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## Dear reader,

Welcome back to *Politik at UNSW*. Throughout this second issue, we explore the multifaceted and ever-changing concept of battlelines. Globalisation, technological advancements and the diversification of security approaches have given rise and added fuel to the plethora of conflicts at play today that look set to continue well into the immediate future.

Scars of the past, thought to be largely resolved, are emerging once again. Questions of democracy and the right to self-determination are once again at the forefront of the international agenda. Our contributors reflect on the legacy of the 1989 Tiananmen Square protests 25 years on (p.4), the situation in Northeast India (p.8) as well as the resurgence of conflict and the remaking of state borders in Eastern Ukraine (p.16).

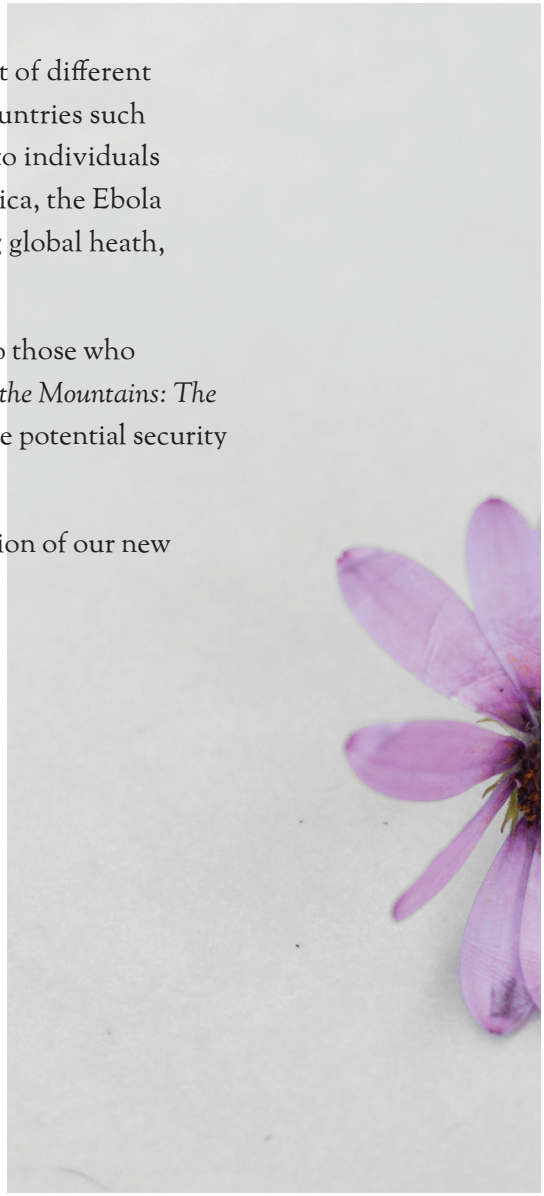
International law is embedding itself in conflict resolution processes. However, its efficacy is often at question. International law is often manipulated and used as a tool to control security approaches and legitimise both action and inaction in regions such as the Middle East (p.22).

As conflicts endure and diversify in nature, they give rise to a host of different challenges. Health professionals face their own battles daily in countries such as Afghanistan, where the struggle to provide quality healthcare to individuals affected by war is very real but often forgotten (p.36). In West Africa, the Ebola virus epidemic continues to raise a host of questions surrounding global heath, development and governance (p.34).

Finally, with increasing uncertainty in a changing world, we look to those who articulate their vision of our future. David Kilcullen's book '*Out of the Mountains: The Coming Age of the Urban Guerrilla*' paints a convincing picture of the potential security challenges facing us as we move further into the 21st century (p.41).

On behalf of our editorial team, thank you for your positive reception of our new endeavour. Until next time,

**Megan Fung**
Deputy Editor-in-Chief
*Politik at UNSW*



# CONTENTS

# Shadows of History: the Legacy of Tiananmen Square

*Andrew Blackie*

"Ancient history in China was lively and immediate, but more modern history receded and blurred as it became recent, and what happened ten or fifteen years ago was all silence and shadows."

Paul Theroux, *Riding the Iron Rooster*[1]

"Our gravest mistake was in the field of education, primarily in ideological and political education. We didn't provide enough education to young people, including students. For many... it will take years, not just a couple of months, to change their thinking."

Deng Xiaoping, September 1989[2]

The bloody denouement in the heart of Beijing may have been a quarter of a century ago, but its ramifications continue to reverberate today. In the lead-up this year to June 4th, Chinese-Australian artist Guo Jian was detained by the Chinese authorities on charges of visa fraud.[3] At the time, he had been working on a new artwork, a model of Tiananmen Square covered in minced meat. He had also given an interview to the *Financial Times*, recounting his experience of the summer of 1989. He was subsequently deported, and his model destroyed.[4] Similarly, lawyer Pu Zhiqiang was arrested and charged with 'creating a public disturbance' after attending a seminar pushing for a re-evaluation of the crackdown.[5] A group of activists, known as the 'Zhengzhou 10' after the city in which they congregated, held a similar memorial and were put into detention.[6]

Meanwhile, at the Foreign Affairs Ministry in Beijing, a spokesman was on hand to provide the official line to foreign reporters. "The Chinese government long ago reached a conclusion about the political turmoil at the end of the 1980s," Hong Lei told a news briefing. "In the last three decades, China's enormous achievements in social and economic development have received worldwide attention," he continued. "The road... we follow today accords with China's national condition and the basic interests of the vast majority of China's people."[7]

## Rewriting History

In Chinese, the Tiananmen Square protests are known by another name: '6/4' (*liu-si*) the date on which the army entered the square and began open firing. For many younger Chinese, however, the numbers have no meaning. The effort to remove all references to the event from the public sphere combines with continued


resistance by the state to a re-evaluation of its role. On this year's 25th anniversary, the effect was eerie and surreal: mainland Chinese media provided no coverage of the topic. In addition, a list of highly specific terms was banned from the internet because of their connection to the crackdown.[8] A search on Weibo, China's social media outlet, returns the following message: 'Owing to relevant legal regulations and policies, search results cannot be displayed.' Even those who are vaguely aware that something happened in June 1989 generally refer to the event as 'student unrest,' or *xuechao*, significantly understating both its scope and impact.

In the West – as well as in Hong Kong and Taiwan – awareness is alive. But in the midst of commemorative pieces 25 years on, we find, perhaps, a tacit echo of Hong Lei's comments: that Tiananmen Square was a tragic but necessary occurrence, since left behind by extraordinary economic development. On the contrary, however, the shadow of Tiananmen continues to exert a profound influence on today's China. It has led to one of the most systematic programs of history distortion in the modern world.

