural artifacts that echo public fears in a world where notions of global and human security are changing. Representing more than just the natural human fear of death, zombies have become ‘stand ins’ for terrorists, immigrants, contagions, refugees and other such border-crossing threats.<sup>36</sup> Although audiences may laugh, cry, or hide behind a pillow during a television show or movie about zombies, it is the fear of global threats over which one neither has control nor confidence in the government to rectify that is unique in the zombie tale. Ultimately, the message of these narratives is clear: survival comes down to preparedness on the part of the individual, not society.

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# "I UNDERSTAND THAT TOUGH MUDDER IS NOT A RACE, BUT A CHALLENGE:" SPORT, MASCULINITY AND FRAME RESONANCE

THE FRAMING OF TOUGH MUDDER AS SPORT ADVANCES AN AGGRESSIVE FORM OF MASCULINITY THAT SEVERELY MARGINALIZES ALTERNATIVE GENDER IDENTITIES.

Written By Daniel Murchison

## ABSTRACT

*As a way to establish social solidarity between civilians and former soldiers, the Tough Mudder race is hard-core, testing strength, stamina, mental grit, and emotional hardiness. The organizers mobilize participants on behalf of the veteran-outreach program, Wounded Warrior Project (WWP), where a portion of the entry fee is donated to fund combat stress relief programs, employment services, and counseling. But in all its glory, Tough Mudder reinforces the gender norms that dominate so profoundly within society today. By establishing solidarity between civilians and soldiers, the movement propagates an aggressive definition of masculinity, marginalizing femininities and other masculinities. This paper will discuss how sporting culture, in terms of its team dynamics, physical performance, and informal rules, reinforces gender codes and allows young males to negotiate their identity.*



## “THE PREMIER OBSTACLE COURSE SERIES IN THE WORLD”

Standing at the starting line for the race, we are met with a roaring speech from a man with a megaphone. The man shouts that we may have run a marathon or a triathlon, but we have never encountered something like this race. He says that the race will test all of our skills. He calls out to the crowd, asking if we have the stamina and toughness to survive. After each question the crowd bellows “oorah” in approval, mimicking the battle cry associated with the United States marines. The speech brings the crowd into a frenzied state in preparation for the race. Surrounded by men, women and former soldiers, I am excited, but nervous for the upcoming test of endurance and mental strength. Like myself, the runners believe that the day will be marked by camaraderie and physical challenges. Even with these feelings, participants do not understand how a sporting event reinforces the gender codes and norms advanced by the movement’s organizers.

The described scene took place just before the running of Tough Mudder. The race is billed as a hard-core obstacle course, ten to twelve miles in length, designed by the British Special Air Service to test an individual’s strength, stamina, mental grit, and emotional hardiness. The event has had over one million participants worldwide. More importantly, the event is a form of collective action employed to establish social solidarity between civilians and former soldiers. The organizers mobilize participants on behalf of the veteran-outreach program, Wounded Warrior Project (WWP), where a portion of the entry fee is donated to the charity. With the money, the WWP bring veterans to participate in Tough Mudder, as well as provide combat stress relief programs, employment services, and counseling. By establishing solidarity between civilians and soldiers, the movement propagates an aggressive definition of masculinity, developed from the underlying codes of violence present in the military. In this case, the message travels because it was constructed through a precise process of framing. David Snow asserts that collective action frames “[tie] together the various punctuated elements of the scene so that one set of meanings

rather than another is conveyed.”<sup>1</sup> Frames rely on a set of cultural symbols that allow the movement’s message to appeal to potential constituents. By framing the movement around sport, Tough Mudder is able to advance an aggressive form of masculinity, marginalizing alternative gender identities. I will discuss how the movement’s message is enforced through sporting culture’s emphasis on team interactions, bodily performance and informal rules as well as how these devices resonate and encouraged my participation. In the end, Tough Mudder’s framing reproduces a dominant strand of masculinity.

## FRAMING: GENDER AND SPORT

When evaluating social movements, it is important to understand how they attempt to convey their message. Social movement mobilization relies on a collective process of interpretation, attribution and social construction.<sup>2</sup> All actors in collective action, organizers or participants, undergo a process of interpretation and cognition that will either continue or stop the movement. While examining social movements, this process has been conceptualized through the social-psychological method of framing. Snow writes that collective action frames, in the most simple of terms, focus attention “by punctuating or specifying what in our sensual field is relevant and what is irrelevant...what is in frame...and what is out of frame.”<sup>3</sup> These collective action frames are a form of messaging employed to offer strategic interpretations of issues with the intent of mobilizing individuals behind the cause.<sup>4</sup> With framing there is an emphasis on how organizers articulate and amplify the message, and how participants engage in the material. More importantly, frames must be constructed to appeal to a target audience. To do this, organizers often draw from visible cultural symbols that will engender a high degree of mobilization. Stephan Valocchi claims that the key to framing is the employment of evocative cultural symbols that will resonate with the target audience.<sup>5</sup> Symbols that resonate with the audience engender a high degree of participation and help achieve the goals of the movement. The main purpose of framing is the ability to use cultural symbols that reinforce the values and beliefs of the movement, and provoke mobilization among potential participants.



Consequently, a social movement that uses sport is able to take part in the construction and maintenance of the gendered order. In the nineteenth century, modern organized sport emerged as a response to a supposed “crisis of masculinity.” The process of industrialization, urbanization, and agency among women threatened to subvert the codes of patriarchy that dominated society. Michael Messner asserts that sport was a male-created homosocial environment that provided an outlet for men to assert their masculinity and separate themselves

**“Gender is not a biologically prescribed or static quality.”**

from a “feminized” society.<sup>6</sup> Accordingly, sport has the ability to normalize and subordinate specific gender identities. Gender is not a biologically prescribed or static quality. A subject’s gender arises through practice and performance in social life. As a result, there are multiple forms of masculinity and femininity. R.W. Connell promotes the existence of a hegemonic form of masculinity that maintains a dominant position over alternate female and masculine identities. She posits that hegemonic masculinity is not the norm, but is normative because it is perceived as the most honored way of being a man.<sup>7</sup> As such, sport becomes an organizing tool for this dominant strand of masculinity. Varda Burstyn asserts that the physicality present in sports reproduces a hypermasculinity, an exaggerated ideal of manhood closely associated with the role of warriors and soldiers.<sup>8</sup> Thus, a social movement that employs sport is able to normalize an aggressive form of masculinity and appeal to those individuals who wish to assert their masculine identity.

### THE TEAM

After running three miles and tackling several taxing obstacles, I hit a series of walls, each twelve feet in height. Due to the excess in height, teamwork is required. To complete the challenge, we can position someone at the base of the wall and use them as a make shift ladder. Even though the obstacle is easy enough to complete, I am physically drained from sprinting the race and need

a break from the action. To encourage completion, the movement promotes communication and camaraderie between teammates. At this point, my male teammates begin to shout at me. They tell me to “stop whining” and “suck it up.” They call me a girl and tell me to “stop slowing them down.” Although these remarks may be in jest, the comments demonstrate how interactions between teammates construct an aggressive masculine identity.

More often than not, sport is a team activity. Interactions between teammates in games like hockey, football and soccer lead to success or failure. At the same time, sporting practices are one of the few organized social activities structured around homosocial interactions. The predominantly homosocial interactions between teammates are crucial in the construction of gender identities. Jean Lipman-Blumen asserts that men are more likely to pursue relationships with other men.<sup>9</sup> These interactions are based upon the need to achieve approval and validation from other men. As a result, homosocial interactions allow men to perceive of what is inappropriate and appropriate behaviour. In sport, these interactions reaffirm hegemonic masculinity and subordinate alternative gender identities. Specifically, to establish a dominant male identity, teammates often employ homophobic slang and hostile discourse. Eric Anderson, in a cross sport study of homosexuality, found that hegemonic forms of masculinity were maintained by calling fellow athletes “fags” and referring to unjust situations as “gay.”<sup>10</sup> Homosexual activity is deemed to be deviant behaviour, so the slurs have a degrading effect. Additionally, Emma Renold, in a study of schoolyard soccer, found that young boys would often feminize teammates and opponents as a means of establishing themselves as stronger players.<sup>11</sup> The interactions function to marginalize gender identities and reaffirm an aggressive form of masculinity.

My teammates do not yell encouraging statements, but assert that I am putting in a feminine performance. By calling my gender identity into question, they are able to establish that my behaviour is inappropriate and maintain their dominant position in the gender order. The interactions between my teammates and myself reinforce the existence of a dominant form of



masculinity and subordinate alternate gender identities. By framing the movement around sport, Tough Mudder is able to magnify the interactions between teammates and fellow runners that reproduce an aggressive masculinity. Although teammates work together, the interactions are often focused on establishing a positional gender identity. My teammates' jeers are more about establishing male dominance in relation to my performance. The frame of sport works perfectly with the movement's promotion of a dominant masculinity because interactions among teammates reproduce that very gender identity.

The use of sport and the emphasis on team interactions resonates with me because it provides an outlet for competition. The comments from my teammates were not discouraging but actually inflamed my competitive nature. Sharon Bird asserts that for men, competition provides a stage to establish one's self as an individual and as appropriately masculine.<sup>12</sup> Sport is an organized form of competition and an outlet for males to assert themselves and establish their masculine identity. Many young males, like myself, are far removed from their days of playing competitive organized sports. I no longer have an outlet to assert myself because competition is absent from daily social life. As a result, Tough Mudder's utilization of sport and emphasis on team interactions resonates with me because it provides a competitive outlet. The movement puts me in close proximity to other athletes. We are able to communicate and test our abilities against each other. The movement resonates because the social interactions engender a high degree of competition.

## BODILY PERFORMANCE & ABILITY

Midway through the race, I come across an obstacle designed to test strength and stamina. Named the "Warrior Carry," the obstacle compels the runners to pick up their fellow participants and carry them one hundred yards, at which point the participants rotate and continue the obstacle for another one hundred yards. The obstacle is not easily completed. It requires a high degree of strength and endurance. More importantly, the emphasis on bodily ability and performance enforces the dominant strand of masculinity promoted by the

social movement.

In sporting events, there is an underlying tension that requires athletes to treat their body as an instrument to accomplish tasks. In games where there are wins and losses, in races with a finish line, the athlete must have the ability to perform. In sport, the body's ability becomes central in constructing masculinities. Connell asserts that gender is not defined by the body, but is a social practice that is constructed by what the body does.<sup>13</sup> Men construct meaning out of the use of their bodies. She posits that sport is a stream of male bodies in motion. She continues, stating that in sporting contests, a combination of superior force, related to size and strength, and superior skills leads to victory.<sup>14</sup> Jennifer Hargreaves follows this point, stating that men in sports believe that physical achievement and masculine activity are taken to be the same.<sup>15</sup> As a result of sporting activity, a dominant strand of masculinity is negotiated in relation to the performance of a fit and able body.

***"men in sports believe that physical achievement and masculine activity are taken to be the same"***

Additionally, physical performance marginalizes alternate gender identities. Victoria Robinson, in a study of rock climbers in the United Kingdom, found that the male rock climbers often developed their identity through the performance of a strong and working body, while ignoring the skill and grace required to climb.<sup>16</sup> In all, the emphasis on the physical performance of the body in sport becomes a way of individuals to construct their gender identity.

To accomplish the "Warrior Carry," I must have the upper body strength to lift my fellow runner, and the all-around endurance to carry them one hundred yards. The movement places value on the strong, fit body that can accomplish complex and physically taxing actions. The frame of sport places emphasis on how the body performs and allows for the ultimate depiction of masculine physicality. The movement normalizes the performance of strong physical body that individuals



associate with a dominant form of masculinity. This is the type of body that can climb ropes and walls and carry fellow participants. This is the body that does not break down or fail to complete tasks. The strong body is the masculine ideal and helps to perpetuate the movement's message.

Although the emphasis on physicality is heavy-handed, it appears to resonate and encourage the participation of young males, like myself. Tough Mudder garnered my participation because sports provide an arena where physicality allows me to accentuate supposed male characteristics. The emphasis on the physical body resonates because young men are insecure in their gender identities and need performance to become secure in their male identity. Nancy Chodorow argues that young men, as a result of primary social interactions being with their mothers, develop a masculine identity by engaging in activities that differentiate themselves from women. This positional masculinity is enforced through activities that emphasize male-female differences and stigmatize feminine characteristics.<sup>17</sup> Men are unsure of their gender identity and need to find outlets to establish themselves. As such, the bodily practices associated with sport allow the assertion of masculine identity. Sport emphasizes the performance of the body as a vestige of masculinity. Joining in the Tough Mudder, with its emphasis on male physicality, provides an opportunity where my physical body can be used to define myself as tough and strong. The movement's use of the physical body resonates with young males who wish to position themselves against feminine gender identities.

### INFORMAL RULES

The course is sprawled over one thousand acres and features twenty obstacles. After running ten miles and scrambling through nineteen obstacles, my body begins to scream. In the back of my mind I am thinking that the body is not supposed to be put through this type of abuse. At the point when my body is starting to fail me, I come face to face with a wall electrically charged wires. The obstacle is the last before the finish line, so I either run through it or quit. I run through the field of wires and feel the pain from the electric shock. After I complete the obstacle I am not allowed to speak

of the pain. Instead, I have to appear physically and mentally tough. Designed to reinforce gendered codes transmitted from the military, my actions are a result of the unwritten rules associated with completing the obstacles and course.

Often times, unwritten rules regulate behaviour in social situations. Slavoj Žižek asserts that organizations or institutions do not just use explicit rules, but often have underlying, implicit rules that are unwritten and crucial to identification with a group. He posits that these rules are the true “social substance” whereby a subject takes their bearings and finds consistency with their identity.<sup>18</sup> An individual is able to construct their identity in relation to these unwritten rules. In turn, these unwritten rules have dramatic ramifications for the creation of gender identities. Judith Butler contends that gender is developed through acts or performances compelled by social sanction or taboo.<sup>19</sup> These informal rules function as a form of coercion that creates “unthinkable, abject, unlivable bodies” that the supposed “normal” subject helps constitute itself against.<sup>20</sup> In other terms, heteronormative masculinity constructs itself against unwritten codes that conceive queerness as deviant behaviour. Unwritten rules and codes play in the construction of dominant and subordinate gender identities.

Consequently, sport becomes a ground for the proliferation of unwritten gender codes. At the most broad level, informal rules dictate that sports are the realm of men. More specifically, the participation in sports is often governed by unwritten codes that often normalize dominant strands of masculinity. E.W. Vaz recognized that hockey players are socialized to abide by implicit rules that value aggressive play, including penalties.<sup>21</sup> The unwritten codes are structured to normalize violence and avoid the perception of appearing weak or unaggressive. In addition, Bruce Kidd asserts that fighting in hockey is ruled by a “code of masculinity,” whereby hand-to-hand combat is employed to construct a dominant form of masculinity that does not appear “soft” or powerless.<sup>22</sup> These unwritten codes in sporting events serve the purpose of constructing masculine identity against supposed inferior attributes related to alternate gender identities.



By framing their movement through sport, Tough Mudder is able to use unwritten codes that normalize masculinity and subordinate supposed inferior masculinities and femininities. When running the Tough Mudder, it becomes obvious that the movement is attempting to conflate masculinity and toughness. During the race, I had to swim through water chilled to subzero temperatures, and run through fire and an electrified fence. To do so requires the appearance of toughness.

**“The unwritten codes are structured to normalize violence and avoid the perception of appearing weak or unaggressive”**

More importantly, the construction of this masculine identity comes from its creation of underlying, implicit rules – a participant cannot be physically or mentally weak. When running the race I could not back away from the obstacles. I had to charge ahead and remain strong. Even after the obstacles, I could not complain or speak of the difficulty of the race. The movement’s message is easily enforced through the use of unwritten rules, due to their ability to marginalize gender identities associated with physical or mental vulnerability.

How can something unwritten resonate with me? The implicit rules are simple “codes of masculinity” I have encountered in playing sports throughout my life. I understand that I must not appear physically or mentally weak. But the unwritten rules resonate simply because sport allows me to follow these codes without being consumed by their message. In other terms, sport provides a distance in relation to the unwritten rules. The feeling of accomplishment and enjoyment related to sport provides a detachment between these perverse gender codes and myself. Zizek asserts that distance or distraction is used to evade being consumed by the perverse nature of implicit rules. He uses an example of military life, where obscene chants and comedy are used to bribe soldiers with enjoyment and provide a distance or distraction from unwritten codes of violence and discipline needed to survive in military life.<sup>23</sup> Without this distance, over-identification with the implicit rules

results in destruction. This psychological framework can be applied to social movements, where a distance is enforced to diffuse over identification with the informal rules and message. Consequently, the use of sport does not allow me to over-identify with the unwritten gender codes. While participating in the movement, I am only conscious to the enjoyment induced by the accomplishment of physical tasks. I am not consumed with the need to be tough or aggressive. Instead, sport allows me to have fun and focus on running, jumping and climbing, while ignoring the gendered nature of my actions. The use of informal rules resonates with me because sport offers the ability to follow them without being conscious to their existence.

## THE FINISH LINE

The finish line is a mass of bodies and chatter. The participants talk about the challenging nature of the obstacles and the bonds they formed as a team. The Tough Mudder has had success in gaining participation through its ability to frame the movement. By framing the movement around sports, Tough Mudder is able to advance an aggressive form of masculinity, while at the same time alienating alternate gender identities. First, dominant gender codes are reproduced through team interactions in sport. Secondly, sport requires the performance of a physically strong body that men associate with masculinity. Lastly, informal rules of sport perpetuate the existence of a superior masculinity and purge weakness related to alternate gender identities. These aspects of sport resonate with me, because they allow me to negotiate my identity as a young male. Tough Mudder is focused on advancing an aggressive masculine identity. The use of sport allows the movement to reinforce their message, while at the same time appeal to a wide range of participants who are looking to negotiate their gender identity.

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## FORD NATION: RIGHT WING TORONTO'S CURRENT FORM

ROB FORD, KNOWINGLY OR NOT, IS SPEARHEADING WHAT IS POTENTIALLY THE BIGGEST RIGHT-WING MOVEMENT TORONTO HAS SEEN IN A LONG TIME.

