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Emerging Scholars 2014

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Australian Institute of International Affairs



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2014**

Edited by Sinead Ferris, Camden Luxford and Daniel Nichola

Supervising editor: Melissa H. Conley Tyler

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Foreword

The Australian Institute of International Affairs (AIIA) was established in 1924 to promote public understanding and interest in international affairs. The AIIA works actively to engage younger people in its work by coordinating events such as careers fairs, school events, mentoring, internships and a Young Diplomats Program.

As part of the AIIA's commitment to engage young people, AIIA National Office launched an internship program in 2006 that has hosted more than 150 interns to date. Internship opportunities also exist in all AIIA state and territory offices. Anyone who has served as an intern at the AIIA is eligible to submit a paper for publication in *Emerging Scholars*.

This year the AIIA received a high standard of submissions. The papers in this volume were selected after rigorous academic review and cover a range of topics in international affairs.

A number of the articles respond to the issues of the moment, such as the implications of Australia's Jihadist contribution to the conflicts in Syria and Iraq and an assessment of legitimate authority in the just war tradition. Others focus on long-standing issues, such as analyses of tensions between India and Pakistan and the relationship between secular and religious actors in Turkey and Israel. Most offer real suggestions for improving the conduct of international relations, such as increasing women's participation in conflict resolution.

I would like to commend all of the authors for their work; their articles deserve a wide audience. Please note that the opinions contained in this volume are those of the authors alone.

My sincere thanks go to editors Sinead Ferris, Camden Luxford and Daniel Nichola for their efforts in editing and coordinating this volume. They were a pleasure to work with and I look forward to watching them continue in impressive careers. We warmly thank all the reviewers and current interns Rachelle Saad and Alex Maclaurin for their assistance.

We hope this volume stimulates greater interest in international affairs.

Melissa H. Conley Tyler

National Executive Director, Australian Institute of International Affairs

About the Editors

The editors would like to thank the following people for generously contributing their time to the production of this volume: Chad Mitcham, Joel Kahn, Nicholas Henry, Michális Michaels, Anna Samson, Ian Dudgeon, Mathew Davies, Andrew Zammit and Melissa Conley Tyler.

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Sinead Ferris holds a Bachelor of Liberal Studies from the University of Sydney with majors in International Relations, French Studies and Psychology. Sinead is a member of AIIA VIC and is active in its Young Professionals Forum. She tutors at the University of Melbourne and is a Junior Policy Associate at the University of Sydney's China Studies Centre, where she is involved in China-related research and writing. Her current research interests include China-Africa relations, Indonesia, Australian integration into Asia and the relationships between ASEAN states and the large powers in the Pacific. She speaks French and is learning Indonesian.

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Camden Luxford holds a Bachelor of International Studies/Commerce from Deakin University and is currently completing Honours in Economics and a Master of International and Community Development. She specialises in Latin America and has lived and worked in Peru and Argentina, undertaken fieldwork in Cuba and travelled extensively across the continent. Her current research interests include corporate social responsibility, private and third sector accountability, and search theory. Camden speaks Spanish and Brazilian Portuguese and is learning French.

Daniel Nichola

Daniel Nichola is a researcher at the Australian Strategic Policy Institute (ASPI), working across ASPI's full research program. His primary research interest is in Australia's force structure and defence strategy. He has written on the conceptual basis of Australia's security, Australia's security relationships and the future of the Australian Defence Force. Daniel holds a Master's degree in Strategic Studies from the Strategic and Defence Studies Centre at the Australian National University and an Honours degree of Bachelor of Arts (First Class) from Monash University.

Peace Ambassadors: Women in Conflict Resolution

Ashleigh Peplow Ball*

Despite women being active promoters of peace in their communities during times of war, they are alarmingly underrepresented in the formal conflict resolution process. This is the reality in peace processes globally despite the unanimous adoption of United Nations Security Council Resolution 1325 in October 2000 and the resulting 'Women, Peace and Security' agenda.

There are three main opportunities that arise when women are meaningfully and equitably integrated into the conflict resolution process: achievement of more holistic and gender sensitive agreements; translation of political peace agreements to the societal level; and greater incorporation into the conflict resolution process of innovative ideas and collaborative approaches.

There are a number of potential pathways to overcome the barriers to the involvement of women in peace processes including shifting the paradigm of peace talks (such as by requiring a minimum percentage of women); training of delegates and women's organisations; and in-depth research into the role of women in conflict and their contributions to peace.

Meaningful and equitable involvement of women offers opportunities to enhance and strengthen the conflict resolution process and outcome. To this end, the integration and active participation of women increases the potential to achieve sustainable, positive peace.

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Disempowering women by excluding them from peace talks is tantamount to denying society the faculty of half its population. Civilization can, in that wise, only advance by halves—Akin Iwilade¹

When thinking about women in times of conflict and war, images of submission and suffering arise. Women walking along a barren road to a refugee camp. Women holding malnourished children, collecting their food ration. Women as casualties of rape, torture and disease. These perceptions contrast strongly with those of men who protest for change, fight against oppression and protect their families. Mainstream media reinforces these stereotypes of men as actors and women as sufferers in conflict. This is evident in media reports when women are grouped with children as passive victims in need of protection. Although women suffer disproportionately in times of conflict, their role should not be viewed as one of submission. Women in conflict zones overcome cultural and social restrictions to fight for peace. They build dialogue between warring parties, stage peaceful protests, collect arms and signatures, lobby politicians, care for the sick and injured and encourage reconciliation in their communities.

It is a natural extension of this role for women as activists and caretakers in the home and community to be involved in building peace at the political level. Yet, despite their experience in conflict and position in society, women are rarely present in the formal conflict resolution process.² This is a significant flaw in the structure and practice of conflict resolution. Activists, politicians and scholars acknowledge this shortcoming, but the discussion of why women should be active participants rarely extends beyond the human rights case; where women, as 50 percent of the population, have a human right for their opinion to be heard. While this is one reason to integrate woman in the conflict resolution process, it is a problematic argument, as it perpetuates the view of women as passive actors in need of support. This article will address this gap in the literature by going beyond the human rights argument and establishing how the involvement of women in the conflict resolution process benefits all of society. As a result, this article will argue that the meaningful and equitable involvement of women offers opportunities to enhance and strengthen the conflict resolution process and outcome. To

¹ A. Iwilade, 'Women and peace talks in Africa', *Journal of International Women's Studies*, vol. 21, no. 1 (2011), pp. 22-37, p. 31.

² Note that when discussing the conflict resolution process, this article is referring to contemporary armed conflict such as civil war and intrastate violence. Further 'formal conflict resolution process' will be used interchangeably with 'peace process'.

this end, the integration and active participation of women increases the potential to achieve sustainable, positive peace.³

Initially, this article will discuss the conflict resolution process, Feminist Security Theory and the United Nations (UN) ‘Women, Peace and Security’ agenda. It will then highlight opportunities that arise from the integration of women in the formal conflict resolution process and the barriers that prevent meaningful and equitable participation. This article will then seek to bridge the gap between scholarship and practice by outlining potential pathways to overcome these barriers. Due to limited scholarly literature on the role of women in conflict resolution, the assertions in this article are predominately derived from case studies of women in armed conflict, actions of institutions such as the UN, and non-governmental and inter-governmental organisation reports. This analysis identified opportunities, barriers and pathways toward the integration of woman in the formal conflict resolution process. Additionally, an exploration of Feminist Security Theory supports the observations and provides a framework for understanding the current position of women in conflict resolution.

Conflict resolution

Before discussing the role of women in building peace, it is useful to consider the process and strategic importance of conflict resolution. The Cold War ended with hope of a more peaceful and cooperative international security landscape, however the reality has been distressingly different. The international community has been unsuccessful in preventing the outbreak of brutal civil wars, ethnic violence and genocide.⁴ Since the 1990s, there has been the highest level of intra-state conflict in world history as states shatter along religious and ethnic fault lines.⁵ Conflict resolution is the process utilised to establish stability when violence fractures societies. The formal process brings

³ The important features of this assertion are ‘meaningful’, being a complete integration into the entire process of negotiations, such that the outcome is fundamentally reflective of this participation. Further, ‘equitable’ meaning delegates need to accurately represent the diversity of the population to build strong support for sustainable peace.

⁴ J. Shoemaker, ‘In war and peace: women and conflict prevention’, *Civil Wars*, vol. 5, no. 1 (2002), pp. 27-54, p. 27.

⁵ S. Anderlini, ‘Women at the peace table: making a difference’, *United Nations Development Fund for Women* (2000) <<http://www.unwomen.org/en/digital-library/publications/2000/1/women-at-the-peace-table-making-a-difference>> accessed 23 May 2013, p. 1.

together the parties of the conflict to establish a ceasefire and set the agenda for peace. External organisations such as the UN, regional organisations, or specific states often mediate the process. The wider conflict resolution process, at the formal and informal level, encompasses ‘any activity that involves mediation, negotiation and other forms of communication and dialogue to facilitate the resolution of social conflicts and bring about peaceful relationships between individuals and groups’.⁶

Based on this understanding, the conflict resolution process should address the underlying grievances that fuel conflict and divide society in order to ‘bring about peaceful relationships’.⁷ Yet, all too often, this process starts and ends with the signing of a peace agreement, which is not enough to end war and conflict.⁸ Applying the theories of the founder of peace and conflict studies, Johan Galtung, this common approach to conflict resolution establishes a ‘negative peace’, defined as ‘the absence of direct violence’.⁹ A community experiencing negative peace may feature societal and structural violence such as ethnic, economic and gender inequality, which prevent the attainment of true stability and makes the re-emergence of conflict more likely.¹⁰ Comparatively, when the resolution addresses these broader issues, the process moves towards achieving what Galtung defines as ‘positive peace’, being the absence of the root causes of conflict.¹¹

The World Bank found that 90 percent of the last decade’s civil wars occurred in countries that had already experienced a civil war since 1945.¹² Furthermore, Columbia University professor and peace researcher Virginia Page Fortna examined 94 cease-fires in almost 60 civil

⁶ J. Steans, *Gender and international relations* (3rd edition) (Cambridge: Polity, 2013), p. 102.

⁷ *Ibid.*, p. 103.

⁸ R. Manchanda, ‘Naga women making a difference: peace building in Northeastern India’, *Women Waging Peace Policy Commission* (2005) <<http://www.inclusivesecurity.org/publication/naga-women-making-a-difference-peace-building-in-northeastern-india/>> accessed 1 June 2013, p. v.

⁹ J. Galtung, *Peace by peaceful means: peace and conflict, development and civilization* (Oslo: PRIO, 1996), p. 14.

¹⁰ C. Bunch, ‘Feminism, peace, human rights and human security’, *Canadian Women’s Studies*, vol. 22, no. 2 (2004), pp. 6-11, p. 6.

¹¹ J. Pitanguy, ‘Reconceptualizing peace and violence against women: a work in process’, *Journal of Women in Culture and Society*, vol. 36, no. 3 (2011), pp. 561-566, p. 561.

¹² M. Buvinic, M. Das Gupta, U. Casabonne & P. Verwimp, ‘Violent conflict and gender inequality: an overview’, *The World Bank Research Observer*, vol. 28 (2012), pp. 110-138, p. 113.

wars in the post-Cold War period. She found that in a third of cases, civil war resumes within a year, and half of all wars resumed within five years.¹³ This data highlights that the existing formal conflict resolution process is often unsuccessful at implementing sustainable, positive peace. This article argues that the involvement of women in all aspects of the conflict resolution process is a significant and necessary step towards achieving positive peace.

The Women, Peace and Security Agenda

Across the world, “women are largely active in the informal spheres, at community and civil society levels, beneath the radar of the international community and the traditional peace and security framework.”¹⁴ This informal role, and the opportunity provided to strengthen the formal level of conflict resolution if women are included, is recognised by the UN through the Women, Peace and Security (WPS) agenda. The most significant resolution of the WPS agenda is UN Security Council Resolution 1325, adopted unanimously in October 2000.¹⁵ This resolution recognises women’s contribution to peace building, and calls for the increased involvement of women at all levels of decision-making in conflict prevention and resolution.¹⁶ Resolution 1325 also highlights the gendered nature of conflict¹⁷ and calls upon local actors, states and the UN to adopt a gender perspective in the conflict resolution process.¹⁸ Where previous UN resolutions treat women as victims in need of protection, resolution 1325 identifies them as active participants in the

¹³ V. Fortna, *Does peacekeeping work? Shaping belligerents’ choices after civil war* (Princeton: Princeton University Press, 2008), p. 1.

¹⁴ Woodrow Wilson International Center for Scholars, ‘More than victims: the role of women in conflict prevention’, *Conflict Prevention Project* (2002) <<http://www.wilsoncenter.org/publication/more-victims-the-role-women-conflict-prevention-pdf>> accessed 12 April 2013, p. 17.

¹⁵ Further WPS resolutions that strengthen and expand UNSCR1325 are resolutions 1820, 1888, and 1889. See: S. Dharmapuri, ‘Just add women and stir?’, *Parameters Quarterly*, vol. 41, no. 1 (2011), pp. 56-70, p. 57.

¹⁶ N. Pratt & S. Richter-Devroe, ‘Critically examining UNSCR 1325 on women, peace and security’, *International Feminist Journal of Politics*, vol. 13, no. 4 (2011), pp. 489-503, p. 492.

¹⁷ M. Dutta, ‘Role of women in peace and conflict resolution’, *Himalayan and Central Asian Studies*, vol. 10, no. 1 (2006), pp. 29-40, p. 31.

¹⁸ Pratt & Richter-Devroe, ‘Critically examining UNSCR 1325 on women, peace and security’ (2011), p. 492.

peace process¹⁹ and frames women's rights and issues as hard security matters that impact state security.²⁰

Despite this progress and widespread support in the international community, more than a decade after 1325's adoption targeted action from member states has fallen short of expectations.²¹ Only 24 of 192 member states have initiated national action plans to operationalise 1325, a requirement of the resolution,²² and women remain alarmingly underrepresented in the conflict resolution process.²³ This inadequate response has been attributed to many factors, including limitations in the resolution itself. Resolution 1325 has received significant criticism surrounding its choice of language and its framing of women's involvement in security. Natalie Hudson from the Norwegian Peacebuilding Resource Centre asserts that the wording of the resolution promotes an "essentialist and narrow view of women as communal peacemakers", thereby potentially dismissing women to their traditional roles in the informal sector in post-conflict communities.²⁴ Another fundamental limitation arising from generic language in resolution 1325 is the homogenisation of women, as it does not acknowledge that women may have divergent voices throughout the process.²⁵ Further criticisms of the resolution are that it focuses on women but not on gender, and that

¹⁹ *Ibid.*, p. 490.

²⁰ N. Hudson, 'UNSCR 1325: the challenges of framing women's rights as a security matter', *Norwegian Peacebuilding Resource Centre* (2013) <<http://reliefweb.int/sites/reliefweb.int/files/resources/4814ab8970493cca48dbbafdbb4e92bc.pdf>> accessed 12 July 2013, p. 3.

²¹ *Ibid.*, p. 2.

²² Dharmapuri, 'Just add women and stir?' (2011), p. 57.

²³ The UN Development Fund for Women found that from 1992 to 2009 women represented less than eight percent of peace talk delegates, and less than three percent of final agreement signatories. (C. Koppell, 'Supporting women in negotiations: a model for elevating their voices and reflecting their agenda in peace deals', *The Institute for Inclusive Security* (2009)

<<http://www.inclusivesecurity.org/publication/supporting-women-in-negotiations-a-model-for-elevating-their-voices-and-reflecting-their-agenda-in-peace-deals/>>

accessed 8 June 2013, p. 1.) More recently, UN Women revealed that 'from August 2008 to March 2012, women were signatories in only two of the 61 peace agreements' that were concluded over the period. (UN Women, 'Women's participation in peace negotiations: connections between presence and influence', *UN Women* (2nd edition, 2012)

<<http://www.unwomen.org/~media/Headquarters/Media/Publications/en/03AWomenPeaceNeg.pdf>> accessed 12 June 2013, p. 3.).

²⁴ Hudson, 'UNSCR 1325: the challenges of framing women's rights as a security matter' (2013), p. 2.

²⁵ *Ibid.*

it neglects to address the role of women in conflict outside of peacemaking roles.²⁶

The most significant limitation of 1325 is that it endeavours to bring women and gender issues to the front of all UN operations without going to the “heart of the institutional inequities and power relations that structure gender relations within the organization”.²⁷ As a result, 1325 has not affected the core of UN operations. Instead it has created “tokenistic spaces for alternative voices”, whilst “claiming inclusiveness”.²⁸ The resulting continued minimal integration of women in conflict resolution processes has been reflected in the outcomes of negotiations. Christine Bell and Catherine O’Rourke from the Transitional Justice Institute analysed peace agreements from 1990 to 1999, and separately from 2000 to 2010, in order to determine whether the adoption of resolution 1325 has impacted the conflict resolution process. They found that while references to women in peace agreements have increased since resolution 1325’s adoption, only 16 percent actually contain specific provisions on women’s rights and needs.²⁹ Furthermore, UN evaluation reports have highlighted that since 2000, less than eight percent of proposed recovery budgets identified women’s needs as a spending priority. This data highlights that the operationalisation of resolution 1325 by the UN and member states is slow, and significant barriers remain to the meaningful and equitable integration of women in the conflict resolution process.

A theoretical framework

A feminist approach to international relations, and specifically Feminist Security Theory (FST), provides an appropriate framework to understand why resolution 1325 has not achieved its goals, as well as the relevance of women in the conflict resolution process. FST is an area of scholarship within the feminist approach to international relations, mainly based on a critique of realism. Specifically, FST refers to a field that ‘reflects and analyses the importance of gender in a changing international security

²⁶ S. Willett. ‘Introduction: Security Council Resolution 1325: Assessing the impact on women, peace and security’, *International Peacekeeping*, vol. 17, no. 2, (2010) pp. 142-158, p. 155.

²⁷ *Ibid.*, p. 150.

²⁸ *Ibid.*, p. 151.

²⁹ C. Bell and C. O’Rourke, ‘Peace agreements or pieces of paper? The impact of UNSC resolution 1325 on peace processes and their agreements’, *International and Comparative Law Quarterly*, vol. 59, no. 4 (2010), pp. 941-980, p. 954.

environment'³⁰ and challenges us to reconsider our understanding of the role of women in the international system.³¹ Despite divisions within the field, two common assumptions arise that are relevant to the role of women in conflict resolution.³²

The first common assumption of FST theorists is that international relations exists within a realist-masculine system, which provides an appropriate perspective to understand the exclusion of women from the formal conflict resolution process. Realists such as Morgenthau, Waltz and Mearshimer assert that the international system is comprised of sovereign, self-interested states that are seeking to maximise their power,³³ and that the security of a state can be achieved and sustained by military means.³⁴ The formal conflict resolution process is a means of obtaining state security from military threats and therefore is also based upon the realist concepts of power maximisation and self-interest. Feminist theorists assert that realism, dominated by elite, white, male practitioners, is based upon masculine norms.³⁵ Eric Blanchard summarised this by paraphrasing feminist international relations pioneer Ann Tickner: 'realism stresses rationality, strength, power, autonomy and independence – qualities as associated with foreign policy and military affairs as they are with masculinity'.³⁶

Based on this understanding, realist-masculine characteristics of conflict contrast with femininity, which is socially constructed to connote weakness, passivity, dependence and an inability to be involved in political processes that deal with issues of hard security.³⁷ Therefore, from a FST perspective, the low numbers of women involved in formal

³⁰ L. Sjoberg & J. Martin, 'Feminist security studies: conversations and introductions' <http://www.academia.edu/292413/Feminist_Security_Studies_Conversations_and_Introductions> accessed 15 August 2013, p. 1.

³¹ For a thorough literature review outlining the contributions of these scholars to the field of Feminist Security Theory, see: E. Blanchard, 'Gender, international relations, and the development of feminist security theory', *Signs*, vol. 28, no. 4 (2003), pp. 1289-1312.

³² Sjoberg & Martin, 'Feminist security studies: conversations and introductions', p. 1.

³³ Blanchard, 'Gender, international relations, and the development of feminist security theory' (2003), p. 1289.

³⁴ *Ibid.*

³⁵ *Ibid.*, p. 1292.

³⁶ Blanchard, 'Gender, international relations, and the development of feminist security theory' (2003), p. 1296 quoting A. Tickner, *Gender in International Relations: Feminist Perspectives on Achieving International Security* (New York: Columbia University Press, 1992), p. 3.

³⁷ *Ibid.*

conflict resolution is influenced by the realist-masculine nature of international politics in which women's voices are considered inauthentic.³⁸ Hoogensen and Stuvoy, human security scholars at the Arctic University of Norway, state that

gender decides who goes to war and who does not; who is a victim and who is not (Carpenter, 2005); who is peaceful and who is not (Galtung, 1996; Reardon, 1993); and who is legitimate within the security discipline and who is not (Tickner 1992, 2004; Runyan & Peterson, 1991).³⁹

The second assumption of FST is a broad and holistic understanding of security. FST is critical of the realist approach to security, which systematically ignores and devalues the non-military issues that contribute to the security of a nation.⁴⁰ FST argues that this militaristic focus of security is a dysfunctional response to the challenges of the modern international relations environment, as it does not allow for a 'comprehensive conceptualisation of the dynamics that govern inter-group relations that inevitably generate conflict'.⁴¹ Instead, 'FST has subverted, expanded, and enriched notions of security'⁴² by defining it from a human perspective, with the least secure fractions of society determining the overall security of the state.⁴³ From a FST perspective, issues such as sexual violence, poverty, illiteracy, and health care,⁴⁴ which from a realist understanding may be viewed as 'soft', must be integrated into the conflict resolution agenda to form a peace plan that can break the cycle of conflict and establish positive peace. These two core assumptions provide an important framework in which to analyse the opportunities that arise from the involvement of women in the conflict

³⁸ *Ibid.*, p. 1292.

³⁹ G. Hoogensen & K. Stuvoy, 'Gender, resistance and human security', *Security Dialogue*, vol. 37, no. 2 (2006), pp. 207-228, p. 212.

⁴⁰ W. Delehanty & B. Steele, 'Engaging the narrative in ontological (in)security theory: insights from feminist IR', *Cambridge Review of International Affairs*, vol. 22, no. 3 (2009), pp. 523-540, p. 530.

⁴¹ Iwilade, 'Women and peace talks in Africa' (2011), p. 24.

⁴² Blanchard, 'Gender, international relations, and the development of feminist security theory' (2003), p. 1290.

⁴³ D. Marshall, 'Women in war and peace: grassroots peacebuilding', *United States Institute of Peace* (2000)
<<http://www.systemicpeace.org/vlibrary/USIPWomenWarPeace2000DRamseyMarshall.pdf>> accessed 12 June 2013, p. 10.

⁴⁴ *Ibid.*

resolution process and the barriers that prevent it from occurring meaningfully and equitably.

Opportunities arising from the involvement of women

The active involvement of women can positively impact the process and outcome of conflict resolution in several ways. An example of this influence is reflected in the outcomes of three conflict resolution processes in Africa that occurred in the same decade. Liberia, a country fraught with civil war for more than 10 years, held 14 different peace talks between 1990 and 1997 to resolve the conflict. All of these negotiations actively excluded women's groups, and in all cases, conflict resumed. In comparison, the 1990 to 1993 South African post-apartheid talks and the Arusha negotiations in Burundi between 1993 and 2003 integrated women, and both processes have resulted in lasting peace.⁴⁵ Whilst this correlation alone is not sufficient to confirm that women's involvement increases the potential for peace, it does provide an interesting platform to consider the opportunities that arise from the involvement of women in the conflict resolution process. This article will assert that the integration of women into the formal conflict resolution process provides three main opportunities to achieve sustainable, positive peace.

The most significant opportunity arising from the integration of women in the formal conflict resolution process is the achievement of a more holistic and gender sensitive agreement. This opportunity is influenced by the close connection of women to civil society, which provides them with a unique perspective on the root causes and contributing factors to the conflict. Leaders of peace talks are often focused on warring parties being represented at the table.⁴⁶ Members of the warring parties, as well as politicians, are frequently detached from the wider social impact of the conflict, as they may be deeply entrenched in violence on the ground or only aware of the top political layer. As a result, peace talks often underestimate the depth and width of the crisis, and the final agreement fails to address the array of issues contributing to ongoing instability.⁴⁷

⁴⁵ Iwilade, 'Women and peace talks in Africa' (2011), p. 27.

⁴⁶ U. Dolgopol, 'Women and peace building: what we can learn from the Arusha Peace Agreement', *Australian Feminist Studies*, vol. 21, no. 50 (2006) pp. 257-273, p. 258.

⁴⁷ Marshall, 'Women in war and peace: grassroots peacebuilding' (2000), p. 12.

Comparatively, women often experience all stages and consequences of conflict, providing them with a more complete understanding and insight into the ‘less visible, often underlying problems that can ultimately lead to the eruption of violent conflict’.⁴⁸ This awareness can enhance and strengthen peace talks by providing essential information, assisting the monitoring of progress during reconstruction efforts, and aiding conflict prevention by strengthening early warning systems.⁴⁹ The awareness of the complex causes of conflict is evident in West Africa, where a group of women from Guinea, Sierra Leone and Liberia formed the Mano River Women’s Peace Network (MARWOPNET) in 2000 ‘to deliver a coordinated response to and positively impact the civil wars that had broken out in the Union’.⁵⁰ Over the past decade, MARWOPNET has been active at the ‘informal, traditional, grass-roots sphere of conflict resolution, and at the highest levels of government’,⁵¹ utilising these women’s close connection to civil society and understanding of the causes of to strengthen these processes.

The consequence of the insight provided by women’s organisations such as MARWOPNET is a wider understanding of peace. Awareness of the causes of instability and wider social impact of the conflict means that when women are involved in the formal conflict resolution process, they promote discussion of less visible aspects of conflict resolution necessary for achieving sustainable, positive peace.⁵² As a result, when women are in official roles at the peace table, they often encourage a discussion of ‘soft issues’ within the realist-masculine structure of traditional conflict resolution. This is a key opportunity provided by the inclusion of women in the process, as looking at history from a FST perspective shows that if issues such as the emotional and psychological trauma of conflict are left unattended, they ‘can prove to be one of the most destructive spoilers of an accord’.⁵³

⁴⁸ Shoemaker, ‘In war and peace: women and conflict prevention’ (2002), p. 44.