## The crisis of the 1980s

Tiananmen Square was the culmination of a decade of popular discontent, and two months of nationwide protests that paralysed China's leadership.[9] In the wake of Mao Zedong's death, Deng Xiaoping embarked on the now-famous policy of 'Reform and Opening Up' in 1978, a *volte-face* from the ideologically-driven terror of the Cultural Revolution. Economic pragmatism became king. As a result, the Communist Party's legitimacy dwindled steadily. As Julia Lovell illuminates in *The Opium War*, the decade was one in which the government was scorned. 'Shopworn' clichés of revolutionary

sacrifice' were widely derided; the West was becoming 'no longer the root of all of China's problems, but its saviour.'[10] From 1986 onwards, the country was rocked by demonstrations pushing for increasing personal freedoms to coincide with economic openness.[11] The broadcasting in 1988 of a six-part series, entitled *River Elegy* (*Heshang*), on China's state-owned television network CCTV is indicative of the mood: it 'ridiculed the country's national symbols, including the Great Wall and the Yellow River,' while 'extolling Western-style trade, freedom, capitalism, science and democracy.'[12] This would be unthinkable today.

Support rallied around two charismatic politicians, Hu Yaobang and Zhao Ziyang, known for their liberal pronouncements. The death of Hu in April 1989 provided the trigger for the defining events of that year. A group of student mourners gathered in the Square, presenting a petition demanding democratic reforms.[13] By mid-May, the number of demonstrators in the Square surpassed one million.[14] Protests spread to over 100 cities in China.[15] While the movement was spearheaded by students, the protests unified far more diverse sections of society, including workers and journalists.[16] Even staff from the *People's Daily*, the official mouthpiece of the Party, marched with banners reading 'No More Lies.'[17] Urban China, Lovell concludes, 'was on the brink of declaring war against the government.'[18]

## 'Patriotic education'

What had worried the CCP most about Tiananmen Square was the assertion of an independent national identity that excluded it.[19] This was an existential threat to the one-party state. The Party's solution was to bring nationalism to the fore, in a campaign known as 'patriotic education'. Guidelines issued by the Central Committee for its implementation stressed that this was a 'long-term project' to make patriotism the 'main melody' and 'core theme' guiding 'the masses'.[20]The essence of this program is to emphasise China's victimhood at the hands of Westerners and Japan during the 'century of humiliation' (1839-1949). The message is not particularly subtle: at historical sites all around the country, one encounters big black marble signs inscribed with four characters: *wu wang guo chi* – 'never forget national humiliation.'

Since 1990, students from primary school upwards study outrages such as the Opium Wars and the Anti-Japanese War. 'Patriotic education' is designed to instil nationalism and direct anger away from the government.[21] In the aftermath of Tiananmen Square, Chinese modern history was dubbed 'a meaningful security issue'.[22] Challenges to the orthodox view are not tolerated. In 2006, philosophy professor Yuan Weishi published a magazine article criticising teaching of historical events as 'one-sided'. Two weeks later the magazine was closed, and a media blackout on reporting the closure enforced.[23] Likewise, attempts to publicise the disasters perpetrated by the Chinese government on its own people, such as the Great Leap Forward and the Cultural Revolution, are still 'vigorously suppressed'.[24]

A particular target of Chinese nationalism has been Japan. The 1980s was a time of 'booming trade, economic and cultural exchanges' between China and Japan.[25] The relationship was managed by 'top leaders setting the overall tone for peace and friendship'.[26] Mao Zedong himself had disclaimed the need for war reparations from Japan, a statement confirmed in the 1978 Sino-Japanese Treaty of Peace and Friendship.[27] Japan was China's largest aid donor throughout the 1980s, and arguably did the most to facilitate the country's economic rise.[28] Moreover, discussion of the atrocities Japan committed in China during World War II was actually relatively muted, if not censored.[29] Zhang Yimou's debut film, 1987's *Red Sorghum*, became one of the first to openly depict the cruelty of the Japanese invasion.[30] The Nanjing Massacre was 'hardly mentioned' before the 1980s.[31]

Since 1990, the Party has sacrificed ties with Japan as collateral damage in the drive for nationalism. Jiang Zemin mounted a propaganda campaign centred on China's suffering under Japan.[32] Public commemorations of the Second World War were dramatically expanded; Japan's failure to adequately repent for past sins is repeated by Chinese government officials; and anti-Japanese shows dominate prime-time Chinese TV. [23] The manufacturing and exploitation of anti-Japanese sentiment in China has made constructive dialogue between the two nations very difficult. Most concerning is a revanchist mindset among some segments of the Chinese public against Japan, expressed in violent riots in September 2012.

The Tiananmen Square protests have been buried in the murk of China's recent history, but not left behind or forgotten. The ingenuity of "patriotic education" lies in its highly cynical campaign to indoctrinate the young. What a young child learns from an ostensibly objective textbook is accepted as fact. 'Patriotic education' has contributed to a rise in nationalism, while allowing the Communist Party to regain some of its prestige, which was damaged so badly back in 1989. Yet it does not take much to realise that seeking to both 'promote and control' nationalism is a dangerous game.[34] Nationalism has politicised diplomacy and made Chinese public opinion a factor in disputes with other countries.[25] Conciliation is viewed as humiliating.[36] This gives rise to the classic dilemma of the rock and the hard place: your own angry citizens on the one side, and a foreign government on the other. 'Patriotic education,' in shoring up legitimacy over the short-term, has increased the risk that using a distorted patriotism as the 'main melody' of society will haunt the Party in the long run.

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# Northeast India: An Exception to Democracy

*Zali Fung*

India is lauded for being the 'world's largest democracy' and a success in postcolonial nation building.[1] Against considerable challenges, India has made substantial achievements as a formal democracy, including federalism, the *panchayati* system of direct elections for district and village-level governance and for hosting the world's largest elections in 2014.[2] Yet in India's Northeast frontier, democracy has been suspended under an extraordinary law, the *Armed Forces (Special Powers) Act* (AFSPA) of 1958. In practice, the AFSPA suspends regular judicial order and democratic rights, thereby creating a 'state of exception'.[3] The denial of human rights in the exceptional Northeast, and the reliance on emergency law within the Indian administrative apparatus, leads us to question the nature of postcolonial democracy in India.[4] This article seeks to examine how such a draconian law has persisted in the world's largest democracy for almost six decades, rendering the Northeast an exception to democracy.

## The AFSPA: Powers and Provisions

The AFSPA grants a range of extraordinary powers to the Indian armed forces and paramilitaries, including the right to fire 'even to the causing of death' upon any person in breach of any law, any person in possession of anything capable of being used as a weapon, and to prohibit the assembly of more than five people.[5] Under the AFSPA, the armed forces can arrest without a warrant any person who has, is suspected of, or is about to commit a cognisable offence, and can enter and search premises without a warrant.[6] Most significantly, the AFSPA stipulates that no prosecution, suit or legal proceeding against any person who has acted under the powers conferred by the AFSPA shall be instituted unless previously authorised by the central government.[7] This is rarely authorised, and thus in practice the AFSPA grants legal immunity to the armed forces.[8] Equipped with these extraordinary powers, soldiers have raped, tortured, 'disappeared' and killed people with impunity. This has been widely documented by international and local organisations, as well as government-appointed commissions.[9]

The AFSPA is activated when the central government declares an area to be 'disturbed'.[10] The AFSPA can be applied to all states of the Northeast with the exception of Sikkim.[11] The 'Northeast' refers to the eight federal states situated on the far-eastern periphery of India, connected to the 'mainland' only by a narrow corridor of land at Siliguri in West Bengal.[12] The Northeast shares only 1% of its boundaries with India, and the remaining 99% of the Northeast border is shared with China (Tibet), Bhutan, Bangladesh and Burma.[13] The Northeast is separated from the rest of India both geographically and ideationally, and a 'frontier mentality' towards the region has persisted since Indian independence.[14] Although implemented as an emergency law intended to exist for one year, the AFSPA has been in place for almost six decades, making it almost as old as Indian democracy.[15] How has this extraordinary law persisted in ostensibly democratic India? In the following sections I outline four key factors that enable the perpetuation of the AFSPA.