Written By Benjamin Green

### ABSTRACT

*John Stewart, Jimmy Kimmel, Saturday Night Live—the list goes on. For a period of time, it seemed like no matter where you looked, Toronto Mayor Rob Ford was there, being roasted for his actions. I was curious as to who could possibly support him through all of his indiscretions. To my surprise, what I discovered was a theoretically ground social movement, rooted in its unshakeable dedication to “principle over person.” Upon further examination of the movement, the potential for this collective to exist and exert influence beyond Mayor Ford’s time is also notable. However, this potential is contingent on the movement’s dedication to principle and critical focus on electoral realities. Should this powerful social movement understand that its true strength lies not on the reliance on one person but on its numbers, there is no telling what it can do.*



## INTRODUCTION

As late night comedians and Internet commenters have enjoyed their turn at roasting Toronto Mayor Rob Ford's various indiscretions, one consistent question has hung over their ridicule—Who could possibly support this guy? Highlighted by recent developments though existing since 2010, Ford Nation has emerged as a notable movement for more than just concerned Toronto voters, but all observers of social phenomena. After carefully outlining the appropriate definition of social movements, this essay will proceed with a discussion of the movement's emergence, theoretical consistency, and conclude with a critical examination of its future outlook. Ford Nation will be presented as an important social movement that, should it embrace its potential, can exist long after its current leader has left office, and should be appropriated due respect.

## FORD NATION AS A SOCIAL MOVEMENT

According to Tarrow, social movements are to be defined as “collective challenges, based on common purposes and social solidarities, in sustained interactions with elites, opponents and authorities”.<sup>1</sup> It is the position of this essay that Ford Nation is best understood as a social movement under this definition. The collective challenges for the movement revolve around its current figurehead, Rob Ford, and his right wing agenda. Ford himself drew the individuals together, creating common purpose and social solidarity among a group that was disenfranchised by prior politicians and their actions.<sup>2</sup> The movement regularly supports and advocates for right wing policies fitting neatly into an “us vs. them” mentality. Its members face off against the opposition straw man figure of “downtown bureaucrat intelligentsia,” who seek to tax and spend the city into benefits for themselves. The major issue that Ford Nation must face in terms of its ability to be deemed a social movement lies in its capacity to continue sustained interaction with its opponents beyond this “flash in the pan” method exercised thus far. However, it will be presented that owing to the origins and recent popularized events for the movement, the prospects for

Ford Nation to continue its sustained interactions with its “opponents” are good.

Importantly, Ford Nation as a movement must be recognized as separate from a political party under Tarrow's definition.<sup>3</sup> The distinction between the two is found on two fronts. Firstly, campaign finance in the city of Toronto is strictly regulated to prevent any semblance of the vital party function of “pooling, coordinating and/or subsequent dispersal” of funds.<sup>4</sup> Secondly, beyond the fact that Toronto Municipal elections simply preclude any political parties from being formed, Ford Nation lacks the cohesive organization of a political party.<sup>5</sup> Its loose collectivity of issues and lack of formal structure does not constitute the necessary cohesion or enfranchisement required to be properly titled a political party. Plus, should anything resembling the above occur, it would be a brazen violation of electoral regulation and be outlawed immediately.

## BIRTH OF A NATION

Long before Ford Nation-proper developed, there was Councillor Ford. Ford ran for councillor in Etobicoke North's Ward 2 in the 2000 municipal election, getting the now somewhat ironic endorsement of the *Toronto Star*.<sup>6</sup> Ford defeated incumbent Elizabeth Brown in what was considered one of several upsets in the Etobicoke region.<sup>7</sup> According to Ford at the time, “the people said they wanted change and they got change”.<sup>8</sup> Ford served three terms as city councillor from 2000 until October 2010. During his time as councillor, Ford was a strong critic of councillors' spending. It was during the 2001 budget deliberations that Ford made his infamous reputation for passionate, anti-tax speeches and strikingly neoliberal leanings.<sup>9</sup> He was specifically noted for his incessant use of catchphrases, decrying “government in people's backyards, red tape, bureaucracies and bureaucratic nonsense.”<sup>10</sup> His overwhelming tendency to blame others and his longwinded, predictable statements wore quickly on his fellow councillors. When it came time for Ford to realize his mayoral ambition, he already had a well-established track record for the policies that would define him, drawing countless individuals to him.



Ford declared his candidacy for Mayor of Toronto in the 2010 election on March 26<sup>th</sup>, 2010. At the time, Councillor Del Grande endorsed Ford: “He’s very popular with ‘Joe Public.’ He’s definitely a contender, not a wild card.”<sup>11</sup> At his announcement, the unconventional crowd was notable. The usual intelligentsia, the university crowd and the opinion leaders who treat such events as a laboratory experiment in social democracy, did not populate it.<sup>12</sup> Rather, the gathering was heavy on common folk—the suburban, middle-aged, tired-of-paying-taxes, young conservatives, and disaffected citizens—people who were most disenfranchised by David Miller’s Toronto, which included issues with waterfront renewal, a lengthy garbage strike, access to the Toronto city airport, and recklessness with city funds.<sup>13</sup>

According to Norris, a primary mobilizing factor in the modern right-wing movement like Ford Nation is a “revolt against modernity” led primarily by the middle

***This middle class support was what originally projected Ford to victory in the highest voter turnout for a municipal election in Toronto’s post-amalgamation history.***

class: small entrepreneurs, shopkeepers, merchants, self-employed artisans, and independent farmers who are being squeezed between the growing power of big business and the collective clout of organized labor.<sup>14</sup> Relatedly, Bell and Lipset emphasize that it was the threat of loss of status by the middle class in industrial societies alongside economic threats that triggered their resentment against the status quo.<sup>15</sup> It is entirely possible that both theories of middle-class attachment came together in differing concentrations to create this support base that showed up at Ford’s original kickoff event and followed him ever since. This middle class support was what originally projected Ford to victory in the highest voter turnout for a municipal election in Toronto’s post-amalgamation history.<sup>16</sup> Ward-by-ward electoral results showed that Ford had won all of

the former pre-amalgamation suburbs, while his main opponent, George Smitherman topped districts in the pre-amalgamation Toronto districts.<sup>17</sup> Though these “middle class favourable policies” were the core tenets of his platform, Ford was careful to make himself attractive to individuals of all classes.

## **A NATION DISENFRANCHISED: THEORETICAL CONSISTENCY WITH NORRIS’ DEALIGNMENT THEORY**

This unique situation points toward a consistency with Norris’ dealignment thesis. The thesis presents that right wing movements are able to particularly benefit from any temporary widespread disaffection with governing parties, or from sudden events, to pick up votes generally across the board.<sup>18</sup> Owing to widespread disappointment with Miller, specifically with his actions surrounding the 2010 garbage strike, this thesis has applicability. At the same time, the dealignment thesis also suggests that any short-term gains for the radical right may dissipate in subsequent elections, as they will not be based on stable social and partisan cleavages.<sup>19</sup> Again, the problem of sustained interaction rears its head and admittedly, there was a period of time when the dealignment theory would have accurately predicted the movement’s dissipation. That is no longer the case. In this new situation, the railing against David Miller has been replaced by the consistent instability of hate and admiration towards Ford. Recent events have only heightened this sense of polarity, and have in fact drawn more people towards it. According to dealignment theory, this desire for instability will prevent the movement from dissipating.

## **STUCK TRYING TO INTEGRATE: EITZEN AND STEWART’S LIFETIME OF A SOCIAL MOVEMENT**

In keeping with Eitzen and Stewart’s theory of the life of social movements, it was Ford’s original political skill and language that caused the movement to form in the first place. He informed individuals of the societal conditions that were plaguing them, these being largely the city hall’s recklessness at their expense.<sup>20</sup> As their



grievances became more focused, as guided by their leader, they moved into the second stage of the social movement during the 2010 campaign, wherein more and more individuals began to realize their discontent and joined together in solidarity.<sup>21</sup>

The third stage of the movement was stimulated by the campaign's organization. Though Ford Nation did not acquire a truly formal structure in terms of its organization, Ford Nation still succeeded in communicating its mission and principles to all its supporters. Interestingly, in terms of its saliency with Eitzen and Stewart's social movements progression model, Ford Nation is a unique case in terms of its ability to reach true success. Eitzen and Stewart define "success" of a movement in terms of its ability to institutionalize its goals legally and in society, which Ford Nation has been able to partially accomplish with Ford in power.<sup>22</sup> What makes the movement unique is that, despite the technical enfranchisement of policy, it has not achieved true success. The regular criticism of both its current leader and policies and the constant threat of repeal of these policies have prohibited the movement from truly being accepted by society. While they have reached technical success, the movement has been unable to move to the final stage of a social movement: integrating its goals into society.<sup>23</sup>

## WHAT'S IMPORTANT AND WHAT'S NOT: NOAKES' FRAMING THEORY

Undeniably, there have been incidents in 2013 that have brought Ford Nation into focus. Though many expected that Ford Nation would fracture under the ridicule that its "man in council" has brought onto itself, it has in fact galvanized the movement. The "us vs. them" conception that has always existed at its core now has an important connection with Noakes' Framing Theory, wherein framing functions similar to framing a picture gets attention focused on what is important, and away from what is not.<sup>24</sup> According to this theory, individuals must be convinced that an injustice has occurred, persuaded that their collective action is called for, and motivated to act for the social movement to continue.<sup>25</sup> Ford Nation evidently conforms to this

theory, especially after the events of this year. The movement asserts that policies are important, and that the personal qualities of those implementing them are not. To Ford Nation, the injustice committed is the impugning of a man doing his job exceedingly well by bringing up irrelevant or unimportant personal factors. Further, just as described in the dealignment thesis, the movement's collective action is vital to the continuance of its favoured policies, irrespective of Ford's status. Ford More Years?

With an election coming in 2014 for the city of Toronto, the prospects look dire for Rob Ford. However, it is the contention of this essay that the prospects are dissimilar for Ford Nation, the beast that he was instrumental in creating. At this point, Ford as a candidate is stuck at a certain level of support. Recent polls have indicated he is supported by 33% of registered voters.<sup>26</sup> However, these numbers exist only in a vacuum. When polled against actual opponents, the prospects for Ford are much direr. A recent Ipsos-Reid polling had Ford losing the election in any of the countless variations of candidates in 2014.<sup>27</sup> Individuals such as Stintz, Tory, and Chow all won the modeled elections, with varying winners depending on the combination of the participants.<sup>28</sup>

Nonetheless, the polling also showed that 47% of people agreed with the statement claiming "Mayor Ford is doing things at City Hall that I want him to keep doing."<sup>29</sup> For all his personal flaws, Ford Nation is willing to look past that and see the concrete policies enacted. It is the principles, not some intangible factors, that Ford prescribes that create the energy behind the movement. "We look at him as a bulwark against the overreaching imposition and government power and control and expense. This is why he still hits the nail on the head and why I'll defend him to the political death: because he respects the money we send to him," said Neil Flagg, the founder of the I Hate the War on Mayor Rob Ford social media campaign, which currently has over 3000 members in its various forms.<sup>30</sup> This "parasite-like" potential, moving from leader to leader, needs to be embraced by Ford Nation if it seeks the necessary sustained interaction to be truly classified as a Social Movement.



This possibility is ground in McAdam's Cognitive Liberation concept. This concept states that when a movement faces a decline in effectiveness, a growing organized opposition by elites, and a generally changing political landscape, there is great potential for action.<sup>31</sup> This is plainly the current situation facing Ford Nation. The actions of its current figurehead have caused a decline in its effectiveness, disabling it to frame its issues to a broad enough extent to stop the slugging poll numbers. Further, elites and countless others have been lining up behind opposing candidates for the coming election, seeking to change the current landscape that has Ford Nation in control.<sup>32</sup> Cognitive Liberation argues that as this unique challenge for the movement's future develops, members of the movement will feel an increased sense of purpose and develop a sense of belief in their ability to enact further change in the political arena.<sup>33</sup> According to McAdam, it is the combination of perceived resistance and experienced efficacy that is held to be the linchpin of future movement activity.<sup>34</sup> The cohesion and policy rewards that Ford Nation has found by rallying around an individual, in combination with the current shifting landscape, indicates the likelihood that it will seek to undertake collective political action again.

## THE MOVEMENT WILL LIVE ON... IF IT'S CRITICAL ENOUGH

To return to the fateful question of who could possibly support Rob Ford, let alone form a social movement based on his policies, the answer is clearer. After tracing the history of the movement itself and its current and original leader, the underpinning theories that have yielded the current situation were recognized. This included Norris' dealignment theory, the revolt against modernity and loss of status, Eitzen and Stewart's social movement lifetime progression, Noakes' Framing Theory, and McAdam's Cognitive Liberation Concept. Further, the movement has demonstrated its supreme dedication to principle over person by its steadfast dedication to the individual who acted for its desired principles, no matter the issues surrounding him personally. Finally, it has been presented that this

dedication will lead the movement to pursue its agenda even after the current leader has left office, motivated by its favoured policies being recognized. Rob Ford sparked the organization of power for a right-wing movement for Toronto. Now that that power has been realized, it should not and will not be cast aside just because its current leader is about to be.

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# THE CYBORG-ELECTRICUS' ECSTASY OF BONDAGE: ELECTRONIC TOOLS AS A CONSTRAINED POTENTIALITY

EROTICIZATION OF TECHNOLOGY AS A LIBERATORY FORCE, OBSCURES THE CONSTRAINTS ON POTENTIALITY OF ACTION INHERENT IN EVERY TECHNOLOGY.

Written By Philip Henderson

## ABSTRACT

*Popular wisdom holds that the more technologically advanced society becomes, the freer its citizens are. Machines and electronic devices have eliminated the economic need for slavery, and support a lifestyle that is increasingly opulent. This paper begs the question: What becomes of the 'human' subject in this situation? We try to separate ourselves from these servile tools, reifying Cartesian dualism. However, a growing body of cognitive psychological research is proving that this divide is in no way as clearcut as it seems at first glance; in practicality, every person is truly a hybridity - a cyborg. The author employs cognitive research to problematize the limits of the human body, reasserts a broader conception of those limits and seeks to more thoroughly understand the trajectory of human-machine coexistence. Ultimately, this is a project of situating agency, and recognizing how deeply embedded human existence is in the world around it.*



## INTRODUCTION

Although the prescience of it was likely lost on him, in 1844 Samuel Morse relayed the provocative message “What hath God wrought?”<sup>1</sup> This message marked the first engagement in what has become a nearly two centuries long technological orgy; a steadily climaxing encounter which has birthed the modern Western world and its inhabitants. While Morse’s invocation of God was a rhetorical flourish, it is indicative of the ideological self-conception that characterizes modernity’s relationship to tools. Indeed, we humans have come to see ourselves as god-like; calling into being and ruling over a creation born of imagination. Our technocreations operate as bloodless slaves, who we exploit for our benefit, morally unhindered. This self-conceit is so far removed from reality as to be laughable were the implications not so dire. We believe ourselves to be masters of technology beyond impunity, while eschewing some of the deepest revelations of cognitive sciences. Viewing technology as humanity’s servile creation avoids confronting the fact that “objects, by virtue of their being in the world..., push back in their interactions with humans.”<sup>2</sup>

In this paper I address this push back, uncovering the complex interaction of people and tools. Particularly, I am interested in the effects that the electronic revolution has had on human cognition. By challenging the “traditional position of privilege” of the human in these discourses,<sup>3</sup> I postulate that the becoming-together of humans and technology proves our species has always been cyborgs. However, it is only in the throws of electronic ecstasy that this has become a dangerous fetish. Our eroticization of technology as a liberatory force, obscures the constraints on potentiality of action that are inherent in every technology. It is with uncovering and understanding this invisible bondage that I concern myself.

To these ends, I have divided this paper into four sections. In the first I outline my understanding of what is encompassed or excluded by the category of tool, a word I view as synonymous with ‘technology’ or ‘device.’ Additionally, I interrogate the nebulous meaning that surrounds the notion of the cyborg. In the second section I turn to those promethean tools that facilitated

humanity’s emergence from other hominid lineages. Particularly, I explore the feedback loop between cognitive development and tool creation and usage. In the third section I examine the cyborg-electricus that has been brought into being by the proliferation of electronic technology. Of major import are the different cognitive interactions that these new electric tools demand. In the final section I address the modern cyborg as an unknowable other, masquerading in the guise of liberating selfhood. Undercover of discourses professing absolute freedom, the modern cyborg is the totalizing limitation of human potentiality.

## DEFINITIONS: ON TOOLS AND CYBORGS

Tools are elements of our day-to-day lives that despite (or perhaps because of) their apparent ubiquity are rarely considered in a serious manner. However, the enormous impact that these ‘things’ have on our lives necessitates a clearer understanding. Such an understanding begins with the realization that a tool is a ‘thing,’ which is not wholly a thing. Rather than be understood as a noun, the term ‘tools’ operates most exactly as a verb. Baber argues that a tool gains “meaning and relevance” through performance of the action it is designed to preform.<sup>4</sup> As such, a tool only becomes itself through usage. In addition to being a device that is used, it is also one that is designed. In the creation of a tool “single elements are adapted to each other” for use in a “symbiotic set.”<sup>5</sup> Put differently, fabrication of tools requires that smaller items be brought together with the aim of creating a product that is capable of performing or enhancing a complex task. The ability to make such objects demands that one’s thinking “depart from the immediate problem” and focus on more abstract issues such as efficiency,<sup>6</sup> which is indicative of higher order thinking.<sup>7</sup> However, it is too simplistic to say that our cognition enables us to shape tools because the use of tools also helps to shape our cognition. Jeffares refers to this practise as a “feedback loop,” wherein cognitive processes compel us to use tools to “shape the world: [while] the world shapes our cognition.”<sup>8</sup> Part of the tool’s ability to affect our cognition derives from the process of cognitive mapping. Through this process the



tool's physicality is integrated into the brain's perception of the body, through repeated use the tools become the "extension of the hands."<sup>9</sup> As far as the carpenter's brain is concerned her forearm does not end at the hand, rather it is extended into the hammer. This holds true regardless of profession or tool, the critical aspect is the expertise of the user.