⁴⁹ *Ibid.*, p. 49.

⁵⁰ ECOWAS Commission, ‘Two decades of peace processes in West Africa: Achievements – failures – lessons’, *ECOWAS International Conference* (2010) <http://www.comm.ecowas.int/dept/h/h1/en/rapport/Final_Report_Two_Decades_English.pdf> accessed 23 June 2014, p. 20.

⁵¹ WMFD, ‘Profile of the Mano River Women’s Peace Network’, *World Movement for Democracy* <<http://www.wmd.org/resources/whats-being-done/ngo-participation-peace-negotiations/profile-mano-river-womens-peace-netw>> accessed 21 May 2013.

⁵² Shoemaker, ‘In war and peace: women and conflict prevention’ (2002), p. 44.

⁵³ T. de Langis, ‘Across conflict lines: women mediating for peace’, *The Institute for Inclusive Security* (2011) <<http://www.inclusivesecurity.org/publication/across-conflict-lines-women-mediating-for-peace/>> accessed 19 May 2013, p. 2.

A report by UN Women found that when women are included in conflict resolution process it has a significant impact on the inclusion of provisions specific to women.⁵⁴ This is vital, because in civil wars, the outcome of the conflict resolution process is more than just a ceasefire agreement; it establishes the road-map for the future of the state.⁵⁵ When gender sensitive policies are included in peace agreements, it empowers women in the post-conflict society.⁵⁶ Conversely, if the gendered nature of conflict recovery is not addressed within the agreement, the invisibility of women is reinforced and the benefits associated with gender equality will not be achieved.⁵⁷ An example of the opportunity to achieve a more holistic and gender sensitive peace agreement when women are integrated in the process was evident in Darfur. International and regional sponsors of the Darfur peace talks created an all female Gender Expert Support Team (GEST), which featured a 'neutral, diverse cross-section of experts' from across the country.⁵⁸ In 2005, the GEST participated in the seventh round of peace talks in Nigeria,⁵⁹ where they negotiated the inclusion of women's priorities and gender issues⁶⁰ into the text of the peace agreement, making it 'one of the most gender-sensitive peace accords in the world'.⁶¹ As the examples of MARWOPNET and Darfur, and research by scholars affirms, women's close connection to civil society provides them with a deeper understanding of the conflict, and a desire to address issues beyond realist concepts of security. When women are meaningfully integrated into the formal conflict resolution process, it provides the opportunity for a more holistic and gender sensitive agreement to be obtained, which is essential to achieve sustainable, positive peace.

⁵⁴ UN Women, 'Women's participation in peace negotiations: connections between presence and influence' (2012), p. 6.

⁵⁵ Bell & O'Rourke, 'Peace agreements or pieces of paper? The impact of UNSC resolution 1325 on peace processes and their agreements' (2010), p. 942.

⁵⁶ N. Puechguirbal, 'Peacekeeping, peacebuilding and post-conflict reconstruction', *Gender Matters in Global Politics: A feminist introduction to international relations* (New York: Routledge, 2010), p. 168.

⁵⁷ *Ibid.*

⁵⁸ de Langis, 'Across conflict lines: women mediating for peace' (2011), p. 3.

⁵⁹ *Ibid.*

⁶⁰ The final agreement includes provisions on wealth sharing, land rights, physical security, affirmative action and women's participation in the disarmament, demobilisation and reintegration program. (United Nations, 'Darfur peace agreement' (2006) <<http://www.un.org/zh/focus/southern Sudan/pdf/dpa.pdf>> accessed 23 June 2014.)

⁶¹ de Langis, 'Across conflict lines: women mediating for peace' (2011), p. 3.

The second opportunity arising from the meaningful integration of women into the conflict resolution process is the translation of a political peace agreement to the societal level. As previously discussed, the formal conflict resolution process can often be detached from the reality of the conflict on the ground. The signing of a peace agreement created at the negotiating table amongst an inequitable representation of society cannot on its own, result in sustainable peace.⁶² The agreement may guarantee negative peace, where warring parties adhere to a ceasefire, but building positive peace is a slow process that needs to be nurtured and believed in by all members of society.⁶³ As UN gender researcher Dr Azza Karam discusses, ‘sustainable peace is one that is supported and consolidated at the grassroots level, whereas a peace negotiated...without the participation of the majority of people, tends to generate a certain degree of instability’.⁶⁴

Women’s close connection to civil society means that they are active at the grassroots level, working to increase social cohesion and tolerance.⁶⁵ Case studies and research consistently emphasise women’s ability to form inter-ethnic associations to deal with remaining tensions and promote peace, healing and stability in their communities.⁶⁶ As stated by McCarthy,

By providing social and economic services, contributing to reconciliation efforts and pressuring political leaders to maintain peace and create a more responsive government, women in civil society combat the underlying causes of conflict and [increase] the likelihood that peace will prevail.⁶⁷

When women are meaningfully integrated into the formal conflict resolution process, it provides the opportunity to strengthen the involvement of civil society in the post-conflict reconstruction process and assist the translation of a political to a social peace to ensure that sustainable, positive peace is achieved.

⁶² A. Karam, ‘Women in war and peace-building: the roads traversed, the challenges ahead’, *International Feminist Journal of Politics*, vol. 3, no. 1 (2000), pp. 2-25, p. 10.

⁶³ Marshall, ‘Women in war and peace: grassroots peacebuilding’ (2000), p. 20.

⁶⁴ Karam, ‘Women in war and peace-building: the roads traversed, the challenges ahead’ (2000), p. 12.

⁶⁵ M. McCarthy, ‘Women’s participation in peacebuilding: a missing piece of the puzzle?’, *Department of Political Science University of Pennsylvania* (2011) <<http://repository.upenn.edu/curej/132/>> accessed 2 June 2013, p. 38.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*, p. 40.

The third opportunity arising from the involvement of women is the potential to influence the dynamic of the formal conflict resolution process, which may positively affect the prospect of peace. Often, progress in the conflict resolution process is restricted by history, identity⁶⁸ and political postures that protract conflict.⁶⁹ Delegates who are embedded in the political system are often unwilling to negotiate beyond established positions, and this has resulted in continuous instability in conflict zones throughout the world. Women are often detached from this formal political system, which places them in a strong position to negotiate and achieve a comprehensive and sustainable peace agreement. As stated by sociologist Elise Boulding in *Culture of Peace*, women are 'freer to develop new approaches' and bring forward innovative ideas because they 'are marginal to public decision making in the existing social order' and 'have fewer vested interests to protect'.⁷⁰

Beyond their political position, the desire of women to cooperate and compromise further presents opportunities to adjust the dynamic of the formal conflict resolution process and positively impact the prospect of peace. This ability of women to reframe issues in negotiations was highlighted by the work of groups in Sri Lanka. When the women's groups were shut out of the 2002 formal conflict resolution talks between the government and Tamil Tigers, they established a gender subcommittee comprised of women from all sides of the conflict.⁷¹ The main peace talks between the government and Tamil Tigers failed when the warring parties were unable to move beyond the major issues that had stopped progress towards peace in the past.⁷² Comparatively, the gender subcommittee built consensus on small issues and cooperatively developed solutions.⁷³ Therefore, the Sri Lankan women highlighted their ability to negotiate beyond historical grievances and a realist approach to power maximisation to work towards sustainable, positive peace.

Social science supports the suggestion that women display a collaborative negotiating style and are more inclined to compromise. As negotiation

⁶⁸ Dutta, 'Role of women in peace and conflict resolution' (2006), p. 31.

⁶⁹ Iwilade, 'Women and peace talks in Africa' (2011), p. 31.

⁷⁰ E. Boulding, *Cultures of peace: the hidden side of history* (New York: Syracuse University Press, 2000), p. 5.

⁷¹ de Langis, 'Across conflict lines: women mediating for peace' (2011), p. 2.

⁷² *Ibid.*

⁷³ *Ibid.*

scholars Deborah Kolb and Gloria Coolidge assert, ‘women seek to engage the other in a joint exploration of ideas whereby understanding is progressively clarified through interaction’.⁷⁴ In this sense, ‘dialogue is viewed by women as an avenue where goals and interests are discovered and evolve; thus, the stance of those involved is flexible and adaptive as opposed to rigid and fixed’.⁷⁵ Psychological studies identify that women tend to define themselves in relation to others, which means that in the negotiating process women seek to build and maintain relationships through rhetoric and action, whereas men tend to be orientated towards achieving goals.⁷⁶ Women’s desire to converse allows them to build an understanding of all parties’ positions and establish a mutual understanding of the other’s thoughts and feelings.⁷⁷ An example that highlights the impact that a collaborative negotiating style can have on the outcome of negotiations is the 1997 peace talks in Northern Ireland, where women were included for the first time throughout the course of conflict. The women’s groups were incredibly influential on the outcome of the talks; ‘they advocated to find common ground and promoted a noncompetitive negotiating style...As impartial delegates, women served as facilitators and bridged communication gaps between rival political parties’.⁷⁸ The integration of women into the formal conflict resolution process provides the opportunity to shift the prevailing dynamic that may be stagnating progress in negotiations. As stated by former American President Bill Clinton after a week of failed talks at Camp David in July 2000, ‘if we’d had women at Camp David, we’d have an agreement’.⁷⁹

⁷⁴ D. Kolb & G. Coolidge, ‘Her place at the table’ in J. Breslin & J. Rubin (eds.) *Negotiation theory and practice* (Cambridge: Program on Negotiation at Harvard Law School, 1991), p. 266.

⁷⁵ M. Boyer, B. Urlacher, N. Hudson, A. Niv-Solomon, L. Janik, M. Buttlar & S. Brown, ‘Gender and negotiation: some experimental findings from an international negotiation simulation’, *International Studies Quarterly*, vol. 53, no. 1 (2009), pp. 23-47, p. 28.

⁷⁶ *Ibid.*, p. 27.

⁷⁷ *Ibid.*, p. 28.

⁷⁸ M. Page, T. Whitman & C. Anderson, ‘Strategies for policy makers: bringing women into peace negotiations’, *The Institute for Inclusive Security* (2009) <<http://www.inclusivesecurity.org/publication/strategies-for-policymakers-bringing-women-into-peace-negotiations/>> accessed 21 June 2013, pp. 13-14.

⁷⁹ Cited in S. Hunt & C. Posa, ‘Women waging peace’, *Foreign Policy*, no. 124 (2001), pp. 38-47, p. 42.

Barriers to the involvement of women

The first part of this article established the opportunities created by integrating women in the conflict resolution process, drawing from theoretical, institutional, anecdotal and psychological perspectives. As highlighted so far throughout the article, scholars, politicians, and leaders in the international community have recognised that the integration of women enhances and strengthens the conflict resolution process and benefits the long-term social and economic development of the society as a whole. Why then do women continue to be underrepresented and disempowered from the process that determines the future of their society? This article asserts that there are three major barriers to the meaningful and equitable integration of women into the formal conflict resolution process.

First, and perhaps the most restrictive barrier to the integration of women in the formal conflict resolution process, is the inherently realist-masculine structure of the process. As discussed earlier, FST highlights that this structure positions women as outsiders and passive parties to the conflict, and delegitimises issues outside a realist understanding of security. In this system, women and the ‘soft’ issues they wish to discuss are viewed as distracting from the ‘core’ function of the conflict resolution process.⁸⁰ Negotiators are unwilling to jeopardise the process by discussing reconstruction priorities and gender sensitive policies.⁸¹ A clear demonstration of this barrier occurred in the Burundi peace talks. When male delegates were asked their opinion on the inclusion of women in the negotiations, they stated: ‘the women are not parties to this conflict. This is not their concern. We cannot see why they have come, why they bother us. We are here and we represent them’.⁸² This attitude is also evident at the institutional level. Although states have made a rhetorical commitment to the integration of women through the adoption of resolution 1325 and subsequent resolutions, there has been minimal action towards their implementation. Therefore, as long as the formal conflict resolution processes exists within the realist-masculine system, it will be difficult for women to impact the process and outcome.

⁸⁰ R. Strickland & N. Duvvury, ‘Gender equity and peacebuilding, from rhetoric to reality: finding the way’, *International Center for Research on Women* (2003) <<http://www.icrw.org/files/publications/Gender-Equity-and-Peacebuilding-From-Rhetoric-to-Reality.pdf>> accessed 23 July 2013, p. 20.

⁸¹ Dolgopol, ‘Women and peace building: what we can learn from the Arusha Peace Agreement’ (2006), p. 258.

⁸² Anderlini, ‘Women at the peace table: making a difference’ (2000), p. 10.

The second identified barrier to the meaningful and equitable involvement of women in the formal conflict resolution process is the threat of ‘token involvement’. Token involvement occurs when women who are not representative of the population, or are unwilling or unable to impact the process or outcome of the negotiations, are invited as delegates. Commonly, when negotiating parties are pressured to include women in the conflict resolution process, they choose to invite only individuals who are pliable to their own interests.⁸³ These women may be the wives of delegates, or untrained women who are unable to question the process or final agreement. This token involvement prevents the conflict resolution process benefiting from the opportunities that arise when women are meaningfully and equitable integrated. Furthermore, it is detrimental to the progress of women in the post-conflict society, as it reinforces the very basis of women’s subordinate status.⁸⁴

Finally, in conflict zones around the world, financial and social barriers prevent women from participating in the formal conflict resolution process. Peace talks are often held in foreign countries, and it is not uncommon for negotiations to continue for multiple weeks.⁸⁵ For grassroots women’s organisations, this is a significant cost that they are often unable to fund. Furthermore, this structure places a social barrier to women’s inclusion, as they may be unable to travel without their husbands, leave their jobs, or be absent from their families.⁸⁶ Additional social barriers to the involvement of women may include low literacy and poor English language skills that are necessary to positively influence the negotiations.⁸⁷ While these financial and social restrictions may seem inconsequential in comparison to other barriers, they highlight how even small features of the structure and approach to conflict resolution can prevent the meaningful and equitable involvement of women in the process.

⁸³ Iwilade, ‘Women and peace talks in Africa’ (2011), p. 30.

⁸⁴ The basis of women’s subordinate status being that their position is defined only in relation to men. Therefore, if token women are involved in the conflict resolution process, their ‘power derives from their social navigation of the structures of power through relationships with men’ (Iwilade, ‘Women and peace talks in Africa’ (2011), p. 23).

⁸⁵ *Ibid.*, p. 33.

⁸⁶ Anderlini, ‘Women at the peace table: making a difference’ (2000), p. 30.

⁸⁷ Marshall, ‘Women in war and peace: grassroots peacebuilding’ (2000), p. 15.

Steps towards the involvement of women

The most significant barrier to the inclusion of women in the formal conflict resolution process is the realist-masculine structure of peace talks. As a method deeply embedded in the broader international relations system, the conflict resolution process cannot be changed from the outside. The most effective way to shift this paradigm is to ensure the meaningful and equitable involvement of women which, as well as strengthening the immediate peace process, indirectly challenges this conventional structure from the inside. Therefore, all recommended steps are part of a comprehensive approach to ensure the quality participation of women, allowing them to spearhead divergence from realist-masculine approaches. Based on the analysis of opportunities and barriers, tools such as quotas and Gender Expert Support Teams, as well as consistent funding and further research, could assist in shifting the paradigm by ensuring the meaningful and equitable participation of women in the formal conflict resolution process.

Quotas have been a successful method of challenging the realist-masculine structure of the conflict resolution process by guaranteeing ‘a minimum percentage of women in official negotiations’.⁸⁸ According to reports by UN agencies, ‘a critical mass of 30 percent of women is required to change the tone, style and culture’ of the conflict resolution process.⁸⁹ Based on this recommendation, an important step towards the meaningful and equitable integration of women is the enforcement of a 30 percent quota. Quotas need to be viewed as a temporary measure that will empower women to enhance and strengthen the conflict resolution process. As stated in a UNIFEM report, ‘[quotas] are a first step on the path to gender equality, both a practical and a symbolic measure to support women’s leadership’.⁹⁰

An additional step that assists in the adjustment of the realist-masculine structure of the conflict resolution process is the active involvement of

⁸⁸ E. Rehn & E. Sirleaf, ‘Women, war and peace: the independent experts’ assessment on the impact of armed conflict on women and women’s role in peace-building’, *United Development Fund for Women* (2002)
<<http://pendientedemigracion.ucm.es/cont/descargas/documento7201.pdf?pg=cont/descargas/documento7201.pdf>> accessed 12 June 2013, p. 81.

⁸⁹ Woodrow Wilson International Center for Scholars, ‘More than victims: the role of women in conflict prevention’ (2002), p. 17.

⁹⁰ Rehn & Sirleaf, ‘Women, war and peace: the independent experts’ assessment on the impact of armed conflict on women and women’s role in peace-building’ (2002), p. 81.

UN Gender Expert Support Teams (GESTs). GESTs are comprised of individuals who have technical expertise in the gendered nature of conflict.⁹¹ The presence of a GEST may assist in assuring that all aspects of the final peace agreement support gender equality and women's rights, and that the views of women and other minorities are considered throughout the process. This strategy is currently a part of the WPS agenda, and GESTs are present in some UN sponsored processes, but the tactic has the potential to be significantly expanded. For example, the GEST could provide guidance throughout post-conflict reconstruction, assist in post-accord governance reforms and provisions of justice.⁹² This step is complementary to the quota system, as the GEST will include individuals who have the necessary experience within national security discourse to communicate the priorities of the women present. Furthermore, if financial and social barriers prevent the participation of local women, the GEST can gather the views of women's organisations and discuss them on their behalf.

The second step, which supports the implementation of quotas and GESTs, is the need for training of women's organisations and delegates of peace talks. Although psychology and case studies highlight that women have the ability to negotiate and mediate,⁹³ without appropriate training it may be difficult for women to apply these skills to impact the dynamic of the process and have their views reflected in the final agreement. Training provided to women's organisations in conflict zones could include technical skills such as understanding the language of the conflict resolution process, writing official documents and representing priorities within a security-framework.⁹⁴ This training may enhance the abilities of women to cooperate and collaborate in the political process. In this sense, training may assist in overcoming the barrier of the realist-masculine structure of the conflict resolution process, and could help prevent token involvement.

An additional aspect of this step is the need for gender awareness training for all delegates in peace negotiations. Similar to GESTs, gender

⁹¹ UN Women, 'Women's participation in peace negotiations: connections between presence and influence' (2012), p. 25.

⁹² C. Bell, 'Women and peace processes, negotiations, and agreements: operational opportunities and challenges', *Norwegian Peacebuilding Resource Centre* (2013) <http://www.peacebuilding.no/var/ezflow_site/storage/original/application/b6f94e1df2977a0f3e0e17dd1dd7dcc4.pdf> accessed 22 June 2013, p. 6.

⁹³ Kolb & Coolidge, 'Her place at the table' (1991), p. 266.

⁹⁴ Iwilade, 'Women and peace talks in Africa' (2011), p. 32.

awareness training is a recommendation of the UN's WPS agenda, but currently not widely implemented. UN Women recommend that gender awareness training should include 'examples of gender-responsive language, best practice, ways of engaging with women's civil society and a context-specific analysis of women's situation'.⁹⁵ This training should also provide clear information and statistical evidence of the opportunities that arise from the meaningful participation of women and how a holistic, gender sensitive agreement increases the potential to obtain sustainable, positive peace. Gender awareness training could result in a shift in the realist-masculine structure of the process, as delegates recognise that issues considered soft are integral to bringing a cessation to hostilities and constructing a durable peace. Therefore, training of women's organisations in conflict zones and of delegates throughout the conflict resolution process will assist women in making a meaningful contribution to the process and outcome.

The third step recommended is ensuring consistent funding and support for women's groups. As examples throughout this article have highlighted, there are many women's groups working for peace in conflict zones around the world that have the capacity to make meaningful contributions to the formal conflict resolution process. Adequate and consistent funding is required. Although financial support for women's groups is requested through the WPS agenda and relevant UN departments, women's organisations remain chronically underfunded.⁹⁶ When financial support is provided, it is often through the sporadic sponsorship of projects that makes long-term attempts to maintain staff and services difficult.⁹⁷ This article suggests an important step to enhance the WPS agenda would be the establishment of a UN Women's Organisations Trust Fund. A trust fund would promote a more significant and consistent financial commitment from the international community. The establishment of a UN Women's Organisations Trust Fund could also include a reliable database of women's organisations and activists within each region. This information could be useful to conflict prevention and resolution, as it would identify women's organisations

⁹⁵ UN Women, 'Women's participation in peace negotiations: connections between presence and influence' (2012), p. 25.

⁹⁶ M. Bachelet, 'Michelle Bachelet statement at 2012 first regular session of UN Women executive board', *UN Women* (2012)
<<http://www.unwomen.org/en/news/stories/2012/1/michelle-bachelet-statement-at-2012-first-regular-session-of-un-women-executive-board>> accessed 12 June 2013.

⁹⁷ E. Rehn, 'Organizing for Peace', *Human Development Resource Net* (2002)
<http://hdrnet.org/549/9/218_chapter06.pdf> accessed 25 June 2013, pp. 75-87, p. 85.

that would be helpful throughout the processes. Additionally, this network of women's groups could share information and strategies amongst each other and with the international community, strengthening the training and education efforts of the UN.

The final step identified in this article which reinforces all other steps, is the need for in-depth research into the roles of women in conflict and their contributions to the informal and formal conflict resolution process. Through research, scholars will develop a deeper understanding of the opportunities that arise when women are active participants in conflict resolution, and the barriers to their meaningful and equitable integration. Currently, a significant gap in the research on this topic is quantitative data to statistically measure the impact women's involvement has on the conflict resolution process. Quantitative data could be provided to the international community to highlight the positive impact on wider society when women are integrated into formal peace negotiations. Such research would support all other steps, by providing compelling reasons for states and parties to implement quotas and GESTs, complete gender awareness training, and increase funding and support to women's organisations. Collectively, these steps can assist in overcoming the barriers to the meaningful and equitable integration of women and challenge the realist-masculine structure of peace talks from the inside.

Conclusion

The nature of conflict is rapidly changing. In the 21st century, conflict is rarely between states or isolated to a designated battlefield where warfare is predictable and rule based. Conflict today permeates all levels of society. The battlefield has made its way into communities, homes, schools and hospitals. Civilians comprise 90 percent of casualties⁹⁸ and no one is immune from the consequences of perpetual violence. When the conflict is intrastate, the conflict resolution process is incredibly important, as it not only secures an end to the direct violence, but also addresses the root causes of conflict and tensions between factions of society. Unfortunately, the formal conflict resolution process, based upon realist principles and established when war was between identifiable armies, has been largely unsuccessful at securing peace in modern conflicts. The realist structure of peace talks means that the majority of delegates are politicians and members of the warring parties. Causes of

⁹⁸ D. Pankhurst, 'The sex war and other wars: towards a feminist approach to peace building', *Development in Practice*, vol. 13, no. 2/3 (2003), pp. 154-177, p. 155.

violence in intrastate wars are diverse, and cannot be sufficiently understood nor addressed by an unequal representation of society. Although women ‘come face to face with the realities that are created by decisions made at the peace table’,⁹⁹ they constitute only a fraction of representatives who form the policies that will determine their future.

This article has asserted that the participation of women presents opportunities to enhance and strengthen the formal conflict resolution process and outcome, and increase the potential to achieve sustainable, positive peace. The close connection to civil society and exclusion from the realist-masculine structure provides women with a wider understanding of security and the contributing factors to the conflict, which may result in a more holistic and gender sensitive agreement. Furthermore, women’s ability to collaborate and compromise provides the opportunity to positively affect the dynamic of negotiations, which may have been an impediment to the achievement of sustainable, positive peace. The international community through the WPS agenda, in particular UN resolution 1325, has acknowledged these opportunities, yet women continue to be underrepresented in the formal conflict resolution process. The identified barriers to the meaningful and equitable involvement of women include the realist-masculine structure of the process, the frequency of token inclusion, and financial and social restrictions to the participation of women. The final part of this article identified potential steps forward to overcome these barriers, including the application of a compulsory quota system, the integration of GESTs, training for women’s organisations and delegates of peace talks, an increase in funding to women’s organisations and the support of qualitative research.

The conflict resolution process has the potential to lay the base for a new and improved society, one based on social justice, equality and human rights.¹⁰⁰ The international community’s approach to conflict resolution needs to change in order to break the cycle of violence and instability in communities around the world. The meaningful and equitable involvement of women in the formal conflict resolution process provides this opportunity, and should be viewed as an imperative in achieving sustainable, positive peace.

⁹⁹ Anderlini, ‘Women at the peace table: making a difference’ (2000), p. 34.

¹⁰⁰ Dutta, ‘Role of women in peace and conflict resolution’ (2006), p. 34.

South Asian Regional Cooperation: The India-Pakistan Imperative

Samad Aftab*

A central factor in the lack of South Asian regional cooperation is the visceral animosity between India and Pakistan. The India-Pakistan security dilemma has prevented the region from exploiting a number of opportunities that regional cooperation could offer, including the benefits of economic growth, water/energy security and the social construction of intraregional goodwill through cultural interaction. These benefits could be employed by national governments to pursue development goals.

It is incumbent upon India and Pakistan to pave the way for substantive regional cooperation by taking measures to encourage cross-border economic and social activities. There are a number of challenges in the India-Pakistan relationship that hinder regional cooperation. However economic integration, if decoupled from political disputes, provides a model through which the two states can develop mutually beneficial relations.

In particular, three specific areas of cooperation between Pakistan and India should be pursued: increased levels of trade and the introduction of reforms that facilitate bilateral foreign direct investment; cooperation vis-à-vis water and energy resources; and the reduction of travel restrictions. These processes would constitute the first steps towards wider regional cooperation.

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Introduction

A central factor in the lack of South Asian regional cooperation is the visceral animosity between India and Pakistan. Both states stand to gain from the economic and social opportunities of a more open South Asian region. For instance, there lies significant potential to establish a valuable trade and investment relationship between the two states; in addition, mutual gains can be accrued from cooperation in energy and water security. These in turn could translate into greater interconnectivity of the South Asian region, which through prudent policies could be transformed into a significant geo-economic hub at the heart of Asia. However, the inability of India and Pakistan to look beyond geopolitical and realist concerns – and to extricate their political disputes from effective economic and social cooperation – has been to the detriment of the region as a whole.