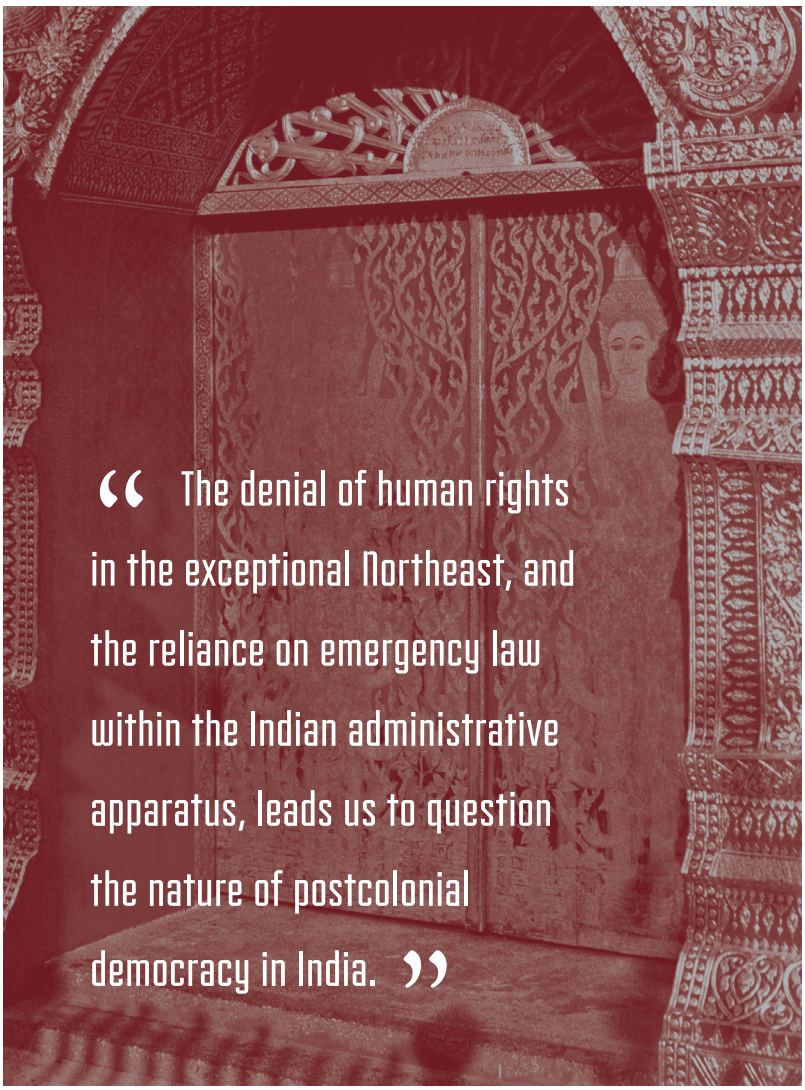
## Perpetuating Extremes

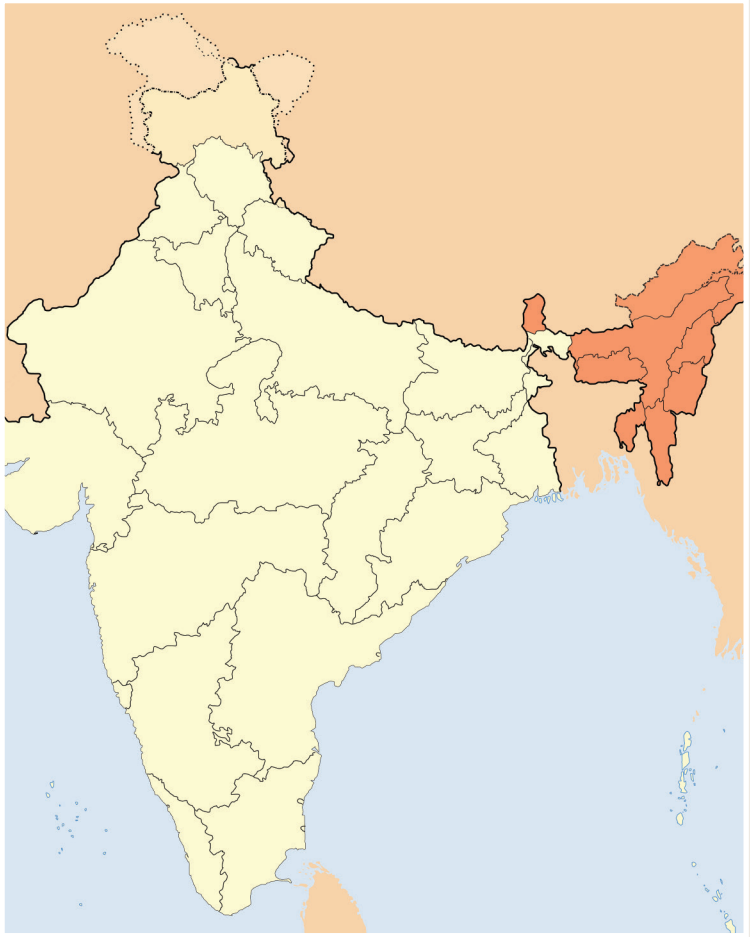
Firstly, the Northeast is constructed as an 'unruly' frontier region inhabited by a 'recalcitrant' population.[16] The

national imagination of the region as an unruly and violent frontier justifies the AFSPA as a necessary measure to maintain national security. The region is constructed as perpetually violent, blighted by ethnic conflict and in need of paternal intervention by the state.[17] The region is also portrayed as 'backward' and the antithesis to modern India, its citizens 'simple' and unsuited to the demands of modern citizenship.[18] These constructions are used to justify the paternalism of the Indian state and the perpetuation of the AFSPA, as encapsulated by Lieutenant General J. R. Mukherjee's justification of the army's role in the Northeast, an "under-developed area, troubled with strife, insurgency and low-intensity conflict with our neighbours, where modernity is in conflict with tradition".[19] The efficacy of Indian democracy is put into question when the state relies on a regime of exception to assert its sovereignty in the Northeast.[20]

The second factor that perpetuates the AFSPA relates to the ongoing nature of state-making in the Northeast. Beyond its justification based on maintaining national security, the AFSPA is a tool of postcolonial state-making.[21] Notably, the AFSPA has only been applied to frontier regions where the legitimacy of the postcolonial state has been challenged – the Northeast, Jammu and Kashmir.[22] The AFSPA is part of an ongoing state-making project that combines paternalism, military occupation and extraordinary laws to bring a non-state space under control.[23]

Thirdly, opposition to the AFSPA is fragmented. Since its incorporation as a part of the postcolonial Indian nation-state, the Northeast has been blighted by separatism, mass agitations and repressive state responses.[24] The main provocateur of violence has been opposition to federal control and cultural assimilation.[25] The AFSPA has accrued the symbolic value of the conflict between the Indian nation-state and various communities striving for autonomy or secession, thereby providing common ground for divergent groups to oppose state-violence





and injustice.[26] Beyond this, there is little else uniting these divergent groups.