Cyborgs are creatures of overlapping meaning: they are deaf to the classification and taxonomies shouted at them from alleged experts. Lived experiences instantiate meaning for the cyborg, above the sterilized knowledge (re)produced in laboratories. The cyborg is thus inherently subjectivized and fluid; it is also pervasive. Scientifically cataloguing particular bodies as objectivized organisms demands a separation of said body from the environment in which it exists. However, this runs contrary to the observation of organism and environment existing as a "conjoined... single dynamic unit."<sup>10</sup> Thus, attempts to create discrete individuals amounts to academic nihilism, bent upon reductivism. Cognitive science indicates that this interconnectedness is especially true in the case of humans. Research continues to amass evidencing that the boundaries of the human mind are not in coincidence with the perimeters of the body.<sup>11</sup> The supposedly discrete human individuals "frequently incorporate technologies into their bodily, perceptual and cognitive systems."<sup>12</sup> This extends what is classified as the self well beyond the apparent organic borders of the body. This incorporation is facilitated by the neuroplasticity of the human brain. Through synaptogenesis, synaptic connections that are used frequently become stronger and quicker, whereas those connections that are used less begin to weaken and die. The process of synaptogenesis encourages the (re)structuring of synaptic pathways in the brain, based upon their relative usage.<sup>13</sup> Thus, the environment physically imprints itself in the brain. Shaping of the brain by tools also blurs the lines of individuation and (re)produces the cyborg.<sup>14</sup>

### The Historical Roots of "Cyborg"

In this section I examine the earliest evidence of tools that exists, in an effort to understand the cyborg's historic roots. First, I discuss the emergence of tool-technology as a sustained project, rather than sporadic usage. Secondly, evidence of the socialized production

of tools is presented to highlight the significance of tool-making to cognitive development. As a third point, I examine the promethean character of our oldest tools as a means of salvation. Finally, I present several observations on the physiological impact of these tools.

Our earliest evidence of deliberate tools creation is contemporaneous with the development of later hominids and the emergence of homo sapiens, the apparent codependence facilitates a feedback loop of development. As such, when we examine the development of tools we are also examining the final stages of evolution that made us into the creatures that we are today, both biologically and cognitively. Stout notes that our first evidence of deliberate fabrication dates back nearly 2.6 million years, to almost exactly the time that the line homo split from the hominid classification - progenitors of humans.<sup>15</sup> However, like their early creators these tools were rough and made with little or no expertise. By 1.6 million year ago, a certain amount of skill had been developed in tool production, highly "elaborate methods of flak[ing]" are seen.<sup>16</sup> Jeffares catalogues these as Mode 1 tools, which to modern humans would look like they are "simply rocks with flakes struck off."<sup>17</sup> However, there is evidence of "standardized" tool production as recent as half a million years ago.<sup>18</sup> These are known as Mode 2 tools and display "remarkable consistency across time and space."<sup>19</sup> Moreover, this period marks of the emergence of the first anatomical homo sapiens. The complexity of uniformity displayed here depends quite highly on and reinforces the anterior frontal lobe and Broca's area in the brain.<sup>20</sup> These components came to fruition around the same time tools began emerging, highlighting the feedback loop of cognitive development with tools.

Accelerating complexity necessitates the development of deeper socialization. The uniform production of Mode 2 tools, over thousands of years, is evidence that the skills necessary for creation were being meticulously transferred from one generation to the next. This type of genealogical knowledge can only be achieved through consistent and stabilized social interaction. In early tool-makers this knowledge was transferred mimetically.<sup>21</sup> This means that even in pre-linguistic societies skill and knowledge could be transferred from



one to another by imitation of the original action. Such a transfer is facilitated to a greater degree in societies where more examples of action exist - that is, societies of more social interaction. As such, the development of tools occurred in close affinity with the development of permanent societies. Moreover, as the tools become more complex through mimetic transfer, the cognition of those engaged in tool production also increases in complexity. This comes as a result of more “complicated technologies” enabling opportunities of “multiple variants.”<sup>22</sup> Put differently, tools that require more steps in their production allow for more variations, as each step can be preformed in multiple ways. As such, the emergence of complex tools facilitated complex and diverse thinking by early humans.

***“In human subjects, tools function as detachable extensions of the forelimbs; in effect, the tool becomes a ‘substitute limb.’”***

In Aeschylus’ drama *Prometheus Bound*, the demigod Prometheus defied Zeus’ command to let the human race disappear from the Earth; after gifting all the other animals with a skill for survival, none remained to give to humanity. Desiring to save the mortals, Prometheus stole the fire of the gods and gave it to humanity.<sup>23</sup> It was this tool that shook humanity from its stupor and enabled our survival. When I invoke promethean tools I mean those devices upon whose existence our survival is dependent. Anthropologist Kenneth Oakley has noted that in primates the forelimbs are the appendage critical of survival, as they facilitate the greatest interaction with the environment.<sup>24</sup> He further notes that in human subjects tools function as “detachable extensions of the forelimbs;”<sup>25</sup> in effect, the tool becomes a “substitute limb.”<sup>26</sup> From a cognitive perspective, the ‘attachment’ of these extended limbs facilitates goal-oriented action as the tool that is carried “promotes a habit of mind, and level of awareness... distinctly geared towards its use.”<sup>27</sup> Put differently, simply holding a tool encourages the perceptual awarenesses associated with its designed purposes. For example, when a hunter wanders through the forest with his bow strung and in hand, his brain

is actively more attune to the sensory inputs that are necessary for hunting. The tool quite literally improves ability. In the “patchy world” that early humans occupied, vital resources were often difficult to attain and required careful attention.<sup>28</sup> Providentially, the nomadic lifestyle of these humans played to their advantage, as they were compelled to carry their belongings with them. As such, the tools needed for survival were “part of what [humans] moved through the world with.”<sup>29</sup> Prometheus brought humanity the means of their salvation, which they were then compelled to carry with them.

Thus far I have characterized the cyborg as a cognitive creature who integrates surroundings into its mental representations of self. However, this is only a portion of the truth: the cyborg is also a physical being. The impact of early tools expressed itself not just cognitively, but also physically. The becoming-together of human and tool leaves indelible marks in the physiology of both. As Holland notes, the repeated usage of a tool leaves its impact “incised upon the body.”<sup>30</sup> Therefore, though it is true that the creator leaves their imprint on the tool, the tool leaves its impact on the operator. While extending capabilities and powers, tools also impose a variety of constraints on action that demand adaptation. For example, repeated use of a hammer can “change the bone densities” in the users’ limb.<sup>31</sup> As this observation marks the death of unidirectional impact and the instantiation of pushback, discussing users and operators is less instructive than is the notion of the cyborg: that hybrid of blurred distinctions.

## **THE ‘MODERN’ CYBORG: CYBORG-ELECTRICUS**

Having established the genesis of our cyborg-selves, I now preform an examination of the health of the modern cyborgs, particularly those basking in the opulence of the post-industrial Western world. I propose that the promethean-cyborg of Darwinian necessity is no more. It has been replaced by the cyborg-electricus, a self fully integrated into the electronic world. In order to maintain this assertion I highlight three salient points: first, that electrical tools have caused a shift in cognitive culture; second, I explore the reality-by-simulation in which



the cyborg-electricus is enclosed; third, I comment on the new transformation of physiology facilitated by electronica.

Over millennia, innumerable societal complexities have emerged, traceable from the creation of the first tools to those of the modern day. These societal complexities come as the result of social changes, brought about by evermore complicated tools. Until the electronic era, commentators suggested that these technological developments strengthened cognitive concentration. This “deep attention” was characterized by “focusing for long periods on a non-interactive object,” like a book or algebra problem.<sup>32</sup> However, because of the proliferation of electronic technologies many are now heralding the end of deep attention; to cite Holland, “computational media are creating new forms of cognitive activity and... a new cognitive culture.”<sup>33</sup> These new tools are networked, rapid and never static, and they encourage a similar form of cognition. This “hyper attention” is characterized by “switching focus rapidly among different tasks, [and] preferring multiple information streams.”<sup>34</sup> In other words, the norm is no longer protracted engagement with singular tasks or sources of information, but rather multiple points of access. Our electronic tools both cause and support this new cognitive culture. Perhaps one of the most interesting aspects of this new culture is that despite its apparently fleeting attention, it seems to strengthen social cohesion. Hayles cites studies of visual recognition capacities and notes that the speed at which we “recognize an image” has dramatically increased as our world becomes more electronic.<sup>35</sup> Somehow, in a world of shallower attention, symbolic meaning is actively deepening. The solution to this apparent paradox is in our cognitive past. Our first cognitive cultures were, beyond a doubt, hyper attentive.<sup>36</sup> This was the cognitive stance necessary in a world fraught with danger and scarcity of resources. In such a world, images take on strong meaning, and an ability to interpret them quickly was the difference between life and death. In as much as we move towards hyper attention, we return to the tribal.

While the electronic age, in many ways, is a return to tribal-like cognition, it remains different in several important respects. Primary amongst these differences

is the emergence of a reality-by-simulation worldview. While culture has always mediated a person's interaction with the world, electronic culture is noteworthy for its creation of a totalized “abstract understanding [of reality] through a web of connections.”<sup>37</sup> That the world as it is (re)presented through electronic devices is perceived to be a complete and accurate portrayal. This culture (re)presents what those within would call an “objective reality,” that must be dealt with “on its terms” in order for the subject to appear reasonable.<sup>38</sup> This totalized presentation of reality pervades and saturates all our electronic tools. Virilio asserts that the

***“The norm is no longer protracted engagement with singular tasks or sources of information, but rather multiple points of access.”***

presentations of cinema are an extension of vision, but extensions that supersede the natural perimeters of vision's subjectivized observations.<sup>39</sup> That is to say that the natural vision of humans - even the vision of promethean cyborgs, aided by devices like glasses - is localized in a particular temporal and spatial reality. Augmented by electric tools, the cyborg-electricus' vision is unbounded by the physics of time and space. A film clip can present visual information from anywhere in the world and at any point over the past century, the observer is no longer bound to a time or place. Moreover, this process is quickly becoming less one of augmentation and more of primacy. Children aged 8 to 18 normally spend 6.5 hours every day immersed in these electronic tools; when one factors in periods of multiple media inputs this rises to 8.5 hours.<sup>40</sup> The next generation has normalized total submersion in the reality-by-simulation of electronica.

As was the case with promethean tools in our past, our relationship with electronic tools is not purely cognitive; we can now interact with our tools in much deeper physical ways. Pacemakers and heart-monitors are now so ubiquitous that we rarely question the enormity of their meaning. These devices quite literally represent the physical fusing of the human body with electronic



devices: the cyborg-electricus. Moreover, the rate of integration is only accelerating. For example, in 2013 it is now realistic to imagine “[c]onnecting the brain directly to a machine.”<sup>41</sup> This can be achieved by either having the brain wired into a remote computer or having the brain control an electronic appendage - often used in the case of amputees. In a study of macaque monkeys outfitted with robotic arms, brain-scans revealed that the electric arm had been “fully integrated” into the brain’s body schema.<sup>42</sup> What this highlights is that when brought together, organism and electronica are not alien to each other; rather, they come to constitute a “systemic whole.”<sup>43</sup> As such, the gulf between the human and the tool has never been smaller. Nor has this distinction ever been less relevant to make; humans co-evolved with tools and existence as promethean-cyborgs was critical for our survival. The relevant observation is that the tools we employ, and how we incorporate them into ourselves, has undergone substantial development: the cyborg-electricus is more fully integrated and seamless than ever before.

Hence far I have characterized the development of the cyborgs as a logical consequence of specific paths in technological developments. However, in this final section I elucidate the unknowable otherness that is imposed on the cyborg-electricus through its discourses of liberation. To this effect, I consider two important factors: the first being the reification of sexist attitudes upon which much modern cyborg theory and practise are predicated. Second, I address the invisible constraints that the designs of electronic tools impose on the potentiality of freedom. In order to further highlight this point I conclude with a case study examining Google Search.

As I have noted throughout this paper, at its core the cyborg is the blurring of lines meant to distinguish categories which are presumed to be discrete. We hope that the effect of removing these distinctions would be to the benefit of those most marginalized by systematic cataloguing. However, because cyborgs are not born into a vacuum devoid of power relationships this is most often not the case. Indeed, the cyborg-electricus has largely served to reify old prejudices. As Shabot notes, contemporary culture has represented the importance

of our electronic tools, as the coming to fruition of a “platonian idea” of the perfect body.<sup>44</sup> It hardly needs to be pointed out that millions of dollars are poured each year into the cosmetics industries. Through makeup, fitness regimens or surgeries an imaginary standard of beauty can be achieved. The trend of these technologies to facilitate archaic standards of beauty has led to a “reinforcement and an exacerbation of the classic, binary divisions of sexual bodies.”<sup>45</sup> This is achieved by encouraging a desire for a highly specified body-type. Moreover, in the age of electronic enhancement, only two pure aesthetics exist: one perfect male and one perfect female.

Many would accept these criticisms yet still support the liberatory potential of the cyborg-electricus. Such arguments are predicated on a belief that the prejudices being reinforced are not innate to the electronic technology but rather they predate the cyborg-electricus. Certainly this is a fair critique, but this is not to say that the cyborg-electricus is actually capable of the total liberation that it promises. Indeed, Virilio has characterized the primary promise of the electronic age is the “prohibition to prohibit.”<sup>46</sup> In our

***“In the age of electronic enhancement, only two pure aesthetics exist: one perfect male and one perfect female”***

terms this means that the cyborg-electricus positions itself as the absolute end of all constraints; after its emergence everything becomes possible - everything becomes permissible. However, this is nothing more than a malignant outgrowth of the liberal notion of freedom: an existence devoid of formal constraints. Unacknowledged is the fact that, although all needs will be met in this new electronic era, said needs are to be “predetermined;” thus the true “deception... is satisfaction” of this imposed desires.<sup>47</sup> In other words, though electronic tools facilitate the fulfillment of our desires, these desires are themselves constrained by the possibilities imagined by the subject - an imagination limited by larger societal factors.



In the case of electronic media these invisible constraints exist as an effect of the design established for each tool by its programmer. When created, every device is designed by someone to preform a specific series of tasks. Tasks included in the design can be preformed efficiently, but there exists a nearly infinite number of alternative tasks which could have been incorporated into the design. That these tasks were not incorporated indicates that a value judgement has occurred at some point in the process. Shaffer cites a thought experiment by Latour, wherein a shepherd erects a fence with the intention of enclosing his flock. Latour then asks if the sheep interact with him when they interact with the fence, and concludes that:

*"The fence enacts Latour's intention to keep the sheep all together in one place to make sure that none wander off. His action is folded into the nature of the fence; but if one looks for a "mind" in this situation, it is as much in the head of Latour... as it is in the fence that enacts a particular way of thinking."<sup>48</sup>*

Here we can picture the programmer as our shepherd, carefully constructing the realm in which we are free to act. No matter how big an area our programmer chooses to enclose, we are ultimately still confined. Furthermore, Virilio notes that the computer is not a neutral well of information, rather it is an "automatic vision machine... [in] an entirely virtualized geographical reality."<sup>49</sup> Using the word 'vision' indicates that the information provided, despite its presentation as objective, is always framed. The extended vision of electronic tools is still dependent upon a programmer's pointing of the lens or writing of the algorithm. In this instance the decision to interrogate certain information is removed from the subject and entrusted to the programmer, who is not necessarily trustworthy.

At this point an example may be an instructive way to illustrate my position. Perhaps one of the most innovative and energetic corporations to come along in a generation, Google, has become the unofficial mascot of the Internet. Moreover, as the most visited website globally, Google has undoubtedly earned that reputation.<sup>50</sup> The enormous proliferation of the Internet has necessitated the emergence of a search engine with

Google-like capability. As Hazan observes, "we want Google to pick" only the best websites for us when we enter a search,<sup>51</sup> otherwise we would have the onerous task of personally shifting through the over 1 trillion unique websites.<sup>52</sup> Google acts as a "bottleneck for the flow of information" online, cohesively organizing an otherwise "fragmented" Internet.<sup>53</sup> While all of these achievements are certainly laudable, it would be a grievous mistake to assume that Google is a value-neutral harbinger of information. As a corporate entity Google has certain interests designed into its very structure; amongst these are self-preservation and profitability. Unfortunately, most Google users passively accept that the "first few results... are the most relevant ones,"<sup>54</sup> brought to their screens by a complex and reliable algorithm. In reality, things like punitive action, censorship and, most often, commercial interests, affect the results that Google offers for any search.<sup>55</sup> As a profit seeking business Google has a predilection to privilege results that direct searchers to either client sites or else towards other Google-owned services. The danger lies in believing that Google provides a liberating online experience, in failing to see the fence our shepherd has so dutifully erected. While the field may be vast we must never forget that the fences do exist, and out there somewhere are the shepherd's shears.

## CONCLUSION

Throughout this paper I have evaluated developments in the relationship between tools and humans. Initially, I noted that tools emerged contemporaneous with homo sapiens. Tools have facilitated the cognitive and physiological development of humans and are primarily responsible for our survival as a species. The enormity of this codependence has blurred all lines of distinction, making the discrete organism of the human unintelligible and birthing the promethean-cyborg. However, a distinct shift has occurred with the emergence of electronic tools. These new tools have facilitated the development of a hyper attentive cognitive culture, embedded in a totalized reality-by-simulation. Moreover, the physiological integration of bodies and tools has been made evermore seamless by electronics; these new circumstances have initiated the cyborg-electricus. While the electronic age presents



itself as the unshackling of potentiality, it is complicit in the reinforcement of archaic gender binaries and is ultimately constrained with the designs of a few programmers. This last point was brought under scrutiny by reference to the limitations built into the supposedly neutral Google Search function. The technological orgy of modernity has climaxed in the masochistic bondage of the cyborg-electricus. Like Prometheus we have been bound; for all purposes it appears eternal. We have, however, run headlong into these chains; enticed as we were by their promise of luxury. The fetishization of our own comfort has instantiated the undoing of our liberty.

## NOTES

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## THE NEED TO QUEER THE INTERNATIONAL SYSTEM

WE NEED TO QUEER THE INTERNATIONAL SYSTEM, OR ENHANCE EXISTING “QUEERNESS” WITHIN IT, IN ORDER FOR LGBTQ RIGHTS TO TRULY BE REALIZED.