This article argues that it is incumbent upon India and Pakistan to pave the way for substantive regional cooperation by taking measures to encourage cross-border economic and social activities. The following section studies the primary challenges manifest in the India-Pakistan relationship that continue to hinder regional cooperation. The core problem is that India and Pakistan view each other as their primary security threats. In addition, the two states disagree on how regional cooperation should function and whether economic cooperation or conflict resolution and political reconciliation should come first. This article argues for the former: economic integration—not just trade and investment relations but also collaboration on energy and water security—decoupled from political disputes, provides a model for both states to engender mutually beneficial relations.

What is the logic behind regional cooperation in South Asia? At a fundamental level, regional cooperation would enhance the capabilities of the constituent member states of the region to pursue development goals. Much potential exists for mutually beneficial gains from enlarged markets and the sharing of common resources. However, India and Pakistan need to take the initiative in spurring regional interconnectivity. A pertinent example is the fact that the South Asian Free Trade Area (SAFTA) cannot function effectively if India and Pakistan continue to disallow the use of their territories for transit between their neighbouring states and the rest of South Asia.

The final three sections of this article discuss measures for spurring regional interconnectivity. Three specific areas of cooperation between India and Pakistan are examined: increased levels of trade and the introduction of reforms that facilitate bilateral foreign direct investment (FDI); cooperation vis-à-vis water and energy security; and substantive reduction of cross-border travel restrictions. These processes would constitute the first steps towards wider regional cooperation.

The India-Pakistan security dilemma and its impact on regional cooperation

The fractious relationship between India and Pakistan remains at the heart of the inability of South Asia to benefit from the opportunities that regional cooperation offers.¹ Other South Asian leaders have on occasion expressed frustration at the detrimental impact of the bilateral enmity between India and Pakistan on the functioning of the South Asian Association for Regional Cooperation (SAARC).²

The most glaring hurdle to sustained cooperation in South Asia is the territorial dispute between India and Pakistan over the Kashmir region. For both Pakistan and India, this dispute constitutes the primary cause of their enmity since partition in 1947. The result is that the two preeminent states in the region not only lack a common threat perception, but also view each other as a strategic rival and an existential security threat.³

A pertinent countervailing example is that of the Association of Southeast Asian Nations (ASEAN). It is notable that ASEAN was formed shortly after the *Konfrontasi* between Indonesia and Malaysia.⁴ However, during the organisation's early years, ASEAN member states banded together against the 'communist threat' despite the existence of bilateral disputes.⁵

¹ R. Dossani, D. C. Sneider & V. Sood (eds.) *Does South Asia Exist? Prospects for Regional Integration* (Stanford, CA: The Walter H. Shorenstein Asia-Pacific Research Center, 2010), p. 21.

² For example, refer to the statement by former President of the Maldives, Mohamed Nasheed, in: S. D. Muni, 'SAARC at Twenty Five', *ISAS Brief (160)*, *Institute of South Asian Studies* (2010), p. 2.

³ S. Rahman, 'Same but Different?: Comparing the ASEAN and SAARC Frameworks', *ISAS Working Paper (123)*, *Institute of South Asian Studies* (2011), p.14.

⁴ The *Konfrontasi* refers to the conflict between the two states over Indonesia's opposition to Malaysian independence.

⁵ Rahman, 'Same but Different?: Comparing the ASEAN and SAARC Frameworks' (2011), p. 14.

The ASEAN example illustrates how relations between regional states can be transformed if they converge upon common threat perceptions.

In South Asia, however, due to the lack of a common threat perception, India, as the preeminent state in both military and economic terms, will need to convince its regional neighbours that it is not out to dominate as a regional hegemon.⁶ Pakistan tends to view cooperation with India through the prism of relative gains, and is reluctant to pursue substantive cross-border economic cooperation with its neighbour in the absence of a significant political détente.⁷ For its part, therefore, it will need to compromise and transition towards viewing cooperation through the prism of absolute gains. In practical terms, this means decoupling economic integration from political disputes.

Economic integration or conflict resolution: which comes first?

Is it necessary for Kashmir and other major political disputes to be resolved before substantive economic integration can take place? Pakistan holds this view and has in the past called for Article 10 of the SAARC Charter, which precludes the deliberation of ‘bilateral and contentious issues’,⁸ to be amended.⁹ India, however, has been resolute in its determination to keep Kashmir and other bilateral disputes off the SAARC agenda. It argues that SAARC should pursue economic cooperation, which could lead to a more positive environment in which to discuss complex bilateral disputes.

Consensus between India and Pakistan over what takes precedence is more important than the specific approach taken. However, it is unlikely in the near future at least that all the SAARC states will agree to transform the organisation’s functioning so that it offers a framework for bilateral conflicts to be resolved. Thus, economic cooperation is the more likely avenue for progress. The recent elections of economically liberal leaders in India and Pakistan—Prime Minister Modi and Prime Minister Sharif—

⁶ K. Sridharan, ‘Regional Organisations and Conflict Management: Comparing ASEAN and SAARC’, *ISAS Working Paper (33)*, *Institute of South Asian Studies* (2008), pp. 15-16.

⁷ E. Sridharan, ‘Improving Indo-Pak relations: international relations theory, nuclear deterrence and possibilities for economic cooperation’, *Contemporary South Asia*, vol. 14, no. 3 (2005), pp. 321-339.

⁸ SAARC, *SAARC Charter* <<http://www.saarc-sec.org/SAARC-Charter/5/>> accessed 30 June 2014.

⁹ Sridharan, ‘Regional Organisations and Conflict Management: Comparing ASEAN and SAARC’ (2008), p. 12.

have increased the likelihood of substantive economic cooperation between the two states, which may spill over into other areas of cooperation and set in motion wider economic integration.

Spillover is a central component of the theory of regional integration known as *neofunctionalism*. Haas defines spillover as “the way in which the creation and deepening of integration in one economic sector would create pressures for further economic integration within and beyond that sector.”¹⁰ Applied to South Asia, spillover would see states undertaking a process of eliminating barriers to trade, permitting intraregional FDI, agreeing upon energy and water cooperation, and encouraging intraregional cultural interaction. These reforms would enable entrepreneurs and businesses to invest across the region, facilitating a broader level of economic integration. This would create a larger pool of people and businesses with an interest in further liberalising relations between the two states, conditioning a level of interdependence where the benefits of economic, social and political ties far outweigh the perceived risks that may arise from cross-border cooperation.¹¹

Areas of regional cooperation in South Asia

The rationale behind regional cooperation in South Asia lies in the opportunities it offers its member states to pursue development goals. South Asia is beset with a number of development and human security problems. These include abject poverty, high levels of illiteracy, rising extremism, vulnerability to natural disasters, poor infrastructure, widespread corruption, water scarcity, and concerns over energy security. Along with Sub-Saharan Africa, South Asia ranks amongst the lowest in the world along a vast majority of development indicators. A 2012 World Bank brief noted that South Asia is home to over 550 million people who live under less than \$1.25 a day, which equates to 44% of the population defined as poor in the developing world.¹² The same brief espouses

¹⁰ E. B. Haas as cited in: B. Rosamond, *Theories of European Integration* (Houndmills: Macmillan Press, 2000), p. 60.

¹¹ A. Hashwani, ‘Non-trade-related stakes of the Pakistan-India relationship’ in M. Kugelman & R. Hathaway (eds.) ‘Pakistan-India Trade: What Needs To Be Done? What Does It Matter?’, *Woodrow Wilson International Center for Scholars Asia Program and the Fellowship Fund for Pakistan* (2013), pp. 116-128.

¹² World Bank, *South Asia Regional Brief* (2012)

<<http://www.worldbank.org/en/news/feature/2012/09/25/south-Asia-Regional-Brief>> accessed 30 June 2014.

regional cooperation as a vital tool in spurring economic growth, which could significantly reduce the level of poverty.¹³

The logic for regional cooperation in South Asia is the economic growth and water and energy security that would ensue from the enlargement of markets and the management of shared resources.¹⁴ All of the South Asian states (except for Sri Lanka and the Maldives) share common rivers that originate in the Himalayas. But persistent disputes over these rivers in addition to governmental mismanagement have led to water scarcity in the region. According to a study by the Asian Development Bank (ADB), water availability per capita in South Asia has decreased by around 70% since 1950.¹⁵

A related problem is the annual inundation of some South Asian states, such as Bangladesh, with floods. Despite being an endemic environmental circumstance, the devastation caused by the floods could be mitigated through intraregional cooperation in solving disputes over shared rivers, collaboration on infrastructure projects and the sharing of hydrological data. In the absence of such measures, floods continue to devastate parts of the region on a regular basis.¹⁶

The states of South Asia also face energy shortages. Over 30% of the population in Pakistan and India, and over half the population in Bangladesh and Nepal live without access to electricity despite the substantial hydropower potential that lies untapped in South Asia's mountain ranges and rivers.¹⁷ Thus far South Asia has collectively tapped only 16% of this hydropower potential.¹⁸ In the coming decades, the concomitance of scarce resources in South Asia, a booming population

¹³ *Ibid.*

¹⁴ Dossani, Sneider & Sood, *Does South Asia Exist? Prospects for Regional Integration* (2010).

¹⁵ N. Langton & S. Prasai, 'Will Conflicts Over Water Scarcity Shape South Asia's Future?', *Wadhvani Chair in US-India Policy Studies, Center for Strategic & International Studies*, vol. 2, no.1 (2012), p. 1.

¹⁶ N. S. Khadka, 'South Asia Disunity Hampers Flood Warnings', *BBC* (19 July 2013) <<http://www.bbc.co.uk/news/science-environment-23358255>> accessed 30 June 2014.

¹⁷ N. S. Khadka, 'South Asia's Energy Crisis Demands Collective Action', *BBC* (12 August 2012) <<http://www.bbc.com/news/business-19107372>> accessed 30 June 2014.

¹⁸ S. Mitra, 'The South Asian Hydropower Story', *Observer Research Foundation*, vol. 9, no. 28 (2012) <<http://www.orfonline.org/cms/sites/orfonline/modules/enm-analysis/ENM-ANALYSISDetail.html?cmaid=46182&mmacmaid=46183>> accessed 30 June 2014.

and a lack of regional cooperation will generate further strain in the region and provide a source of conflict amongst regional states. It is imperative that the collaborative management of water resources and partnership in energy provision becomes a priority for the governments of the region.

Similarly, economic cooperation through trade and intraregional investment is central to the future of regional cooperation in South Asia. At present, intraregional trade between SAARC members lies at a paltry 5.7% of total trade in the region.¹⁹ The levels of intraregional trade in South Asia as a segment of trade with the rest of the world are shown below:

Intraregional trade in South Asia [excluding Afghanistan]²⁰

Country/Region	Year	Exports %		Imports %	
		South Asia	Rest of world	South Asia	Rest of world
Bangladesh	2000	1.4	98.6	9.6	90.4
	2007	4.9	95.1	14.7	85.3
Bhutan	1999	99.2	0.8	75.4	24.6
	2008	98.8	1.2	75.1	24.9
India	1999	3.8	96.2	0.8	99.2
	2008	5.4	94.6	0.6	99.4
Maldives	1999	19.6	80.4	20.9	79.1
	2008	11.1	88.9	16.7	83.3
Nepal	1999	39.2	60.8	47.8	52.2
	2003	53.8	46.2	53.6	46.4
Pakistan	1999	3.7	96.3	1.9	98.1
	2008	4.9	95.1	4.4	95.6
Sri Lanka	1999	2.8	97.2	11.7	88.3
	2008	7.1	92.9	22.4	77.6
South Asia	1999	4.0	96.0	3.8	96.2
	2008	5.7	94.3	4.3	95.7
World	1999	1.0	99.0	1.0	99.0
	2008	1.9	98.1	1.5	98.5

¹⁹ Dossani, Sneider & Sood, *Does South Asia Exist? Prospects for Regional Integration* (2010).

²⁰ G. Saini, *Prospects of Regional Economic Cooperation in South Asia* (Cambridge, UK: Woodhead Publishing Limited, 2012), p. 54.

Smaller economies such as Bhutan and Nepal show high levels of intraregional trade. However, this can be explained by the fact that both are landlocked countries and heavily dependent on India as their primary trading partner. The larger economies of South Asia, in particular India and Pakistan, carry out minimal intraregional trade relative to their total trade. SAARC's value of trade as a percentage of total Gross Domestic Product (GDP), at a miniscule 1.6%, also lags far behind other regional blocs.²¹

The economic growth that would result from increased intraregional trade, investment and labour flows would boost the ability of the states to pursue development goals. Intraregional FDI can contribute to GDP growth in South Asia and birth positive externalities such as technology and skills, roads and other infrastructure. It can also provide a stimulus to economic growth in the form of industry and jobs creation at various levels of the supply chain.

South Asia will play a defining role in the coming decades. The rise of India as an economic powerhouse will be central to realising the 'Asian Century'. However, the perennial instability of this region not only hampers vital development goals for hundreds of millions mired in poverty, but it also has severe implications for the region's ability as a whole to contribute to the global economy. State-led regional cooperation provides a viable model to counteract these problems in the long run without contravening national interest.

It is incumbent upon India and Pakistan to create an amicable atmosphere and the requisite political climate for this to occur. The remaining sections will focus on specific measures that these two states can undertake to achieve this goal.

India-Pakistan: trade and foreign direct investment

Trade

Pakistan and India need to open their markets to each other before South Asian intraregional trade can take off. Both states stand to gain from the enlarged markets and subsequent economic growth. Pakistan requires a growth rate of over 7% for successive decades if it is to achieve a material

²¹ *Ibid.*, p. 57.

improvement in its Gross National Income.²² India is presently witnessing a relative economic slowdown after two decades of remarkable growth.²³ From the current level of US\$2.5 billion in annual bilateral trade, some predictions suggest that liberalising reforms would generate a minimum annual trade value of US\$10 billion within the first few years.²⁴ Other projections put the value of 'potential trade' between India and Pakistan at US\$19.8 billion.²⁵ Another study estimates that annual trade of \$US50 billion could be achieved if trade was completely liberalised.²⁶ For these significantly higher volumes of trade to be achieved, the governments of India and Pakistan must proceed with a period of stringent reforms and initiatives.

An important step would be taking the initiative in implementing the principles of the South Asian Free Trade Area (SAFTA), which was agreed upon in 2006. This agreement laid out obligations to reduce intraregional tariffs to a maximum of 5% by 2015 for India, Pakistan and Sri Lanka, and by 2018 for the remaining states. However, there has been minimal progress in achieving these targets. Many of the South Asian states still maintain barriers to trade in the form of *sensitive lists*, *negative lists* and *positive lists*. These lists outline the goods that can or cannot be traded between states, and also cover goods that may be traded, but are not provided tariff concessions. Over half of Indian goods that can be potentially exported to Pakistan are banned under Pakistan's negative list, and over a third of Pakistani goods that can be exported to India fall under India's sensitive items list.²⁷ India also seemingly indicates a preference for trade outside of SAARC, as its present sensitive list for trade with South Asian nations is three times larger than a list it presented to ASEAN for a potential trade agreement.²⁸

²² H. Shaikh, 'Pak-India Trade: A Regional Perspective', *Policy Brief, Jinnah Institute* (2013), p. 2.

²³ 'The Great Deceleration', *The Economist* (27 July 2013)
<<http://www.economist.com/news/leaders/21582256-emerging-market-slowdown-not-beginning-bust-it-turning-point>> accessed 30 June 2014.

²⁴ Shaikh, 'Pak-India Trade: A Regional Perspective' (2013), p. 4.

²⁵ N. Taneja, 'Enhancing India-Pakistan trade', *New America Foundation* (2013), p. 1.

²⁶ M. Khan, 'India-Pakistan Trade Relations - A New Beginning', *New America Foundation* (2013), p. 2.

²⁷ Taneja, 'Enhancing India-Pakistan Trade' (2013), p. 7.

²⁸ P. Athukorala, 'Intra-regional FDI and Economic Integration in South Asia: Trends, patterns and prospects', *Background Paper No. RVC 7, Arndt-Corden Department of Economics, Crawford School of Public Policy, College of Asia and the Pacific, Australian National University* (2013), p. 10.

Significant progress could be made from Pakistan granting India Most-Favoured Nation (MFN) status. Pakistan has often proclaimed its readiness to do so in the past, but has never followed through due to domestic pressure over the issue.²⁹ Overcoming these internal hurdles and granting India MFN status would be a positive development for economic relations between these two states.

However, MFN status will have minimal impact if not backed up by the requisite structural reforms to facilitate cross-border trade and financial connectivity.³⁰ Thus, the creation of additional trade routes along the India-Pakistan border is necessary. Prior to the 1965 war, 11 trade routes existed between the two states.³¹ At present the only major land-route for trade is the Wagah-Attari border, which divides Pakistani and Indian Punjab. Opening up a land-route at the Munabao-Khokhrapar border, which divides the southern Pakistani province of Sindh with the Indian state of Rajasthan, would dramatically increase cross-border trade and could be the first step towards the creation of more trade routes along the border.³²

In addition, Pakistan and India must open up land routes that connect all the South Asian countries in order to permit wider regional trade. This would not only provide both states valuable transit fees but would also contribute to thawing bilateral relations, spurring regional economic interdependence and promoting regional stability.³³ For a landlocked nation such as Afghanistan, an agreement such as SAFTA is essentially pointless if it is not provided access through Pakistan to the other South Asian states. Similarly, India does not allow Pakistan access to Bangladesh, Bhutan and Nepal via its territory.

²⁹ Pratyush, 'Growing India-Pakistan trade bodes well for South Asia', *The Diplomat* (15 April 2013) <<http://thediplomat.com/2013/04/growing-india-pakistan-trade-bodes-well-for-south-asia/>> accessed 30 June 2014.

³⁰ P. De, S. Raihan & E. Ghani, 'What does MFN Trade Mean for India and Pakistan?: Can MFN be a Panacea?', *Policy Research Working Paper 6483, The World Bank, Poverty Reduction and Economic Management Network, Economic Policy and Debt Unit* (2013), p. 10.

³¹ M. Z. Khan, 'MFN Status for India on the Cards', *Dawn* (26 January 2014) <<http://www.dawn.com/news/1082756/mfn-status-for-india-on-the-cards>> accessed 30 June 2014.

³² Khan, 'India-Pakistan Trade Relations - A New Beginning' (2013), p. 11.

³³ R. Harshe, 'India-Pakistan Conflict over Kashmir: Peace through Development Cooperation' in V. Kukreka & M. Singh (eds.) *Democracy, Development and Discontent in South Asia* (New Delhi: SAGE Publications, 2008), pp. 309-328.

The limited trade infrastructure, and its poor quality, is also a major hurdle to trade between India and Pakistan. The efficiency of trade that does occur between the two is handicapped.³⁴ This can be improved by permitting private investment into infrastructure building on both sides of the border. A public-private setup would expedite the logistics of trade between the two states.³⁵ The regulated privatisation of a specific area pertinent to cross-border trade, such as the building of vital infrastructure, would result in improved levels of trade and investment. Subsequently, this would require a greater need for infrastructure and the improvement of procedure and logistics, and, in turn, the levels of trade and investment would increase again.

Foreign direct investment

Both India and Pakistan also stand to gain from permitting cross-border FDI. Indian investors have expressed interest in investing in Pakistani mining, petroleum, energy, power and infrastructure projects.³⁶ In 2012, India announced that it would permit both outward and inward FDI with Pakistan.³⁷ This has yet to coalesce into a Bilateral Investment Treaty (BIT) between the two countries. For that to happen, Pakistan would have to grant India MFN status first. India's announcement regarding Pakistani FDI was made around the time that Pakistan proffered its intention to grant India MFN status by the end of 2012. Granting MFN status to India would boost the chances of securing a BIT in the near future.

The enlarged market that would result from a cross-border BIT would provide Indian and Pakistani firms economies of scale, which would be a major incentive for cross-border trade and investment. Bilateral FDI between India and Pakistan has large potential in areas such as information technology (IT), business process outsourcing (BPO), entertainment and financial and health services. Furthermore, Indian

³⁴ S. Haq, 'Indo-Pak trade: Without Investment in Infrastructure, Bilateral Trade Will Fall', *The Express Tribune* (30 June 2013) <<http://tribune.com.pk/story/570267/indo-pak-trade-without-investment-in-infrastructure-bilateral-trade-will-fall/>> accessed 30 June 2014.

³⁵ *Ibid.*

³⁶ K. Kochhar & E. Ghani, 'What can India and Pakistan do to Maximize the Benefits from Trade?' in M. Kugelmann & R. Hathaway (eds.) 'Pakistan-India Trade: What Needs To Be Done? What Does It Matter?', *Woodrow Wilson International Center for Scholars Asia Program and the Fellowship Fund for Pakistan* (2013), pp. 97-115.

³⁷ 'India permits FDI from Pakistan', *The Indian Express* (1 August 2012) <<http://www.indianexpress.com/news/india-permits-fdi-from-pakistan/982460/>> accessed 30 June 2014.

entrepreneurs would find Pakistan a valuable location to invest due to its proximity to Central Asia from land, and the Middle East and Persian Gulf via the Arabian Sea.³⁸ For Pakistan, India's highly skilled workers and technological expertise would improve the quality of products and competitiveness of its own firms. Sustained FDI will also generate benefits in the form of externalities such as improved infrastructure, access to technology and research, training and education, improved business and project management standards, and a wide range of cheaper access to products needed for the agricultural and manufacturing industries. Finally, FDI will result in a beneficial multiplier effect across the supply chains of both states.

India-Pakistan: energy and water cooperation

In a region that is plagued by energy and water insecurity, it is incumbent on the larger powers to pave the way for cooperation that will entail benefits for all stakeholders. If Pakistan and India do not find a way to share common scarce resources, and collaborate on projects that increase the availability of energy and water to both economies, the future stability of the region has bleak prospects, with concerns of water security being the primary cause of a major conflict in South Asia in the future.³⁹ India and Pakistan signed the Indus Waters Treaty in 1960 under the auspices of the World Bank. However, they have had a number of disputes over water resources since then. In addition, as all of the major rivers that flow into Pakistan either originate from or flow through the Indian state of Jammu & Kashmir, Pakistan lives with the constant fear that India can cut off its water supply during a conflict.

Instead of continuing down a zero-sum path that has been detrimental to both sides, the two states could embark upon water sharing schemes such as Integrated Water Resources Management (IWRM) of the Indus River Basin.⁴⁰ The success of such a resource-sharing venture would benefit

³⁸ I. Nabi, 'Pakistan's Trade with India: Thinking Strategically' in M. Kugelman & R. Hathaway (eds.) 'Pakistan-India Trade: What Needs To Be Done? What Does It Matter?', *Woodrow Wilson International Center for Scholars Asia Program and the Fellowship Fund for Pakistan* (2013), pp. 31-52.

³⁹ Langton & Prasai, 'Will Conflicts Over Water Scarcity Shape South Asia's Future?' (2012), p. 2.

⁴⁰ Global Water Partnership defines IWRM as: 'a process which promotes the coordinated development and management of water, land and related resources in order to maximize economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems.' <<http://www.gwp.org/en/Press-Room/A-Water-Secure-World/>> accessed 30 June 2014. See also: S. Hameed,

both India and Pakistan by mitigating the damage caused by floods in addition to meeting their water needs. It would also provide a precedent for wider regional cooperation in other major basins such as the Ganges and Brahmaputra river systems.

Energy security is a related area that India and Pakistan can collaborate on. India and Pakistan are in a highly strategic location at the heart of Asia, with Central Asia to their north, Iran and the Middle East to their West, and East Asia and Southeast Asia to their east. This location provides the opportunity to become a regional hub for trade in both commodities and energy resources. A project such as the proposed TAPI Pipeline, connecting Turkmenistan, Afghanistan, Pakistan and India, if successfully implemented, can provide relief to the energy needs of all parties as well as monetary incentives for the nations providing transit, which in this case would include Pakistan and Afghanistan. A World Bank report published in 2013 notes that Pakistan and India—members of the Economic Cooperation Organization (ECO) and the East Asia Summit (EAS) respectively—“can jointly build a stronger connectivity and trade partnership among Southeast, South and Southwest Asia.”⁴¹

Limited progress on the TAPI pipeline under the auspices of the Asian Development Bank seems to be underway.⁴² The SAARC Energy Centre (SEC), based in Islamabad, should play an important role in these projects by facilitating negotiations between the parties. It must ensure that the TAPI project is not shelved by advocating its importance to both India and Pakistan. The SEC should also encourage Pakistan to consider importing electricity from India, which is willing to supply Pakistan,⁴³ to help reduce its devastating shortfall. Finally, an IWRM approach in water sharing at the Indus River Basin could incorporate joint ventures on small-scale hydropower projects that would also help make up the gap in energy supply.

‘Prospects for Indian-Pakistani Cooperation in Afghanistan’, *Center for Strategic & International Studies* (2012); A. H. Mohammad, ‘Water sharing in the Indus river basin: Application of Integrated Water Resources Management’, *Master's Thesis, Swedish University of Agricultural Sciences* (2011).

⁴¹ De, Raihan & Ghani, ‘What does MFN Trade Mean for India and Pakistan?: Can MFN be a Panacea?’ (2013), p. 21.

⁴² Asian Development Bank, *44463-013: Turkmenistan-Afghanistan-Pakistan-India Natural Gas Pipeline Project, Phase 3* (2014) <<http://www.adb.org/projects/44463-013/main>> accessed 30 June 2014.

⁴³ A. Phadnis, ‘India willing to export electricity to Pakistan’, *The Express Tribune* (14 June 2013) <<http://tribune.com.pk/story/563213/india-willing-to-export-electricity-to-pakistan/>> accessed 30 June 2014.

India-Pakistan: cross-border tourism

If Pakistan and India were to ease travel restrictions across the border for their civilians, two important benefits would accrue. First, from an economic perspective, there is significant scope for the tourism industry to profit.⁴⁴ Second, it would facilitate greater cross-border exchange. People-to-people contact is a vital component in transforming the multifarious misconceptions that the general populaces in both countries have of their neighbour. A visa-on-arrival scheme⁴⁵ would not only boost commercial prospects for businesses, but would also present opportunities for cultural interaction. At present, SAARC runs a 'Visa Exemption Scheme' that permits people defined under certain categories to travel freely in the region.⁴⁶ This should be extended to the general populace and encouraged in particular by the Pakistani and Indian governments. Over time this may help generate the rudimentary norms and values of a regional community.