More than six decades after Indian independence and democracy, as many as 102 insurgent groups remain active in the Northeast.[27] In the Northeast, insurgency is closely linked to identity, which often manifests in ethno-nationalism. In the state of Manipur, there are 40 armed groups, including the United National Liberation Front (UNLF), a Meitei insurgent group that has battled the Indian state for over five decades.[28] Inter-ethnic and intra-ethnic conflict, as well as conflict over resources and ethnic homelands, have prevented a united opposition to the AFSPA from occurring. Furthermore, in some cases, the government has utilised these tensions for counterinsurgency purposes. For example, the Indian state has supported certain Kuki and Zomi insurgent groups against the UNLF in a bid to defeat one of South Asia's longest running insurgencies.[29] The fragmented nature of opposition to the AFSPA is one factor that enables such an extraordinary law to perpetuate.

The final reason relates to the nature of postcolonial democracy in India. The binary between democratic and authoritarian states, and India's international image as the world's largest democracy creates 'Indian exceptionalism' on an international level.[30] There is a 'qualitative difference' in the claims made against authoritarian states compared to democracies, as human rights abuses are more congruent with authoritarian rule and are thus easier to frame.[31] As a result, human rights abuses in neighbouring authoritarian countries, such as Burma, generate far more international pressure than they do within India's zones of democratic exception. On a national level, the 'picture of a fluid and tolerant democratic India has become embedded in the national imagination"'.[32] Yet this fails to take into account how democracy functions on a subnational level, and particularly how within the world's largest democracy there are zones of exception where basic human rights and democracy are suspended.

In this article, I have provided a brief summary of how such a draconian Act, the AFSPA, can persist in the world's largest democracy. Firstly, the AFSPA is justified by the central Indian government as necessary to maintain law and order in a region constructed as perpetually violent. Secondly, the AFSPA is a tool in the ongoing state-making project in the Northeast, which has resisted Indian rule since its incorporation into the

state. The final two reasons are related to the fragmented nature of the opposition, and the nature of Indian democracy. The existence of a state of exception within the world's largest democracy raises critical questions about the nature of postcolonial democracy in India

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# Contested Hills:
# Post-Conflict Human Security in the Chittagong Hill Tracts, Bangladesh

*Matthew Wilkinson*

Situated at the South-Eastern border of the Republic of Bangladesh, the Chittagong Hill Tracts (CHT) have for the last 43 years been host to one of the world's longest, deadliest and least known insurgent wars. Despite a peace accord signed between the Government of Bangladesh and representatives of 11 tribal nations of the CHT in 1997, the ethnic minorities of the CHT continue to suffer insecurity stemming from communal and ethnic conflict, genocide, and post-conflict politics in Bangladesh's violent periphery.[1]

This article will explore the nature of post-conflict politics in the Chittagong Hill Tracts, seeking to answer the question of what impact the 1997 Chittagong Hill Tracts Peace Accord has had on the security of smaller ethnic groups and communities in the region. It is contended that, far from establishing a long-lived and durable peace, the 1997 Accord has interacted with complex politics of exclusion and ethnic competition and has itself become a source of insecurity for smaller ethnic groups and communities.

## The Chittagong Hill Tracts Conflict

Between 1971 and 1997, the Chittagong Hill Tracts witnessed a violent insurgent war between the Pahari (hill tribe) communities that had migrated into the Hills from the 15th century, and more recent waves of Bengali settlers from the plains to the east. As Bangladeshi policies to 'Bengalize' the CHT with massed migration programs met with resistance from local Pahari communities, communal violence ensued.[2] In 1976, a Pahari resistance to this encroachment was organised under the title, 'Parbattya Chattagram Jana Sanghati Samiti' (PCJSS), which undertook a number of raids on Bengali settlements and Bangladeshi police and army camps. By 1981, dozens of full-time army camps had been established, a significant police presence was expanded, and some 55,000 Bangladeshi troops were stationed in the CHT to protect migrant Bengali communities and combat PCJSS raids.[3] Since the official beginning of hostilities in 1973, it is estimated that more than 8,500 people were killed in raids and counter raids, including 2,500 civilians.[4] Raids have continued as recently as February 2010, where some 434 Pahari houses were burned by Bengali settlers and the Bangladeshi army at Khagrachari District, CHT.[5] Despite promises to end the army occupation in the CHT, full time army camps continue to operate in the CHT, with many more being planned for the future.[6]

## Ethnic Heterogeneity and the 1997 Peace Accord

Facing international pressure to resolve what was increasingly seen as a genocide of Pahari communities, and an urgent need to display itself as a legitimate democratic government, the recently elected Awami League, under the leadership of Prime Minister Sheikh Hasina, initiated peace talks with the PCJSS leadership in 1996. By 1997, a Peace Accord had been drafted, and was signed on 2 December 1997. However, immediately following its signing, resistance to the Accord threatened the peace effort. Pahari civil society representatives demonstrated stern opposition to the accord and its signatories, waving black flags, chanting slogans and displaying banners denouncing the accord during the 'handover of arms' ceremony at Khagrachari Stadium.[7] Outside the ceremony, an effigy of Shantu Larma, signatory of the accord and president of the PCJSS, was burned.[8]

Resistance to the accord stemmed from dissenters' feelings of neglect by the PCJSS, including smaller ethnic groups and communities that had opposed the PCJSS as a vehicle for Pahari resistence. Contrary to the beliefs of the Bangladeshi Government and the PCJSS itself, many communities rejected the dominant ethnic Chakma presence in the PCJSS. A number of organisations representing Pahari communities had emerged since the 1970s, many of which were even at war with the PCJSS. One such organisation, the Mro Bahini, fought an extended conflict with the Shanti Bahini throughout the 1980s, and opposed any peace accord involving the PCJSS for fear that they would be discriminated against under its hegemonic Chakma tribal leadership.[9]

Since the signing, several new resistance organisations have emerged, the largest being the United Peoples Democratic Front (UPDF) and the PCJSS Reformist Group (PCJSS – RG). These groups have gained support from Pahari dissenters to the Accord, and have filled out their ranks with unemployed and dissatisfied youth, internally displaced Pahari members, former PCJSS soldiers and members of competing insurgent groups to the PCJSS.[10]


Fig. 1. Chittagong Hill Tracts, Bangladesh. The three districts of Khagrachari, Rangamati and Bandarban, shaded, make up the Chittagong Hill Tracts (Image from CHT Commission 2013).

## Post-Conflict Politics in the CHT Today

Since the Accord and the subsequent emergence of new resistance groups in the CHT, security for smaller ethnic groups and communities has significantly declined. Two key factors have been visible: first, the rise of several new insurgent groups, and secondly, an ongoing presence of the Bangladeshi army as a response to these groups.