Written By Chelsea Rubin

### ABSTRACT

*We are currently at what Professor Alan Sears refers to as a “unique moment in history”. While so many regions are experiencing progressive changes in the area of human rights, the area of LGBT – lesbian, gay, bisexual, and transgender - rights are regressing in many countries. With the Sochi Olympics looming the regression of LGBT rights in Russia have come to the attention of the international community. Sochi has become just one example of the tension between international human rights standards and domestic forces, especially regarding LGBT rights. Norm diffusion, the politicization of cultural claims, and the preeminence of national sovereignty in international political organizations continue to impede the inclusion of LGBT rights in the international discourse. Essentially, I argue that we need to queer the international system, or enhance existing “queerness” within it, in order for such rights to truly be realized.*



## INTRODUCTION

We are currently at what Professor Alan Sears refers to as a “unique moment in history”.<sup>1</sup> While so many regions are experiencing progressive changes in the area of human rights, the area of LGBT – lesbian, gay, bisexual, and transgender - rights are regressing in many countries. With the Sochi Olympics looming the regression of LGBT rights in Russia have come to the attention of the international community. Sochi has become just one example of the tension between international human rights standards and domestic forces, especially regarding LGBT rights. This apparent dichotomy is largely explained by the existence of multiple forces in the international realm that continually impede the development of an international LGBT rights standard, as well as domestic forces that prevent individual countries from working towards the adoption of such a standard. While LGBT Rights have progressed in certain countries, and jargon has appeared on an international political level, reconciliation between the two remains unfounded. Norm diffusion, the politicization of cultural claims, and the preeminence of national sovereignty in international political organizations continue to impede the inclusion of LGBT rights in the international discourse. As Professor Sears notes, “The goal is to change the whole set of relations to a new realm of freedom, and then we wouldn’t even know what queer would look like anymore”.<sup>2</sup> Essentially, we need to queer the international system, or enhance existing “queerness” within it, in order for such rights to truly be realized.

## THE COMPLEXITIES OF ESTABLISHING A UNIVERSAL STANDARD

A key component to the complexity of the realization of LGBT rights in the international community is the difficulty of identifying what exactly LGBT rights need to entail, and to whom they should apply. The very nature of such rights rejects being defined – to fit LGBT individuals into a specifically defined category contradicts the nature of queer identity. The closest thing to a consolidated definition of queer identity is

simply that which is transgressive against the dominant set of sexual relations, which are non-queer.<sup>3</sup> This reason, coupled with cultural differentiation regarding the realm of sexual relations, has made the establishment of a United Nations (UN) LGBT human rights standard virtually impossible.

The Yogyakarta Principles on the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity – hereafter referred to as the Yogyakarta Principles – drafted in 2007 constitute a massive improvement in terms of the normative discourse put forth by the UN. However, these principles are limited in their effectiveness: they are a non-binding set of legal guidelines and their focus on a non-discriminatory framework limits their mandate to the fulfillment of negative, as opposed to positive rights.<sup>4</sup> Prior to the Yogyakarta Principles discussion of LGBT rights at the UN was minimal – essentially limited to allusions to sexuality and sexual identity within broader rights based discussions. While discussions occurred, and mandates were established, practice remained inconsistent at best.<sup>5</sup> Numerous factors, specifically issues surrounding definition and the complexities of dealing with multiple sovereign actors, have made the creation of an international standard of LGBT rights elusive.

Additionally, while specific resolutions regarding the status of LGBT rights in the international community still do not exist, certain allusions to such rights do. However, the limits of such documents and statements continue to be evident. The International Covenant on Civil and Political Rights (ICCPR) is considered a core human rights document, and countries who have ratified it – including some of the largest abusers of LGBT rights in the international system, such as Jamaica, Nigeria, and Uganda – are expected to protect and preserve basic human rights within their borders.<sup>6</sup> While it is possible for countries to claim that LGBT rights are not included in the jargon of the ICCPR, UN High Commissioner for Human Rights Ms. Navanethem Pillay’s September 2010 speech clearly stated that the inclusiveness of LGBT rights is present in the language of the treaty, even if it is not explicitly stated.<sup>7</sup> Additionally, *Toonen v. Australia* (1994) clarifies the fact that references to “sex”



in articles 2.1 and 26 of the ICCPR should be read broadly to include discrimination on the basis of sexual orientation.<sup>8</sup> Regardless of these statements however, the human rights based approach, while perhaps an important normative, symbolic gesture, has produced little tangible results regarding the improvement of the quality of life of LGBT individuals in countries where homophobia is engrained in societal traditions.

### THE LIMITS OF A HUMAN RIGHTS BASED STRATEGY

While discussion of an international standard of LGBT rights have occurred, the framework through which they are operationalized continues to be a hindrance to their development. The central contributing factor to the elusion of the successful realization of an internationally applicable standard of LGBT rights is the nature of international human rights themselves. Focusing LGBT rights within human rights based discourse poses fundamental problems. These problems include the difficulties in the lack of enforcement mechanisms for the implementation of such rights, difficulties reconciling ‘society’ with the ‘state’, and cultural relativism and the universal nature of international human rights.<sup>9</sup> Issues with enforcement are an issue with international human rights in their entirety, not just LGBT rights, and therefore will not be discussed here. The other two topics – ‘state’ and ‘society’ reconciliation, and issues of cultural relativism – are dominant issues in the framing of LGBT rights as human rights, and as such bear further note.

The differentiation of ‘state’ and ‘society’ characterized by political scientist Joel Migdal is critical to understanding issues likely to arise from a universal, LGBT rights standard within the human rights discourse. According to Migdal, the ‘state’ refers to governmental institutions, while ‘society’ is composed of non-state actors, i.e. individuals, communities, economies, etc.<sup>10</sup> In order to assess the relative success of international human rights, we must assess countries from what Migdal refers to as the “state-in-society” model – that is, we must see governmental institutions as the outgrowth of the societies from which they arise.<sup>11</sup>

If we ascribe to this theory, then it follows that legal changes will be inadequate to effect tangible change in a given state.<sup>12</sup> It is in a society adhering to homophobic and transgenderphobic values that homophobic and transgenderphobic laws arise – the values do not arise from the legal structure.<sup>13</sup> Therefore, in order to truly improve the situation of LGBT individuals in a given area it is a societal shift, not a legal shift that is needed, and this is something that international human rights law simply cannot achieve.

Cultural relativism has long been argued as the largest impediment to the successful implementation of a universally applicable human rights standard. Political scientist Jack Donnelly asserts that cultural relativism is an, “undeniable fact; moral rules and social institutions evidence astonishing cultural and historical variability.... The doctrine of cultural relativism holds that such variations cannot be criticized by outsiders.”<sup>14</sup> Regardless of whether or not one agrees with this doctrine, in the current state-centric international system, its implications are immense. Conceptions of sovereignty continue to guide the structure of the international system, precluding external involvement in issues considered sovereign matters. Until a given issue is slated as a “threat to international security”, the United Nations (UN) will not consider coercive action.<sup>15</sup> The doctrine of cultural relativism essentially precludes the possibility of any form of an international standard of LGBT rights with the human rights discourse. A framework other than individualistic, universal human rights must be considered when discussing the development of an international LGBT rights standard.

### THE ROLE OF THE STATE

The nature of the state, in the liberal tradition, is dominated by a sense of heteronormativity. As Monique Wittig states, the social contract is heterosexual: “to live in society is to live in heterosexuality... heterosexuality is always there within all mental categories.”<sup>16</sup> Western political thought, derived from Aristotelian tradition, is grounded in the notion of the heterosexual couple as representative of the principle of the social union itself.<sup>17</sup> It is only logical then to conclude that such



heteronormativity continues into the international system in the liberal conceptualization – that the international system is anarchic by nature, composed of multiple sovereign actors. Development of LGBT rights in this context therefore is a nearly impossible concept.

Michel Foucault, in his seminal work *The History of Sexuality, Volume I*, illustrates his concept of the “repressive hypothesis”, emphasizing the fact that modern Western society (post 19<sup>th</sup> century) is centered on the construction of taboo and the repression of sexuality.<sup>18</sup> To create LGBT identity within this discourse would be fruitless, hence the ‘transgressive’ nature of queer identity. Assimilationist ideals of certain early gay liberation politics are no longer relevant; the current manifestation of queer identity is by its nature divergent from the idea of the state, leading to notions of norm confusion that will later be discussed.<sup>19</sup> To discuss the progression of LGBT rights when such identities remain subjected and dominated by the unilateral power of the state is counter-intuitive. Therefore, in a state dominated international system, where sovereignty continues to reign supreme, a discursive discussion of LGBT rights remains largely unattainable.

However, the seemingly irreconcilable issue that this analysis presents is the fact that LGBT rights seem to be best realized at the national, as opposed to international level. It is largely in cases where society has developed

**“Assimilationist ideals of certain early gay liberation politics are no longer relevant; the current manifestation of queer identity is by its nature divergent from the idea of the state”**

in a way that gender binaries are not so stringent or where human rights traditions are deeply engrained, LGBT rights, in the sense of traditional liberal human rights, have been best realized. The emphasis must be

on the need for national level regulation if we continue to seek the evolution of LGBT human rights within the human rights discourse. Tangible policy change simply cannot happen within the international realm – nationalist discussions should supersede those of an inter-federalist nature. Evolution will inevitably be slow, and such policies may themselves be inadequate, but this does not preclude the possibility that they represent an important normative step.

## THE RUSSIAN CASE

As the Sochi 2014 Olympics rapidly approach, the desperate situation of the LGBT community in Russia has come to the forefront of the discourse. Prime Minister Putin and the Russian Duma recently passed into legislation Article 6.21 of the Code for the Russian Federation on Administrative Offenses, a federal ban on the “propaganda of homosexuality to minors” – building on the regional efforts throughout the country since 2006 regarding homophobic legislation.<sup>20</sup> According to the legislation, ‘propaganda’ is

*“The act of distributing information among minors that 1) is aimed at the creation of nontraditional sexual attitudes, 2) makes nontraditional sexual relations attractive, 3) equates the social value of traditional and nontraditional sexual relations, or 4) creates an interest in nontraditional sexual relations.”<sup>21</sup>*

While the jargon of this law seems *prima facie* minimally problematic, it is reflective of a much larger problem of repression of identity and mistreatment of LGBT individuals in Russia. Additionally, with the Olympics rapidly approaching, the fact that this vaguely worded law applies to foreign visitors to Russia as well as Russian citizens poses a massive problem.<sup>22</sup>

This law is emblematic of Migdal’s conception of the ‘state-in-society’ model. Multiple factors, including the prominence of the Orthodox Church, as well as strong currents of anti-Western sentiment since the failure of Prime Minister Yeltsin’s liberal reform program in the 1990s, have contributed to the systemic rise of anti-homosexual sentiments among the Russian population.<sup>23</sup> A 2010 Levada Center poll found that 38%



of Russians thought homosexuality was a “bad habit”, and 36% thought it to be a “sickness or the result of a psychological trauma”.<sup>24</sup> Additionally, homophobic sentiment is deeply engrained into the Russian national identity. This, compounded with the international pressures surrounding the hosting of a “mega-event” such as the Olympics has further consolidated such sentiment.<sup>25</sup> The Olympic Movement, specifically for the country hosting a given games, has been deeply associated with the nation-building project since the early twentieth century.<sup>26</sup> With the rise to power of ardent nationalist and traditionalist Vladimir Putin and the United Russia party, measures such as Article 6.21, as well as the ban on homosexuality currently being discussed in the Upper House of the Russian legislature, can be seen as efforts to strengthen ‘Russian identity’ against the internationalization process – specifically against the West.<sup>27</sup> Anti-homosexual sentiments and heavily gendered notions of hegemonic masculinity so central to Russian society enabled Putin’s rise to power, and continue to be conferred onto Putin, through various campaign strategies, in order to evidence his masculinity and keep him in power.<sup>28</sup>

### THE POLITICIZATION AND GENDERING OF CULTURE

As previously mentioned, within the context of the discussion of LGBT rights standards cultural claims and deference to traditional conceptions of sovereignty have become claims of central importance to violating states. As Valerie Sperling notes, notions of gender and sexuality, sexism, and homophobia are woven into the fabric of a given society, and often emerge in the political realm.<sup>29</sup> The politicization of cultural claims, and the gendering of both institutional elements of society and individuals within these contexts are key to the perpetuation of the human rights of LGBT individuals within these countries. Putin’s Russia, as noted above, is a prime example of this. Putin’s regime is inherently “gendered”, it is a political system in which, “Contested notions of femininity and masculinity undergird political pronouncements on all sides, and play an exaggerated and visible role in political contestation.”<sup>30</sup> In a society and state where the gender dichotomy plays

such a prominent role anything that goes against these constructed gender norms is associated with weakness and perversion; it is “undesirable.” Such associations are used as a political tool, with organizations portraying opponents or those they seek to remove from power as “un-masculine” and “sexually deviant.”<sup>31</sup> Emphasis on these divisive gender categories further undermines the position of LGBT individuals in a given society, as they do not fit directly into a category.

Such tactics have come to form the basis of Putin’s regime as well as the strategies deployed by Russian opposition groups.<sup>32</sup> It is not that Russian people as individuals are homophobic – such a statement would be a gross oversimplification and would be politically incorrect. However, the hegemonic masculinity conferred on to Russian identity is by its very nature homophobic.<sup>33</sup> Therefore, the consolidation of Russian identity, specifically in the face of an international mega-event such as the Olympics, is dependent upon this strengthening of homophobic sentiments as a form of nation-building. Homophobic sentiment is hardly new to Russian society. The politicization of such cultural sensitivities and sensibilities however poses new levels of danger to LGBT individuals, as such violations become increasingly institutionalized.

Anti-Western sentiment is another element that must be considered when discussing the appropriation of homophobic sentiments towards nation-building exercises. LGBT rights are seen as a western construct, unfitting and contrary to the cultural beliefs of the rest of the world. As Nigerian lawmaker Zakari Mohammed stated, regarding the people of Nigeria (one of the most dangerous places in the world for LGBT individuals to live):

*“We have a culture. We have religious beliefs and we have tradition. We are black people. We are not white, and so the US cannot impose its culture on us. Same-sex marriage is alien to our culture.”<sup>34</sup>*

While perhaps not entirely reflective of Russian sensibilities, the general attitude reflected in this statement relates directly to the Russian case. As political youth activists on both sides of Russian politics



have noted, male homosexual actions are seen as “non-traditional” for Russia.<sup>35</sup> LGBT identities are perceived as constructs of the West and are foreign to Russian society. As one anti-Kremlin activist stated, “Russian women might look at both women and men, but men definitely wouldn’t look at men.”<sup>36</sup> Such statements both make LGBT individuals “others” in society, precluding their association with the larger national identity and therefore inclusion in national level rights discussions, while simultaneously dissociating any potential acceptance of LGBT individuals into such societies. Regardless of the truth or perhaps the political utility of such statements, they carry a significant weight in terms of their ability to undermine the human rights of LGBT individuals in these countries.

## THE ROLES OF NORMS: DIFFUSION AND CONFUSION

The Sochi Olympic case is particularly reflective of the concept of “norm diffusion” within international organizations and normative frameworks. The three pillars of the Olympic Movement – the International Olympic Committee (IOC), International Federations (IFs), and National Organizing Committees must reconcile the differing normative frameworks that each of them operate within, as well as that of the national government of the host country.<sup>37</sup> It is along these lines that norm diffusion happens. Each of these institutions is based on and creates its own set of norms, and as the institutions work toward a common goal – in this case the hosting of the Olympic games – they move further away from the norms they have initially created toward a new set of convergent norms. This normative restructuring is especially crucial when discussing the implications for international human rights law, an area which is already vaguely defined. As noted by Bousfield and Montsion, while the Olympic Movement is seen as charged with maintaining international cooperation through sport, the Movement remains a “vestige of the nineteenth century”, based in the goal of fostering transnationalism as a social movement, therefore differing significantly from the liberal international organizations that it now operates alongside.<sup>38</sup> It was not conceptualized in the functionalist framework

through which we currently view international organizations, it is “normatively different,” making it difficult to reconcile its vision with that of the UN and other rights-promoting bodies.<sup>39</sup> This process of contradiction and diffusion allows for the abrogation of responsibility regarding human rights. As Bousfield and Montsion state, “As a transnational social movement, the Olympic Movement struggles with the tension inherent in the transnational liberal norms of human rights and democratization, and the definitional and specific struggles of its implementation.”<sup>40</sup> This process, compounded with the nature of sport, has only further paralyzed the ability of the IOC to modernize and shift with the times. Modern sport is dependent on clearly divisive gender binaries. As columnist Simon Barnes noted for an opinion piece in the *London Times* in 2004, “Sport exists on the premise that males and females are radically different. Sport likes things simple.”<sup>41</sup> This is the reason that the IOC and the Olympic Movement as a whole cannot realize LGBT rights.

The contradiction of operational norms within the Olympic Movement is largely responsible for this allusion of the organization as a bulwark of human rights. These paradoxes come to the forefront as the IOC and the Olympic Movement attempt to maintain their original normative framework – promoting transnational cooperation – while attempting to respond to new liberal demands, e.g. human rights.<sup>42</sup> As Finnemore and Sikkink describe it, this “coupling of power with legitimate social purpose”, has led to norm confusion within the operative framework.<sup>43</sup> The IOC’s attempt to maintain the vestiges of its original

**“The contradiction of operational norms within the Olympic Movement is largely responsible for this allusion of the organization as a bulwark of human rights.”**

purpose while adapting to current demands associated with its position as an international organization have resulted in its adoption of new norms regardless of the



extent that they are achievable by the movement, such as sustainable development mandates and human rights goals.<sup>44</sup> This is not what the organization was originally established to accomplish, nor is it currently equipped to do so. Such norm confusion only serves to further undermine the legitimacy of the organization.