In 2012, Pakistan and India agreed upon an improved visa regime.⁴⁷ However, the two states have delayed in fully implementing the agreement, in line with the historical pattern of purported agreements in various sectors that are not implemented beyond a minimal level.⁴⁸ Furthermore, without adequate government encouragement and support of cross-border tourism, there is very limited potential for travel between the two countries. Though the present security situation in Pakistan restricts the potential for inward tourism into Pakistan, the Pakistani government must still engage with its Indian counterpart in the promotion of cross-border initiatives such as arts and sports festivals. India offers huge potential as a tourism hub for Pakistanis to visit and foster people-

⁴⁴ Pak-India Business Council, *Conference: Indo-Pak Bilateral Trade Potential* <<http://www.pakindiabusinesscouncil.com/conference-indo-pak-bilateral-trade-potential.html>> accessed 30 June 2014.

⁴⁵ 'SAARC CCI suggests visa on arrival', *Dawn* (8 December 2012) <<http://www.dawn.com/news/769976/saarc-cci-suggests-visa-on-arrival>> accessed 30 June 2014.

⁴⁶ SAARC, *SAARC Visa Exemption Scheme* <<http://www.saarc-sec.org/SAARC-Visa-Exemption-Scheme/100/>> accessed 30 June 2014.

⁴⁷ 'Pakistan, India ease visa regime', *Dawn* (8 September 2012) <<http://beta.dawn.com/news/747956/pakistan-india-agree-to-ease-visa-regime>> accessed 30 June 2014.

⁴⁸ 'India to offer group tourist visa to Pakistanis', *Pakistan Today* (11 April 2013) <<http://www.pakistantoday.com.pk/2013/04/11/news/foreign/india-to-offer-group-tourist-visa-to-pakistanis/>> accessed 30 June 2014.

to-people relations. Together, the Pakistani state of Punjab and its Indian counterpart constitute approximately 100 million speakers of the Punjabi language. Finally, India is also home to approximately 160 million Muslims, nearly the whole population of Pakistan.⁴⁹

In recent years, there has been a rising awareness of the importance of cross-border cooperation amongst the civil societies in India and Pakistan. Initiatives like Aman ki Asha have been at the centre of an increasing segment of the populace in both states who desire peace between the two nations.⁵⁰ This has resulted in the proliferation of cross-border musical and literary festivals, and conferences discussing the steps that must be taken towards peace. There have also been an increasing number of institutes and think-tanks in South Asia which continue to encourage economic, political and social partnerships in the region. In early July 2013, the Jinnah Institute, a think-tank based in Islamabad, Pakistan, hosted a conference with the New Delhi based Centre for Dialogue and Reconciliation.⁵¹ The discussions explored and promoted the pursuit of peace between India and Pakistan. A similar Track II initiative titled the 'Chaophraya Dialogue' is regularly organised between the Australia India Institute (Melbourne) and the Jinnah Institute.⁵²

However, the Pakistani and Indian governments must take up the mantle in encouraging cross-border tourism and developing an amicable atmosphere between the two peoples. The Track II initiatives mentioned above are instances of civil society interaction that pave the way for formalised cooperation at the governmental level. If the relationship between the populace of India and Pakistan could evolve into one of mutual respect and empathy, it would be a remarkable boon for broader regional cooperation and stability.

⁴⁹ 'Mapping the global Muslim population', *Pew Research, Religion & Public Life Project* (7 October 2009) <<http://www.pewforum.org/2009/10/07/mapping-the-global-muslim-population/>> accessed 30 June 2014.

⁵⁰ 'Aman ki Asha' translates to 'Hope for Peace'; see also: *Aman ki Asha* <<http://amankiasha.com/faqs.asp>> accessed 30 June 2014.

⁵¹ Jinnah Institute, *Islamabad Dialogue III* <<http://jinnah-institute.org/3rd-islamabad-dialogue-2/>> accessed 30 June 2014.

⁵² Chaophraya Dialogue, *About Chaophraya Dialogue* <<http://chaophrayadialogue.net/about-us.php>> accessed 30 June 2014.

Conclusion

The bitter relationship between India and Pakistan holds hostage hopes for regional cooperation in South Asia. Thus, it is incumbent upon these two states to take the initiative in improving their cross-border connectivity and subsequently paving the way for substantive regional cooperation. Regional cooperation provides a model to pursue development goals and raise the welfare of impoverished populations in South Asia. The importance of a more unified, integrated and interdependent South Asia is crucial to the future prospects of the region.

The economic growth that would ensue from high levels of intraregional trade and FDI is necessary for individual governments in the region to tackle the high levels of poverty in their countries. Cooperation in energy and water resource management would help prop up energy and water security. In addition, cross-border travel between India and Pakistan is vital in building people-to-people relations, a central component of a regional community. Taken together, these processes would constitute the first steps towards the development of entrenched regional cooperation.

India and Pakistan must recognise their joint responsibility. They must acknowledge that their inability to cooperate has a debilitating impact on the wider region. If the two states can make real progress in their relations in the coming years, their own populations and also those of South Asia as a whole will benefit. Isolationism is not an option for neighbours; bold steps are required.

G'day Jihad: The Implications of Australia's Jihadist Contribution to Syria and Iraq

Joseph Power*

The number of Australians fighting in Syria has become of increasing concern to the Australian Government. The existing data suggests that foreign fighters returning from the Syrian conflict would increase the likelihood of a successful terrorist attack on Australian soil.

The (up to) 'one-in-nine ratio' of those foreign fighters who go on to commit an act of domestic terrorism is one of the most reliable predictors of terrorism available. These operatives are more capable, and more lethal, than their domestically trained, non-veteran counterparts. The addition of thousands of foreign fighters to transnational terrorist organisations also bolsters their capacity to attack targets including Western ones abroad. For these reasons, the possible creation of militarily trained jihadist networks among Westerners is concerning for authorities when such fighters begin to return home.

The history of the Australian jihadist movement and its links to foreign terrorist organisations provides important context to understanding the current problem. The high number of Australians who are in, or have been in, the Syrian civil war suggests that returning foreign fighters will pose a serious threat to Australian national security in the future.

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Introduction

Foreign fighters are not a new phenomenon. Individual Australians fought on both sides of the Spanish Civil War in the 1930s, and Australians volunteered in the 1948 Israeli War of Independence, as well as more recently in Afghanistan during the Soviet occupation in the 1980s, in Kosovo and in the Philippines.¹ The Syrian conflict has similarly attracted Australian volunteers. In its latest Report to Parliament, the Australian Security Intelligence Organisation (ASIO) stated that, ‘Australians – a significantly greater number than we have seen for any comparable conflict – have travelled to the region, including several to participate directly in combat or to provide support to those involved’.² These hitherto unseen number of Australians fighting in Syria has become of increasing concern to the Australian Government, particularly the Attorney-General, George Brandis, who declared that, ‘The threat posed by Australian travellers to Syria and other conflict zones is significant and will likely have long-term implications for our security’.³ According to the International Centre for the Study of Radicalisation (ICSR), 11,000 foreign fighters are in Syria, with 2,800 of these fighters – a significant minority by any standard – being European, or Western.⁴ In the same report, an infamous Australian preacher and outspoken admirer of the Islamic State of Iraq and al-Sham (ISIS), Musa Cerantonio, was identified as one of the two most prominent spiritual leaders that foreign fighters in Syria look to for ‘inspiration and guidance’.⁵ That 150 Australians ‘have been or are’ fighting with

¹ D. Malet, ‘Is it a problem that Australia sends the most foreign fighters to Syria?’, *The Conversation AU* (24 September 2013) <<https://theconversation.com/is-it-a-problem-that-australia-sends-the-most-foreign-fighters-to-syria-18283>> accessed 28 June 2014.

² Australian Security Intelligence Organisation, ‘Report to Parliament 2012-13’ (2013) <<http://www.asio.gov.au/Publications/Report-to-Parliament/Report-to-Parliament.html>> accessed 4 February 2014.

³ Attorney-General for Australia and Minister for the Arts, Senator the Hon George Brandis QC, ‘Arrests highlight threats to Australia's national security’, *Media Release* (3 December 2013) <<http://www.attorneygeneral.gov.au/Mediareleases/Pages/2013/Fourth%20quarter/3December2013-ArrestshighlightthreatstoAustraliasnationalsecurity.aspx>> accessed 3 June 2014.

⁴ A. Y. Zelin, ‘Up to 11,000 foreign fighters in Syria; steep rise among Western Europeans’, *ICSR Insight* (2013) <<http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-westerneuropeans/>> accessed 17 June 2014.

⁵ J. A. Carter, S. Maher & P. Neumann, ‘#Greenbirds: Measuring Importance and Influence in Syrian Foreign Fighter Networks’, *International Centre for the Study of Radicalisation* (2014) <<http://icsr.info/wp-content/uploads/2014/04/ICSR-Report->

extremist groups in Syria and Iraq, according to Minister for Foreign Affairs, Julie Bishop,⁶ is an unprecedented phenomenon for Australia's traditionally minute jihadist community. This article seeks to assess the history and existing state of Australian jihadism, and the implications for Australia if foreign fighters begin returning home in large numbers from the Syrian quagmire.

Muslims in Australia

Australia's Muslim population is diverse and accounts for around 2 percent of the overall population.⁷ Regarding places of birth, 37.9 percent of Australian Muslims (340,393) were born inside the country, with the second-highest place of birth being Lebanon (8.9 percent). After the end of the 1960s, Australia received significant Muslim migration into Australia, principally from Turkey and Lebanon.⁸ 58.6 percent of Muslims in Australia are aged 29 years and under, and according to the Australian Department of Immigration and Citizenship, new Muslim immigrants to Australia tend to be in the 25 to 44 year age bracket.⁹

Australian jihad: a brief history and analysis

The 36 Australian individuals who are publicly confirmed to have, from September 2000 to mid-2011, actively participated in, planned, or promoted violent jihad at home or abroad are (mostly) no different to their counterparts in Europe.¹⁰ Similar themes among them include unemployment, recent conversion to the faith or a renewed interest in it, prior criminal convictions, a lack of attachment to society as a whole, general youthfulness as well as exposure to radical ideas, association with

Greenbirds-Measuring-Importance-and-Influence-in-Syrian-Foreign-Fighter-Networks.pdf> accessed 17 June 2014.

⁶ L. Bourke, 'Number of Australians fighting with militants in Iraq and Syria "extraordinary", Julie Bishop says', *Australian Broadcasting Corporation* (19 June 2014) <<http://www.abc.net.au/news/2014-06-19/150-australians-fighting-with-extremists-in-iraq-and-syria/5535018>> accessed 21 June 2014.

⁷ Department of Immigration and Citizenship, 'Muslims in Australia: A Snap Shot' <http://www.immi.gov.au/media/publications/multicultural/pdf_doc/Muslims_in_Australia_snapshot.pdf> accessed 7 February 2014.

⁸ Department of Immigration and Citizenship, 'Islam in Australia' <http://www.immi.gov.au/gateways/police/resources/_pdf/building_bridges.pdf> accessed 9 February 2014.

⁹ *Ibid.*, p. 1.

¹⁰ S. Mullins, 'Australian Jihad: Radicalisation and Counter-Terrorism', *University of Wollongong Research Online* (2011) <<http://ro.uow.edu.au/lawpapers/148/>> accessed 9 February 2014, p. 4.

certain individuals or organisations, and a general hatred of the West. This section focuses predominately on certain unique features of Australian jihadism's links abroad.

Links to foreign terrorist organisations

Links to foreign terrorist organisations (FTOs) in Australian jihad have been present in 88 percent of plots. Comparative percentages for the United States and the United Kingdom stand at 50 percent and 43 percent respectively.¹¹ FTOs that Australians are known to have linked to are Jemaah Islamiyah, the Kosovo Liberation Army, the Taliban, al Qaeda, Lashkar e-Taiba, Jaish e-Mohammed, the Peninsula Lions in Kuwait, Fatah al-Islam in Lebanon and al Shabaab in Somalia. More recently, Australians have also become involved with al Qaeda in the Arabian Peninsula (AQAP), Jabhat al-Nusra and ISIS;¹² the former organisation is based in Yemen, and the latter two in Syria.¹³ As it stands, data by Dr Thomas Hegghammer, who explored the variances in domestic and foreign jihadists from the West, indicates that 100 percent of terrorism plots in Australia involve a veteran foreign fighter.¹⁴

The Australia-Lebanon question: interconnectivity and facilitation

More than half of convicted Australian terrorists were born in Australia, with most being dual-nationals. Interestingly, close to 60 percent are of Lebanese heritage. This is disproportionate, given that just under 9 percent of Australia's Muslim population is Lebanese-born, and with Lebanon not featuring heavily within global jihadist groups. Dr Sam Mullins, professor of counter-terrorism at the George C. Marshall European Center for Security Studies, notes that there may be something unique in the experience of Lebanese Australians within the sample that may explain their radicalisation.

¹¹ *Ibid.*, p. 3.

¹² At the time of writing, ISIS are referring to themselves as the 'Islamic State' (IS) after setting up a so-called caliphate, stretching through Syria and Iraq. I have opted to continue referring to them as ISIS in this article.

¹³ P. Maley, 'Aussie "thugs" at Syrian frontline' (3 February 2014) <<http://www.theaustralian.com.au/national-affairs/policy/aussie-thugs-at-syrian-frontline/story-fn59nm2j-1226816200457>> accessed 17 February 2014; P. Maley & M. Schliebs, 'Aussies killed in US drone strike in Yemen', *The Australian* (16 April 2014) <<http://www.theaustralian.com.au/national-affairs/policy/aussies-killed-in-us-drone-strike-in-yemen/story-fn59nm2j-1226885783804>> accessed 13 June 2014.

¹⁴ T. Hegghammer, 'Jihadi Plots in the West Dataset' (2013) <http://hegghammer.com/_files/JPW_Dataset_1.0.xls> accessed 13 June 2014.

Andrew Zammit and Shandon Harris-Hogan, from Monash University's Global Terrorism Research Centre, studied the jihadist links between Lebanon and Australia in depth. After stressing the need for caution when analysing the characteristics of Australian jihadists, due to a relatively small sample size, they argue that when the data is combined with Australian jihadist activity in Lebanon, then the disproportionately high representation of Lebanese-Australians among Australian jihadists 'should not be dismissed as chance'. Their analysis identifies a range of factors that may contribute to the high numbers. At the macro-level, Zammit and Harris-Hogan offer: long-distance nationalism, marginalisation and disadvantage serving as structural causes; a perceived schism between Muslims and the West, particularly after the attacks of September 11, sometimes referred to as a 'War on Muslims', and Australian foreign policy, predominately Australia's assisting role in the Afghanistan and Iraq interventions, as potential factors.¹⁵

Harris-Hogan and Zammit also note that Australia-Lebanon jihadist connections have overwhelmingly featured Australians travelling to Lebanon—and now also to Syria—to take part in jihad, rather than Lebanese travelling to Australia. Another interesting feature of this connection is that Lebanon—unlike the Federally Administrated Tribal Area (FATA) that has provided a safe haven for the leadership of al Qaeda in Pakistan—has not acted as an arena for training and guidance for jihadist activity in Australia.

Harris-Hogan and Zammit find long-distance nationalism to be an insufficient explanation for the preponderance of Lebanese-Australians in Australian jihadist convictions. As the authors note, there is no evidence to suggest that either political events in Lebanon, nor nationalism, have influenced Lebanese-descendant individuals who have subsequently gone on to become engaged in jihadist activity in Australia. Additionally, the aforementioned individuals who travelled to Lebanon to join various jihadist organisations tended to join groups such as Fatah al-Islam or Asbat al-Ansar, groups that specifically reject Lebanese nationalism.

¹⁵ S. Harris-Hogan & A. Zammit, 'The Unseen Terrorist Connection: Exploring Jihadist Links Between Lebanon and Australia', *Terrorism and Political Violence*, vol. 26, no. 3 (2014), pp. 449-469, p. 453-457.

Though acknowledging its contested nature within radicalisation literature, Harris-Hogan and Zammit argue that socioeconomic disadvantage and societal marginalisation have played an important role in the radicalisation of Lebanese-Australians. The authors cite the fact that those convicted of jihadi-related offences have come from low socioeconomic positions, without high educational status, nor prestigious employment. The effects of disadvantage and marginalisation serve as a useful tool to contextualise the micro-level factors identified in Harris-Hogan and Zammit's work.

In another study that explores the Australian jihadist network, Harris-Hogan concludes that early Australian jihadist plots were externally planned operations, and then, after 2004, Australian jihadism became largely self-starting, or home-grown, as exemplified in the case of Operation Pendennis, the first truly self-starting jihadi terrorist cell in Australia.¹⁶ Most Australian jihadists were recruited through social contact with already radicalised individuals, rather than by any top-down recruitment processes. In other words, on a micro-level, individuals were more susceptible to involvement in jihadism as the result of family influence than formal recruitment—half of Harris-Hogan and Zammit's network were directly linked by either blood or marriage.¹⁷ Radicalisation tends to occur through groups of like-minded individuals; when explaining the influence of these radicalising social networks in regard to convicted Australian jihadists, Harris-Hogan and Zammit argue that such radicalisation into violent extremism may have spread from early Australian jihadists of Lebanese-descent who lived and interacted closely with many other Lebanese-Australians. The dense nature of the dual nationals' social networks may have given radicalised individuals close, personal relationships with a large pool of potential recruits, with the resulting social transfer of ideas facilitating the disproportionate levels of radicalised Lebanese-Australians within these networks.¹⁸ This is supported by evidence demonstrating that individuals of Lebanese descent have played key leadership roles in numerous Australian jihadist networks. In their conclusion, Harris-Hogan and Zammit note that interfamilial connections and friendships were a more direct factor of

¹⁶ S. Harris-Hogan, 'The Australian Neojihadist network: Origins, evolution and structure', *Dynamics of Asymmetric Conflict: Pathways toward terrorism and genocide*, vol. 5, no. 1 (2012), pp. 18-30, p. 25.

¹⁷ *Ibid.*, p. 27.

¹⁸ S. Harris-Hogan and A. Zammit, 'The Unseen Terrorist Connection: Exploring Jihadist Links Between Lebanon and Australia' (2014), p. 458.

radicalisation for Australian jihadists than often-touted social conditions or other macro level factors.¹⁹

However, regarding Syria (though evidence is incomplete), recent developments indicate that at least some Australian foreign fighters in Syria have become involved in the conflict through recruitment networks operating in Australia. An alleged recruiter for the regional al-Qaeda franchise, Jabhat al-Nusra, facilitated the travel of six men to Syria. Police claim that this is just one example of ‘several Australians running sophisticated, expensive and illegal schemes to send young Australian men to Syria to fight with terrorists’.²⁰ If true, this information indicates that the current exodus of Australians to Syria may not be following previous patterns of networking in both domestic terrorism plots and foreign fighter mobilisation.

Foreign fighters in Syria: the threat to Australia and the West

As previously cited, approximately 11,000 foreign fighters are in Syria, including around 2,800 Westerners. The future consequences of such a large mobilisation of foreign fighters in Syria is mostly theoretical, though some cases of ‘blowback’ from foreign fighters in Syria and Iraq have already taken place.

Transnational jihadist organisations

Though al Qaeda and their affiliates have chosen to focus their current efforts on ‘near-enemies’ around the Middle East and North Africa – 99 percent of their attacks in 2013 were of this nature²¹ – there is no reason to discount the continued threat they pose to the West.

The participation of foreign fighters in al Qaeda's regional franchise, Jabhat al-Nusra, and other similar groups, gives such organisations the capability to plan, support and attack targets in the West, or Western

¹⁹ *Ibid.*, p. 465.

²⁰ R. Olding, ‘Alleged recruiter faces charges of finding men to join Syria terrorists’, *Sydney Morning Herald* (4 December 2013) <<http://www.smh.com.au/federal-politics/political-news/alleged-recruiter-faces-charges-of-finding-men-to-join-syria-terrorists-20131203-2yorm.html>> accessed 24 June 2014.

²¹ S. G. Jones, ‘A Persistent Threat: The Evolution of al Qa’ida and Other Salafi Jihadists’, *RAND Corporation, National Defense Research Institute* (2014) <http://www.rand.org/content/dam/rand/pubs/research_reports/RR600/RR637/RAND_RR637.pdf> accessed 30 June 2014, p. 34.

targets abroad, with foreign fighters trained militarily and with access to a support network and bomb-making expertise. Additionally, foreign fighter mobilisations have historically been the principal force of propulsion for more extreme forms of militant jihadist action. For example, a majority of al Qaeda operatives began their militant careers as war volunteers, and most transnational jihadist organisations are by-products of previous foreign fighter mobilisations.²²

Implications of foreign fighters returning to Australia

Though Australians have been involved in foreign conflicts before, Syria represents a conflict that is attracting Australians in hitherto unseen numbers. Though publicly released government papers on these matters are generally full of broad assertion and light on minutiae, ASIO has specifically acknowledged the threat that Australians returning from the Syrian civil war pose to the country: ‘The concern is not only for Australians who risk their lives overseas, but also the likelihood of radicalised Australians returning home with an increased commitment and capability to pursue violent acts on our shores’.²³

A report by Thomas Hegghammer on the differences between ‘domestic’ and ‘foreign’ jihadism raises many implications for Australia. Hegghammer’s own database on Islamist attack plots and plotters in the West from between 1990 and 2010, ‘Jihadi Plots in the West’ (JPW) makes a careful distinction between jihadists who are (or were) domestic terrorists, foreign fighters, and veterans of overseas conflicts who go on to commit acts of domestic terrorism after returning to their country of origin.²⁴ As such, his study makes for one of the most comprehensive risk assessments available of returning Western jihadists to their domestic countries.

Quantifying the ‘veteran effect’ is difficult, but educated estimates can be produced. Clearly, jihadists who have travelled abroad to take part in foreign conflicts and originally had no intention of committing an act of domestic terrorism have changed their minds somewhere along the way. Hegghammer’s data indicates that *up to* one in nine foreign fighters

²² *Ibid.*, pp. 42-43.

²³ Australian Security Intelligence Organisation, ‘Report to Parliament 2012-13’ (2013), p. viii.

²⁴ T. Hegghammer, ‘Should I Stay or Should I Go? Explaining Variation in Western Jihadists’ Choice between Domestic and Foreign Fighting’, *American Political Science Review*, vol. 107, no. 1 (2013), pp. iii-viii.

returned to plot attacks in the West.²⁵ While this indicates that an army of domestic jihadists won't return from Syria to commit acts of terrorism in Australia, a one-in-nine radicalisation rate, if correct, 'would make foreign-fighter experience one of the strongest predictors of individual involvement in domestic [terrorism] operations that we know'.²⁶

Furthermore, Hegghammer's JPW data suggests that another consequence of the 'veteran effect' is an increased effectiveness of domestic terror attacks in the West. While only 26 percent of all domestic terrorism plotters are known to have been veterans of a foreign conflict, around 46 percent of all plots in Hegghammer's database (49 of 106) included at least one veteran, making them prominently represented, despite them being a minority compared to 'domestic' jihadists (jihadists without foreign fighting experience).²⁷ 29 percent of plots involving veterans were carried to completion, compared to only 18 percent of plots that did not involve veterans. 16 percent of attacks involving veterans caused fatalities, compared to only 7 per cent of those that did not involve veterans. In other words, on Hegghammer's data, the 'veteran effect' clearly increases the severity of domestic terrorist attacks. Problems with the data acknowledged, Hegghammer tentatively concludes that the presence of a veteran increases the probability that a terror plot will come to execution by a factor of 1.5 percent; it doubles the likelihood that the plot will cause fatalities.

In short, the existing data suggests that foreign fighters, including Australians, returning from the conflict in Syria pose a significant threat to Australia, and would increase the likelihood of a successful terrorist attack on Australian soil. Combining Hegghammer's data with statements by Minister for Foreign Affairs and Trade, Julie Bishop, and Attorney-General, George Brandis, that put the number of Australians in Syria at around 150, the implications are worrying. As the section below demonstrates, the threat from veterans of the Syrian conflict is no longer hypothetical.

²⁵ *Ibid.*, p. 10.

²⁶ *Ibid.*, p. 10.

²⁷ *Ibid.*, p. 11.

Existing cases of 'blowback' from Syrian foreign fighter veterans in the West

No case of Australians returning from the Syrian conflict to plot an act of domestic terrorism is known at the time of writing. However, in Europe, several cases of plots and one successful terrorism attack have come to light involving veterans from the Syrian conflict.²⁸ This indicates that the dangers posed by veterans from Syria have moved from the realms of theory and data and into the cold light of reality. It should be noted that, at the time of writing, these examples are allegations, yet to be held before the law courts of various countries:

- In October 2013, police arrested four British men in London, who were accused of plotting a 'Mumbai-style' plot—a sophisticated mass shooting of civilians'.²⁹ They are reported to have met in Syria.³⁰
- Six ethnic Albanians were arrested in Kosovo in November 2013 for allegedly planning a terrorist attack. Police seized firearms and material used in the construction of explosives. Two of the suspects are alleged to be veterans of the Syrian conflict.³¹ Around 150 ethnic Albanians from Kosovo are reported to be fighting in Syria, the same number as Australia.³²
- In June 2014, Kosovar authorities arrested three men, alleged to have been recruited by ISIS, who stand accused of 'planning to carry out "suicide attacks targeting mass gathering places in order to cause widespread bloodshed

²⁸ A. Zammit, 'List of alleged violent plots in Europe involving Syria returnees', *The Murphy Raid* (29 June 2014) <<http://andrewzammit.org/2014/06/29/list-of-alleged-violent-plots-in-europe-involving-syria-returnees/#comment-5901>> accessed 2 July 2014.

²⁹ *Ibid.*

³⁰ J. Davenport & M. Bentham, 'Islamist terror suspects could have met during Syria conflict', *London Evening Standard* (15 October 2013) <<http://www.standard.co.uk/news/crime/islamist-terror-suspects-could-have-met-during-syria-conflict-8880699.html>> accessed 2 July 2014.

³¹ N. Qeni, 'Kosovo Police Arrest 6 Terror Suspects', *Associated Press* (12 November 2013) <<http://bigstory.ap.org/article/kosovo-police-arrest-6-terror-suspects>> accessed 2 July 2014.