During the insurgency, small communities almost exclusively paid taxes and tribute to the PCJSS. However, new violent criminal groups since the Accord tax and exploit smaller ethnic groups and isolated communities concurrently.[11] Some of these newly-emerged groups include large factions such as the UPDF and the JSS Reformist group, but also smaller movements, including the Jum National Army, the 'Borkha Party' in Khagrachari, and various unidentified criminal groups active in Rangamati and Bandarban districts.[12] In 2004


and 2005, reports that the Burmese group, Rohingya Solidarity Organisation, were conducting training and trading drugs and arms in Bandarban also emerged.[13]

There has further been a proliferation of organised violent Bengali groups, such as the Somo Adikhar Andolon (Movement for Equal Rights), a group formed in 2001 to represent Bengali interests. These groups demand taxes and funding from small communities, charge travellers at illegal roadblocks, and have been known to kidnap wealthier community members for ransom or continued tax payments.[14]

As well as the presence of new violent groups, the Accord and the resistance to it have legitimised a continued army presence in the CHT. The presence of army personnel has been associated with high rates of sexual violence and harassment, accusations of imprisonment without charge and detainment, and torture. Between 2004 and 2012, a total of 1,487 human rights violations were committed by the Bangladeshi army in the CHT. Of these, there were 14 deaths, two reported instances of rape, 16 attempted rapes, 85 instances of harassment and 374 instances of torture, as well as a large number of looting, beating, desecration and eviction claims.[15] The army has further been accused of having ties to local violent criminal gangs, including the Borkha Party, a group involved in extortion and violent attacks on local schools and Pahari communities in the isolated Laxmachari Para area of Khagrachari Hill District.

## Conclusion

Despite the ambitions of the 1997 Chittagong Hill Tracts Peace Accord, 17 years after its signing, smaller ethnic groups and communities continue to face serious threats to their security in the CHT. Far from a source of long-lasting and durable peace in the CHT, the Accord has been a source of new insecurities to small communities. These insecurities include the emergence of new resistance groups that oppose the Accord and often extort small communities, and the continued presence of the Bangladeshi army that has been associated with sexual violence, torture and murder of Pahari members. For the smaller ethnic groups and communities of the Chittagong Hill Tracts, peace, safety and harmony seem further than ever before. Not only has the Accord failed dismally, but it has itself become a source of harm, fear and insecurity.

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# Seeking Asylum: The Battle Between Refugee Rights and Border Control in the Asia-Pacific

*Ashley Breckenridge*

For Australia, seeking asylum has become an issue in which both literal and figurative battlelines are being drawn. The establishment of naval patrols along Australian and Indonesian waters under the scheme dubiously named 'Operation Sovereign Borders' is a clear example of a manifestation of this at sea.[1] It can also be seen in the various bilateral agreements that Australia has sought to establish in the Asia-Pacific region. As Australia seeks to incentivise its agreements with states like Nauru, Papua New Guinea, Indonesia and potentially Cambodia, the efforts to increase state capacity to deter people from seeking asylum in Australia by boat threaten to make access to protection in the region all the more difficult.[2] Battlelines are being established, but where does this leave those seeking protection who seem to have fallen between the legal and political cracks in Australia and the wider Asia-Pacific?

## The complexities of a regional solution

One of the biggest challenges for people seeking asylum who find themselves in the Asia-Pacific region is the lack of signatories to the 1951 United Nations Refugee Convention and the subsequent 1967 Optional Protocol.[3] Although ratification of the Convention among Pacific states is more common, their geographical distance has meant that these states experience fewer instances of people seeking asylum or migrating outside of conventional means (although, in the case of Nauru, its remoteness acts as an 'effective' barrier to outside access to its detention facilities).[4] Asia, on the other hand, has been the last region to establish mechanisms for promoting and protecting human rights and remains largely tenacious in its acknowledgement of human or refugee rights on a national level, let alone a regional one.[5] There are a number of different explanations proffered as to why this has been the case, including arguments that there is too much 'diversity' in the Asia-Pacific for a uniform set of standards, or that 'Asian values' are distinct from the 'Western' universalism of international refugee rights. Each of these explanations can, however, be challenged through comparisons with other regions, especially those as large and diverse as Africa and Latin America, which both have their own regional refugee frameworks and widespread ratification of the Convention.

Given the lack of regional recognition of refugee rights, it is possible to see how Australia's framing of the issue as one of 'people-smuggling' and 'illegal' movement between states could further jeopardise efforts to establish protection-based policies in Asian and Pacific states. On a bilateral level, Australia has been working with a significant focus towards enhancing the capacity of other countries to address 'people-smuggling' and the restriction of people's movements across borders, with a particular emphasis on Indonesia. According to Nethery and Gordyn, this has included 'the provision of detention infrastructure equipment, technical assistance and training' to Indonesia from Australia since the late 1990s.[6] On a multilateral level, Australia has been active in chairing the Bali Process, alongside Indonesia, with the aim of addressing people smuggling, trafficking, and 'related crimes'. Recently, the 44 members of the Bali Process adopted a *Regional Cooperation Framework* (2011) (RCF) aimed at addressing the rights of asylum-seekers within anti-people-smuggling efforts in the Asia-Pacific. While this could be perceived as a step in the right direction, the core sentiment of the RCF remains concerned with border control rather than refugee

protection. Although people-smuggling and border management are relevant issues, the association of seeking asylum with criminal activities has perpetuated what Wood and McAdam describe as a 'near-hysterical fear about border security', and has distracted both political and public debate away from the plight of vulnerable people in need.[7]

## Where to from here?

Amidst the battle for 'sovereign' borders, where does this leave people who wish to seek asylum in Australia and the Asia-Pacific? So long as key countries such as Indonesia and Malaysia are not signatories to the Refugee Convention, it makes it difficult to remind states that a refugee is not an illegal migrant because, as conceded and acknowledged in international law, it is not always possible for a refugee to obtain prior permission to enter a state in order to seek asylum.[8] Furthermore, should countries, such as Australia, that are signatories and claim a commitment towards the upholding of human rights continue to encourage deterrence-based policies, the Asia-Pacific could be less likely to consider protection-based policies on either a national or regional level.

Encouraging greater state recognition of these rights is not without challenges, and a multilateral regional solution does not guarantee concrete solutions. As can be seen with the implementation issues encountered with the *Organisation of African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa* (1969) and Latin America's *Cartagena Declaration*, signing the Refugee Convention and establishing a regional refugee framework does not necessarily lead to success in resolving obstacles to seeking asylum and accessing refugee rights.[9] At the core of this issue, however, is a matter of principle: that irrespective of race, religion, nationality, membership of a particular social group or political opinion, a person has a right to be protected from violence and death. With the seeking of asylum placed at odds with border protection and control, the recognition of asylum-seekers and refugees, and their rights not just in the Asia-Pacific region but indeed around the world, remains a decisive battle that is yet to be resolved.