The most notable example in recent memory of such norm confusion playing out within the mandate of the Olympic Movement is 2004 implementation of an IOC policy enabling transsexual athletes to compete at the Athens Olympic Games.<sup>45</sup> Under strict regulatory standards designed to minimize “gender-related advantages”, certain transsexual individuals would be able to compete in the games.<sup>46</sup> The IOC retained the right to carry out a “sex-test” if the gender of an athlete remained in question.<sup>47</sup> This new policy, known as the Stockholm Consensus, is exemplary of transphobia and the contradictory normative nature of the IOC and the discourse of LGBT rights. The LGBT rights discourse, specifically regarding the rights of transsexual individuals, is based in the notion that male and female bodies are not natural, but are rather social, culturally specific constructs.<sup>48</sup> Therefore, the IOC’s binary system of gender identification cannot be sufficient in aiding the position of transsexual individuals, or arguably anyone adhering to queer or divergent gender roles regarding their ability to compete in the Olympics.<sup>49</sup> The frameworks are mutually exclusive, the normative histories too divergent to enable true consensus.

## CONCLUSION

The conceptual frameworks of both LGBT rights and international human rights are complex and difficult to grapple with, making the conciliation of the two concepts seemingly impossible. While LGBT rights have progressed in certain countries – where societal norms have so permitted – and international human rights standards have become increasingly tangible and attainable in recent years, the realization of an implementable international standard of LGBT rights remains non-existent for a number of reasons. National social constructs and preeminence of sovereignty in the international system, the role of norm diffusion and confusion, and the continuing politicization of cultural

claims are the main impediments to the realization of this international standard. This is further compounded by the complex nature of “queer” identity, and its inherently un-definable nature. With the upcoming Sochi Olympic games, and the human rights abuses of LGBT individuals in Russia, the necessity of overcoming these obstacles and realizing an international standard of LGBT rights has never been so apparent. The apparent dilemma, however, is this: change must be implemented at the national level, for, as the state-in-society model would suggest, externally imposed LGBT rights will not be enforceable in a country where homophobia is seen as an intrinsic cultural practice, however, without some kind of international standard it is doubtful: countries subscribing to such cultural beliefs will not change any time soon. While it seems impossible, the ultimate goal must be to change the entire set of relations – to “queer it”. As Professor Sears notes,

“In queer theory right now there’s a lot of talk about queers as transgressors: we act up against the dominant set of sexual relations, which is non-queer. But permanent transgression is kind of unsatisfying... The goal is to change the whole set of relations to a new realm of freedom, and then we wouldn’t even know what queer would look like anymore.”<sup>50</sup>

This is a large goal. Achieving it will not be a simple or quick process, but it has to start somewhere. Continuing to push and challenge the status quo is necessary. Evolution will be slow, the implementation of policy may in itself be inadequate to true changes in the standard of living and safety of LGBT individuals. However, it is a necessary first step to the realization of this goal.

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## THE RESPONSIBILITY TO PROTECT: IS ITS IMPLEMENTATION TRULY REALIZABLE?

THE VAGUENESS OF THE R2P PRINCIPLE, MAKE IMPLEMENTATION OF A STRONG R2P REGIME UNLIKELY AT BEST, AND SEEMINGLY DESTINED FOR FAILURE.

Written By Chelsea Rubin

### ABSTRACT

*The atrocities of the 1990s demanded change from the international humanitarian regime. The international community acting through the United Nations (UN) and other actors, namely NATO, greatly failed the people of these countries. Therefore, action was necessary and came in the form of the Responsibility to Protect principle, herein referred to as R2P. . The purpose of the R2P was to outline the role of international actors in circumstances of grave humanitarian issues. In fact, what emerged as a result of this initiative was not nearly as groundbreaking as it was originally envisioned. This is principally because the R2P has lacked the ability to shift from a simply declaratory regime to a tangible change in the international human rights regime—whether in terms of intervention or prevention. As this paper seeks to outline, the Responsibility to Protect principle, while impactful for the purpose of norm creation, is rife with problems that make its realization difficult. The principle is useful as a slogan but little more than that. It struggles to move past the declaratory stage.*



## INTRODUCTION

The atrocities of the 1990s demanded change from the international humanitarian regime. The horrors that the world bore witness to in Bosnia, Somalia and Rwanda shook the international community—millions of people were killed and tens of millions were forcibly displaced. The international community acting through the United Nations (UN) and other actors, namely NATO, greatly failed the people of these countries. Therefore, action was necessary and came in the form of the Responsibility to Protect principle, herein referred to as R2P. This is a principle originally put forth by the International Commission on Intervention on State Sovereignty (ICISS) in 2001, under the direction of then-UN Secretary General Kofi Annan, and it was reaffirmed at the World Summit in 2005. The purpose of the R2P was to outline the role of international actors in circumstances of grave humanitarian issues. In fact, what emerged as a result of this initiative was not nearly as groundbreaking as it was originally envisioned. This is principally because the R2P has lacked the ability to shift from a simply declaratory regime to a tangible change in the international human rights regime—whether in terms of intervention or prevention. The vagueness of the principle, especially following its reformation by the UN General Assembly in 2009, the problems with semantics and individual interpretation, the lack of transformation of the structure of the international system, and the continual deference to traditional principles of sovereignty and the prioritization of national interest by individual state actors make the implementation of a strong R2P regime unlikely at best, and seemingly destined for failure. As this paper seeks to outline, the Responsibility to Protect principle, while impactful for the purpose of norm creation, is rife with problems that make its realization difficult. The principle is useful as a slogan but little more than that. It struggles to move past the declaratory stage.

## OVERVIEW OF THE R2P DOCTRINE

The core principles of R2P emerged in the 1990s with the concept of “sovereignty as responsibility” put forth by the UN’s Special Representative on Internally

Displaced Persons, Francis Deng, and the Brookings Institution’s senior fellow Roberta Cohen.<sup>1</sup> The concept was then taken by UN Secretary General Kofi Annan in an attempt to “reconcile the twin principles of sovereignty and human rights.”<sup>2</sup> It was recognized by the international community that intervention would sometimes be required for humanitarian reasons, but as Martha Findlay Hall notes, “there lacked a non-ideological, internationally accepted process.”<sup>3</sup> In order to circumvent the political issues that arise from attempting such a task through UN mechanisms, specifically the Security Council, the creation of principles that would reconcile these two topics was taken up by the Canadian government through the aforementioned ICISS.<sup>4</sup> The essence of the Commission’s report was adopted by the 2005 World Summit. The reaffirmation of R2P is expressly stated in paragraphs 138 and 139 of the Final Outcome Document from the summit.<sup>5</sup> These paragraphs state that,

*“Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement through appropriate and necessary means.”*

Furthermore,

*“The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian, and other peaceful means... In this context, we are prepared to take collective action... through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis, and in cooperation with relevant regional organizations, should peaceful means be inadequate...”<sup>6</sup>*

As can be seen, the primary purpose of the R2P, as outlined in the Final Outcome Document from the summit, is the *prevention* of the four crimes – it was not intended as a basis for intervention. Additionally, the document operates through the framework of the UN, specifically the Security Council, and it fails to propose any reform in this area. On its face this document seems



to be little more than a reaffirmation of the status quo – the principles identified in R2P were already outlined in the 1948 UN Genocide Convention.<sup>7</sup> Despite this, these statements were met with massive reservations from both developing and developed countries—specifically stemming from varied concerns over sovereignty, which will be addressed later in this paper. The negative reaction to R2P has led to calls for “R2P Lite”, which would further constrain the mandate of the principle by taking into account such things as limiting restrictions on sovereignty and the crimes which the principle covers.<sup>8</sup> While it is impossible to say what will become of R2P in the future, recent actions have called into question its practical utility, and as calls for “R2P Lite” increase, it is difficult to envision a future in which states will be willing to make the changes to the R2P mandate that would be necessary for it to become realized. These changes include, but are not limited to, further defining the vague nature of the principle, and expressing a willingness to limit certain aspects of sovereignty by contributing forces for armed intervention, as well as sanctioning armed intervention when necessary.

### THE INABILITY TO MOVE FROM RHETORIC TO PRACTICE

The emergence of R2P has been declared by some, most notably Professor Alex J. Bellamy, to be the “single-most important development on the question of addressing egregious intra-state humanitarian crises.”<sup>9</sup> In Bellamy’s opinion, the normative importance of the principle cannot be understated. As Aidan Hehir states in one of his many publications on the subject, “R2P has undeniably changed the discourse surrounding humanitarian intervention.”<sup>10</sup> The trouble with the concept, however, is that it has proven difficult to move beyond discourse—the shift in discourse has yet to result in a policy shift. The popularity of the term has masked its lack of practical utility.<sup>11</sup> The predominant difficulty with the R2P as outlined in the ICISS report is its vagueness. It cannot be implemented because the mechanism for implementation has not been clearly defined. This is the continual paradox of R2P: while its proponents claim it is a revolutionary step in the international human rights regime, which

some aspects of it may be, the core values it presents are little more than a reaffirmation of the current international humanitarian regime. The vagueness of the R2P concept only further complicates this issue. Given that the R2P offers no proposal to shift the current UN structure—that is, to take total authority over intervention away from the Security Council—it must operate within the system and acceptance within the current system requires a level of vagueness. By mandating that it will operate within the current UN system and that the Security Council will remain the authority on all decisions regarding intervention, the R2P creates a circular and unresolvable conflict. Thus, R2P calls for change in regards to both intervention and prevention, but does so in an operational framework, namely the UN, that does not readily enable the recourse to realize such changes. Without modifying existing laws and enforcement mechanisms, the R2P does not truly reform the discredited system its original purpose was to radically transform.<sup>12</sup> The vagueness and political correctness that the principle needed to maintain in order to be endorsed in the international system have completely undermined the utility of the principle itself.

### THE PROBLEM OF VAGUENESS

The main problem with the vagueness of the R2P principle is that such incoherence hinders the ability of the international community to understand the purpose of the principle, and people inherently fear that which they do not understand. The fact that proponents of the R2P claim that its primary purpose is to promote the prevention of the four specified crimes identified herein seems to contradict the actual language of the ICISS Outcome Document. While the ICISS argued that intervention to stop large-scale human rights abuses need not take the form of military intervention, the majority of the document seems to focus on this course of action.<sup>13</sup> The ICISS went as far as to propose six “Principles for Military Intervention” that must be met for an intervention to be legitimate.<sup>14</sup> These six principles are: right authority, just cause, right intention, last resort, proportional means, and reasonable prospects. All of these principles are subjective in nature and not adequately defined by the document, the UN Charter, or any other actor. The only aspect of the



definition that the ICISS provided a definition for was “just cause”, for which the ICISS offered two thresholds, “large scale loss of life, actual or apprehended... or large scale ‘ethnic cleansing’, actual or apprehended.”<sup>15</sup> The term “large-scale” is vague and therefore problematic – how do we determine what constitutes “large-scale”? The lack of clarity on these criteria has been key to fueling apprehensions about the R2P as a whole. If the legitimate grounds for intervention are not clearly defined, different actors may set different thresholds, thereby raising the potential for unilateral intervention and the emergence of neo-colonial fears. The safeguards against violations of sovereignty are minimal in this understanding of R2P – which in turn enhances fears on the ubiquitous issue of maintaining sovereign integrity of each individual nation.

It is this fear regarding sovereignty that drives the majority of hesitance on the part of individual nations to adopt the R2P, thereby preventing it from being realized in any tangible form in terms of international humanitarian intervention. As Dr. Edward C. Luck, former Assistant-Secretary General of the UN notes, “It has become common refrain to assert that the responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity presents a challenge to traditional conceptions of state sovereignty.”<sup>16</sup> These concerns have become increasingly prevalent among actors from the Global South. With the memory of colonialism still relatively

**“If the legitimate grounds for intervention are not clearly defined, different actors may set different thresholds, thereby raising the potential for unilateral intervention and the emergence of neo-colonial fears.”**

fresh in the narrative of these states, they are concerned that R2P principles will be misused by powerful states to “justify coercive intervention undertaken for other reasons.”<sup>17</sup> This fear appears valid. While paragraphs

138 and 139 of the World Summit Outcome Document state the importance of adherence to Article 2(7) of the UN Charter, which reinforces the lack of the ability of the UN to intervene in matters of sovereign jurisdiction and the centrality of UN processes and state responsibility in determining the course of action in a given situation, this is not adequate to mitigate the fears of developing countries. As Aidan Hehir notes, “these countries concerns do not stem from an adherence to a conception of sovereignty as absolute inviolability... rather their fears stem from the potential for the misuse and inconsistent use of any ‘right’ of intervention.”<sup>18</sup> The R2P is not adequately engrained in international law to tell whether these fears are well founded; however, given the vagueness of the Outcome Document itself and the record of the international community, a significant level of credence can be lent to these concerns.

## RECONCILING SOVEREIGNTY WITH R2P

While on its face the R2P explicitly undermines sovereignty by demanding intervention in the internal affairs of human rights violating states, R2P and the principle of sovereignty are not irreconcilable. Edward Luck identifies that there are different forms of sovereignty, some of which are not only in line with the principle of R2P, but are in fact strengthened by it. The four variations of sovereignty identified by Stephen D. Krasner that Luck discusses are: domestic sovereignty, interdependence sovereignty, international legal sovereignty, and Westphalian sovereignty.<sup>19</sup> According to Luck, it is only Westphalian sovereignty that precludes the R2P, as its core principle is non-interference in the affairs of other states. Luck also emphasizes that while R2P is a novel concept in certain ways, it has deep roots in the very notion of sovereignty.<sup>20</sup> In fact, the fundamental principles set out in the ICISS Report are that,

- “a) State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself; and  
b) Where a population is suffering serious harm, as a*



*result of internal war, insurgency, repression, or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.”<sup>21</sup>*

Sovereignty, like most other principles in international law, is reciprocal in nature; loyalty is to be offered by the population to the state in exchange for order and protection.<sup>22</sup> If the state fails in its obligations as a duty-bearer to its population then it could be argued that sovereignty has been voided. It is a long-respected principle that the international community reserves the right to intervene in such cases. While sovereignty, even in the classic Westphalian sense which emphasizes non-intervention, does not give states a “carte blanche” to do whatever they wish to their populations, in the current framework of the international system states do enjoy a level of autonomy within their territory, and this must be reconciled with the R2P conceptualization of sovereignty in order for the R2P to become engrained in international norms regarding humanitarian crises.

### **EVASIVE SEMANTICS: PROBLEMATIC DEFINITIONS OF RELEVANT CRIMES**

The second key problem with the realization of R2P as more than merely a declaratory regime is the role of semantics. This is directly related to the vagueness of the Outcome Document, which was addressed in the previous paragraphs. The role of semantics, however, is different than merely vagueness—it is a deliberate, legitimized evasion of responsibility by key actors in the international community. According to R2P, in order to justify involvement in a given conflict by invocation of the R2P, the conflict must be classified as one of the four crimes the R2P expressly covers, which include war crimes, ethnic cleansing, genocide, and crimes against humanity.<sup>23</sup> If a given conflict is not classified by the Security Council as one of these four crimes then, according to the R2P, intervention in any form is not justified. By taking advantage of semantics, and labeling certain events “genocidal acts”, or “civil war”, the Security Council members absolve themselves and all other actors of formal responsibility to intervene under guidelines set forth in R2P. The fact that the

Security Council can prevent application of R2P by how it chooses to characterize specific conflicts, and the failure to explicitly define what constitutes one of the four crimes is a central weakness of R2P. Additionally, it shows that the international community has not learned the lessons of recent history. In Rwanda, one of the worst genocides the world has witnessed, the US and the UN both refused to label the actions of the Interhamwe and the Crisis Committee “genocide”, referring only to “acts of genocide.”<sup>24</sup> Clinton has been cited multiple times referring to this as the largest regret of his presidency, and that he considers it a “personal failure.”<sup>25</sup> Yet, despite claims that the purpose of the R2P was to move away from the formerly flawed mechanisms of failed intervention in humanitarian crises, the exact same issues have plagued recent crises, most prominently the current Civil War in Syria.

In point of fact, the Syrian example has called into question the legitimacy of R2P. As early as December 1, 2011 the UN High Commissioner for Human Rights, Navi Pillay, acknowledged the danger that the then growing conflict in Syria could pose to human rights.<sup>26</sup> Since the beginning of conflict in Syria in 2011 as many as 60,000 people have died at the hands of Bashar al-

**“The role of semantics is a deliberate, legitimized evasion of responsibility by key actors in the international community”**

Assad’s government, and an estimated 5,000 more continue to die on a monthly basis, and yet no measures of intervention beyond relatively minor economic sanctions have been imposed on Syria to date.<sup>27</sup> Furthermore, there have been essentially no efforts at even beginning to frame a humanitarian intervention.<sup>28</sup> Despite the number of civilian casualties, R2P has not been contemplated with regards to Syria. As Martha Hall Findlay notes in her detailed analysis of R2P, it is this lack of action by the UN in what appears to be an incredibly dire situation that calls into question the legitimacy or applicability of R2P.<sup>29</sup> The credibility of the principle has been detrimentally undermined by



the inaction in the Syrian case. Classifying the fighting as a “civil war”, as opposed to genocide, war crimes, crimes against humanity, or ethnic cleansing absolves the Security Council and other actors of a formal responsibility to intervene according to R2P. According to the R2P, the Security Council remains the sole legal authority to sanction humanitarian intervention.<sup>30</sup> Within this framework, the past barriers to humanitarian intervention continue to exist, and the issue of semantics is a direct product of this. These issues will be further elaborated on later in this paper. If a crisis such as that in Syria can be totally ignored by the international community, how can the R2P be said to be effective? Regardless of whether or not it has established a new norm in the international system, the Syrian civil war exemplifies the fact that the R2P is little more than a set of principles that fail to resolve conflicts or mitigate human suffering. While the issue of semantics may be unavoidable in the international system, as concise definitions tend to cause unease among individual members of the international community, this is an explanation, not a justification for the way in which the UN functions. The problem of semantics is perhaps the strongest reason for the lack of tangible impact of the R2P on the international community.