³² B. Roggio, 'ISIS fighter from Kosovo praises jihad in Syria', *Long War Journal* (21 October 2013) <http://www.longwarjournal.org/archives/2013/10/isis_fighter_from_ko.php> accessed 2 July 2014.

and casualties””.³³

- French authorities claimed in March 2014 to have foiled an ‘imminent terror attack’ planned on the French Riviera (or *Côte d’Azur*). Counter-terrorism officials found 900g of explosives in a Cannes property belonging to a 23-year-old man who had returned from the Syrian conflict.³⁴
- A gunman murdered four people—including two Israeli tourists—at the Jewish Museum in Brussels in May 2014. The accused, Mehdi Nemmouche, a veteran of the Syrian conflict, was arrested with guns, ammunition, a video claiming responsibility for the attack, and an ISIS flag.³⁵ This, if the allegations are correct, is the first case of a terrorism plot being carried to fruition on European soil by a veteran of the Syrian conflict.

Sectarian conflict within Australia

Though it is unknown whether these incidents were committed by veterans of the Syrian conflict or simply by enthusiastic cheerleaders or sympathisers, a number of sectarian incidents between Australian Muslims have come to light during the civil war. The *Sydney Morning Herald* has reported 17 incidents of violence, which range from verbal exchanges, forcible entry of the Syrian embassy in Canberra, shootings, arsons, serious assault and extortion.³⁶ However, as ever with media reports, some incidents may not have been reported, and some may have been falsely conflated with the Syrian conflict.

³³ ‘Kosovo police arrest three alleged ISIS jihadists’, *Business Standard* (26 June 2014) <http://www.business-standard.com/article/pti-stories/kosovo-police-arrest-three-alleged-isis-jihadists-114062601212_1.html> accessed 2 July 2014.

³⁴ ‘Terror attack on Riviera “foiled”’, *The Connexion* (26 March 2014) <<http://www.connexionfrance.com/france-police-counter-terrorism-cannes-riviera-bomb-explosives-cannes-torcy-cell-syria-15595-view-article.html>> accessed 2 July 2014.

³⁵ ‘Brussels Jewish Museum killings: Suspect “admitted attack”’, *BBC* (1 June 2014) <<http://www.bbc.com/news/world-europe-27654505>> accessed 2 July 2014.

³⁶ R. Olding, ‘Home front opens in a foreign war’, *Sydney Morning Herald* (30 June 2013) <<http://www.smh.com.au/national/home-front-opens-in-a-foreign-war-20130629-2p3pi.html>> accessed 3 July 2014; A. Zammit, ‘List of Syria-related violent incidents in Australia’, *The Murphy Raid* (30 June 2013) <<http://andrewzammit.org/2013/06/30/list-of-syria-related-violent-incidents-in-australia/>> accessed 3 July 2014.

It should be noted that two key Australian jihadist ideologues, Musa Cerantonio (previously mentioned), and Sheikh Abu Sulayman have taken sides in the conflict between ISIS and Jabhat al-Nusra. Sulayman is a member of al-Nusra's General Islamic Council, and was dispatched to Syria in an attempt to mediate a dispute between the two organisations.³⁷

Conclusion: the veteran threat

This study concludes that there is little doubt that the unprecedented exodus of Australians to take part in the Syrian civil war is a serious development in Australia's history that will test the competency of the current and future Australian governments. As Hegghammer's study notes, most jihadis who engage in foreign fighting do not return to attack the West. However, the (up to) 'one-in-nine ratio' of those who go on to commit an act of domestic terrorism is one of the most reliable predictors of terrorism available. Such a ratio should be considered with the fact that these operatives are both more capable, and more lethal, than their domestically trained, non-veteran counterparts.

Moreover, the addition of thousands of foreign fighters to transnational terrorist organisations bolsters their capacity to attack targets, including Western ones abroad, if they should so choose. For these reasons, the possible creation of militarily trained jihadist networks among Westerners is concerning for authorities when such fighters begin to return home.

³⁷ P. Maley, 'Aussie sheikh helps terror group', *The Australian* (1 April 2014) <<http://www.theaustralian.com.au/national-affairs/policy/aussie-sheik-helps-terror-group/story-e6frg8yo-1226870225082>> accessed 3 July 2014.

Religious-Nationalist Actors in Secular Democracies: the Case of Turkey and Israel

Artemis Niaros*

The secular and religious do not exist as separate realms, but are constantly renegotiating their place in society. This can be seen in the relationship between religious actors and secularism in Turkey and Israel: two democracies in the Middle East that have both officially embraced secularism.

Since the form and significance of secularism is dependent on its context, it needs to be considered as a dynamic concept that interacts with 'the religious'. A brief introduction to Kemalism and Secular Zionism helps contextualise the rise and significance of the Justice and Development Party (AKP) and the religious-nationalist settler movement in Israel. The nature and agendas of these groups differ, along with the extent to which they have been able to influence domestic policy.

The AKP is a non-Islamist party with autocratic tendencies. It has advanced a form of Turkish secularism that legitimises a range of reforms to the military and the judiciary, two bastions of Kemalist power, in the name of advancing democratic governance.

In Israel, Judaism functions as both a source of national unity and as part of a nationalist political project. The religious-nationalist camp has achieved a disproportional influence over Israeli politics, which is a major setback for the implementation of the two-state solution.

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Introduction: secularism and democracy

There is a widespread belief among secularists that the Justice and Development Party (AKP) is undermining the secular foundations of the Turkish state. The fear is that there exists an Islamist core underneath the AKP's veneer of modernity that is biding its time until all threats to its political power have been marginalised. Similarly, while few commentators would define Israel as a theocracy, many analysts have focused on the unique relationship between religion and state in a place that is struggling with issues of legitimacy and identity.

How the secular camp interacts with the religious elements of society ultimately feeds into the wider debate about the role of secularism in democratic states. As political theorist Jose Casanova reflects, the secular has come to signify a self-reliant category that is freed from religion altogether, where the very thought of engaging with notions of religious transcendence seems somewhat like an intellectual regression.¹ This article is an attempt to move away from a secular-religious binary by demonstrating that the secular and religious do not exist as separate realms, but are constantly renegotiating their place in society. The AKP in Turkey and the Religious-Zionist settlers of Israel have both had a particularly strong influence over domestic policy. They underline the importance of the 'Twin Tolerations' model put forward by Alfred Stepan, in which all secular democracies need to balance the respect given to the religious preferences of their citizens while also ensuring that religion does not dominate decision making at the administrative level.² Democracy cannot truly exist when citizens are robbed of their right to religious expression or political mobilisation. Nor can it truly flourish under the assumption that religious actors are unwilling to cooperate with secular society: political scientist Ellen Lust demonstrates how the perception that Islamists were anti-democratic was used as a means to perpetuate the autocratic rule of the incumbent elite in the Middle East.³

¹ J. Casanova, 'The Secular, Secularizations, Secularisms' in C. Calhoun, M. Juergensmeyer & J. Van Antwerpen (eds.) *Rethinking Secularism* (New York: Oxford, 2011), pp. 54-74., pp. 55, 67.

² A. Stepan, 'Religion, Democracy, and the "Twin Tolerations"', *Journal Of Democracy*, vol. 11, no. 4 (2000), pp. 37-57, p. 39.

³ E. Lust, 'Missing the Third Wave: Islam, Institutions, and Democracy in the Middle East', *Studies in International Comparative Development*, vol. 43 (2011), pp. 163-190, p. 186.

This article will compare how the AKP and the religious-nationalist settler movement have reconfigured their states' secularism and explore the implications this has for democracy at large. Until the election of the AKP in 2002, the staunch secularists who adhered to Kemal Ataturk's vision for Turkish democracy actively suppressed religion while discriminating against minority faiths and privileging a particular form of Sunni Islam, since religion was capable of 'oppositional mobilisation' that could threaten the status quo.⁴ While the AKP has sought to distance itself from previous Islamist groups that were repressed by the Turkish state, its ascent to the leadership in 2002 facilitated a redefinition of secularism, such that it better reflects the religious, cultural and historical nuances that constitute Turkish identity. This challenge to Kemalism has facilitated democratic reforms but has also empowered the increasingly autocratic AKP by legitimising the marginalisation of political opponents. As social scientist Emre Toros affirms, the participation of Islamic political parties in elections is not inherently threatening to democracy. It is only when those parties 'appropriate the responsibility of religion and monopolize its symbols, that open democratic debate and free elections [may be in] danger'.⁵

Samuel Huntington writes in 'Clash of Civilisations' that Islam is simply incompatible with democracy.⁶ However, sociologist Asef Bayat argues convincingly that the very question of its compatibility is 'irrelevant'. It is more useful to understand the cultural dynamics within Muslim states, which often observe a politicised religion-state relationship because of their heterogeneity.⁷ Indeed, Jonathan Fox and Shmuel Sandler raise the

⁴ A. Sarkissian, 'Religious Regulation and the Muslim Democracy Gap', *Politics and Religion*, vol. 5 (2012), pp. 501-527, p. 515.

⁵ E. Toros, 'The Relationship between Islam and Democracy In Turkey: Employing Political Culture as an Indicator', *Social Indicators Research*, vol. 95, no. 2 (2010), pp. 253-265. p. 262.

⁶ S. P. Huntington, 'The Clash of Civilizations?', *Foreign Affairs*, vol. 72, no. 3 (2011), pp. 22-49.

⁷ See: A. Bayat, 'Islam and Democracy: The Perverse Charm of an Irrelevant Question' in *Making Islam Democratic: Social Movements and the Post-Islamist Turn* (California: Stanford University Press, 2007), p. 1; A. Stepan, 'The Multiple Secularisms of Modern Democracies and Autocracies' in C. Calhoun, M. Juergensmeyer and J. Van Antwerpen, *Rethinking Secularism* (New York: Oxford, 2011), pp. 114-145, p. 119; W. Ra'ees, 'Democracy and Democratization in Contemporary Muslim Societies: A Theoretical Analysis', *Intellectual Discourse*, vol. 18, no. 2 (2010), pp. 253-259, pp. 247-249. Ra'ees argues that the relative difficulty faced by Muslim states in assuming secular political arrangements, in contrast to Western democracies, boils down to particular readings of Islam that view electoral rights as a mere extension of Allah's 'divine legislative will'.

question of whether the separation of religion and state is necessarily tied to an observance of democracy overall. While Middle Eastern states that generally observe separation between religion and state tend to be more autocratic, many Western democracies also fund religious education, have legislation on religion, and discriminate against religious minorities, although to a lesser degree. Rather than being a feature of Judeo-Christian religions, democratic governance comes more naturally, they argue, to culturally homogenous populations where it is likely that 'religion is not an overly contentious issue'.⁸

Israel forms an interesting contrast as unlike Turkey the Israeli government has openly supported Jewishness as a basis for national legitimacy. The legacy of accommodation between the secular Zionists and the Orthodox community in Israel's formative years has since blurred the secular and religious to the point of confusion. The importance of this accommodation cannot be understated since it forms the basis of Israel's policies towards Israeli Arabs and the Palestinians in the West Bank. The cooperation between the Israeli government, headed by Benjamin Netanyahu of the Likud Party, with the religious-nationalist settlers in the Occupied Palestinian Territories, who draw on the fundamentalist political ideology of the *Gush Emunim* (Bloc of the Faithful), has seriously jeopardised the prospects for a two-state solution, or any solution for that matter. Without the dismantling of these settlements, at best Israelis and Palestinians will coexist in one state and share equal rights and citizenship. At worst, the Israelis will continue to expropriate Palestinian territory until bi-nationalism becomes more of a reality than a solution. In this case Israel must concede to the demographic fact that they will be a Jewish minority in a majority of Arabs. Perhaps Israel will remain Jewish, but in that moment it will cease to be democratic.

The nature of secularism under the Kemalist state

State reactions towards religion can be categorised broadly into restrictive and facilitative responses. In Turkey, after the collapse of the Ottoman Empire in the 20th Century, religious groups were treated as threats to the state since they had the potential to undermine loyalty to the state's authoritarian leaders. The Kemalist elite headed by Mustafa Kemal Ataturk imposed secularism through a restrictive constitutional

⁸ J. Fox and S. Sandler, 'Separation of Religion and State in the Twenty-First Century: Comparing the Middle East and Western Democracies', *Comparative Politics*, vol. 37, no. 3 (2005), pp. 317-335, p. 320-322, 329.

framework with the intention of creating a modern state.⁹ The six principles that formed the pillars of the ideology included a commitment to constant reform and to the advancement of the interests of the group over individual liberties.¹⁰ While under the Turkish Constitution all Turks have the ‘right to freedom of conscience, religious belief and conviction’, under Article 14:

None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating...the existence of the democratic and secular order of the Turkish Republic based on human rights.¹¹

During the Ottoman period the *Millet* (nation) system divided groups of subjects based on their religious affiliations. By revoking the Ottoman past, secularist elites were presented with the conundrum of defining Turkish nationalism without referring to religion. The Kemalist elites ‘pursued an active policy of assimilation based on a conceptualisation of Turkishness as a part of a common national, linguistic and territorial identity’. The state included Muslim-minority groups, including the Kurds, as members of the Turkish nation and excluded Greek-Orthodox and Jewish minorities from entering fully into Turkish society.¹²

According to Ahmet Kuru of San Diego University, secularism in Turkey can be characterised as a form of *assertive secularism*, which displaces religion from the public sphere and confines it to the private domain of family.¹³ However, Umut Azak of Okan University argues convincingly that this does not capture the essence of secularism in Turkey. Between 1924 and 1937 the Turkish Republic privileged an ideal interpretation of Sunni Islam that would be Turkish and not Arab, and be progressive

⁹ N. Göle, ‘Secularism and Islamism in Turkey: The Making of Elites and Counter-Elites’, *The Middle East Journal*, vol. 51, no. 1 (1997), pp. 46-58, p. 48.

¹⁰ E. J. Zürcher, *Turkey: A Modern History*, (New York: I.B. Tauris & Co, 2004), p. 222.

¹¹ Republic of Turkey Ministry for Foreign Affairs, *Constitution of the Republic of Turkey* <http://global.tbmm.gov.tr/docs/constitution_en.pdf> accessed 4 June 2014, p. 6, 11.

¹² I. Saylan, ‘The Formation of Citizenship in Turkey’ in C. Rodriguez, A. Avalos, H. Yilmaz and A. Planet (eds.) *Turkey’s Democratization Process* (Oxon: Routledge, 2014), pp. 16-43, pp. 23-33.

¹³ A. T. Kuru, ‘Passive and Assertive Secularism: Historical Conditions, Ideological Struggles, and State Policies toward Religion’, *World Politics*, vol. 59, no. 4 (2007), pp. 568-594. p. 571.

rather than Ottoman.¹⁴ This demonstrates that religion's role in political life is not always democratically negotiated. Kemalism actually undermined democracy as it was not only imposed on the Turkish Republic but also because it controlled the regulation and financing of faith-based educational institutions, regulated the legal status of organised religions, and undercut the autonomy of religious communities in terms of both personal religious expression and political mobilisation.

The difference between institutionalising religion and tacitly supporting a dominant religion through funding or preferential policies is that the former is detrimental to secularism while the latter may actually enhance both democracy and secularism.¹⁵ The Kemalists chose the former, founding the *Diyanet İşleri Başkanlığı* (Directorate for Religious Affairs) that would oversee the religious community of preachers and scholars, and subordinating all religious institutions to the state. The *Diyanet* controls places of worship and informs the public on matters of Islamic faith through *fatwas*.¹⁶

The existence of the *Diyanet* is problematic for the question of Turkish democracy in at least three ways. First, it shows how the state asserts its views on issues of organisational form, funding and the content of religion. Second, it privileges Sunni Islam while suppressing other minority religions due to the lack of an even-handed approach towards all religions. Third, it undermines the strict separation between mosque and state that should in theory define the Kemalist state. The very existence of the *Diyanet* underlines the state's dualistic approach to religion that supports a form of Sunni Islam that will unite the Turkish national community, while suppressing other forms of Islam that were considered by Atatürk to be mystical and therefore anti-modern.¹⁷ As political scientist Hakan Yavuz argues, this approach was problematic

¹⁴ U. Azak, *Islam and Secularism in Turkey: Kemalism, Religion and the Nation State* (New York: Palgrave Macmillan, 2010), p. 60.

¹⁵ M. D. Driessen, 'Religion, State, and Democracy: Analyzing Two Dimensions of Church-State Arrangements', *Politics and Religion*, vol. 3, no. 1 (2010), pp. 55-80, p. 64. See also: A. Gill, *The Political Origins of Religious Liberty* (New York: Cambridge University Press, 2008).

¹⁶ Republic of Turkey Presidency of Religious Affairs, *Establishment and a Brief History*, available online: <<http://www.diyamet.gov.tr/en/kategori/kurumsal/1>>, accessed 29 June 2014.

¹⁷ I. Yilmaz, 'State, Law, Civil Society and Islam in Contemporary Turkey', *The Muslim World*, vol. 95, no. 3 (2005), pp. 385-411, pp. 390-394; U. C. Sakallioglu, 'Parameters and Strategies of Islam-State Interaction in Republican Turkey', *International Journal of Middle East Studies*, vol. 28 (1996), pp. 231-251, p. 234-6.

not only for the religious clerics, but also for the status of personal liberties overall.¹⁸ His statement that Turkey's 'Kemalist identity is in constant pain and conflict with the national body politic of Turkey' captures this tension perfectly.¹⁹

Political Islamism and the Justice and Development Party (AKP)

Ani Sarkissian's explanation for the 'democracy gap' in Muslim countries can be applied to the Turkish case. Essentially, Kemalist elites utilised the rhetoric of secularism to legitimise their hegemony over the political realm.²⁰ The existence of a multi-party political system only came into effect after the 1924 Constitution was reformed. The 1982 Constitution reinforced military tutelage, but nonetheless allowed for political parties other than the *Cumhuriyet Halk Partisi* (Republican People's Party).²¹ The military's tutelage was facilitated through the support of its pro-Kemalist allies in the Constitutional Court, the media, and within the CHP. Political opponents were often branded as Islamists, communists and Kurds.²² Islamist parties act as a counterweight to an otherwise monocratic system, which has failed to create the balance of respect between secular state and religious establishment.²³

Although the publicly religious were banned from having political parties, their engagement with politics increased after the death of Atatürk. The *Millî Görüş* (The National Outlook Movement), long considered to be the bastion of 'political Islam' in Turkey, emerged in 1970 as an independent political force, whereas previously it had cooperated with the centre-right.²⁴ However, as all of the parties established by Necmettin Erbakan and other Millî Görüş leaders have

¹⁸ H. M. Yavuz, *Islamic Political Identity in Turkey* (New York: Oxford University Press, 2003), pp. 55-58.

¹⁹ H. M. Yavuz, 'Cleansing Islam from the Public Sphere', *Journal of International Affairs*, vol. 54, no. 1 (2000), pp. 21-42, p. 21. See also: K. Karpat, *The Politicization of Islam: Restructuring Identity, State, Faith and Community in the Late Ottoman State* (Oxford: Oxford University Press, 2001), p. 406.

²⁰ Sarkissian, op. cit. (2012), p. 520-1

²¹ E. Ozbudun, 'Democracy, Tutelarism and the Search for a new Constitution' in E. Ozbudun, C. Rodriguez, A. Avalos, H. Yilmaz and A. Planet (eds.), *Turkey's Democratization Process*, (Oxon: Routledge, 2014), p. 306-309

²² A. T. Kuru, 'The Rise and fall of Military Tutelage in Turkey: Fears of Islamism, Kurdism and Communism', *Insight Turkey*, vol. 14, no. 2 (2012), pp. 37-57, p. 46-51.

²³ Stepan, op. cit. (2000).

²⁴ A. Rabasa & S. F. Larrabee, *The Rise of Political Islam in Turkey* (Santa Monica: RAND Corporation, 2008), p. 36.

been outlawed, with the exception of the *Saadet* (Felicity) Party, the movement has made attempts to dampen its anti-West ideology in an attempt to survive. Rather than fighting secularism altogether, it increasingly sought a pragmatic arrangement with the secular state.²⁵

Erbakan became Turkey's first Islamist Prime Minister in the 1995 elections on a party platform that supported Islamic norms. By 1997 he was portrayed as a radical Islamist following a vicious media campaign by the secularist camp and was forced to resign as a result of a military memorandum that became known as the 1997 Post-Modern Coup.²⁶ In 1998 the Constitutional Court shut down Erbakan's *Refah Partisi* (Welfare Party) due to its anti-Western and Islamist rhetoric and its opposition towards the European Union (EU). Erbakan had actually softened his position towards the EU and the West after his election to office and had used the rhetoric of liberal democracy to convince the Kemalist camp that changing its views towards political Islam would be beneficial for Turkey's access to the EU.²⁷

The *Refah Partisi* was then reincarnated as the *Fazilet Partisi* (Virtue Party), which was dissolved by the Constitutional Court in 2001 for its opposition to the headscarf ban. The Virtue Party itself splintered between the traditionalists who supported the *Millî Görüş* (National Outlook) movement and the reformist members who supported the Gülen Movement, who would go on to establish the Justice and Development Party.²⁸ Having realised that Islamism would not be well received by the Constitutional Court and Turkish Armed Forces the AKP distanced itself from previous Islamist parties and favoured Turkish nationalism, the free market and EU membership. The reformists established the *Adalet ve Kalkınma Partisi* (Justice and Development Party) and won 34.2% of the votes in the 2002 elections. It is the first party with an Islamist pedigree

²⁵ I. Yilmaz, 'State, Law, Civil Society and Islam in Contemporary Turkey', *The Muslim World*, vol. 95, no. 3 (2005), pp. 385-411, pp. 401-406.

²⁶ I. Yilmaz, 'Beyond Post-Islamism: The Transformation of Turkish Islamism to Non-Islamism' in G. Barton, P. Weller & I. Yilmaz (eds.) *The Muslim World and Politics in Transition: Creative Contributions of the Gülen Movement* (London: Bloomsbury Academic, 2013), p. 73.

²⁷ A. R. Usul, 'The Justice and Development Party and the European Union: From Euro-skepticism to euro-enthusiasm and Euro-fatigue' in U. C. Sakallıoğlu (ed.) *Secular and Islamic Politics in Turkey: The Making of the Justice and Development Party* (New York: Routledge, 2008), pp. 176-177.

²⁸ A. Kuru, 'Changing Perspectives on Islamism and Secularism in Turkey: The Gülen Movement and the AK Party', *Muslim World in Transition: Contributions of the Gülen Movement* (2007), pp. 145-147.

to form a majority government, a significant achievement considering that Turkey has a 10% electoral threshold.²⁹ The continued success of the AKP is testament to its ability to deliver sound economic reforms through a (mostly) moderate discourse.³⁰

AKP leaders support the visibility of religion in the public realm but believe that the separation between mosque and state is a basic principle of democratic governance.³¹ While taming the religious rhetoric, Turkish Prime Minister Recep Tayyip Erdoğan still makes frequent references to Islamic Law and tradition, which he argues arise from his personal and not his political beliefs. To a certain extent however these beliefs will have a political manifestation, judging by Erdoğan's comment that Kemalism failed to achieve national unity because it did not embrace popular Islam as a unifying tool.³² According to Erdoğan, the presence of Islam in society is not synonymous with the institutionalisation of Sharia Law, but is an acknowledgment of the cultural backdrop that has defined Modern Turkey since its beginnings. According to Yavuz the AKP is therefore a not an Islamist party, but rather a conservative Muslim party.³³ Simten Coşar is reluctant to categorise the AKP, arguing it remains a 'party in the making', simultaneously distancing itself from the Islamist camp and reaffirming the symbiotic link between Islam and Turkish identity.³⁴ However, this perspective assumes that it is only a matter of time before the AKP institutionalises a religious state.

²⁹ S. Sayari, 'Party System and Democratic Consolidation in Turkey: Problems and Prospects' in C. Rodriguez, A. Avalos, H. Yilmaz and A. Planet (eds.) *Turkey's Democratization Process* (Oxon: Routledge, 2014), pp. 89-109. For a fuller treatment of the issues surrounding the electoral threshold, see: S. Alkin, 'Under representative Democracy: Why Turkey Should Abandon Europe's Electoral Threshold', *Washington University Global Studies Law Review*, vol. 10, no. 2 (2011), pp. 347-369.

³⁰ I. Dagi, 'Turkey's AKP in Power', *Journal of Democracy*, vol. 19, no. 3 (2008), pp. 25-30, p. 29-30. See also: Ö. Caha, 'Turkish Election of November 2002 and the Rise of "Moderate" Political Islam', *Alternatives: Turkish Journal of International Relations*, vol. 2, no. 1 (2003), pp. 95-116.

³¹ First Magazine, 'A Strong Strategic Partner: Interview with His Excellency Abdullah Gül President of the Republic of Turkey' (2010), *Turkey: Emerging Global Player, Special Report*, available online: <www.firstmagazine.com/Publishing/SpecialReportsDetail.aspx?RegionId=3&SpecialReportId=78> accessed 29 June 2014.

³² S. Tepe, 'Religious Parties and Democracy: a Comparative Assessment Of Israel and Turkey', *Democratization*, vol. 12, no. 3 (2005), pp. 283-307, p. 299.

³³ Yilmaz, op.cit. (2013), p. 77.

³⁴ S. Coşar, 'Turkish Nationalism and Sunni Islam in the Construction of Political Party Identities' in A. Kadıoğlu and E. F. Keyman (eds.) *Symbiotic Antagonisms: Competing Nationalisms in Turkey* (Salt Lake City: University of Utah Press, 2011), p. 171.