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# Ukraine: Self-Determination, Secession and the Demonstrated Inefficacy of International Law

*Chiraag Shah*

The eyes of the world are on eastern Ukraine. Recent reports indicate Russian troops and arms are pouring into the troubled region in support of pro-Russian separatists, who have been in conflict with Ukrainian forces since the removal of Ukraine's pro-Russian president Yanukovich in February 2014.[1] What followed - the Crimean Parliament's adoption of a declaration of independence on 11 March 2014, and Russia's subsequent formal annexation of the Crimean Peninsula on 22 March 2014 – seems incredible in the 21st century, over 20 years after the fall of the Soviet Union and the century of peace and prosperity this augured for Europe.[2]

This article will explore the background to this conflict, and will analyse the issue of secession, before drawing the conclusion that international law offers little in the way of resolution, despite this being the purpose for its existence.

## Background

The history of Crimea is one of alternates between independence and subjugation to imperialistic control. The seeds of the current conflict lie in this dichotomy – Crimea has a strong cultural and linguistic affinity to Russia, but also an independent streak that has often been buried but never eliminated.

The first recorded independent state in the region was the Crimean Khanate in the 15th century.[3] This state's independence was short-lived, as the Ottoman Empire quickly asserted its ascendancy over the peninsular. Under Tsar Peter the Great in the late-17th and early-18th century, Russia recaptured Crimea, and it remained under Russian control, direct or indirect, until the fall of the Soviet Union. The province of Crimea was transferred from the Russian Soviet Federative Socialist Republic to the Ukrainian Soviet Socialist Republic in 1954 as an administrative action. With the coming down of the Iron Curtain and emergence of a fully independent Ukraine, Crimea was now for the first time in centuries no longer under Russian influence. But the redrawing of borders in the post-Cold War era, much like the post-colonial era elsewhere, did not rewrite millennia of ethno-cultural history.

Crimean agitation for independence only intensified, and Ukraine accommodated this by granting Crimea the status of a semi-autonomous region within its constitutional framework. This means that the Crimean parliament is granted authority to legitimately exercise its powers in a number of domestic spheres, including: agriculture, tourism, urban planning, public transportation, public health, and public works.[4]

## Self-determination

The UN Charter, the Human Rights Covenants, and, most pertinently, the *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States* (1970), outline the international community's definition and view of what constitutes self-determination.[5]

Significantly, self-determination is a right that all 'peoples' have. What constitutes a 'peoples' is highly subjective, given how the term is loaded with issues relating to self-identity. However, what has emerged from State practice and international legal scholars is the conception of 'peoples' as those that have 'pre-

determined political entities with a clear territorial basis'.[6] The population of Crimea is predominantly Russian, and it was the issue of the protection of Russian language speakers in eastern Ukraine that precipitated the current conflict. It meets the requirement of being a political entity with a clear territorial basis.

The principle of territorial integrity, which prohibits the dismemberment or impairment of a State's territorial boundaries, prevails over any right to self-determination. This norm is crystallised in the 1970 UN Declaration, and was adopted by the Supreme Court of Canada in the seminal *Secession of Quebec Case*.[7] From the perspective of international law, Crimea, with its semi-autonomous status and attendant rights of self-governance, has achieved self-determination. This self-determination is of an 'internal' nature, within the framework of the existing Ukrainian constitution and territorial limits. The Ukrainian Constitution makes provision for the protection of minorities and their rights, and respects the principle of self-determination in so far as it allows for the creation of a semi-autonomous Crimea. It is thus in compliance with international law, and is entitled to the protection under international law of its territorial integrity, per the decision in the *Secession of Quebec Case*.[8]

## Secession

'Internal' self-determination is the most widely accepted form of self-determination, but there also exists 'external' self-determination, better known as secession or cession, whereby the territorial entity in question separates from a State and either exists independently or joins the territorial mass of another State.

By declaring its independence, the Crimean Parliament has sought to exercise a right to external self-determination. Any act of cession by Russia is an extension of the exercise of this right.

There are a number of obstacles that prevent Crimea's actions from being considered valid under international law.

The first is that Ukraine is proclaimed by its constitution to be a unitary state with sovereign powers vested in the peoples of Ukraine, and Crimea as an integral part of its territory.[9] Any changes to Ukraine's territorial integrity must be made exclusively on the basis of a national referendum.[10] The semi-autonomous region of Crimea has its own constitution, which was adopted by the Ukrainian Parliament in 2009, and is made pursuant to the Constitution of Ukraine.[11] The latter has precedence, and any inconsistencies are to be resolved in its favour. Thus, there is no basis within Ukraine's domestic legal framework for Crimea's secession.

The Supreme Court of Canada has found that, under international law, there is no unilateral right of secession for parts of States, and external self-determination is only accepted in exceptional circumstances, namely, when a people are under colonial rule, oppressed, or are completely and totally frustrated in exercising their right to self-determination internally.[12] None of these seem to be the case in Crimea, however, where, as was previously mentioned, the pretext for the Crimean declaration of independence was the alleged suppression of the Russian language and Russian-speakers in Ukraine.

## Russian Aggression

Russia, NATO and Ukraine are all using disparate interpretations of international law to justify their actions. For Ukraine, it is maintaining territorial integrity and sovereignty. For NATO, it is whether to exercise Article 5 of the North Atlantic Treaty to assist Ukraine, which it is in partnership with. And for Russia, it is the rhetoric of international law around assisting self-determination movements.

What is interesting is that the Ukraine and Russia have a *Treaty on Friendship, Cooperation and Partnership*, in which each party guarantees the ethnic, cultural, linguistic, and religious identity of national minorities on their territories.[13] This clause was specifically inserted at Russia's insistence to protect Russian-speakers. While it is unlikely that any breach of this term has occurred on Ukraine's part, or that, even if it had, it would justify Russian aggression, it is potentially a puzzle piece in the case Russia would build to justify its actions in relation to Ukraine.

Another crucial puzzle piece, and an ironic one at that, is the West's recognition of Kosovo's declaration of independence in 2008, which Russia opposed. The


International Court of Justice, in its Kosovo ruling, found that unilateral declarations of independence are valid, as long they are not connected with unlawful use of force or 'other egregious violations of norms of general international law'.[14] The counter-argument is that this declaration is connected with Russia's threatened use of unlawful force. Russia's response to this, however, would be that it is protecting Russian speakers from human rights violations, as well as assisting in Crimean self-determination.

These ambiguities and inconsistencies in international law have allowed the situation to develop as it has, because it is these uncertainties that create the space for Russia to politically manoeuvre in.

Of course, these legalistic contortions are simply window dressing, and the futility of international law, as ever, is that a powerful nation can generally do what a powerful nation wants, for the most part with impunity.

## Conclusion

The situation in Ukraine is one that re-opens historical wounds and conflicts, and summons shades of the Cold War. What was deemed 'the end of history' has been proven definitively wrong. Moreover, the situation highlights the inadequacies of international law, which, despite its patchwork of treaties and norms, cannot address a situation that seemingly lies fundamentally at the core of its jurisdiction.