## CONSOLIDATING AN IMPERFECT SYSTEM

The final impediment to the realization of a strong R2P regime is the lack of structural change that the R2P offers the international system and the continuing preeminence of national interest in guiding the decision making processes of sovereign states. As previously addressed, the initial Outcome Document explicitly states that, with regards to intervention, “we (the international community) are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter.”<sup>31</sup> Accordingly, Article 24(1) gives the Security Council the primary responsibility for the “maintenance of international peace and security.”<sup>32</sup> This includes the authorization of force in areas of humanitarian crisis. These structural systems, primarily the massive influence of the Security Council, have been faulted in the past

for being a primary obstacle to the realization of human rights, and yet the R2P fails to alter them. As the prolific author on the subject of the Security Council, Sydney D. Bailey notes, “the absence of sophisticated procedures for making sanctions effective”, and “the Council’s failure to operate according to consistent standards” are extremely problematic.<sup>33</sup>

Not only does the R2P fail to address such flaws, it actually reasserts the authority of the Security Council regarding cases of intervention or the use of force by stating it will operate “through the Security Council”, and, “in accordance with Chapters VI, VII, and VIII of the Charter.”<sup>34</sup> Each of these Chapters of the UN Charter is imperative to the function of the UN Security Council. Chapter VI outlines the procedures for the settlement of disputes, and names the Security Council as the primary mediating authority regarding disputes that cannot be solved between the parties in question – they are the body such questions are to be referred to.<sup>35</sup> Chapter VII gives the Security Council more substantial powers, including the ability to “call upon the parties concerned to comply” with provisional measures, and stating that the Security Council “may take action by air, sea, or land forces as may be necessary to restore international peace and security.”<sup>36</sup> Finally, Chapter VIII imbues the Security Council with the ability to employ regional agencies or arrangements under its authority, and emphasizes the importance of such regional arrangements.<sup>37</sup> By reaffirming its complicity with these specific Chapters of the UN Charter, the R2P loses its ability to truly enforce tangible change regarding the prevention of mass scale human rights abuses. The drafters of the R2P and the World Summit Outcome Document were aware of the fact that the R2P would need to reach consensus at the Security Council in order to be formally adopted into international law. This political reality hindered the ability of the drafters of the R2P and the World Summit Outcome Document to put forth any dramatic changes to the system that addresses humanitarian crises. This is no fault of the drafters, but is rather a flaw within the system itself. This continuance and reinforcement of the current UN system, specifically the authority of the Security Council, maintains the preeminence of national over humanitarian interests in the international system. So



long as the permanent five members of the Security Council maintain their positions and are equipped with an absolute veto over decisions of international importance, their national interest will dominate all decisions. In this operational milieu the discourse surrounding humanitarian intervention will remain fundamentally flawed and the R2P will never become completely realized.

It is an accepted reality that it is highly unlikely if not impossible to get states to bind themselves to the domestic affairs of another state in cases that do not benefit them or could even potentially harm their national objectives. The role of national interest is a key factor in determining the actions of states within the international community. While not necessarily detrimental in every respect of international relations, the dominant influence of national interest is problematic when discussing humanitarian intervention and has greatly thwarted the development of R2P. Recent actions in Libya have called the role of national interest in the international human rights regime into question, leading to the identification of further flaws with the legitimacy of R2P. According to recent figures, during the bloody 2011 revolution against Muammar Gaddafi's regime in Libya, an estimated 4,700 rebel supporters died, and an additional 2,100 are still considered missing.<sup>38</sup> These numbers, even if conservative, are significantly lower than the still-rising death toll in Syria. Yet, on March 17, 2011, just over a month after the conflict started, the Security Council passed UNSCR 1973, with ten in favour, none against, and five abstentions by Brazil, China, Germany, India, and the Russian Federation.<sup>39</sup> This was the first time the Security Council invoked the R2P.<sup>40</sup> This resolution, passed in response to Gaddafi's decision to ignore an earlier Security Council Resolution, "authorized Member States, acting nationally or through regional organizations or arrangements, to take all necessary measures to protect civilians under attack in the country..."<sup>41</sup> This mandate quickly shifted from the protection of civilians to the deposing of Gaddafi's regime in order to implement democracy in Libya – what was intended to be the implementation of a no-fly zone suddenly became a massive mobilization of international support for the ousting of Gaddafi.<sup>42</sup> Libya serves as an example of how certain actors within

the international community can abuse R2P to serve their own ends—in this case to depose an unfriendly regime.<sup>43</sup> When contrasted with the lack of intervention in Syria this becomes even more evident. Assad, unlike Gaddafi, has strong allies on the Security Council, particularly the Russian Federation. Russia's strategic historic links to the Syrian government means they have much to gain from keeping Assad in power—Syria is Russia's primary economic and trade partner in the Middle East.<sup>44</sup> Unlike Assad, Gaddafi was seen as a pariah in the international system, and had no allies on the Security Council; deposing him was in the best interest of these states. As many smaller, post-colonial states feared, R2P can be warped to avert sovereignty and impose the will of larger, more powerful states. In this way the intervention in Libya has undermined the legitimacy and thereby the utility of R2P. The continuing importance national interest plays in the foreign policy of states undermines the ability of the R2P to be transformed from a declaratory regime into a tangible reality. While a laudable ideal, and undoubtedly of normative importance, the larger structural changes required for implementation of R2P simply have not taken place. This combined with the treacherous legacy left by the intervention in Libya and the subsequent deposition of Gaddafi from power have marred the perception of the R2P held by the international community. Moving forward from the declaratory stage of an R2P regime is thus even more difficult.

## CONCLUSION

For decades the international community has stood by idly while large-scale human rights atrocities have been perpetrated. After the Holocaust, Rwanda, Srebrenica, and other abhorrent events the world cried "never again", and yet nothing seemed to change. The Responsibility to Protect was a genuine attempt to fix this flawed system, to ensure that the statement "never again" could be realized and not merely declared. Despite the good intentions of the ICISS and other drafters, the R2P has been unable to shift from a declaratory status. While useful for the purpose of norm creation, the R2P is rife with problems that make its realization extremely difficult. The first of



these problems is the vagueness of the principle itself. While arguably necessary for tacit acceptance of the integration of the principle into a normative role in international law, the vagueness of the language used in the R2P has prevented it from being utilized in many cases of human rights violations. Without a clear understanding of the purpose and goals of the principle itself, implementation is nearly impossible. The second problem this paper discussed, which is directly related to vagueness, is the issue of semantics in the realization of R2P. Countries are able to avoid their sovereign responsibility to protect international human rights standards by classifying a given conflict as categorically separate from the four crimes that fall under R2P authority: genocide, ethnic cleansing, war crimes, and crimes against humanity. Finally, the lack of structural change at the international level and the reaffirmation of the authority of current institutions, namely the UN Security Council, permits the continued predominance of national interest in guiding the decisions of nations to intervene (or not) in various cases of human rights abuses by other countries. Until each of these issues are addressed, the R2P will remain a slogan and nothing more. Reaffirmation of the status quo in the international human rights regime will be realized, but R2P will not lead to tangible results regarding changes to this system. In truly bringing change to the international human rights regime, specifically regarding the norms surrounding intervention, the R2P is not enough. If the issues relating to vagueness, semantics and definitions inherent in R2P were addressed, this platform could result in a meaningful process to address human rights violations. The process to realize such within the confines of the current structure of the UN remains problematic.

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# CHINA IN AFRICA: GREENING DEVELOPMENT THROUGH AID & TRADE?

CHINA'S STATUS QUO ROLE IN AFRICA CANNOT REDRESS TRADE ASYMMETRIES UNLESS DEVELOPMENT MEETS THE INTERESTS OF ITS AFRICAN PARTNERS.

Written By Amy Wood

## ABSTRACT

*China has moved from a rule taker to a rule maker in the international trade system and its engagement in Africa through aid and the export of 'green' or renewable energy technology is indicative of this phenomenon. Supported by aid flows, China is delivering leadership in the area of green technology exports. Does this South-South partnership represent a 'miraculous alternative' for Africa's development and has China become a counter-hegemonic balancing force in the international trade regime (Kennedy 2012)? This paper asks whether China is providing new forms of engagement in South-South solidarity and suggests that China remains a status quo power whose role in Africa cannot redress trade asymmetries unless development meets the interests of its African partners.*



## INTRODUCTION

China has moved from a rule taker to a rule maker in the international trade system and its engagement in Africa through aid and the export of ‘green’ or renewable energy technology is indicative of this phenomenon. Supported by aid flows, China is delivering leadership in the area of green technology exports. Does this South-South partnership represent a ‘miraculous alternative’ for Africa’s development and has China become a counter-hegemonic balancing force in the international trade regime (Kennedy 2012)? Extant literature on Sino-Africa relations has focused primarily on the “interests dialogue” and China’s appetite for resource extraction (Wilkinson and Scott 2012). I move beyond these positions to understand the complexities of China’s expanding interests in the energy sector and its implications for sustainable development in the continent. Through renewable energy exports, China’s foray into the clean energy sector represents a departure from historic donor relations in Africa. This paper asks whether China is providing new forms of engagement in South-South solidarity and suggests that China remains a status quo power whose role in Africa cannot redress trade asymmetries unless development meets the interests of its African partners. This argument is organized into five sections. First, I review the literature on Sino-African relations and China’s position in the international trade regime. Second, I explore the paradigm of South-South cooperation and China’s motives for deeper integration with Africa. Third, I examine China’s non-traditional aid model and its departure from Western donor approaches, as well as its connections to trade and investment flows. Fourth, I survey the use of green technologies and renewable energy initiatives as it pertains to sustainable development with respect to China-Africa relations. Last, I identify key frictions and challenges with this engagement and conclude with recommendations for improving Sino-African energy relations. With the future of global development at stake and China as a key player, how the country can contribute to a more sustainable trading system remains a fundamental question.

## CONTEXT & LITERATURE REVIEW

The ascension of China as the world’s largest economic power fundamentally alters the topography of international trade (Ismail 2012). Domestic and international shifts have called attention to China’s role as a global super power and its implications for the balance of power in the international trade regime. As the world’s top manufacturing country along with the relative decline of other major powers, China has become a global centre for production. Given China’s rising trade surpluses with the EU, and the US, as well as increasing trade deficits with East Asia, the patterns of production and trade flows are changing. As a result, China has expanded its search for trade partners and has found them in the global South, namely Africa. China overtook the EU as Africa’s largest trading partner in 2009, importing raw materials from sub-Saharan Africa (SSA) and exporting manufactured goods. Arguably the “most important process on the continent since the end of the Cold War,” China continues to deepen its aid and trade ties with Africa (Taylor 2008). Bilateral trade flows increased over 700% in the 1990s and today have topped \$162.4 billion (Servant 2005; Xinhua 2013). This trend shows no signs of slowing and Sino-Africa trade flows are forecast to hit a record high in 2013 (Xinhua 2013). China has long been considered a passive rule taker in the international trade system (Thomas 2011). A rocky road to accession in the WTO with concessions, commitments to access, and a five-year transition period, prevented China from taking greater leadership in global trade (Gao 2011: 36). Although China has entered into the core decision-making circle at the WTO, it has not taken leadership in key negotiations and has been a marginal player in the deadlocked Doha Development Round of WTO negotiations. However, China has been actively negotiating bilateral Free Trade Agreements (FTAs), providing leadership in key sectors such as renewable energy through soft power and embarking on new forms of South-South cooperation. According to Scott Kennedy, China has become a rule maker, setting new standards and carving new paths to development with unconventional aid and a more statist and pragmatic approach to governance (2012). This role is inconsistent with the multilateral governance architecture that has emerged since the end of WWII



under guidance from the West (Kennedy 2012).

In contrast to its status as a rule maker, China remains a “rigid status quo power” because of its normative preference for prevailing institutional governance (Kennedy and Cheng 2012: 11). According to Kennedy, the normative distance between China and the international system has been exaggerated (2012) and China has become entrenched in the international economic order. Although its brand of governance differs from the West, China has benefited from the existing international system and will remain a status quo power for the foreseeable future.

This same status quo trend applies to China’s environmental action and fossil fuel reliance and the characterization of China’s energy and environmental policies too remains contentious. Although China speaks the language of sustainable development, it remains a defender of common but differentiated responsibilities for climate change and has slowed international climate negotiations (Bortscheller 2010). As the world’s largest polluter, China has serious climate mitigation concerns both domestically and internationally, not least of which is its dependence on coal as its primary energy source. Although China’s growth in renewable energy and green technology is a shift away from reliance on fossil fuels, the trade of energy, primarily oil and coal, has dominated Sino-African economic relations. Until recently, China’s interests in Africa have been primarily for raw resources like other Western powers. With seventy percent of Africa’s exports to the fast growing economy, China continues importing significant volumes of raw materials (WWF 2012). This “thirst for resources” has some actors wondering if China’s involvement signifies a new “scramble for Africa” (Campbell 2010).

The literature on China’s burgeoning role in Africa has been camped in neo-imperialist grounds or as a threat to the international system (Taylor 2009). It has been a concern of the international community that Chinese involvement will impede development for Africa (Wenping 2008). It is widely believed that China is primarily interested in the extractive industry, that Africa is a “resource safari” to secure raw materials for industrialization, primarily oil (Berthelemy 2011). On

the pages of Western editorials are charges of neo-imperialism, invasion and collusion with repressive regimes. Works like *The Dragon’s Gift* push back against these dominant assumptions and dispel myths about “Chinese invasion” (Abla De-Souza 2012). Brautigam (2009) doubts that the country has a coherent grand strategy for takeover of Africa, rather China is looking to expand into new markets and she cautions that this need not be ominous. Conveniently, politicization of Sino-Africa relations has ignored the hypocrisy of Western engagement in Africa. Others such as Wenping contend that China’s ‘Africa policy’ transcends the ubiquitous search for resources because it does not account for China’s engagement with countries that are not resource rich or the benefits that Africa countries receive such as unconditional aid, debt reduction and zero tariff agreements (2008). While the “tides are turning against a China takeover conspiracy”, there is no consensus on whether China remains a status quo power, or what its rise will mean for the West (Brautigam 2009). To date, the literature has been dominated by the “interests dialogue” about China’s intentions in Africa and is camped in fear about the growth of China in the international trade regime (Wilkinson and Scott 2011). The search for ‘proof’ that accompanies such efforts has been too often based on opinion and too little based on analysis. The limitations of the intentions discourse prevent a more sophisticated understanding of the complexities surrounding Sino-Africa relations. I seek to move beyond these dichotomous camps in the literature and analyze to what extent China is providing leadership and influencing the sustainability of development.

## **SOUTH-SOUTH COOPERATION & SINO-AFRICAN ENGAGEMENT**

In an effort to strengthen the role of the global South in the international trade system and expand its trade influence, China has announced global solidarity through South-South partnerships with African and Latin American countries. The China-Africa Trade Forum (FOCAC) held its fifth conference in Beijing this year where the values of this solidarity with Africa were espoused (2012). Established in 2000, the ministerial conference has been a platform for



furthering Sino-African relations and is a paragon of South-South cooperation according to UN Secretary General Ban Ki-moon (2011). The consensus among critical development scholars is that this engagement must be part of an effective strategy to “draw emerging economies into regional development objectives of African states” (Ramps et al, 2012). Although contested, this has been a driving philosophy behind Chinese engagement in Africa.

Given the expanding trade, aid and investment flows, many IR scholars see a global shift in trade relations from East to West (Ikenberry 2008). A rapidly emerging trend, international development institutions believe this cooperation will facilitate investment as a driver

***“As the world’s largest polluter, China has serious climate mitigation concerns both domestically and internationally, not least of which is its dependence on coal as its primary energy source.”***

of development, technology diffusion and knowledge accumulation in Africa (UNTAD 2012). This is in line with the majority of African state leaders who have encouraged a sustainable development strategy with China (Zenawi 2009). This support is crucial because although there is tremendous potential for African growth in the international trade regime, as a continent, it “remains a marginal player in world trade” (ECA 2008: 81).

Chinese South-South cooperation efforts have largely centered on trade and aid flows. A recent addition has been the export of green technology in the region and efforts to make energy more sustainable with the expansion of renewable energy projects. At the 2009 FOCAC, China pledged USD 10 billion in concessional loans with clean energy as a target. Chinese Premier Wen Jiabao laid out a comprehensive road map for China’s continued engagement in Africa

with emphasis on sharing China’s expertise on climate change, science and technology (Melendez-Oritz et al, 2011). Additionally, Wen announced that China would construct 100 clean energy projects across the continent focusing on solar power, bio-gas and small hydropower. This commitment to small-scale energy projects in Africa’s infant renewable sector is a break from China’s traditional African investments which center on major infrastructure projects. This is part of China’s long-term strategic plan and ties together the role of renewable energy in China’s overall economic transition and the pattern of China’s past involvement in Africa. Furthermore, it represents signs of a trend that can wield substantial influence on the future development of Africa’s energy sector (Conrad et al, 2011).

China’s reasons for pursuing a renewable energy strategy are complex and multifaceted, driven by a range of motives from “energy security and international reputation to China’s climate change vulnerability and its desire to move its pattern of economic development up the value chain” (Conrad et al, 2011). However, according to Ramps et al (2012) China has different reasons for engagement and espouses a closer, more strategic partnership than Africa has held with past donor countries. Historically, industrialized country interests have been based on exploitive relations for raw resource extraction. Although China remains driven to obtain energy and raw materials, African leaders are looking towards a “non-Western” option to leverage their trade relations (Taylor 2006). These push and pull factors have contributed to the growth of Chinese involvement and the relative decline of aid from traditional donors.

To understand this interplay of motives one must first understand how China’s domestic policy has shaped international priorities. In order for China to maintain its economic growth trajectory, it must shift its labour relations and move from “cheap labour manufacturing to domestic innovation and the production of globally competitive goods”, as well as increasing consumption and private savings (Conrad et al 2011). The development of renewable “green” energy technology is vital in sustaining economic progress. This is part of a long-term strategic plan that will help China face its “growing



pains” that has increased strain on the environment and the economy (Conrad et al 2011). Both China’s domestic and international presence has indicated a shift to green energy alternatives. According to the Global Public Policy Institute, it is the next logical step for China to move into the African renewable energy sector in order to transform its economy in light of its green technology industry (Conrad et al, 2011).

Second, in an “era of hyper-globalization”, China’s long-term success rests on its ability to move up the Global Value Chain (GVC) (Ismail 2012). This rests in part on the ability to export green technology around the world. Africa has been a springboard for Chinese companies to embark on a global expansion strategy and it has most recently done so through renewable energy technologies (Conrad et al, 2011). China’s renewable energy equipment industry must establish a presence on foreign markets that goes beyond increased exports if it hopes to integrate into the GVC (Conrad et al, 2011). In addition to expanded production of renewable energy technology, this also represents an opportunity for China to test drive investment strategies (Schroeder 2008).