Since the AKP's election many policies that relate to the role of religion are examples of continuity rather than change. The state continues to provide training for Sunni Muslim clerics, through the Diyanet, which employs over 117,000 imams and religious workers considered to be civil servants. Construction of mosques continues to be funded by the Diyanet, while non-Muslim minority religions do not have legal personalities and are therefore unable to purchase land for their places of their worship.³⁵ Religion and ethics classes continue to be compulsory in schools, even though non-Muslim students are now exempt. Textbooks continue to privilege a particular interpretation of Islam that considers Alevism to be a heterodox Muslim sect.³⁶

The inability of the Turkish government to allow Alevis the space to define their own religious tradition is exemplary of the danger of allowing the dominant religion to obtain a monopoly over the religious market.³⁷ Alevis have struggled against the state's false narrative of Turkish homogeneity since the 1980 coup, which posits that there is only one legitimate and ideal form of Islam.³⁸ In 2007 there were 20 pending court cases against the Ministry of Education filed by Alevis who felt that Sunni-oriented religious curriculum in public schools discriminated against their rights to religious education and was contrary to the notions of liberal democracy.³⁹ Deputy Prime Minister Bekir Bozdağ dismissed a proposal for the construction of an Alevi Cem house, on the basis that 'the place of worship for all Muslims around the world is the same; their

³⁵ US Department of State, *Turkey International Religious Freedom Report 2012* (25 June 2013), available online: <<http://www.state.gov/documents/organization/208588.pdf>> accessed 27 July 2014, p. 2-5.

³⁶ European Commission, *Turkey 2013 Progress Report* (16 October 2013), available online: <http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/turkey_2013.pdf> accessed 27 July 2014, p. 54-55.

³⁷ F. A. Rahman, 'The Effects of State-Established Religion on Religious Freedom for Minorities', *Interdisciplinary Journal on Religion*, vol. 9, no. 8 (2013), pp. 1-24; C. Pinar, 'Religion-State Relations in Turkey since the AKP: A Changing Landscape? Evidence from Parliamentary Debates on the Alevi Matter', *Journal of Muslim Minority Affairs*, vol. 33, no. 4 (2013), pp. 507-520, p. 513-517.

³⁸ M. Dressler, 'Religio-Secular Metamorphoses: The Re-Making of Turkish Alevism', *Journal of the American Academy of Religion*, vol. 76, no. 2 (2008), pp. 280-311, pp. 286-292. Alevis constitute 15% of the Turkish population. They believe that they are both religiously and ethnically distinct from mainstream Sunni Turks.

³⁹ US Department of State, op.cit. (2013), p. 8

common house of worship is the mosque'.⁴⁰ Overall, Turkish policy evinces the support of one dominant religious denomination in order to maintain a sense of national unity.

It has been argued that educational reforms under the AKP are an attempt to Islamise Turkish society; however, indications strongly suggest that the new education policies reflect a democratic opening. In May 2004 the AKP decided to address the discrimination against graduates of Imam Orators Secondary schools (IHO). Under the previous system a graduate of an IHO who wished to gain access to a secular university would be required to obtain a higher score than other graduates. In response to secularist criticism of this policy, Abdullah Gül commented, 'The claim that *imam hatip* students will flood the universities and go on to become governors, judges and diplomats is nonsense'.⁴¹

Educational reform policies continued in February 2012 when Erdoğan introduced the '4+4+4 system' that would split the education system into three equal parts between primary, middle and secondary school. Republican Party opponents argued that this would favour families who choose a conservative religious education for their children, who can be home schooled after primary school. Moreover it was feared this change 'would allow parents to confine young girls to home, or send them to Koranic courses instead, where they would be free to wear the Islamic headscarf'.⁴² However, stressing the 'need for genuine freedom and equality in education', Ramazan Gozen argues this change would reinforce diversity, which is preferable to having one uniform education that does not take into consideration the varying needs of its students.⁴³

⁴⁰ 'Alevi fire at government in ongoing Cemevi quarrel', *Hurriyet Daily News* (12 July 2012) <<http://www.hurriyetdailynews.com/alevis-fire-at-government-in-ongoing-cemevi-quarrel.aspx?pageID=238&nID=25298&NewsCatID=339>> accessed 12 July 2014.

⁴¹ 'Schools for Trouble: A Row over an Education Bill has opened old Turkish Fissures', *The Economist* (20 May 2004) <<http://www.economist.com/node/2693423>> accessed 4 July 2014.

⁴² 'Reactions for Gov't to Retreat on Education Bill', *The Journal of Turkish Weekly* (25 February 2012) <<http://www.turkishweekly.net/news/131701/reactions-force-gov%C3%ADt-to-retreat-on-education-bill.html>> accessed 3 July 2014.

⁴³ R. Gozen, 'Controversy over Education of Religious Generation', *Sunday's Zaman* (9 March 2012) <<http://www.todayszaman.com/news-273832-controversy-over-education-of-religious-generation-by-ramazan-gozen.html>> accessed 3 June 2014.

The reform had wide popular support because it also allowed for the teaching of Azerbaijani and Kurdish as electives in schools.⁴⁴

The AKP's interests and democratisation in Turkey

As ironic parallel to their Kemalist predecessors, the AKP has utilised 'the projection of an ideal Islam on the nation in the name of secularism', in that both the Kemalists and the leaders of the AKP 'imagine a Turkish Islam that truly represents the nation'.⁴⁵ When the AKP attempted to abolish the ban on headscarves by changing the language of the Constitution in 2008, it referenced the importance of the right to education, a right violated by the enforced headscarf ban in universities. This view was perceived by the CHP as a clear attempt to propagate traditional and religious norms in society.⁴⁶ The perception that the AKP's opposition to the headscarf ban was anti-secular encouraged the Constitutional Court to open a case against the party in 2008, in which it was narrowly saved from expulsion.⁴⁷

Paradoxically, the AKP, the alleged supporter of democracy in Turkey, has continued to advance sexist and patriarchal norms that are closer to conservatism than liberal democracy. An example of this was the prohibition of alcohol sales between 10am and 6pm, and at all times near schools and mosques. The justification was on basis of community wellbeing and civil order, an argument that seemed hollow in the face of Erdoğan's aim to bring up a 'devout' generation.⁴⁸ This is not to say that religious parties are inherently incapable of respecting the democratic rights of their citizens. Indeed, to adopt this view one would need to assume that secular institutions have a closer affinity with democracy than religious organisations, a view that does not apply to the Turkish case. The AKP often highlights its policies as testament to its commitment to liberal democracy and pluralism while contradicting

⁴⁴ Z. Celik & B. S. Gur, 'Turkey's Education Policy During the AK Party Era (2002-2013)', *Insight Turkey* (2013), pp. 151-176, p. 168-169.

⁴⁵ U. Azak, 'Secularism and the Freedom of Religion', *Hurriyet Daily News* (12 March 2013) <<http://www.hurriyetdailynews.com/secularism-and-freedom-of-religion.aspx?pageID=449&nID=42802&NewsCatID=396>> accessed 24 August 2014.

⁴⁶ E. Ozbudun, C. Rodriguez, A. Avalos, H. Yilmaz and A. Planet (eds.), *Turkey's Democratization Process*, (Oxon: Routledge, 2014), p. 306-309.

⁴⁷ F. Zaras, 'Europeanization or Endogenous Institutional Change? The Case of Turkey', *Southeast European and Black Sea Studies*, vol. 13, no. 3 (2013), p. 357.

⁴⁸ 'In Turkey, party goes on despite new alcohol curbs', *Al Arabiya News* (6 July 2014) <<http://english.alarabiya.net/en/perspective/2014/07/06/In-Turkey-party-goes-on-despite-new-alcohol-curbs.html>> accessed 20 July 2014.

these with other policies or statements that reinforce its conservative and often autocratic tendencies.

In 2007 the AKP amended the Law of Political Parties so that political leaders with a prior conviction of inciting religious hatred could stand for election and that a three-fifths majority was required to impose the closure of a political party. Within the context of the reforms to the staffing of the Constitutional Court, this move readjusted the power asymmetries present in the Turkish system.⁴⁹ However, when the Kurdish Democratic Society Party (DTP) was facing the Constitutional Court in 2008, threatened with closure, the AKP's failure to recall its opposition to party closures was staggering.⁵⁰ Ultimately, the removal of the DTP from the political scene allowed the AKP to strengthen its electoral hegemony. Moreover, International Relations scholar Fuat Keyman describes the choice to undertake reforms to the rights of Kurds as facilitating the isolation of the CHP, which felt it had no choice but to counter the AKP's party line.⁵¹

Many Turks who had supported the military found their allegiance changed after the e-coup of 2007 and the uncovering of coup plots linked to the Ergenekon organisation.⁵² This organisation, led by retired military officers, planned to overthrow the AKP government through political assassinations that would form the pretext for military intervention. In response the AKP has effectively demilitarised Turkey by influencing the staffing of the military: protecting officers who are involved in Islamist activity while exposing those who had been involved in military coups to the civilian courts.⁵³ The government has undertaken a similar approach to the media through a vicious crackdown on journalists who question its

⁴⁹ Zaras, 'Europeanization or Endogenous Institutional Change? The Case of Turkey' (2013), p. 353.

⁵⁰ G. Jenkins, 'After DTP Closure: From Dialogue to Monologue?', *Turkey Analyst*, vol. 2, no. 23 (2009).

⁵¹ E. F. Keyman, 'The CHP and the "Democratic Opening": Reactions to AK Party's Electoral Hegemony', *Insight Turkey*, vol. 12, no. 2 (2010), pp. 91-108, p. 98-106. See also: J. Baudner, 'The Politics of "Norm Diffusion" in Turkish European Union Accession Negotiations: Why it was Rational for an Islamist Party to be "Pro-European" and a Secularist Party to be "Anti-European"', *Journal of Common Market Studies*, vol. 50, no. 6 (2012), pp. 923-925.

⁵² M. Bardakci, 'Coup Plots and the Transformation of Civil Military Relations in Turkey under AKP rule', *Turkish Studies*, vol. 14, no. 3 (2013), pp. 411-428, p. 415-417.

⁵³ *Ibid.*, pp. 419-422. See also: Kuru, 'The Rise and Fall of Military Tutelage in Turkey', p. 51.

policies. The mere fact that there are over 5000 cases against journalists, who are accused of holding links to terrorist organisations, suggests that very little of substance has changed in Turkey.⁵⁴ The European Union has expressed concern over ‘the rights of defence, the lengthy pre-trial detention and excessively long and catch all indictments’.⁵⁵

In sum, this section puts forward a challenge to the thesis that secularism in Turkey has been ‘assertive’. Rather, the Kemalists and the AKP following suit, have tended to discriminate against minority religions by privileging Sunni Islam and using it as a means to homogenise the diverse practices of Islam present in Turkish society. While the AKP has stipulated that its reforms to the military, judiciary and media sectors are means by which Turkey can be put ‘back on track’ to democracy, the real motivation would seem to be the solidification of its control over the political scene.

Can Israel be both democratic and Jewish?

During the formative years of the Israeli state, divisions continued to deepen over what exactly the Jewish state signified and what its relationship would be to the Arab minority. Ultimately the ‘decision not to decide’ on a formal constitution arose from an inability to reconcile those who believed the state should mandate a superior role for religion on the principles of the Torah and those who argued that Israel should simply function as a secular territory free from the discrimination that had characterised the Jewish historical experience.⁵⁶

⁵⁴ E. Gulcan, ‘BIA Media Monitoring Report 2011’, *Bianet* (1 March 2012) <<http://www.bianet.org/english/freedom-of-expression/136599-bia-media-monitoring-report-2011-full-text>> accessed 4 June 2014; S. Aydın-Düzgit & E. F. Keyman, ‘EU-Turkey Relations and the Stagnation of Turkish Democracy’ in S. Aydın-Düzgit, A. Duncker, D. Huber, E. F. Keyman & N. Tocci (eds.) ‘Global Turkey In Europe: Political, Economic, and Foreign Policy Dimensions of Turkey’s Evolving Relationship with the EU’, *Instituto Affari Internazionali Research Papers* (Rome: Edizioni Nuova Cultura, 2013), pp. 103-165, p. 132-133.

⁵⁴ European Commission, *Turkey 2012 Progress Report* (10 October 2012) <http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/tr_rapport_2012_en.pdf> accessed 4 June 2014), p. 7.

⁵⁵ *Ibid.*

⁵⁶ J. Segev, ‘Who Needs a Constitution? In Defense of the Non-Decision Constitution-Making Tactic in Israel’, *Albany Law Review*, vol. 70, no 2 (2007), pp. 409-489, p. 416-419.

The Zionists who first proposed a national home for the Jewish people were secular in the sense that they rebelled against traditional Judaism. The Labour Zionists, including David Ben-Gurion, imagined the state of Israel as a refuge for persecuted Jews and deliberately evaded a definition in theocratic terms. Instead, Ben-Gurion attempted to interpret Judaism as a 'religion of Justice' in order to align it with liberalism.⁵⁷ Mainstream secular Zionism was seen to begin 'from where Judaism is destructed'.⁵⁸

Zionism's secular beginnings were tainted by its reliance on the Jewish historical narrative. The settlement of Israel would facilitate the return of the Jewish people to *their* land. Theodor Herzl, the secular founder of modern Zionism, after a consideration of other geographical options, recognised that only in *Eretz Israel* (the Land of Israel) could the Jewish people find their true sanctuary, because it was the place where they 'came from'.⁵⁹ The return to the 'national homeland' presented the Zionists with the challenge of creating a state which was not religious, while many Jews in the diaspora continued to find resonance with the idea that the resettlement of Zion would signify the end of the Exile of the Jewish people.⁶⁰ As political scientist Emanuele Ottolenghi argues, 'though secularly oriented, Zionism used tradition as a source of legitimacy for its national claims, and could not disentangle its argument for Jewish self-determination from religious identity'.⁶¹

Secular Zionism ultimately re-established the symbiotic relationship between state, religion and land that it had been attempting to avoid, out of the fear of a potential culture struggle between secular and religious groups.⁶² In a letter addressed to the anti-Zionist religious organisation, *Agudath Israel*, Ben-Gurion ensured that the Israeli state would guarantee specific religious demands, in exchange for the approval of the creation of Israel. Conscious of the imminent military and political backlash from

⁵⁷ S. Aronson, *David Ben-Gurion and the Jewish Renaissance* (New York: Cambridge University Press 2011), p. 12.

⁵⁸ P. S. Rowe, 'Judaism, Zionism and Israeli Politics' in P. S. Rowe (ed.) *Religion and Global Politics* (Ontario: Oxford University Press, 2012), p. 85.

⁵⁹ Y. Tirosh (ed.) *Religious Zionism: an Anthology* (Jerusalem: Ahva Cooperative Press, 1975).

⁶⁰ A. Ironside, *Israel and the Quest for Permanence* (North Carolina: McFarland and Company, 1999), p. 159.

⁶¹ E. Ottolenghi, 'Religion and Democracy in Israel,' *Political Science Quarterly*, vol. 71 (2000), pp. 39-49, p. 39-40.

⁶² A. Jamal, 'Democratizing state-religion relations: a comparative study of Turkey, Egypt and Israel', *Democratization*, vol. 16, no. 6 (2009), pp. 1143-1171, p. 1157-1159.

the Arab community, the secular Zionists needed to gain unanimous support from the Jewish population, since without this approval there would be no hope for the state's survival. In recognition of its Jewish roots, the state acknowledged the sanctity of the Sabbath, a Kosher diet in state institutions, and the handling of marital issues by religious institutions. The 'Religious Status Quo' agreement legally facilitated the influence of Orthodox Judaism over the private lives of Israelis and gave a particular religion preferential treatment.⁶³

The Declaration of Independence signed in May 1948, while not pro-religious, did carve out a discursive space for the incursion of religion into state affairs. The Declaration announced that the state of Israel:

...will be based on freedom, justice and peace as envisaged by the Prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race, or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all Religions...⁶⁴

Israel presents the secularism-democracy debate with a unique case. First, Israel is the only country that observes preferential treatment for Orthodox Judaism while officially accepting 14 other religions. Fox and Rynhold argue that Israel's overt support for Orthodox Judaism does not necessarily undercut its democratic nature, recalling that other Western states that have a 'state religion' are nonetheless considered to be democratic. There is no reason why a Jewish state need be assessed under different criteria to those states that observe a role for Christian religions.⁶⁵ Second, most of the Israeli population defines itself as Jewish within an ethnic rather than religious interpretation of the term and

⁶³ I. Rabinovich & J. Reinharz, *Israel in the Middle East: Documents and Readings on Society Politics and Foreign Relations, Pre-1948 to the Present* (Lebanon: Brandeis University Press, 2008), pp. 58-59.

⁶⁴ Israel Ministry of Foreign Affairs, *The Declaration of the Establishment of the State of Israel* (14 May 1948)
<<http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration%20of%20establishment%20of%20state%20of%20israel.aspx>> accessed 22 June 2014.

⁶⁵ J. Fox & J. Rynhold, 'A Jewish and Democratic State? Comparing Government Involvement in Religion in Israel with other Democracies', *Totalitarian Movements and Political Religions*, vol. 9, no. 4 (2008), pp. 507-531, p. 524-527.

observes a secular lifestyle while also engaging with traditional Jewish rituals.⁶⁶

However, the privileges awarded to the Jewish Orthodox camp have been problematic for Jews who do not conform to a particular ethnic or religious identity. Immigration to Israel is viewed as a return to one's Biblical homeland. However, obtaining citizenship is predicated on identification with the Jewish nation, which is itself wrapped up in the narratives of the Jewish religion.⁶⁷ Responsibility for citizenship pertains to the Rabbinical Authority, which also has a monopoly over Jewish marriages and the population register. In many cases, the RA has denied Jews the right to seek a civil marriage as it only acknowledges marriages that are accorded with the *Halakha*, Jewish religious law.⁶⁸ Mizrahi, or Jews originating from the Middle East, and Ethiopian Jews are somewhat disadvantaged when it comes to naturalisation because of the internal biases of the Rabbinical Authority, dominated by Ashkenazi Jews.

Moreover, there are discrepancies between the terms of the Law of Return, which stipulates that a Jew is any 'individual [that] has, or whose spouse has, at least one Jewish grandparent'; while under the Orthodox definition a Jew is one who has a Jewish mother.⁶⁹ As a result, the struggle to define Jewishness has implications for the demographic reality of Israel, since there are many Jews who have immigrated to Israel who find they cannot marry or even become citizens. This is particularly significant when one recalls Fox and Rynhold's reassurance that the support for Orthodox Judaism is not anti-democratic. In fact, the Orthodox community's control over such a significant component of civic life is not only undemocratic, but also anti-secular, since it allows religion to dictate the beliefs and personal liberties of the individual and supersedes the will of the secular state apparatus.⁷⁰

⁶⁶ G. Ben-Porat, 'It takes Two for a Culture War', *Social Science Quarterly*, vol. 93, no. 3 (2012), pp. 838-857, p. 846-848.

⁶⁷ O. Yiftachel, 'Ethnocracy: The Politics of Judaizing Israel/Palestine', *Constellations*, vol. 6, no. 3 (1999), pp. 365-390, p. 375-377.

⁶⁸ Jamal, 'Democratizing state-religion relations', p. 1159.

⁶⁹ 'Who Is a Jew? Competing Answers to an Increasingly Pressing Question', *The Economist* (11 January 2014)

<<http://www.economist.com/news/international/21593507-competing-answers-increasingly-pressing-question-who-jew>> accessed 25 August 2014.

⁷⁰ M. Edelman, 'A Portion of Animosity: The Politics of the Disestablishment of Religion in Israel', *Israel Studies*, vol. 5, no. 1 (2000), pp. 204-227, p. 218-222.

The Religious-Zionist ideology and the its cooperation with the Israeli government

Looking beyond documents from Israel's formative years, there is no agreement within Israeli society about the relationship between state and religion. Rather, the identity of Israel as a Jewish state continues to be negotiated between the multiple and often polarised groups within Israel's political fabric. Israeli Prime Minister Benjamin Netanyahu put forward the Basic Law Nationality Proposal in 2014, where he argued that Israel should be defined as the Jewish state, which would be a state for the Jewish people. He underlined that this would not circumvent the individual rights of Israeli Arabs.⁷¹ It is important to the national ethos of Israelis that Israel remains Jewish. However, the nature of this claim leaves the democratic nature of the state in question, if the state fails to uphold a Jewish majority.

Israel is deeply preoccupied with its demographic status, since the proportion of Arabs to Israelis directly affects both its Jewish character and its classification as a democracy. It was this logic that led Lieberman to demand the transfer of Palestinians from Israeli territory into the West Bank under his "Plan for Population Exchange", and to call for a rejection of the citizenship of Israeli Arabs, who lack sufficient 'loyalty' to the Jewish state.⁷²

Structurally, Israeli democracy facilitates pluralism as the electoral system gives parties who obtain more than 2% of electoral votes automatic representation in the Knesset. Proportional representation allows Israeli democracy to seem more pluralistic than its Turkish counterpart, but in effect the system is so reliant on coalition building that Israel's political elite increasingly supports annexation and relies on

⁷¹ O. Efraim, 'Netanyahu: You can't have a Palestinian State Alongside Bi-national State', *YNet News* (5 April 2014) <<http://www.ynetnews.com/articles/0,7340,L-4516269,00.html>> accessed 20 September 2014.

⁷² J. J. Goldberg, 'Jews Now Minority in Israel and Territories', *The Jewish Daily Forward* (19 September 2013) <<http://blogs.forward.com/jj-goldberg/184245/jews-now-minority-in-israel-and-territories/>> accessed 20 September 2014; B. Ravid, 'Lieberman presents plans for population exchange at UN', *Haaretz* (28 September 2010) <<http://www.haaretz.com/news/diplomacy-defense/lieberman-presents-plans-for-population-exchange-at-un-1.316197>> accessed 18 September 2014; B. Ravid, 'Lieberman: Peace Talks must Reassess Israeli-Arabs Right to Citizenship', *Haaretz* (19 September 2010) <<http://www.haaretz.com/news/diplomacy-defense/lieberman-peace-talks-must-reassess-israeli-arabs-right-to-citizenship-1.314596>> accessed 20 September 2014.

religious discourse.⁷³ The prevalence of settlers in the military establishment and within the Knesset forms another structural barrier to addressing the often-religious rhetoric of government officials.⁷⁴

The Israeli government endorses many of the views of the nationalist-religious Zionist groups as religious justification to continue settlement in Palestine, which is ultimately in line with the ideology of the incumbent government.⁷⁵ One cannot overstate the importance of looking beyond the religious-secular binary when attempting to understand the Israeli case. The existence of the fundamentalist religious-Zionist settlers makes the politicians of the Likud seem secular by comparison. However, as will be argued below, Likud has been shaped by a Zionist ideology that is compatible with the agenda of the religious right, and is part of a legacy of Zionism that facilitated the intermingling of secular politics and religious beliefs.

The momentous Israeli victory in the Six Day War of 1967 inspired religious Zionists, who saw the sweeping victory as a sign of divine intervention and became convinced that the secular liberal and left-wing politicians' endorsement of the two-state solution was strategically misguided and against the will of God.⁷⁶ In the immediate aftermath of the war, many Israelis who felt the land had a deep historical and biblical importance supported annexation of the territories. As sociologist Michael Feige notes:

Until the 1967 war, the dominant discourse affirmed the existing order and recognised the need for limiting the Zionist vision, accepting that the Jewish people had returned to its land to live there in peace...[With the advent of the 1967 Six-Day War] the enlarging of Israeli territory now became an option, the argument

⁷³ G. Rahat & R. Hazan, 'Israel: the Politics of an Extreme Electoral System' in M. Gallagher and P. Mitchell (eds.) *The Politics of Electoral Systems* (Oxford: Oxford University Press, 2005).

⁷⁴ International Crisis Group, 'Israel's Religious Right and the Question of Settlements', *Middle East Report*, no. 89 (20 July 2009)
<http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Israel%20Palestine/89_israels_religious_right_and_the_question_of_settlements.pdf> p. 1.

⁷⁵ A. Rubinstein, 'State and Religion in Israel', *Amnon Journal of Contemporary History*, vol. 2, no. 4 (1967), pp. 107-121, p. 116.

⁷⁶ I. S. Lustick, 'Israel's Dangerous Fundamentalists', *Foreign Policy*, no. 68 (1987), p. 129.

over Greater Israel was applied to the territories that Israel controlled as a result of the war.⁷⁷

Gush Emunim emerged as a theological, political and social movement with a legacy that continues to determine Israel's future as the Jewish state. Nationalist-religious settlers who live in East Jerusalem and the West Bank believe it is a divine imperative to hold onto and expand their present settlements, some of which Israel has declared illegal. They are to be distinguished from Orthodox Jews who generally reject Zionism, which they view as a betrayal of Judaism and a distraction from the true path of redemption,⁷⁸ while Gush Emunim advocates active resettlement in Greater Israel as a strategy that will achieve the Messianic Kingdom.

Although the Labour Zionists condoned the movement, it was only until the election of Likud under Menachem Begin in 1977 that settlements were directly supported. While Labour was willing to cede parts of Israel in order to bring an end to the conflict, the Revisionists wanted to extend Israel's borders through military domination, which they felt would secure Israel's total security against the Arabs. Labour and Likud also disagreed on whether a compromise with the Palestinians was desirable.⁷⁹ The implications of the shift from Labour's 'land for peace' rhetoric to an ideology that views Palestinian territories as part of non-negotiable land with a deep spiritual significance for the Jewish people were particularly grave. The shift marginalised the political left and empowered the settler movement. From the first phase of its existence until the launch of the Oslo Peace Process in 1995, the settler movement enjoyed great support from across the Israeli political spectrum and from a large share of Israeli society.

The latest elections in Israel are a case in point. During the 2013 election, Netanyahu's Likud entered into an alliance with Lieberman's *Yisrael Beytenu* (Israel Our Home), both right-wing 'Revisionist Zionist' parties, with the latter standing for a 'no citizenship without loyalty' policy directed towards Israeli Arabs. Despite actually losing 11 seats, Likud

⁷⁷ M. Feige, *Settling in the Hearts: Jewish Fundamentalism in the Occupied Territories* (Detroit: Wayne State University Press, 2009), p. 20-22.

⁷⁸ M. Friedman, 'The State of Israel as a Theological Dilemma' in B. Kimmerling (ed.) *The Israeli State and Society: Boundaries and Frontiers* (Albany NY: State University of New York Press, 1989).

⁷⁹ U. Ram, 'Why Secularism Fails? Secular Nationalism and Religious Revivalism in Israel', *International Journal of Politics, Culture and Society*, vol. 21, no. 4 (2008), pp. 57-63, p. 69.