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# Eurosceptics in the European Parliament – Business as Usual

*Cameron Graham*

In the aftermath of voting across the continent, Reuters reported on 27 May 2014 that "stunning victories in European Parliament elections by nationalist, Eurosceptic parties ... [had] left the European Union licking its wounds".[1] A popular narrative of a Eurosceptic wave has emerged in the media, focusing on the gains made by anti-EU parties, particularly in the UK and France. Yet all is not as it might seem. Despite the victories of the UK Independence Party (UKIP) and France's National Front (FN), the impact of Eurosceptics on the European Parliament (EP) will continue to be negligible; votes may translate into seats, but not necessarily into power.

## EP elections

From its humble origins as a mere consultative forum, the EP has developed over recent decades to become a co-legislator alongside the Council of the European Union, in what is effectively a bicameral European law-making system.[2] The election of its 751 members every five years has thus become increasingly important, although voting remains non-mandatory.

Elections are held nationally, and in the May 2014 elections, UKIP, led by Nigel Farage, won the UK vote, while FN, led by Marine Le Pen, claimed victory in France. Historic though these results may be, they did not involve a resounding majority. Indeed, the UKIP obtained 26.77% of the UK vote, and FN 24.86% of the French vote. Under the election's proportional representation rules, this amounts to 24 of the UK's 73 seats, and 23 of France's 74 seats.[3] Although Eurosceptic parties found favour elsewhere, these were the two most significant results across the EU's 28 member states.

## Party group formation

The national parties elected to the EP must form supranational party groups in order for the massive institution to properly function. These groups are formed along ideological lines, and must consist of at least 25 members (MEPs) from a quarter of member states (currently seven).[4] Party groups receive a number of advantages, including significant financial support, staffing allocations, places on committees and speaking time in plenary sessions.[5] Thus, despite their fundamental opposition to cooperation within the EP, Eurosceptics must form alliances with parties from other states, or be forced to sit as non-attached MEPs.[6]

The formation of party groups has proved to be a significant obstacle for the recently elected Eurosceptics. UKIP was unwilling to cooperate with Le Pen's FN, thanks to the latter's history of anti-Semitism.[7] Furthermore, several other smaller parties (such as Greece's neo-Nazi party, Golden Dawn) were deemed untouchable by both UKIP and FN for similar reasons.[8] This left very few parties from which Farage and Le Pen could draw the required seven nationalities. Compounding the problem, the more moderate European Conservatives and Reformists (ECR) party group picked up a number of 'soft' Eurosceptic parties favouring reform to abandonment of the EU, notably including Germany's anti-Euro Alternative for Germany party (AfD).[9]

In the end, UKIP was able to cobble together seven nationalities thanks to a defector from FN, whilst Le Pen and her fellow FN MEPs were left out in the cold as non-attached members, thereby not receiving any party group benefits.[10] Although the UKIP's group, the Europe

of Freedom and Direct Democracy (EFDD), has secured said benefits, it is hardly an imposing force. Indeed, consisting of only 48 members, the EFDD is the smallest of the EP's seven party groups.[11] From such a position, it will be difficult for either the EFDD or the non-attached Eurosceptics to form part of any relevant coalition, with the centre-right European People's Party (EPP) and the Socialists & Democrats (S&D) continuing to form a grand coalition majority between themselves.[12]

## Committees & rapporteurs

Not only are Eurosceptics a relative insignificance in the plenum, they will also wield little influence in the EP's committees. Given the size of the EP and the scope of its legislative activities, delegation to specialised committees is necessary; it would be impractical for the entire EP to fully deal with each and every legislative initiative itself.[13] However, agency costs are involved in this delegation, and certain groups or individuals are empowered at the expense of others.[14]

Although the composition of the EP is reflected in committee membership, the committee chair positions are distributed on a proportional basis by informal agreement between the party groups.[15] However, given the informality of this agreement, party groups can jettison the proportionality principle if they do not like a particular nominee. Thus, although EFDD considered itself entitled to the chair of the Petitions Committee, their nomination was blocked and a centrist candidate was elected to the position instead.[16] As such, neither the EFDD nor any non-attached members hold any chair or vice-chair positions in the EP's committees, severely restricting their influence. Interestingly, the AfD, by joining the more moderate ECR party group, have obtained a vice-chair position on the Industry, Research & Energy committee, whilst the ECR holds eight other vice-chair positions and two chairs, including of the important Internal Market & Consumer Protection committee.[17]

More important than committee chairs, however, are rapporteurs, the authors of reports on pieces of legislation before the committee.[18] Although these reports supposedly reflect the position of the entire committee, rapporteurs hold a significant informational advantage, and have a platform from which to promote their views.[19] Moreover, rapporteurs play a crucial role in early agreements with the Council, which are increasingly significant in the legislative process.[20]

Rapporteurships are allocated amongst the party groups through an informal bidding system, which therefore allows further scope for the exclusion of Eurosceptics.[21] The predecessor to the EFDD, the EFD, only received around 2% of reports in the previous parliament.[22]

The one saving grace for the EFDD, but not for non-attached MEPs, is the role of shadow rapporteurs. These are appointed by party groups to hold rapporteurs to account, and play a role in early agreements with the Council.[23]

## Conclusion

The supposed success of Eurosceptic parties, particularly UKIP and FN, in the 2014 European Parliament elections does not appear to have translated into parliamentary clout. The legislative process will march on unimpeded by the smallest party group and a handful of non-attached MEPs, neither of whom will grasp the reins of committee power. It is certainly true that the Eurosceptic victories in two powerful states will have symbolic or

domestic significance. This was seen in David Cameron's opposition to the appointment of Jean-Claude Juncker as European Commission President, and figures such as Nigel Farage may now have greater political legitimacy.[24] But within the European Parliament itself, it is clear that the Eurosceptics will lack any real power, and business will continue as usual.

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# Trumping International Law: The Danger of Selectivity in the Definition of 'Armed Conflict'

*Josh Beale*

International law has become a tool used to control security in the Middle East. The region has been subject to both intervention and indifference as a result of Western interest. Breaches of international law, particularly international humanitarian law and human rights law, are ignored when committed by certain actors, but in other instances, breaches are used to legitimise Western military intervention to protect security interests. The artificiality of this distinction has a detrimental impact upon the normative value of international law; subjective interpretation of the definition of 'armed conflict' for the purposes of applying the Geneva Conventions, for example, demonstrates a political response to issues in the Middle East. This article will argue that the Middle East is a region in which security comes before international law compliance, and that policing of breaches of international law norms in the Middle East is a political affair.

## A theory of international law compliance and violation

Stability and the absence of terrorist threats are more important to key international actors than holding states accountable for failures to comply with international law. Islam and Islamism have been constructed as threats to the international community, and thus the Middle East region is perceived "somewhat differently" due to the presence of this threat.[1] The securitisation of the Middle East after 9/11 has made the region the object of security policies based on indifference or reaction to breaches of international law, with the goal of ensuring security from Islamist threats. Applying Blandford's theory of international law compliance and 'focal points' helps us to understand this situation; a state's compliance with international law is based around their "prediction of future security threat[s]".[2] Violations of international law are thus "marshalled as evidence of the violator's threatening intentions".[3] In the alternative then, when violations of international law are ignored, this is done so on the basis that the violator does not have threatening intentions. Whether a violator is perceived as threatening or not depends upon the opinion of the international community as to whether that state poses a threat to the international community. If not, treating the situation with indifference is then justified. In a region where stability is crucial, the application of international law in the Middle East currently focuses on creating and maintaining stability, and this is done based on political judgment.