Aside from national economic interests, there has been an increasing realization of the country’s own vulnerability to climate change. This translated into national policy making such as China’s twelfth Five-Year Plan (5YP) on clean energy and conservation. As it is advantageous for China to adopt an economic model that is a low carbon development path, it has made an effort to invest internationally in clean energy projects. This represents a new driving factor that differentiates China’s historic engagement from its current role in the region. This is tied to China’s reputation and its desired image as a responsible stakeholder. Thus although China’s interest in Africa has been driven primarily by strategic economic priorities, it is undeniable that some diffusion of interests have occurred and it transcends previous patterns of Western involvement illustrated by its sizable aid flows.

### **CHINESE AID FLOWS TO AFRICA**

China is one of the largest donors of aid to developing and Least Developed Countries (LDCs) (UNCTAD

2012). China’s use of soft power through its unique brand of aid and its tremendous growth since 1980 has dominated literature on Sino-Africa relations (Jackson 2010: 3). This blended model of aid, investment and trade as development differs from previous Western approaches. However, it has an antecedent and is rooted in China’s experience as a recipient of aid and investment in the 1970s and 1980s where bartering its resources for technology and knowledge served to transition the country into an economic powerhouse (Davis and Woetzel 2010). China has since developed and has sought to influence other emerging economies. Since 1950, China has financed aid programs and negotiated

***“Although China’s interest in Africa has been driven primarily by strategic economic priorities, it is undeniable that some diffusion of interests have occurred and it transcends previous patterns of Western involvement illustrated by its sizable aid flows.”***

trade agreements in Africa. China’s support in the last five years has spike dramatically but is a continuation of Sino-African historical ties (Taylor 2008).

Today, Africa receives 46% of Chinese aid which is exclusively bilateral and remains based on its principles on aid distribution developed in 1964 (Cheng et al 2012: 13). Chinese aid is made up of grant aid and technical assistance, concessional finance, interest free loans and debt relief. The aid is largely tied to national contractors and Africa is China’s second largest market for project contracting with over one thousand enterprises working in trade, transportation, agriculture and energy (Deming 2012). Although concentrated primarily in extractive industries, these loans have reached into nearly every sector and have increased 83% from 2009 to 2011 (Deming 2012). Most aid is in small and medium size infrastructure projects, which contrasts to programmatic



models from the West (Davis and Woetzel 2010).

Chinese aid has been said to follow the Beijing consensus state-led model as a departure from the Washington consensus of neo-liberal institutionalism. It is used to describe non-conditional loans and the “development sans democracy” approach (CDB 2007). China has been unwilling to interfere in the domestic policy of recipient countries, unlike many Western donors who have attempted to attach political and economic conditions for reform. According to China’s Foreign Aid White Paper (2009), their aid seeks to build self-development without imposing policy or political transformation. The principle of political non-interference, which characterizes Chinese aid to Africa, serves “as an attractive alternative to Western aid” (Igwe 2011). Furthermore, it has boosted African public confidence in Chinese legitimacy. In this manner, China has been regarded as an ally to African governments in circumventing the governance and economic conditionalities required by Western donors and international monetary institutions (Rotburg 2008: 287). For these reasons, it can be said that China “operates outside the global aid regime” (Botberg 2011: 212).

In an effort to South-South cooperation and avoid the value laden language of aid, China prefers to speak of its bilateral relation in terms of ‘solidarity’, ‘mutually beneficial economic cooperation’, ‘common prosperity’ and ‘shared developing country status’ (Hui 2011). This is part of the development-trade nexus narrative that has been used to legitimize the WTO’s Aid for Trade programme (AfT 2010). Trade flows are supported through foreign aid, which is composed primarily of development assistance and loans. Within the last two years, aid flows have largely been linked to financing green energy projects, particularly hydro-power and rely on resource based loan agreements – a phenomenon explored in the following section.

## **GREEN TECHNOLOGY AND RENEWABLE ENERGY INITIATIVES**

Chinese aid is intimately tied to trade and investment flows (Cheng et al 2012). Aid allocation has emphasized

key export markets and facilitated projects by Chinese contracted companies while FDI has increased capacity to purchase exports (Loyd et al 1998). These flows have increased exponentially in recent years. According to the 2010 China–Africa Trade and Economic Relationship Annual Report (CATERAR), China’s foreign direct investment (FDI) in Africa increased from \$220 million in 2000 \$13.04 billion in 2010, reaching 7.5% of the continent in 2011 (Sun, Helen Lei 2011; UNECA 2012). Trade has increased twenty percent in the last twelve months, which is 14 percentage points higher than forecasted (Xinhua 2012). These trade and investment flows have largely been in the agricultural and energy sectors. Recently, China has developed technical and manufacturing capacity in Africa through green technology. China has been driving sustainable management in SSA through global product chains involving the export of renewable technology. Renewable energy technology is underutilized but valuable in sustainable development and has the potential to be a powerful engine for growth. This section will explore China’s role as a catalyst for renewable energy and development.

At present, Africa has the lowest access to energy services in the world. Currently 60% of the continent does not have access to electricity and 65% of the continent relies on biomass (WWF 2012a). Unsustainable overdependence on biomass is poverty induced and prevents efficient energy use. Without a significant change in development trajectory and increase in investment rate more people in SSA will be without energy services in 2030 than 2012 as a result of population growth and increased economic development that will create unprecedented demand (Jenson and Davis et al, 2012).

By contrast, China became the world’s leading solar photovoltaic (PV) manufacturer in 2009. The country produced as much as 45 percent of the world supply of solar photovoltaic in 2009. China is the world’s largest market for solar water heaters, representing more than 50 percent world’s capacity. In addition, the annual growth rate of wind power capacity has been above 100 percent for the period 2005 to 2009 (Eriksson 2010). Taken together, half of the world’s renewable energy



sector is in China (UNEP 2009).

China recently expanded its renewable energy innovations into Africa, evidenced by the 2012 FOCAC which made unambiguous linkages between energy, resources and development. With bold commitments to build 100 “clean-tech” projects it builds on the recommendations from the 2009 FOCAC to develop clean energy in addition to greening extractive industries and sustainable investment. With wind farms, electric dams and PV panels springing up across the continent China is the leading country in developing renewable energy projects in Africa (Dwinger 2010: 22; Hu 2011).

Because African states often lack “financial, technological and capacity-building,” China’s leadership eases the tension between energy sustainability and economic viability (Njobeni and Ware 2010). China’s experience in renewable energy and “productive technological capacity” will be instrumental in producing a more “sustainable trade balance” (Njobeni and Ware 2010). This represents an enormous opportunity for China as Africa has the second largest potential, after Asia, for generating renewable electricity (Jenson and Davis et al, 2012). This also brings prospects for market expansion and the creation of local manufacturing capabilities. Furthermore, this gives China an opportunity to become internationally recognized as contributing to the mitigation of climate change and further its strategy for climate protection.

Nigeria, Angola, Ethiopia and Sudan have received 70% of the Chinese funds to Africa as a form of ODA, all of which have large endowments of natural resources. In the last ten years, China has signed a string of multibillion-dollar deals across the continent to develop infrastructure in return for rights to African minerals and oil reserves (Hu 2011). Although not always supporting oil rich countries, there has been a particular trend in its energy sector interests. China has also become a large investor, trader and aid partner in East African countries with Kenya leading the way in clean-tech industries followed closely by Mozambique and Tanzania (WWF 2012b). Despite an absence of economic development capacity, these countries possess incredible solar, wind, hydropower and bio-energy resources (Zenwi 2009).

Hydropower has been the largest renewable energy industry in Africa and should be differentiated from other renewable energy sources. As the principal feature of China’s role in Africa’s power sector, hydropower projects have been primarily financed through loans and are thus “directly tied to China’s efforts to secure access to African natural resources” (Conrad et al 2011). There are at least USD 9.3 billion of recently completed hydropower projects in Zambia, Gabon, the Democratic Republic of Congo (DRC), from China’s manufacturing giants (Hackley and der Westhuizen 2011). These ventures are consistent with the model of other Chinese-led infrastructure projects in the continent (Conrad et al 2011).

In 2009, the Ethiopian Electric Power Corporation signed a major deal with several Chinese companies for hydropower projects including wind farms (Conrad et al 2011: 33). The USD 2.2 billion Gibe III project to be completed in 2013 will double energy capacity in Ethiopia, aptly nicknamed “Africa’s Water Tower” (Rice 2010). In 2006 the China EXIM Bank financed a USD 2.3 billion soft loan to take advantage of the “untapped hydropower resources from Zambezi River” (Conrad

***“China’s experience in renewable energy and ‘productive technological capacity’ will be instrumental in producing a more ‘sustainable trade balance’”***

et al, 2011). Interestingly it was a Brazilian company and its Mozambique partner Insitec that undertook the construction. This could represent a new model of business partnership for the region. Prior to this project the country had previously lacked investment, regulatory framework and technology to develop the region.

China’s interest in renewable energy development beyond hydropower remains in its infancy and is largely restricted to remote, off-grid applications (Jenson and Davis et al, 2012). It is only since 2010 that China has



shown serious engagement with the renewable sector. Given China's recent FOCAC commitments and the clean energy pledge of Egyptian Premier Sharm el-Sheikh that Beijing would double its loans and phase out most tariffs, a different pattern is emerging (Wines 2009). This differs from a focus on the construction of large hydropower plants with investments in wind and solar power, biogas and small hydropower. According to the WWF, this trend is not driven merely by resource considerations, but "by the important role that green technology development and manufacturing plays in China's long term economic policy planning" (Conrad et al, 2011).

China's relationship with South Africa is very different from sub-Saharan or Eastern Africa. South Africa affords the only comprehensive opportunity for renewable energy other than hydroelectric power (WWF 2012). Far ahead of Africa in terms of infrastructure and market maturity, South Africa is also "the only country with a large procurement plan for grid-connected renewables" (Jenson and Davis et al, 2012). However, the country is in constant danger of oversupply evidenced by shortages and nationwide blackout in 2009 and is in need of a sustainable energy mix. China has rapidly expanded its bilateral ties to invest in its clean-tech sector which is expected to grow nearly ten times in the next five years and lead to approximately USD 260 million in revenue by 2015 (Dwinger 2010).

Given South Africa's level of development, capabilities and state of manufacturing sector, the country is set to be a hub for renewable energy (Jenson and Davis et al, 2012). However, the market's coal dependency remains "quasi-monopolistic" (Grimm 2011). Although the country has ambitious green house gas (GHG) targets and policies, it has not translated into action. Eight years after the 2003 White Paper on South Africa's energy policy, a policy framework has yet to be implemented. Despite these challenges, the World Wildlife Fund (WWF) remains optimistic that China can "unlock the potential" of renewable energy in South Africa by closing investment and technology gap (2012). However, this underpins the importance of a diverse and comprehensive approach to engaging with renewable energy alternatives.

China is currently expanding capacity for harnessing wind energy. Its lenders have financed wind farms and other projects in exchange for "signing deals with Chinese wind product manufacturers" (WWF 2012). Ming Yang, a Chinese wind power giant recently secured a USD 5 billion loan from the China Development Bank to support its expansion plans abroad (Fenhann 2011). Another large manufacture, the China LongYuan Power Group Corporation has secured a joint venture in South Africa for the development of five large-scale wind power projects (Mulilo Energy 2011). However, the largest project is in the Lesotho Highlands which is a USD 15 billion renewable programme which is forecasted to product 6GW of wind and 4GW of pumped-storage hydro capacity in Lesotho's Maloti Mountains over fifteen years. The project is backed by Chinese lenders with Chinese wind company Ming Yang manufacturing the turbines (Jenson and Davis et al 2012). With the first phase of construction beginning in 2013, the electricity generated by the Lesotho Highlands Power Project will be purchased by state owned South African utility Eskom (Jenson and Davis et al 2012).

Another area of expansion is the photovoltaic (PV) industry. Chinese PV companies are showing mounting interest to gain leverage in Africa and are now the top investors in African solar power. In June 2011, China's government earmarked USD 100 million for solar projects in 40 African countries (Hackley and der Westhuizen 2011). Suntech and Yingli Green Energy International Trading Company Ltd, two of the world's largest solar PV producers, have signed a memorandum of understandings Clean Development Mechanism (CDM) with South African developers for solar projects (Jenson and Davis et al, 2012). PV pilot projects have also been implemented in Uganda, a country which has a fairly comprehensive strategy for energy development and significant solar potential but has lacked investment due to political stability. With Chinese FDI, it could become a core for renewable energy in East Africa.

These cases illustrate how China's engagement corresponds to the interests and needs of its partner countries. There are encouraging signs that China has been making good on commitments from FOCAC.



While hydro-electric projects still fall within the pattern of China's infrastructure development in the region, other smaller projects in renewables involve increasing technological capacity and provide valuable diversification opportunities for African states. However, across the continent there is still reliance on petroleum, coal and large hydro (Hankins et al 2012). China has been and continues to be invested in coal and oil but has expanded its scope in the sector to tap into renewable energy sources. Although "appetite and resources" are available, governance structures are low, technical capacity is weak and financial terms are asymmetrical in favour of Chinese enterprises. While African businesses are struggling to meet growing demand for electricity, in most countries renewable power sources cannot fill the gap quickly enough, leaving energy companies frustrated (Hankins et al 2012). These circumstances are compounded by the "generic challenges" of Sino-African relations that plague trade and aid relations and including job loss, lack of community engagement, insufficient regulation and lower environmental standards for involvement explored in the following section.

### **LIMITS TO A CHINESE DEVELOPMENT MODEL**

China has lifted 400 million of its own out of poverty through a state led development model (World Bank 2004). Although China considers itself a developing country, it has placed itself in a paternal, mentoring position both in international institutions but also on the ground providing leadership in key sectors. The idea that China should serve as a driver and model for Africa has gained popularity in recent years (Hongwu 2010). China's roots in common experience as developing countries with Africa and its alleged proximity in historical development have legitimized Chinese aid and trade flows (Rotburg 2008). China's reform and national construction and its successful transition from a developing nation to an economic superpower have been welcomed in transforming African economies through Chinese investment (Wenping 2008). China has taken advantage of African countries that lack technical expertise, development but have great investment and

trade potential (Davis and Woetzel 2010). However, there are significant risks. China's aid to Africa brought international concern and a number of bilateral and multilateral agency meetings on concerns ranging from sustainability to human rights, explored below (Rotburg 2008:197).

First, soft loans to sub-Saharan African (SSA) governments for development projects including green technology initiatives have had little transparency or accountability. Not under the leadership of the World Bank as other donor countries, China is unlikely to join efforts with aid harmonization. Moreover, it has already surpassed aid given by the World Bank to the continent. Aid has become more visible because of its sheer magnitude as well as policy like the White Paper on Aid (Rotberg 2009: 103). Although China has been attempting to implement open information, the precise terms of loans are not publically available because of the commercial confidentiality of exporters (Rotberg 2009: 227). This still causes an element of political suspicion, increasing tension with the international community.

Second, China's unconditional loans and political non-interference has been called a "no strings attached approach" that has attracted extensive criticism from the West (Wenping 2008). This has been said to enable dictators in authoritarian regimes and fuel corruption and human rights violations, which has been the subject of intense media hype particularly in reference to Sudan and Zimbabwe (Burgman 2009). This is linked to lower social standards for involvement. Because few Chinese enterprises have internalized social standards and they are often not enforced locally, there has been concern regarding worker's rights and community health.

Third, there is often little cooperation with local governments and a failure to integrate Chinese companies and personnel with local structures. The Chinese often rely on their own labor and materials, contracting projects to national state owned enterprises (SOE's). This brings an influx of Chinese migrant works and does little to benefit to local workers and industries (Davis and Woetzel 2010). Although the aid is not tied by OECD standards, as China is not part of the OECD, it is tied to procurement from Chinese firms.



This has raised questions about the effectiveness of aid because of its limited spillover effects. This creates an absence of community engagement and tension between the rhetoric of South-South solidarity and the local realities of Chinese involvement in the economy. However, many opinion polls show that many African leaders welcome Chinese involvement for its credibility, pragmatic approaches and focus on infrastructure (Iqwe 2011). Yet, there have been tensions with heavy involvement in certain regions such as in South Africa and Nigeria where opinion polls are considerably lower (Jackson 2011). For example, South Africa has spoken out about human rights concerns and threats to domestic economies by Chinese exports where there is a tendency for a flood of Chinese goods to drive market prices down leading to unemployment (Schoeman 2007).

Concerns about the environmental sustainability of energy projects and the prospects for unintended environmental destruction warrant significant attention. China has a history of violating environmental laws with illegal deforestation and fishing. Dam building in particular has been infamous for environmental concerns as well as human rights violations. One study found that only 18% of Chinese corporations felt they could take environmental concerns into account in their business practices (Roger 2012). Scholars contend that Chinese enterprises neglect environmental values because they are not demanded to do so by their investors (Hale and Roger 2012; Drezner and Lu 2009). With increasing investment in hydro-power projects

***“With persistent underdevelopment creating its own set of environmental challenges, a multi-faceted approach is needed to tackle changing climate conditions”***

and infrastructure growth as well as continued fossil fuel use, concerns around environmental degradation will continue to mount. This is compounded by the fact that environmental concerns are not necessarily a

priority for local leaders and there is limited capacity within African governments to enforce environmental standards. With persistent underdevelopment creating its own set of environmental challenges, a multi-faceted approach is needed to tackle changing climate conditions (CCS 2012). Foreign NGOs such as the WWF have provided major impetus for environmental sustainability. However, without incentives, Chinese corporations are unlikely to take on voluntary regulation and governments must market to companies that demand higher environmental standards or rely on the diffusion of international standards (Christmann and Taylor 2001).