Our Home formed a coalition with Naftali Bennett's Jewish Home party (a repackaged National Religious Party) Yair Lapid's *Yesh Atid* (a centrist party), and Tzipi Livni's *Hatnua* to retain its pivotal position. Religious groups also competed with each other in order to enter the winning coalition. Bennett and Lapid, who intended to reform the military draft so that it would impose mandatory conscription on the ultra-Orthodox, blocked the Orthodox religious parties, Shas and United Torah Judaism, from the coalition.⁸⁰

Religious-Nationalist settlers and implications for the Two-State Solution

During his 2009 speech in Cairo, United States President Barack Obama indicated that 'the US does not accept the legitimacy of continued Israeli settlements...it is time for these settlements to stop'.⁸¹ Israel responded with a partial freeze for ten months, stopping construction of new buildings in the West Bank while continuing to approve settlement expansion in East Jerusalem. In 2011, provoked by a statement that Israel should retreat to the 1967 borders, Netanyahu retorted that 'the only peace that will endure...is one based on reality. Israel cannot go back to the 1967 lines'.⁸²

With this in mind it is clear that the support given to Israelis who wish to move into settlements carries severe implications for the status of Israel as both a democratic and Jewish state. These incentives encourage the indefinite expansion of Israel's borders, while the Palestinian population remains confined to the remaining villages and cities. In 2003, when explaining his choice to unilaterally dismantle Israeli settlements from Gaza, Prime Minister Ariel Sharon stated that withdrawal 'ensures the future of the State of Israel as a Jewish state'.⁸³ As Dov Waxman argues in *The Pursuit of Peace and the Crisis of Israeli Identity*, Sharon recognised the difficulty of controlling a 'Greater Israel', which would be home to a sizeable Palestinian community, and that this would

⁸⁰ A. Diskin & R. Hazan, 'The Parliamentary Election in Israel, January 2013', *Electoral Studies* (2014), pp. 1-4.

⁸¹ B. Obama, 'Remarks By The President on a New Beginning', *Speech to Cairo University* (4 June 2009).

⁸² Real Clear Politics, 'Netanyahu: "Only Peace that Will Endure is One Based on Reality"', *Video* (20 May 2011)

<http://www.realclearpolitics.com/video/2011/05/20/netanyahu_only_peace_that_will_endure_is_one_based_on_reality.html> accessed 21 February 2014.

⁸³ G. Myre, 'Cabinet in Israel Ratifies Pull Out from Gaza Strip', *The New York Times* (21 February 2005).

jeopardise the clear Jewish majority that existed in Israel proper.⁸⁴ Furthermore, sociologist Uri Ram argues that continued settlement fails to acknowledge borders and therefore ‘bypasses the institution of territorial citizenship, on which a democratic state must be founded’.⁸⁵ On a more abstract level, perpetual and unrestrained settlement in the West Bank has, counter intuitively, returned Israel to Diaspora. Without borders, the settlers have truly returned to a state of exile, in which the Jewish nation faces classification once more as a minority group.⁸⁶

The settlement enterprise contradicts the core motive of the peace process, namely that only when the two peoples have attained two independent sovereign entities will they know peace. B’Tselem, the central human rights organisation for the Occupied Territories, estimates that there are more than 500,000 Israelis living on settlements within Palestinian territory, a figure that includes the 190,423 Israelis who reside in East Jerusalem.⁸⁷ Despite the diplomatic commitment to two states, the settler population grew by 63 percent between the signing of the Oslo Accords in 1993 and 2005.⁸⁸ These settlements are not stationary, but constantly expanding and shifting in order to accommodate their increasing populations and take greater control of the area. They can be regarded as de facto borders which shape the route of the Separation Wall, 85% of which runs inside Palestinian territory.⁸⁹

⁸⁴ D. Waxman, *The Pursuit of Peace and the Crisis of Israeli Identity: Defending/Defining the Nation* (Basingstoke: Palgrave, 2006), p. 184.

⁸⁵ Ram, ‘Why Secularism Fails? Secular Nationalism and Religious Revivalism in Israel’ (2008), pp. 61-62.

⁸⁶ G. Taub, *The Settlers and the Struggle over the Meaning of Zionism* (Newhaven: Yale University Press, 2011), pp. 159-164.

⁸⁷ B’Tselem, ‘Statistics on Settlements and Settler Population’ (8 August 2013) <<http://www.btselem.org/settlements/statistics>> accessed 20 September 2014. See also: Foundation for Middle East Peace, ‘Settlements in the West Bank’ <http://www.fmep.org/settlement_info/settlement-info-and-tables/stats-data/settlements-in-the-west-bank-1> accessed 14 September 2014.

⁸⁸ United Nations Office for the Coordination of Humanitarian Affairs, *The Humanitarian Impact on Palestinians of Israeli Settlements and other Infrastructure in the West Bank* (2007) <www.ochaopt.org/documents/TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_full.pdf> accessed December 2012, p. 16.

⁸⁹ B’Tselem, ‘Under the Guise of Security: Routing the Security Barrier to Enable Israeli Settlement Expansion in the West Bank’ (December 2005) <http://www.btselem.org/download/200512_under_the_guise_of_security_eng.pdf> accessed 28 July 2014, pp. 9-18.

In his book, *Secularism or Democracy*, Veit-Michael Bader argues that the financing of religious groups establishes a mandate on the part of the state to have some degree of regulatory control over these organisations. Funding may become problematic when state-funded political parties or groups harbour values that can be perceived as undemocratic. The provision for associational autonomy within democracy does not exempt religious agents from being criticised for their policies, since freedom of religion may overlap with other freedoms like non-discrimination and personal autonomy.⁹⁰ The Israeli government provides economic support and benefits to citizens prepared to move into occupied territory. Between 2002 and 2008 settlement municipalities received 22.3% more funding from the government than municipalities within Israel proper.⁹¹

The vigilante use of physical violence by settlers against the Palestinians around them is both a form of defence against a hostile neighbour and a means of political control. Settlers take on the authority of policing the streets, as they believe that no military response is severe enough to address threats of Palestinian aggression.⁹² Ultimately, the settlers' active involvement in control of the land is perceived as necessary in order to end the Jews' wandering Exile.⁹³ On the one hand, religious-nationalist settlers want to feel that they are at 'home' within their hilltop. But on the other, they see violence enacted towards the Palestinians as part of a cosmic war. Amos Gilad, the director of the Political-Military Affairs Bureau of the Israeli Defence Force characterised 'price tag' attacks⁹⁴

⁹⁰ V. M. Bader, *Secularism or Democracy? Associational Governance of Religious Diversity* (Amsterdam: Amsterdam University Press, 2007), p. 145-148.

⁹¹ A third of settlers are ultra-Orthodox (which is the poorest Israeli Jewish sector) and yet the income of settler families is 10% higher than the Israeli average. See: L. Susskind et. al., 'Religious and Ideological Dimensions of the Israeli Settlements Issue: Reframing the Narrative?', *Negotiation Journal* (April 2005), p. 188; M. Klein, *The Shift: Israel Palestine From Border Struggle to Ethnic Conflict* (New York: Columbia University Press, 2010), p. 50-60.

⁹² D. Weisburd, *Jewish Settler Violence: Deviance as Social Reaction* (University Park: Pennsylvania State University Press, 1989), p. 67-75.

⁹³ C. Baumgart-Osche, 'Democratisation in Israel, Politicised Religion and the Failure of the Oslo Peace Process', *Democratization*, vol. 16, no. 6 (2009), p. 1131.

⁹⁴ Price tag attacks are part of wider attempts to prevent a peace agreement that will involve the withdrawal of Israeli settlements. According to Peace Now spokesperson Ori Nir, settlers deface Mosques, vandalise Palestinian property and attack IDF military personnel as revenge for the government's perceived lack of support for their settlement activities. The strategy emerged as a response to withdrawal from the Gaza strip in 2005, which was extremely disturbing for the ideological settlers who became aware not only of their relative weakness when confronted by the will of the IDF, but also of their inability to convince the population of the validity and importance of their

perpetrated by settlers as nothing more than terrorism that aims ‘to drag Israel into a religious, national Armageddon’.⁹⁵

A comparison of Turkey and Israel

While the Kemalist state directly and aggressively restricted religion in order to maintain social control of the Turkish political system, Israeli secularists needed to cooperate with Orthodox and Religious-Nationalist groups. Ultimately, since there is no formal and enforceable agreement over the role of religion due to the absence of a constitution, the nature of Israel as a Jewish state has been a topic of debate between dynamic actors. In contrast, the Turkish Constitution subordinated personal liberties to the attainment of a modern secular nation. The Turkish people remained culturally and religiously diverse while retaining both their religious traditionalism and respect for their Ottoman past, however they were always under military scrutiny.

As opposed to treating religion as an illegitimate threat, in Israel the secular parties and those with a more religious mandate are engaged in constant negotiation and dialogue. The Kemalist state was hostile to religion while closely controlling an interpretation of Sunni Islam that fed into its nationalist narrative. In contrast, Israeli leaders favoured Orthodox Judaism within state institutions and gave this segment of society political concessions and autonomy. The Status Quo Agreement was useful in that it kept a lid on the polarised and potentially explosive sectarian and ethnic dynamics.

Ultimately, both states utilised religion as a tool to award greater legitimacy to certain groups even within the dominant religion. Israelis have increasingly questioned this arrangement because it undermines the effectiveness of the Law of Return and entrenches ethnic divides between

ideology. However, the 2012 report by the Palestine Center debunks this ‘twisted narrative’, stating that the Israeli state has been increasingly reluctant to address settler violence. See: O. Nir, ‘West Bank Settlers’ Terrorizing of Palestinians to Deter Israel Government Law Enforcement’, *Case Western Reserve Journal of International Law*, vol. 44 (2011), pp. 277-289, pp. 277-281; Y. Munayyer, *When Settlers Attack* (Washington, DC: The Jerusalem Fund for Education and Community Development, 2012), p. 22; H. Rotenberg, ‘Decision makers will think again before the next event’, *Israeli National News* (29 June 2008) <<http://www.inn.co.il/Besheva/Article.aspx/7528>> accessed 23 August 2014 (translated Hebrew).

⁹⁵ G. Cohen, ‘Top Official: “Price Tag” Attacks are acts of Terror Meant to Drag Israel into Religious War’, *Ha’aretz* (10 September 2012).

Jewish Israelis. Moreover, it imposes a level of control over personal liberties that is not mandated by those traditional Israelis who nevertheless espouse secular-liberal values. Similarly, a choice to institutionalise Islam in the Diyanet confined non-Sunni and ethnic minorities to the periphery. The Turkish state repressed popular religion and favoured a state-controlled version of Sunni Islam that was in many ways unnatural to the majority of Muslim citizens. Moreover, this policy alienated minority groups whose distinct ethnic and religious narratives continue to be disregarded.

Political Islam in Turkey has been transformed from an anti-Western reactionary force to one that has enriched Turkey's secular identity. This suggests that on some level the presence of secularism can have a moderating effect on religious parties, while it should be noted that the evolution of Islamism occurred in an oppositional and often aggressive context that undermined secularism and democracy. In Israel, the presence of nationalist-religious actors in the political realm is problematic for Israeli democracy, since it legitimises actors who espouse an irredentist form of Judaism and who support the expansion of settlements within Palestinian territory.

This exemplifies the idea that the inclusion of certain political actors does not necessarily contribute to more inclusive policies. Israel's pluralistic political system facilitates the representation of minority groups; however, small religious groups can gain far greater political impact than their numbers would appear to warrant. In contrast, Turkey's 10 percent electoral threshold for political parties is a subtle legacy of the one-party rule of the Kemalist state in which minority political groups are sidelined. Moreover, the Constitutional Court has, until recently, a history of outlawing any party that it found to be against Kemalism. One of the biggest reasons for the AKP's success is that it has used the combination of conservatism and modernity as a counter-weight to the Kemalist establishment.

Both states show a blurred relationship between secular actors and the religious-nationalist camp, albeit to varying degrees. In Israel the Revisionist Zionist movement began as an annexationist movement, which borrowed motifs and symbols from Jewish history. In a similar vein, when Likud gained political power in 1977, it became the core of Israeli politics, despite relying on religious parties to win elections. This is symptomatic of the ubiquity of Judaism in Israeli nationalism, without which there would be no legitimate basis for an Israeli state. Revisionist

Zionists engaged with the fundamentalist Gush Emunim movement in order to achieve their territorial agenda but have increasingly fused their views with those of the religious-Zionist settlers. Whilst the latter group finds greater religious justification for its presence in the Occupied Palestinian Territories, in many ways the Revisionists have adopted the Greater Israel ideology. This suggests that in Israel there is symbiotic relationship between nationalism and religion.

Similarly, the AKP has sought to strengthen Turkish national identity by drawing on its Islamic, modern and Ottoman threads. In this respect, the AKP has sought to authenticate its place as the real supporter of a genuine secular society. While not dissimilar in essence to the emphasis placed on Jewishness as an ethnic quality and as a form of national unity, the Turkish case differs because its national identity is not tied to a radical political project that has denied the right to self-determination of an entire national people. As this article has shown, Israel exploits religious groups and discourses as a political card that sidelines Israeli Arabs as illegitimate citizens, and legitimises an occupation in the Palestinian territories. One may find parallels with the status of minority groups in Turkey, like the Alevis, but these groups are denied their personal liberties due to the desire for national cohesion. Rather than drawing Palestinians into Israeli society, religion is used as a means to forever differentiate between Jews and Arabs.

Conclusion

Religious groups do not have a monolithic relationship with secularism. Instead they reinterpret their political views and revise their attitudes in order to survive within the state's political fabric. In Turkey the Islamist movement has evolved in response to the hostile secularist state, and has moderated its policies. The AKP's success can be therefore tied to its alignment with the Gülen movement's values of modernity and respect for freedom of religion. Ultimately the choice to detach from the Millî Görüş ensured its survival.

In Israel, however, the nationalist religious settlers have radicalised in response to perceived disapproval by the Israeli government and public. Indications suggest that, rather than this being a feature of repression, excessive violence by settlers is a symptom of the politics of accommodation that has long defined Israeli politics. This accommodation may have further consequences, as the ideological settlers intend to populate the entire area of Greater Israel. In so doing

they exhibit complete disrespect for the right of self-determination of the Palestinian people and seriously undermine the prospects of a two-state solution. Thus, it becomes more likely a de facto reality will prevail in which Palestinians and Israelis live in a binational state with a majority Palestinian population. Israelis will have to either relinquish their hope for a Jewish state or continue to suppress Palestinians politically, in which case Israel's democratic credentials will no longer apply. Religion may be a source of social and cultural unity, but once it becomes used as a political tool the results may be disastrous.

The policies of the AKP while in office reflect its characterisation as a party with Islamist roots and autocratic tendencies. The question of how the AKP has affected Turkish democracy provides a fascinating case study for Stepan's Twin Tolerations model, put forward at the start of this article. On the one hand, Turkey certainly has benefited from its democratic opening initiatives. On the other, the attainment of true 'secularism' has been used as a tool for the removal of key checks and balances to the AKP's power. To a certain extent, Erdoğan has used his leverage to implement religious policies in Turkey; however, the AKP has in practice continued the Kemalists' privileging of Sunni Islam. Moreover, the status of minority religions has improved, albeit minimally and only when such changes provide electoral advantage to the AKP.

In exposing the histories of secularism in Israel and Turkey this essay has attempted to embrace the nuances that exist within democratic states that use religion as a form of identification. Indeed, understanding the often-shifting relationship between religious-nationalist actors and state institutions is crucial for a deeper understanding of the politics in both of these states and the future prospects for democracy and peace in a troubled region.

Revisiting Legitimate Authority in the Just War Tradition

Rosalyn Turner*

The principle of 'legitimate authority' holds that a state may go to war only if the decision is made by the appropriate authorities, according to the proper process, and made public, notably to its own citizens and to enemy states.

Once an essential principle in the just war tradition, legitimate authority has become peripheral in contemporary just war theory. Influential theorists such as Michael Walzer and Jean Bethke Elshtain have presented legitimate authority as resolved through the power of sovereignty, and particularly democratic state sovereignty, in the international system. This has contributed to less scholarly discussion and debate about the principle in comparison to other just war tenets such as just cause, proportionality and discrimination in contemporary just war analyses. Simultaneously, there have been an increasing number of scholars that have questioned the role of legitimate authority in the modern context, tending to view it as redundant or simply a rhetorical weapon for states to justify violence.

Revisiting the just war tradition reveals that, while elements of the principle have evolved significantly, from the overarching and limitless power of the sovereign in Augustine to the gradual restrictions and procedures placed upon monarchs during the early-modern era, much of what the early thinkers considered pertinent to questions of legitimate authority remains significant today.

The principle maintains an important role in the just war framework.

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The criterion of legitimate authority has become the most neglected of all the criteria that have been traditionally employed in the moral assessment of war—A. J. Coates¹

Reflecting on the remarkable endurance of just war theory, Michael Walzer observed that the theory's historical attendance to power had significantly contributed to its survival as a political theory.² Yet in contemporary just war, the core principle that most clearly sets forth power as a requisite aspect of the theory has become peripheral to most analyses. Legitimate authority has become the most neglected principle in just war scholarship. Furthermore, its contemporary relevance has also been questioned by scholars who have argued that it has become redundant due to the rise of a variety of non-state actors, supranational organisations and the strength of humanitarian justifications for war that go beyond state interest. In contemporary scholarship, legitimate authority has also come to play a hostile role, viewed as a rhetorical justification of state violence against non-state actors and civilians. Scholars sceptical of the role of legitimate authority in just war theory have argued for its removal from the framework, or have gone as far as to state that legitimate authority's capacity to be used rhetorically undermines the entire just war theory.

This article seeks critically to evaluate the contemporary trend to neglect or dismiss legitimate authority. Revisiting early elucidations of just war and legitimate authority evokes some of the early significance of the principle and features that have become overlooked. While it has always been attendant to power, a survey of early just war thought from Saint Augustine of Hippo (354-430) through to early-modern philosophers such as Francisco Suarez (1548-1617) reveals that it has evolved as a reflection of dominantly accepted forms of power. This historical evolution and its focus on monarchical rule has led to assumptions of state-based legitimacy today.

However, recent challenges to legitimate authority highlight important considerations about it in relation to contemporary conflict and changing notions of power. The significant rise in conflict involving non-state actors and the role of international institutions such as the United Nations (UN) or North Atlantic Treaty Organisation (NATO) test some of the

¹ A. J. Coates, *The Ethics of War* (Manchester: Manchester University Press, 1997), p. 123.

² M. Walzer, *Arguing About War* (New Haven: Yale University Press, 2004), p. 3.

dominant assumptions about the principle. There are also contemporary concerns that the principle promotes state violence while delegitimising the role of other, possibly righteous, actors in war.

These challenges do not support the dismissal of it as a redundant principle, nor the rejection of just war theory as reduced to a rhetorical device. Rather than being dismissed, legitimate authority should be addressed and discussed by contemporary just war theorists as it provides important illumination about the way evolving notions of power impact ethical judgements. By setting forth an accepted form of power, legitimate authority also restricts just wars to those entities that may be held accountable.

This article comprises three key parts. It will begin by providing a brief introduction to the principle of legitimate authority in just war theory. It then surveys some important early contributions to just war and legitimate authority. Revisiting the early meaning of the principle emphasises some of the important enduring elements and aspects that may have been overlooked in some contemporary analyses. The article then examines the contemporary debates surrounding legitimate authority, critically evaluating the tendency to neglect the principle or to dismiss its relevance.

Just war theory and legitimate authority

The principle of legitimate authority has endured as a reflection of power in the normative framework of just war. It falls under the *jus ad bellum* set of principles that dictate the just engagement in war. It influences *jus in bello*, or just conduct, concerns as well since wars are fought under the auspice of an authority, which impacts the nature, duration and cause of the war in which soldiers fight. The modern state is most often considered to be a legitimate authority in war, with notable scholars such as Walzer and Jean Bethke Elshtain narrowing this definition to democratic states.³ It has been suggested that the UN and specifically the Security Council may also possess a degree of legitimate authority in contemporary conflicts,⁴ however there is disagreement as to whether the UN possesses the requisite degree of power to truly act as an authority in war. This

³ M. Walzer, *Just and Unjust Wars* (New York: Basic Books, 4th edition, 2006); J. B. Elshtain, *Democracy on Trial* (New York: Basic Books, 1995).

⁴ R. R. Reagan, *Just War Principles and Cases* (Washington, DC: The Catholic University of America Press, 1996).

article takes the dominant perspective that the state currently remains the prevailing political authority in contemporary international society.

In its most basic form, the legitimate authority requirement in just war theory stipulates that only a proper, public authority may make the decision to go to war. In this sense, it forms the first requirement of *jus ad bellum*. Legitimate authority possesses two critical, but not necessarily united components: legitimacy and power. Power, understood in broad terms as the capacity to influence, is central to any discussion of legitimacy. As Ian Clark, a notable scholar on legitimacy in the international system argued, ‘power suffuses legitimacy’.⁵ However, power may exist without legitimacy and is considered crude coercion when it does. Therefore, the notion of authority becomes a distinct form of power in that it is contingent upon the actor’s legitimacy. Brian Orend has provided a useful definition of how an actor may be considered a legitimate authority according to just war theory:

A state may go to war only if the decision is made by the appropriate authorities, according to the proper process, and made public, notably to its own citizens and to the enemy state(s).⁶

Notably, the actor must be a state according to this definition. Within this definition, the important elements of process and public declaration also emerge. Adherence to procedures and protocols for determining legitimate authority forms important, but often implicitly assumed, components of legitimate authority. The public aspect of the principle is similarly important, as it determines that decisions of war must be both recognised by the representative public and the enemy state(s), providing a degree of transparency to decisions of war.

Legitimate authority in early just war theory

The just war tradition classically considered legitimate authority as a fundamental pre-requisite for just war and the point from which all other determinations of justness stemmed. Even in its earliest stages, the idea that the right to wage war should be restricted to organised social or political entities was considered essential to a just war. This persisted throughout the tradition and evolved commensurate with changing

⁵ I. Clark, *Legitimacy in International Society* (New York: Oxford University Press, 2005), p. 4.

⁶ B. Orend, *War and International Justice: A Kantian Perspective* (Ontario: Wilfrid Laurier University Press, 2000), p. 49.

conceptions of legitimate authority over time.⁷ It paved the way for contemporary notions of legitimate authority, which continue to cite the state as the most dominantly accepted form of legitimate authority. It is beyond the scope of this article to provide a comprehensive discussion of legitimate authority throughout the just war tradition, which stretches thousands of years and encompasses a plethora of important and influential thinkers. The following analysis will aim to extrapolate elements of some early influential thinkers' conceptions of the principle in order to recover significant components of the principle that have become peripheral in contemporary just war analyses.

It is prudent to begin with the writing of Augustine, widely considered to be the foundational thinker of the just war tradition.⁸ Augustine's enduring importance is evident from the work of Grotius, who cited Augustine over 150 times in *De jure belli ac pacis*,⁹ to President Obama, who referred to Augustinian principles in his Nobel Peace Prize acceptance speech.¹⁰ For Augustine, legitimate authority was a central component of his philosophy, which makes his work an ideal starting point to revisit the concept.

The centrality of legitimate authority for the Augustinian conception of just war reflected the environment of the declining Roman Empire and the accompanying instability. Augustine's first task in developing his idea of a just war was both pragmatic and normative; as Walzer observed, Augustine needed to replace 'radical Christian pacifism' with a concept

⁷ E. A. Heinze & B. J. Steele, 'Introduction: Non-State Actors and the Just War Tradition' in E. A. Heinze & B. J. Steele (eds.) *Ethics, Authority and War* (New York: Palgrave Macmillan, 2009), p. 1.

⁸ Notwithstanding that this is not entirely accurate, since he built on earlier work, contemporary scholars such as Gregory M. Reichberg, Henrik Syse and Endre Begby are correct to point out that Augustine has provided the prism through which these early ideas are refracted and transmitted to the philosophers of the Middle Ages and modern times. Reichberg, Syse and Begby highlighted that Augustine drew on the work of pre-Christian, Greek and Latin philosophers. See: G. M. Reichberg, H. Syse and E. Begby, *The Ethics of War: Classic and Contemporary Readings* (Oxford: Blackwell Publishing, 2006), p. 70.

⁹ G. B. Matthews, 'Augustine and Medieval Philosophy' in E. Stump & N. Kretzmann (eds.) *The Cambridge Companion to Augustine* (Cambridge: Cambridge University Press, 2001), p. 271. In a more recent example, President George H W Bush cited Augustine as a supporter of Desert Storm. See: L. Calhoun, 'Michael Walzer on Just War Theory's "Critical Edge"', *The Independent Review*, vol. X, no. 2 (2005), pp. 419-424, p. 419.

¹⁰ B. Obama, 'Nobel Lecture by Barack H. Obama', *Speech* (Oslo City Hall, Norway, 10 December 2009).

of the ‘active ministry of the Christian soldier’.¹¹ He would achieve this by explicitly defining legitimate authority and emphasising the power of an authoritative decree of war. Augustine concluded that:

A great deal depends on the causes for which men undertake wars, and on the authority they have for doing so: for the natural order which seeks the peace of mankind ordains that the monarch should have the power of undertaking war if he thinks it advisable, and that the soldiers should perform their military duty on behalf of the peace and safety of community.¹²

Augustine sought to underwrite monarchical power and the associated and exclusive right to wage war through the natural order. For Augustine, the search for just war was premised upon a search for legitimate authority and the legitimate authority held complete moral responsibility.

Augustine’s conception of legitimate authority sought to reinforce and justify the rightfulness to rule of authorities. By basing the justness of war on the idea of a proper and therefore monarchical authority’s decree, Augustine identified the tribes that had begun entering and raiding the declining empire as necessarily illegitimate. The reflexive quality of legitimate authority – its indispensable ‘other’ – was crucial to the principle’s original meaning and is a characteristic that endures today in the discussions surrounding unlawful combatants and non-state actors and will be addressed later in the article. Augustine was not a pacifist. He has, however, been recognised as ‘the reluctant just war theorist’, insisting that war should always be in the pursuit of peace.¹³ For the peace Augustine conceived of, an authority – understood as a monarch that could ordain obedience from his soldiers and was not acting for criminal ends – was essential. Men were in need of authority because they needed to be ‘shaken from their habits and irrational tendencies, by a firm, persuasive challenge from above’.¹⁴ The existence of legitimate authority and the order it provided was therefore a vital component for the production and pursuit of peace.

¹¹ Walzer, *Arguing About War* (2004), p. 3.

¹² Cited in J. Langan, ‘The Elements of St. Augustine’s Just War Theory’, *The Journal of Religious Ethics*, vol. 12, no. 1 (1984), pp. 19-38, p. 23.

¹³ Reichberg, Syse & Begby, *The Ethics of War* (2006), pp. 70-97.

¹⁴ P. Brown, *Augustine of Hippo: A Biography* (Los Angeles: University of California Press, 1967), p. 309.

Almost a millennium later, Aquinas would provide a considerable and prominent contribution to the tradition. In a similar yet more developed way to Augustine, Aquinas restricted the right to wage war to the 'princely authority', and denounced the authority of private persons in war, placing the pursuit and protection of peace under the sovereign's guidance:

First, the authority of the prince by whose command the war is to be waged. For it is not the business of private individuals to declare war, because he can pursue his right before judgment of his superior. Moreover, it is not the business of a private person to summon together the people, which has to be done in wartime. And as the care of the common weal is committed to those who are in authority, it is their business to watch over the common weal of the city, kingdom or province subject to them.¹⁵

The emphasis on the requirement that the sovereign authority uphold the public good would become increasingly important and is evident today in debates surrounding humanitarian intervention and the responsibility to protect. Aquinas gave further content to the notion of just cause by reemphasising that it must always be in the pursuit of peace.¹⁶ The requirement that war be publicly declared would follow this distinction, becoming an emphasis in just war thought during the early modern period.

The notion of individual reason began to emerge during the early modern period in the philosophical reform advanced through the enlightenment. This developed the writing on just war substantially. During this period, subjects of the king would eventually become citizens as individual rights gradually developed, marking a distinct separation from the dutiful obedience found within the philosophy of Augustine. These changes emerged over centuries and the ideas of citizenship and individual rights as understood today have only been fully realised in specific states in recent decades. Nonetheless, the emergence of these shifts during the early-modern period in Europe instituted some important changes to notions of legitimate authority. Foremost was the developing public nature of war. While the idea of public declaration by a legitimate authority had been an important feature of the earlier tradition, its

¹⁵ Cited in Reichberg, Syse & Begby, *The Ethics of War* (2006), p. 177.

¹⁶ *Ibid.*

meaning was emphasised during this period by scholars such as Suarez, Alberico Gentili (1552-1608) and Hugo Grotius (1583-1645).

Suarez and Gentili recalled the importance of public declaration and resisted the trend that was seeing it falling into disuse. Contemporary lawyer and scholar Theodor Meron has highlighted the increasing disuse of public declarations during the period Suarez and Gentili were writing.¹⁷ Gentili provided perhaps the staunchest protest against this trend, viewing the distinction between a just and unjust war to a large extent as sophistry.¹⁸ Meron revealed through the work of both Suarez and Gentili that public declarations were intimately attached to the requirement of legitimate authority:

As the justness of war came to depend greatly on whether it was public, that is, declared on the authority of a prince competent to make such a declaration, the dominant view held that the sin of declaring an unjust war was the prince's alone.¹⁹

Public declarations formed a procedural expectation on the sovereign, which sought not only to affirm the just cause of the war, but also to reaffirm the legitimate authority of the sovereign. In the early modern period this process was beginning to take on enhanced meaning. The emphasis on public declaration in war demonstrates an accentuation of the role of the public as a judge of a war's justness. This notion that the public may judge the justness of war through a declaration by an authority was emphasised by Suarez and Grotius. For Suarez, declarations served as an important and practical test of a war's justness.²⁰ Similarly, Grotius stated that 'declarations of war in fact ... were wont to be made publicly, with a statement of the cause, in order that the whole human race as it were might judge of the justness of it.'²¹

Grotius is widely regarded as instituting legal considerations into state relations, another significant change that affected notions of legitimate authority at this time. The power of monarchs was gradually transforming from the previously supreme power of Augustinian philosophy. In Gentili, Suarez and Grotius, public declarations were argued to be vital

¹⁷ T. Meron, *War Crimes Law Comes of Age: Essays* (Oxford Scholarship Online, 2012), p. 28.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, p. 80.

²⁰ *Ibid.*

²¹ Cited in Meron, *War Crimes Law Comes of Age* (2012), p. 28.

to the judgement of just war, most critically as a test of the authenticity of claims to just cause by sovereigns. The capacity of the public to evaluate war and judge its morality continues to be enabled by the public nature of war. While formal declarations of 'war' have become less common in practice, this is more to do with the obsolescence of major inter-state war. Public accountability, however, has far greater significance for legitimacy in the late-modern era.

Revisiting the just war tradition reveals that, while elements of the principle have evolved significantly, much of what the early thinkers considered pertinent to questions of legitimate authority remains significant today. The principle provides important insight into the nature of power in war. It is reflective of the accepted form of power in the use of force across eras. Simultaneously, the reflexive quality of the principle determines what is implicitly acknowledged as an illegitimate authority during war. Despite this apparent relevance to the contemporary context, legitimate authority has become peripheral, or even denounced, in just war scholarship.

Legitimate authority in contemporary just war theory: resolved, redundant or rhetorical

In the contemporary context, just war principles have become progressively codified into the rules-based international order where sovereign nation states are the recognised legitimate authorities. During this process the primacy of legitimate authority in just war thinking has either diminished or, in some cases, been denounced. There are three identifiable reasons for the trend of neglect and the challenges to legitimate authority in contemporary just war scholarship. In the first instance, work by contemporary just war scholars, such as Michael Walzer and Jean Bethke Elshtain, has tended to diminish the relevance of legitimate authority due in large part to its apparent resolution in the contemporary state system. The codification of state sovereignty and the associated right to wage war in the modern rules-based international society has contributed to a view by some scholars that the principle has been gradually *resolved* through this process of codification. Second, just war scholars with values more in line with cosmopolitan thought, such as Cecile Fabre and Magnus Reitberger, have denounced the value of the principle in contemporary just war. These scholars have argued that the principle has become *redundant* in the contemporary context when considering the role of non-state actors in conflict and the strength of humanitarian justifications for just war. Finally, other scholars have also

argued that the principle acts more as a *rhetorical* weapon for the justification of state violence, than a useful normative tool. This article critically evaluates these three perspectives and counters what increasingly appears to be an acceptance in scholarship that legitimate authority in just war theory does not play a significant or useful part. Legitimate authority remains a vital criterion in just war theory that opens the door to a normative discussion of power in war, which remains an enduring and critical element in contemporary international conflict.

The evolution of notions of legitimate authority throughout history, and its focus on the role of monarchs, has led to a prevailing acceptance that the state is the primary legitimate authority today – although this is subject to challenge. There is considerable academic and political confusion around what constitutes legitimate authority in international society today. This has been produced by contemporary challenges such as the role of supranational institutions in the use of force, as well as the engagement of states with non-state actors in conflict. Determining what precisely constitutes legitimate authority is perhaps more difficult and complex, given the wide variety of actors involved and the scope of modern international law, than at any other time.

One of the most contested elements in the rules-based international society is the role of the Security Council in determining legitimate authority. The body has been deemed ‘undemocratic’,²² a ‘talking shop of the nations’²³ and inherently contradictory.²⁴ Reform of the institution has been an ongoing and protracted issue at the UN. The power of the Security Council to determine legitimacy has been critically tested in a number of instances since the end of the Cold War. Nonetheless, it continues to play a critical role in defining legitimate authority in the use of force today. Comparing and contrasting the cases of Kosovo (1999) and Iraq (2003), both of which are examples of unsanctioned use of force by the US, demonstrates the legitimising power of the institution even in

²² S. Okhovatm, ‘The United Nations Security Council: Its Veto Power and Its Reform’, *CPACS Working Paper*, no. 15/1 (2011), p. 3.

²³ K. Anderson, ‘United Nations Collective Security and the United States Security Guarantee in an Age of Rising Multipolarity: The Security Council as Talking Shop of the Nations’, *Chicago Journal of International Law*, vol. 10, no. 1 (2009), pp. 55-90.

²⁴ H. Köchler, ‘The Voting Procedure in the United Nations Security Council: Examining a Normative Contradiction in the UN Charter and its Consequences on International Relations’ in *Democracy and the International Rule of Law: Propositions for an Alternative World Order, Selected Papers Published on the Occasion of the Fiftieth Anniversary of the United Nations* (New York: Springer, 1995).

cases where a resolution is not made. Justin Morris and Nicholas J. Wheeler reveal that it was the legitimacy claims of the US made ‘within, rather than in disregard of, existing normative frameworks’ in the Kosovo case ‘that explains the different international response to the US-led invasion of Iraq in 2003’.²⁵ Clark has explained that when states circumvent the Security Council framework, they do so by resorting to costly forms of coercion, which end up damaging the state’s legitimate authority.²⁶ While the Security Council may still not work as it was imagined to by the original founders in 1945, it does play a role today in defining and determining legitimate authority in the use of force.

Non-state actors, which include a range of different players in contemporary international society, have presented other challenges to the concept of legitimate authority. Particularly pertinent today is the question surrounding the status of unlawful combatants the US has assigned to jihadist groups and the way in which this impacts the methods and techniques employed to target them.²⁷ Beyond jihadist groups, international society is also grappling with the rise of non-state cyber actors and paramilitary organisations in war. As highlighted by Augustine and Aquinas, legitimate authority reflects the character and values of international order and typically requires some notion of its reflexive ‘other’. Non-state actors are not a new phenomenon, however what is distinctive is that these questions are now being situated within the frameworks of modern international law, raising questions about accountability to prevailing laws and norms. As it stands legitimacy and, importantly, accountability in the use of force rests solely with states, especially when operating collectively. International norms developed in the 20th century, seen in the Charter of the UN and new norms like the responsibility to protect (R2P), reinforce the role and responsibility of the state in the use of force, as well as the protection of human rights. While

²⁵ J. Morris & N. J. Wheeler, ‘The Security Council’s Crisis of Legitimacy and the Use of Force’, *International Politics*, vol. 44 (2007), pp. 214-231, p. 221.

²⁶ I. Clark, *Hegemony in International Society* (New York: Oxford University Press, 2011), p. 155.

²⁷ Andrew Burt and Alex Wagner highlighted a speech made by John Brennan, as counterterrorism advisor to Barack Obama, regarding the nature of Al Qaeda as unlawful combatants in 2011. They argued that ‘Brennan’s speech underscored the widespread understanding that, due to its basic organizational structure and failure to present itself formally as a recognizable armed force, al Qaeda lacks the legitimacy to participate in armed conflict and is not entitled to its concomitant privileges under international law.’ See: A. Burt & A. Wagner, ‘Blurred Lines: An Argument for a More Robust Legal Framework Governing the CIA Drone Program’, *The Yale International Law Journal*, vol. 38 (2012), p. 1.

legitimate authority continues to rest with states, the process of determining state legitimacy has fundamentally changed over time and continues to change. This ongoing evolution and the contestation surrounding notions of legitimate authority emphasise the need for attention to this principle in discussion of war.

Resolved

As the just war tradition has evolved, it has progressed into a definitive set of moral criteria for the analysis and ethical discussion of war. The work of prominent contemporary theorists, such as Michael Walzer, Jean Bethke Elshtain, and Brian Orend, infuses much of the contemporary just war debate.²⁸ Given their influence in the field, Walzer and Elshtain's role in downplaying or diluting the significance of legitimate authority has had a significant impact. The peripheral role of legitimate authority in their work appears to stem from the codification of state sovereignty and the expansion of democracy in contemporary international society.²⁹

Walzer's conception of legitimate authority is based substantially on an interpretation of the social contract theory, in which state rights are derived from the transferral of rights from individual citizens.³⁰ In Walzer's recent application of just war to regime change, he strongly supports the political agenda of democratisation.³¹ For Walzer, state authority rests on the consent of the governed and its capacity to provide protection against external threats. This is perhaps the most detailed description of Walzer's view on legitimate authority in just war theory:

The rights of states rest on the consent of their members. But this is consent of a special sort. State rights are not constituted through a series of transfers from individual men and women to the sovereign or through a series of exchanges among individuals. What happens is harder to describe. Over a long period of time, shared experiences and cooperative activity of many different kinds shape a common life. "Contract" is a metaphor for a process

²⁸ J. B. Elshtain, *Just War Against Terror* (New York: Basic Books, 2003); B. Orend, *War and International Justice* (2000); Walzer, *Just and Unjust Wars* (2006).

²⁹ Walzer, *Just and Unjust Wars* (2006), p. xvi-xvii; Elshtain, *Just War Against Terror* (2003), p. 38.

³⁰ Walzer, *Just and Unjust Wars* (2006), p. 54.

³¹ M. Walzer, 'Regime Change and Just War', *Dissent*, vol. 53, no. 3 (2006), pp. 103-108.

of association and mutuality, the ongoing character of which the state claims to protect against external encroachment.³²

In this elucidation of Walzer's conception, the role of the process to legitimate authority is described. For Walzer this conception of legitimate authority, while certainly justifiable, is presented as a presumption and is not provided with the degree of inquiry of other principles in his work, such as proportionality and discrimination. Given his pre-eminent role in revitalizing the just war tradition and his work's subsequent influence on contemporary just war theory, this omission has likely facilitated the marginalisation of the principle in current scholarship.³³ A dedicated appraisal of legitimate authority from a scholar such as Walzer would indeed be a great service to the study of just war today.

Elshtain, also a communitarian just war theorist, considers legitimate authority to justify and embolden moral and political responsibilities. While her earlier work tended to indicate that the principle was resolved in democratic states,³⁴ she later returned to the concept amidst controversy over her support for the Iraq war in 2003 to dismiss claims that an absence of Security Council sanction meant the war was unjust.³⁵ She took the view that just war theory ordained intervention and regime change, and similarly to Walzer, presented a narrow conception of the principle that privileged Western-style democracies.³⁶ Elshtain's perspective of legitimate authority appears to be stuck in a former version of the principle. It discounts legitimate authority's evolving nature and its reflection of power and norms over time by entirely dismissing the role of the UN and the Security Council in determining, or at the least supporting, legitimate authority in contemporary conflict.

Unlike the early-modern scholars such as Suarez and Gentili, modern scholars such as Walzer and Elshtain appear less concerned with a comprehensive exploration of legitimate authority. Tarik Kochi also recently perceived this, stating 'what constitutes "legitimate authority" is

³² Walzer, *Just and Unjust Wars* (2006), p. 54.

³³ T. Kochi, *The Other's War: Recognition and the Violence of Ethics* (New York: Birkbeck Law Press, 2009), p. 45.

³⁴ J. B. Elshtain, *Democracy on Trial* (1995).

³⁵ T. Farer, 'Still Searching for Engagement: A Comment on Professor Jean Bethke Elshtain's Response to "Un-just War Against Terrorism and the Struggle to Appropriate Human Rights"', *Human Rights Quarterly*, vol. 30, no. 3 (2008), pp. 767-771.

³⁶ Elshtain, *Just War Against Terror* (2003), p. 767.

often a matter of assumption and opinion, rather than a matter of theoretical or historical inquiry'.³⁷ Legitimate authority in the resort to force is in fact a dynamic process, which deserves evaluation and attention in contemporary just war. In the most basic sense, the principle's reflection of power makes it vital to theoretical inquiries on war. The complexity and dynamism of democratic elections, or the progressive resolutions of the UN, and the impacts of these processes on legitimate authority are but a few examples of the vitality and changeability underpinning the principle. The process of re-establishing and reaffirming legitimate authority through the protocols of the UN in the contemporary international context, and the vast complexities surrounding this process, indicate the importance of a conversation regarding legitimate authority.

Redundant

Contrasting with the work of Walzer and Elshtain, cosmopolitan scholars such as Reitberger and Fabre have provided a focused analysis of legitimate authority's role in contemporary just war theory. They conclude, in largely similar fashion, that the principle is redundant in contemporary just war theory, particularly in light of contemporary changes to conflict.

Reitberger questions whether legitimate authority should be a requirement for just war theory, concluding that it does not need the legitimate authority-requirement and may benefit from its removal.³⁸ His contention is that legitimate use of force does not derive from the 'authority' of the actor but must always be a question of the right to self-defence and the justifiability of protecting human rights.³⁹ Based on meeting the requirements of self-defence or protecting human rights, war should therefore be inclusive of actors other than the state. In this sense, Reitberger declared that just war theory would be more relevant to contemporary conflict if the basis of the theory did not derive from legitimate authority.⁴⁰ While a framework that determines the justness of war based on the justifiability of the protection of human rights is indeed an appealing notion, Reitberger's claim that legitimate authority has become irrelevant is problematic. In particular, he understated the

³⁷ Kochi, *The Other's War* (2009), p. 45.

³⁸ M. Reitberger, 'License to Kill: is legitimate authority a requirement for just war?', *International Theory*, vol. 5, no. 1 (2013), pp. 64-93, p. 64.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, p. 66.

prevailing importance of the state to constitute and guarantee protection of the human rights he mentions.⁴¹ Furthermore, in advocating that removal of legitimate authority, he did not adequately develop an alternative framework for legitimate authority as a mechanism for declaring and delegating authority, or provide a picture of what a world in which any actor could engage in war would conceivably look like.

Prior to Reitberger, Fabre suggested the dismissal of legitimate authority from just war theory. Her contention is based on the grounds that a war that is not waged by a legitimate authority is not necessarily unjust.⁴² As a cosmopolitan scholar, Fabre rejected the notion that an institution of states, or overarching authority, may act as the predominant legitimate authority in matters of war. In doing so, she went against influential work by other cosmopolitans such as Mary Kaldor who has argued that global policies should enhance the legitimacy of both inter-state institutions and global civil society.⁴³ Rather, Fabre questions whether actors must be necessarily political entities in order to have the right to wage war.⁴⁴ Fabre's analysis reveals substantial issues that arise in the dismissal of legitimate authority from just war theory. In suggesting that private individuals may wage war and simultaneously dismissing the role of

⁴¹ Several sources reinforce the state's role in the protection of human rights. This is clear in the theory of fellow cosmopolitan Daniele Archibugi for example. See: D. Archibugi, 'Demos and Cosmopolis' in D. Archibugi et al. (eds.) *Debating Cosmopolitics* (London: Verso, 2003). Furthermore, organisations such as Human Rights Watch reinforce state responsibility, as does the Responsibility to Protect Doctrine.

⁴² C. Fabre, 'Cosmopolitanism, Just War Theory and Legitimate Authority,' *International Affairs*, vol. 84, no. 5 (2008), pp. 963-976.

⁴³ Kaldor's conception of legitimate authority in the use of force preferences the role of international institutions and the popular consent they are able to support. She demonstrated that achievement of international human rights in the 20th century in terms of progressing a cosmopolitan agenda. She considered legitimate use of force as generally restricted to humanitarian interventions and also highlighted the importance of reconstruction efforts to post-conflict societies for the legitimacy of interventions. Kaldor's cosmopolitan approach 'starts from the assumption that no solution is workable based on the political goals of the warring parties and that legitimacy can only be restored on the basis of an alternative politics which operates within cosmopolitan principles. Once the values of inclusion, tolerance and mutual respect are established, the territorial solutions will easily follow.' Kaldor goes on to explain that 'reconstruction means that politics, economics and security issues have to be integrated into a new type of humanistic global policy which should be capable of enhancing the legitimacy of international institutions and mobilizing popular support'. See: M. Kaldor, *New Wars, Old Wars* (Cambridge: Polity Press, 2006), pp. 126, 139.

⁴⁴ Fabre, 'Cosmopolitanism, Just War Theory and Legitimate Authority' (2008), pp. 967-971.

international institutions,⁴⁵ Fabre effectively removes authority, and power, from war. Anthony J. Lang indicated that her ‘dismissal of the centrality of authority is too apolitical for [an] understanding of international order’.⁴⁶ Fabre’s analysis attempts to reject state power in a world where state power remains vital, not only to war, but also to the established mechanisms for accountability. This includes institutions like the UN or the International Court of Justice but also stretches to laws and norms in modern international law. For example, the emerging norm of the R2P emphasises the role and responsibility of the state in the protection of human rights.⁴⁷ The first principle of R2P reads, ‘state sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself.’⁴⁸ The development of the R2P has demonstrated that conceptions of sovereignty, and legitimate authority, are attached to considerations of human rights and protection. This reinforces that legitimate authority remains a foremost principle.

Rhetorical

Additional contemporary scholars who have addressed the principle of legitimate authority include Tarik Kochi and Laurie Calhoun. For both Kochi and Calhoun, the principle acts as a rhetorical device to legitimise violence against others. The problem of state violence is a common theme throughout the literature that analyses legitimate authority. On these grounds, Kochi and Calhoun argue that justifications of legitimate authority undermine just war theory as a whole and tend to perceive the entire theory as redundant in contemporary normative scholarship.⁴⁹

Kochi’s work focuses substantially on the contemporary trend of state violence against non-state actors. According to Kochi, legitimate authority acts a tool for the rhetorical support of state violence against others, generating ‘the intellectual production of a claim to moral and political authority, a claim to justice, used as a weapon in conflict against

⁴⁵ *Ibid.*, p. 975.

⁴⁶ A. J. Lang, ‘Authority and the Problem of Non-State Actors’ in E. A. Heinze & B. J. Steele (eds.) *Ethics, Authority and War: Non-State Actors and the Just War Tradition* (New York: Palgrave Macmillan, 2009), p. 55.

⁴⁷ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).

⁴⁸ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (2001), p. xi.

⁴⁹ Kochi, *The Other’s War* (2009); L. Calhoun, ‘Legitimate Authority and “Just War” in the Modern World’, *Peace and Change*, vol. 27, no. 1 (2002), pp. 37-62.

an other.’⁵⁰ Kochi argued scholarship should more closely consider ‘the differing ways in which a language of right and justice is produced as both a means of coming to terms with the problem of conflict and as a weapon of conflict itself’.⁵¹ Kochi’s discussion on the role of legitimate authority in just war highlights several important points regarding the very real capacity of the principle to support state violence and undermine the position of other actors. As has been shown, legitimate authority has been historically attendant to power.

Calhoun’s analysis is equally critical of the rhetorical dangers of legitimate authority, but he arrived at this perspective from a different premise. Whereas Kochi asserted that just war has overlooked legitimate authority, Calhoun highlighted the dominant place of legitimate authority in the theoretical framework. ‘Just war theory is reduced, in actual practice, to the requirement of legitimate authority’.⁵² Based on this observation, Calhoun concluded that ‘what remains today of just war theory is a dangerous rhetorical weapon deployed by the leaders of both sides in every belligerent conflict’.⁵³ Legitimate authority can act as a rhetorical weapon utilised by states. Both Calhoun and Kochi, however, miss important components of just war and the principle of legitimate authority, which also seek to restrain war.

In his article, Calhoun cites Robert Philips’ apt and succinct objection: ‘it does seem to me, however, to be no very severe criticism of a moral tradition that it can be misused’.⁵⁴ To this, Calhoun replied, ‘but the primary use of just war theory has always been, and will no doubt continue to be, propagandistic’.⁵⁵ The observation that just war is attendant to the interests of power is not new. As Walzer reflected on the tradition, it was Augustine’s framing of the theory in the service of power that has made it so enduring.⁵⁶ Furthermore, rhetorical devices may be used by the powerful to justify action, but they may also be equally used to hold that power accountable. Kochi and Calhoun’s argument is useful for contemporary just war and highlights important trends that should be analysed when considering state uses of force against non-state actors,

⁵⁰ Kochi, *The Other’s War* (2009), p. 46.

⁵¹ *Ibid.*

⁵² Calhoun, ‘Legitimate Authority and “Just War” in the Modern World’ (2002), p. 37.

⁵³ *Ibid.*

⁵⁴ Cited in Calhoun, ‘Legitimate Authority and “Just War” in the Modern World’ (2002), p. 50.

⁵⁵ Calhoun, ‘Legitimate Authority and “Just War” in the Modern World’ (2002), p. 50.

⁵⁶ Walzer, *Arguing About War* (2004), p. 3.

and importantly during periods of civil conflict. Rather than being grounds for dismissal this reinforces the importance of debate and critique on what legitimate authority has come to mean.

Building upon the preceding argument that revisited the just war tradition to reveal the importance of legitimate authority, this section has sought to critically challenge the tendency in contemporary just war theory to regard legitimate authority as a principle which has been resolved, become redundant or is simply rhetorical. Rather than resolved in the sovereign power of the state, sovereignty has become an important and evolving norm, which doctrines such as R2P assert should serve to protect and guarantee human rights. Furthermore, the state is the entity that international society holds accountable in cases of abuse. While the principle of legitimate authority may be used rhetorically, it is also used to hold states accountable to international law and norms regarding the resort to force.

Conclusion

Throughout the impressive endurance of legitimate authority, it has consistently possessed an important procedural expectation that has grown ever stronger as international law has matured. Augustine, the ‘reluctant just war theorist’, laid important foundations concerning the role of declarations to just war. This became significant to Suarez, Gentili and Grotius as they sought to restrict the right to wage war to representatives of the public. Today, this is bound up in the UN and Security Council mechanisms for the use of force. This is an integral, yet often overlooked feature of the principle.

The principal strength of legitimate authority is its capacity to reflect the prevailing form of accepted power in war and to provide an important space in just war theory for the discussion of power. Briefly revisiting legitimate authority through the just war tradition demonstrates the principle’s capacity for evolution. From the overarching and limitless power of the sovereign in Augustine to the gradual restrictions and procedures placed upon monarchs during the early-modern era, this evolutionary capacity becomes clear. The rift between perspectives of legitimate authority in contemporary just war scholarship, between those that consider it resolved in state sovereignty and those that view it as redundant or dangerous, indicate that the principle is currently unsettled. This reinforces the importance of discussing and addressing the principle, rather than neglecting it. Those that have argued for its dismissal, while

presenting important challenges, have overlooked some of the key features of legitimate authority, such as procedural expectations and the role of the state in accountability mechanisms that remain essential to considerations of just war today.

Legitimate authority remains an important component of just war theory. The tendency to refer to the principle only briefly in contemporary just war analysis weakens the framework's capacity to evaluate war ethically. Recalling Walzer's observation that just war theory's attendance to power has substantially contributed to its outstanding endurance, neglecting or dismissing this key principle could jeopardise the theory's continued relevance. Power remains, and will likely always remain, a fundamental concern in war.