Though China is providing crucial leadership and investment, it will come at a cost to domestic economies until more symmetric relationships are garnered. There are still asymmetries with its trade relationships with Africa. Concerns around debt Africa’s sustainability as well as the profitability of renewable alternatives for Africa are a barrier to equitable trade. Although South-South cooperation is value neutral although “rhetorically reflecting the principles of solidarity and mutual benefit,” in actuality relations have not signaled a clean departure from asymmetric relations with previous donor countries (Tull 2006; Ramps et al, 2012). Unless Sino-Africa relations are more financially equitable, “economic consequences will be mixed at best” for local African economies (Tull 2006). South African president Jacob Zuma has warned that the unbalanced nature of Africa’s growing trade ties with China is “unsustainable” in the long term and that “balance is needed” (Abla De-Souza 2012). Mutual benefit would provide China with a platform for establishing and burnishing its credentials with the new South-South cooperation and Africa valuable economic opportunities to engage with the international trade regime (Wenping 2008).

## **RECOMMENDATIONS & THE WAY FORWARD**

While the debate continues about China’s intentions, its contributions to development will increase and its trade, investment and aid integration will deepen. South-South participation is integral to effective development



but careful balance is required. We need a new type of partnership, one that is characterized by greater balance, equity and sensitivity to the development challenges of Africa than has been exhibited by the major developed countries (Melendez-Oritz 2011: 57). Capacity building, balanced rules and good governance are all essential parts of this balance. African and Chinese leaders, along with multilaterals, foundations, and nongovernmental organizations (NGOs) should make this a collective responsibility.

Strengthening Africa's economic-development strategies and capabilities at the national and regional levels should be made a priority. Promoting good governance is the key to unleashing Africa's potential as a pole for global growth (UNECA 2012). This includes improvements to domestic economic and political infrastructure, strengthening the capacity of non-state actors, investing in human capital and technology.

Second, a critical reexamination of the complex and often misunderstood patterns of interaction between Africa and China is needed (Webster 2012). The international community should support China's recent emphasis on sustainable trade initiatives (Davis and Woetzel 2010). This can only be realized if greater dialogue takes place to gain a more sophisticated understanding of both African and Chinese stakeholder motivations and needs in strategic development projects. The international community plays a valuable role in encouraging responsible stewardship, accountability and elevated social and environmental standards. Green technology is an important part of strategy for sustainable development. However, it is only one component and must be accompanied by responsible investment and energy conservation efforts in order to reduce emissions.

Last, collaboration between Chinese institutions working in Africa and other local partners should be developed to improve community relations. These approaches can play a key role in closing the infrastructure gap and mobilizing additional resources for investment (UNECA 2012: 131). Regional initiatives should be encouraged as alternatives to bilateral development approaches. These challenges must be overcome for China to deliver

effective development assistance. If they are met, China can provide new forms of governance and contribute to a more sustainable development and trade approaches (Kennedy and Cheng 2012).

## CONCLUSION

China's engagement in Africa is part of its own long-term strategy but Africa is an important player rather than a pawn to China's interests, representing a driving force for developing nations globally (Wenping 2008). Although the rapid growth of Sino-African ties has been disquieting for some in the international community, these relations are facilitating a shift in the global trade regime away from traditional hegemons. According to Wenping, the shift in international power is not complete and with the rise of more developing nations, new South-South cooperation will catalyze the global economy (2012). Although China's method of engagement and soft power carve non-traditional approaches to development and provide a balance to the West, it does not make a clean break with the status quo as Kennedy and Cheng have found (2012). China, like other bilateral donors, continues to pursue strategic economic interests but other incentives and motivations are at play. China has moved beyond purely fossil fuel and resource-based interests and has helped diversify African economies by supporting sectors that are underfinanced by the international community. South-South cooperation must be part of an effective strategy to draw emerging economies into the national or regional development objectives of African states but attention its challenges is required. While Sino-African relations provide important opportunities to engage with the new paradigm of South-South cooperation, it is not synonymous with symmetrical trade relations. A 'China-style' approach to aid has effectively caught up to the West and created valuable investment opportunities for renewable energy initiatives. China's engagement must be based on a narrative that recognizes Africa as an equal partner and is responsive to their needs. China has provided technical expertise all over the continent and should continue to pursue sustainable energy alternatives to the region. It must be accompanied by good governance, infrastructure and development capacity. While challenges to equitable engagement remain,



China can contribute to the sustainable development of African economies by increasing financial aid, carefully monitoring investment and trade flows to developing renewable energy projects. Although not a miraculous alternative to bilateral relations, Chinese engagement that meets the needs of its stakeholders and provides cleaner energy technology is a valuable step towards a more sustainable trade regime.

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# AN ANALYSIS OF THE CORPORATE PERSONHOOD POLICY: IMPLICATIONS ON AMERICAN DEMOCRACY

A LEGENDARY SUPREME COURT RULING HAS BEGUN TO SHAPE THE FUTURE OF AMERICAN BUSINESS, BUT IS IT FOR THE BEST?

Written By Esther Abecassis

## ABSTRACT

*In 2010 the Supreme Court upheld a momentous decision in the ruling of Citizens United v. F.E.C., a decision that would transform the landscape of American democracy and fuel fervent debates in the years to come. At the root of this decision lies a controversial American policy: Corporate Personhood. Simply stated, Corporate Personhood is the American policy that allowed the Supreme Court to personify the corporation and grant it with the same constitutional rights as natural citizens. The purpose of this paper is to examine the federal policy of Corporate Personhood and its implications on American democracy. First, this paper will investigate the evolution of perception that allowed today's corporation to achieve the sweeping influence it has on American politics. It will then examine the current state of the Corporate Personhood Policy. Furthermore, this paper will outline the prevailing theoretical lenses that can be used to view the policy. In doing so, it will then identify the lens through which policy alternatives can be judged along with its usefulness. Next, this paper will shed light on the debate surrounding the prevalence of Corporate Personhood and its repercussions. Finally, it will determine and compare the political standpoints of Democrats and Republicans on the topic of Corporate Personhood. Ultimately, this paper provides a complete understanding of the federal Corporate Personhood policy and concludes that the current state of the policy jeopardizes the survival of American democracy.*



## INTRODUCTION

While over a century and a half ago, the corporation was a relatively minor and insignificant institution in American society, today it has become the preeminent institution. The Corporation is often paralleled with the classic tale of Frankenstein; a manmade artificial creation, which eventually becomes so powerful that it exists independent of its creators and develops its own identity. ‘Corporate Personhood’ is the policy that fostered this transformation of corporate identity and authorized the accumulating amounts of power that corporations enjoy today. Broadly, Corporate Personhood is a primarily American concept that personifies corporations and grants them with the same constitutional rights as natural citizens. This paper addresses the political issues that arise when corporations are granted citizenship under the Corporate Personhood policy. The predicament with this policy is that it presents a political paradox between two fundamental principles of American democracy: free market capitalism and representative government. Ultimately, this paper will argue that the federal policy of Corporate Personhood enables corporations to pervert democracy by replacing natural citizens in the political process.

The purpose of this paper is to examine Corporate Personhood’s implications on American democracy. First, this paper will investigate the evolution of perception that allowed today’s corporations to achieve an unparalleled level of influence in politics. It will then examine the current state of the Corporate Personhood Policy. Further, this paper will outline the prevailing theoretical lenses that can be used to view the policy. In doing so, it will identify the view through which policy alternatives can be judged along with its usefulness. Next, this paper will shed light on the debate surrounding the prevalence of Corporate Personhood and its repercussions. Finally, it will determine and compare the political standpoints of Democrats and Republicans on the topic of Corporate Personhood.

The history of ‘corporate America’ illustrates the context in which the federal courts humanized the corporation and granted it constitutional rights. Over time, the nature and perception of corporations have shifted considerably. Accordingly, there are three main theories that explain the nature and role of the

corporation. The first theory views the corporation as an “artificial and dependent person”.<sup>1</sup> This dominated political thought during the second half of the eighteenth century. At the time, there were very few native corporations and the State exerted tight control over them. The government developed corporations on the basis of a specific function and often times revoked charters after the corporation fulfilled its duty.<sup>2</sup> This view of the corporation embraces the corporate entity as a manmade construction and a ‘legal fiction’.<sup>3</sup> The second theory, the “aggregate theory”,<sup>4</sup> emphasizes the humanized component of the corporation. It acknowledges the corporation as an extension of the actual people operating it. However, by the early 1900’s, corporations underwent a divorce of ownership because of the creation of multiple shareholder immortality.<sup>5</sup> The corporation thus began to manifest its own identity separate from its shareholders. Because the aggregate theory can no longer accurately explain the nature of the corporation a new theory emerged. The third theory encompasses the perception of the modern corporation. The ‘real entity theory’<sup>6</sup> characterizes the corporation as a real person, often independent of its shareholders and free of government control. This theory is heavily instilled in modern societal beliefs; as today, society considers corporations as actors able to feel, think, believe and decide just as normal people do.<sup>7</sup> This theory strengthens the notion of corporate personhood, for it infuses the belief that corporations are real people residing under the same constitution as natural persons. As the “real entity theory” epitomizes the nature and perception of today’s corporation it ultimately catalyzes the acceptance of ‘Corporate Personhood.’

## WHERE PERSONHOOD IS NOW

This essay will now examine the current state of the Corporate Personhood Policy. The Industrial Revolution and Civil War represent the beginnings of the rapid growth of corporations, allowing for greater economic expansion and ultimately fortifying the corporation as a “real entity”.<sup>8</sup> As corporations expanded across America, so did their desire for more power. They used the 14<sup>th</sup> Amendment, which was intended to free slaves, to argue for the same constitutional rights as citizens.<sup>9</sup> The 14<sup>th</sup> Amendment provides corporations with legal immunity to protect individual corporate autonomy. Corporate Personhood provides corporations with



protections from state legislators as it maintains, “No state shall make or enforce any law which shall abridge the privilege of citizens”.<sup>10</sup> This bestows corporations with a greater degree of freedom, as state judiciaries cannot enforce laws that would impair them. This principle has influenced many congressional decisions, including the 2005 hearing that prohibited the enforcement of environmental regulations<sup>11</sup> on gas companies, as it would “abridge the privilege of citizens”.<sup>12</sup>

Corporate Personhood policy also utilizes the First Constitutional Amendment. After the American Civil Rights movement, federal courts began to extend the promised protection of free speech to all natural persons.<sup>13</sup> At the time, corporations began demanding their own lawful rights to free speech as citizens of the United States, allowing them to indirectly engage in the political process. This was accentuated in 2010, after the Supreme Court case *F.E.C vs. Citizens United* ruled corporate monetary contributions to election campaigns represent a “return to ancient First Amendment principles”,<sup>14</sup> as they exercise their constitutional entitlement to free speech.

### CONSIDERING THE PERSPECTIVES

This essay will now examine the theoretical lens that legitimizes the Corporate Personhood policy. The United States was founded on the principle of individualism. Alexis de Tocqueville wrote, in *Democracy in America*, that American culture is overwhelmingly characterized by the political sensation of individualism.<sup>15</sup> Tocqueville contends, “The Americans have combatted the effects of individualism with free institutions”,<sup>16</sup> which embody the triumph of individualism in American political culture. Advocates of Corporate Personhood use the principle of individualism to maintain that the policy is a key component of American democracy. This view reasons that democracy thrives on free institutions in order to promote individualism. Allotting constitutional rights to corporations permits greater freedom that fosters new economic activity: job creation, increases in national productivity and healthy competition. They contend that socialist institutions such as social welfare decompose the fundamental democratic standard of individual freedom.

Post-modern theorists such as Michel Foucault argue that society accepts the dominance of individualist

ideologies perpetuated by the elites or people in power whom create and spread public wealth.<sup>17</sup> He argues that ideologies are not truths; they are subject to change as the power dynamics of society shift.<sup>18</sup> In the modern political era, the “people” in power includes corporations as they preserve the notion of individualism in order to maintain power. Therefore, a new theoretical lens must be employed in order to adjust the Corporate Personhood policy and nurture a political system whose ideologies reflect the collective views of natural citizens. This next theory offers a window through which alternatives for the Corporate Personhood policy can be viewed. John Stuart Mill offers a collectivist theory that fortifies the importance of representation. He argues that a representative democracy must mirror the views of the electorate<sup>19</sup> as challengers of the Corporate Personhood policy argue that the re-birth of corporations as natural persons has dangerous implications to the political promise of democracy. The Corporate Personhood policy diminishes the notion of democracy, as the government no longer represents natural citizens. Instead, the interests of corporate giants with seemingly infinite funds are quickly replacing real people in the political process. With the constitutional guarantee of free speech, corporations’ boundaries are endless. The values of democracy become undone as the state is then characterized by centralized corporate power that forcefully influences elections. The post-modernist view ought to be held in order to re-evaluate the legitimacy of the Corporate Personhood policy. Further, the collectivist theory of representation may be used to judge the weakness of the policy as it allows corporations to outweigh citizens in political practices, which results in unequal representation.

This essay will now explore the widespread implications of Corporate Personhood. These implications demonstrate the importance of utilizing the collective representation model as a new theoretical lens in evaluating the state of the policy and its alternatives. First, since the corporation’s legal function is solely to maximize profit for its shareholders, morality often comes secondary to monetary gains. This means that if environmental or humanitarian concerns conflict with increasing profit, they are often discarded. Corporations are notorious for their immoral actions. Corporate Personhood claims the moral rights of a person without enduring the moral responsibilities. Philosopher John Ladd states, “corporate organizations are more like



machines and it would be a mistake to expect a machine to comply with the principles of morality”.<sup>20</sup> A recent example of the immortal like tendencies of corporations is the Monsanto Protection Act. This bill, signed into law by President Obama, states that even if GMOs produced by Monsanto cause future health problems, federal courts do not have the authority to stop the use or spread of GMOs.<sup>21</sup> This protectionist policy, legitimized by the constitution, demonstrates how Corporate Personhood policy allows for the passage of unethical congressional laws. Murray Dobbin, the author of *The Myth of the Good Corporate Citizen*, states that “if we are to accept that corporations can be citizens, then these particular citizens exhibit the behavior of textbook sociopaths”.<sup>22</sup> In addition to the perennial actions of corporations, there is often no accountability mechanism as some corporations exist independent of their shareholders. This new class of “citizens” has the ability to injure real people because the current American democratic process often does little to hold them accountable.

Another issue with the corporate personhood policy is that it dismantles the promise of representative democracy. When corporations are legally considered

***“The interests of corporate giants with seemingly infinite funds are quickly replacing real people in the political process”***

citizens, they are also privileged with the rights of the First Amendment. This permits a corporation to support political parties in an election,<sup>23</sup> thereby muffling the voices of natural citizens with unparalleled monetary leverage. As most corporations have larger financial and human resources than those of natural persons, influence is disproportionately swayed away from the individual. The ramifications of the Corporate Personhood policy imply the undoing of democracy.

## CONFLICTING STANDPOINTS

Next, this paper will outline the American political standpoints on the policy of Corporate Personhood. While Democrats have been vocal about amending

the constitution to restrict Corporate Personhood, Republicans have been more inclined to support this policy. Following the 2010 Supreme Court case *Citizens United v. F.E.C.*, Democrats pushed for constitutional reform to eliminate corporate personhood.<sup>24</sup> An influential Senate Democrat Anthony Hensley stated, “Corporations don’t live and breathe or go to war”.<sup>25</sup> The Democrat Party platform states that while they acknowledge the vitality of corporations for the economy, they oppose the Supreme Court’s standard that corporations are people, and have rights under the constitution.<sup>26</sup> Although the Democratic Party platform opposes the current corporate personhood policy, they are frequently criticized for an ambiguous position on the policy. Kaitlin Sopoci-Belknap, a spokesperson for Move to Amend (a political organization aiming to abolish Corporate Personhood) states “we appreciate that Democratic leaders are responding to public pressure on this issue, but their platform language is as weak as their promise not to finance their own convention with corporate cash.”<sup>27</sup> While President Obama expressed skepticism of the Supreme Court’s ruling in *Citizens United v. F.E.C.*, he continues to be attacked for embracing the contribution of corporations in his re-election campaign. This illustrates the Democrats’ balance between decreeing corporate power while simultaneously using their funding for reelection campaigns.

Republicans view Corporate Personhood in a different light than their Democratic opponents. They are far more inclined to support constitutional rights to corporations as natural persons. For instance, during his election campaign in 2012, Mitt Romney bluntly stated, “Corporations are people, my friend”.<sup>28</sup> Of the two Parties, Republicans generally succeed at better representing corporations and their interests. This is due to the imposed label of the party being constituted by wealthy white males, businessmen and corporate shareholders. The Republicans believe in top-down economic policies that typically favour large, powerful corporations.<sup>29</sup> They argue that in order to create more jobs, more choice and better prices for American citizens, the corporation must be a free entity.

Although both parties diverge in their vocal opinions on the issue of Corporate Personhood, their true standpoints are revealed through what they do. Both the Democratic and Republican Party’s are one in



the same when it comes to Corporate Personhood. They both accept the corporations' claim to the First Amendment of free speech and receive support from major corporations. Their party platforms and policy advancements show that corporations are the main actors pulling political strings. While the Republican platform supports guns because of its connection with the NRA, Democrats show support for corporations like Monsanto, exemplified by the congressional agreement on the Monsanto Protection Act.

## CONCLUSION

As the corporation increasingly becomes the dominant institution in American politics, the federal Corporate Personhood policy presents a theoretical dilemma. The Corporation itself is a paradox; it simultaneously creates enormous national wealth while limiting representative government. In pursuit of addressing the issue surrounding the Corporate Personhood policy, this paper concludes that this federal policy allows corporations to misrepresent democratic values such as representative democracy and responsible government. By describing contemporary notions surrounding the corporation this essay examined the state of the current Corporate Personhood policy. Subsequently, it demonstrated the theoretical lens of individualism, which is used to promote Corporate Personhood. In addition, a post-modern theory was established to question the dominant ideology of individualism and provide grounds for a new lens. The collectivist notion of representation was offered as a new theoretical framework in which the Corporate Personhood policy can be viewed. The importance of using this new lens was established through the assessment of the threatening implications of the policy. A light was shed on the debate surrounding the principles of Corporate Personhood and its repercussions on American democracy. Finally, by comparing the political standpoints of Democrats and Republicans on Corporate Personhood, this paper provides a comprehensive understanding of the federal Corporate Personhood policy and concludes that the current state of the policy jeopardizes the survival of American democracy.

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