## 'Armed conflict'

The application of this political judgment is seen in the interpretation of 'armed conflict' under the Geneva Conventions. Common Article 3 of the Geneva Conventions states that *jus in bello* (international humanitarian law) applies to intrastate conflicts only when these are 'armed conflicts'.[4] The way in which the international community decides whether a conflict does or does not meet this threshold illustrates that the application of this law is a matter of quite broad interpretation. The test relies on proof of two independent elements: the intensity of the fighting, and the degree of organisation of the parties to the armed conflict.[5]

For example, the UN Commission of Inquiry on Syria found in 2012 that the organisation of the Syrian opposition forces was not of a high enough level to justify the Syrian conflict being classified as an armed conflict.[6] Thus, despite the large numbers of casualties

and the fact that there were several on-the-ground organised groups resisting Bashar al-Assad's government, international humanitarian law was not applicable. The international community, despite its own calls for action, was largely indifferent to the fact that international humanitarian law protections were afforded to the Syrian people, and particularly to civilians. Syria became "a failure to use the tool of the [law of armed conflict] for one of its key purposes": to protect civilian populations caught in a civil war.[7]

While international lawyers view the existence of armed conflict "not [as] a political calculation [but rather]...a matter of fact", the intensity/organisation definition is used for political motives.[8] By failing to classify certain conflicts as armed conflicts, the international community is able to ignore its obligations to punish those who breach protections under the Geneva Conventions. Ignoring particular conflicts damages the value of international law, as this body of law relies on the repeated interaction of the international community with international law norms.[9] Indeed, as Blank and Corn note, one factor which goes towards recognising an armed conflict is whether the Security Council has been involved.[10] Thus, when determining whether to apply international law, we are expected to look at whether the Security Council, a political body, has chosen to show an interest in the case. The Syrian example demonstrates the practical indifference that is associated with failing to assign a conflict as armed. While the international community has now condemned the abuses of international law by Assad and by the Syrian opposition groups, the initial reluctance demonstrates the inherently political nature of recognising breaches of international law. By selectively applying the label of armed conflict to intrastate conflicts, the international community is able to remain indifferent to certain abuses of international law and authorise action upon other breaches. This is particularly so in the Middle East, where the West is able to use subjective international law to continue to fight the "long war", the war on terror.[11]

## Security and selectivity

Clearly then, the reaction of the international community to both violations of international law by Middle Eastern states *and* Western states acting in the Middle East is characterised by "indifference...[or] intervention".[12] The "fundamental underpinning" of the international legal system, the prohibition against aggression, "has been selectively dealt with in the Middle East" in order to protect from perceived threats.[13] Beres believes that while the West is "bound to take...the rules and procedures of international law" seriously, the West must "also bear in mind that [their] enemies are generally

unmindful of these same obligations".[14] This dangerous perception leads the international community to ignore American abuses of international law in invading Iraq while reacting to the human rights abuses of Saddam Hussein while President of Iraq, for example.

Security is political. Compliance with international law is seen as negotiable if it is not in the interests of security. For example, in Saudi Arabia, UN special rapporteurs have been content to "value the firm intention [of Saudi Arabia] to cooperate", despite little progress being made in the area of racial, religious, or gender discrimination.[15] There is a perception that non-compliance with international law is a result of "a state's situation [rather] than to its disposition".[16] Saudi Arabia's relationship with the US may fluctuate, but the continuous underlying interest in maintaining this relationship means that the international community takes no real steps towards enforcing Saudi compliance with international law.

Politicisation of the Middle East has led to the differential application of international law to the region. International law is enforced when it is beneficial for the international community to do so; for example, when used as a "punitive" measure.[17] This varied application of international law to the Middle East damages both the universality of international law norms and the credibility of those who enforce them. As Ramesh Thakur writes, "compliance with international rules is a function of the legitimacy of those rules as perceived by the norm-conforming states".[18] This is particularly the case with the application of the supposedly normative principal of 'armed conflict' under the Geneva Conventions. By embarking on a policy of indifference based on politico-security motives, however, the relevance of international law is subjugated to a position below security.

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# Protectionism: The Barrier to African Development

*Khushaal Vyas*

It is a question that has crossed everybody's mind upon seeing or reading news of the ongoing poverty crisis in sub-Saharan Africa. Why, after years of extensive aid support, have there been only very modest improvements in this area? Why is there extremely limited economic growth? Political struggles in the African region aside, there is an obvious problem with an obvious solution; it centres on trade and protection. This article will explore the impact of Western trade barriers on agriculture and how it has been the results of this trade policy that have significantly hindered Africa's development.

## Africa and the Globalised World

Globalisation, which is a favourite economic topic of many scholars, can broadly be defined as a move towards increased global economic integration. Such integration, of course, has its respective pros and cons. While many scholars would agree that increases in trade and investment flows as a result of globalisation have been a natural, and indeed positive, development, one of the clear negatives has been that the synchronisation of economies has dangerously exacerbated economic catastrophes such as the Asian Financial Crisis and the Global Financial Crisis. However, whilst the majority of the world felt the reverberations of these crises, sub-Saharan Africa was relatively unaffected.[1]

This, in itself, was indicative of the reality that the poorest African nations have become excluded from the growing force of globalisation. The question that then arises is, why is this the case? It is easy to point the finger and argue that the unstable politics in the region has resulted in investors shying away from the continent.[2] This is, however, only one of several contributing factors; one of the least discussed of these factors is Africa's issue with trade.

## Africa and Agriculture

Africa remains the least developed continent globally and as such, its primary focus in terms of trade continues to be agriculture. The reason for this is that agriculture is not only one of the most necessary industries, but it is also one which is reasonably basic and prevalent in all societies.[3] Furthermore, compared to manufacturing, services and other major sectors, agriculture comparatively does not require the same amount of elaborate technology and research. Historically, today's economic powerhouses and industrialised societies, such as the United Kingdom, began with strong agricultural and manufacturing industries. However, those industries thrived primarily due to low protection.[4] In contrast, African nations do not enjoy the same luxury today. Rather, agriculture has become the most protected industry worldwide.

## Protectionism

Despite a worldwide shift since the 1960s towards free trade, agriculture remains heavily protected in the form of subsidies, tariffs and, to a lesser extent, quotas. There are understandable reasons for such protection. While agriculture may be one of the more basic industries in terms of its industrial requirements and technical expertise, it is nonetheless fundamental for the survival of nations and societies; in times of conflict and natural disaster, the survival of a nation may hinge on its ability,


and indeed inability, to self-source its food supply. With African nations comparatively more productive in the agricultural sector than the West, this could, in theory, jeopardise the survival of inefficient agricultural industries all over the globe.[5] Naturally, this means that the one major industry African nations rely on is the most difficult to gain a market share in.

A poignant example of this is that simply entering the market in places such as Europe is made effectively impossible with the implementation of the infamous Common Agricultural Policy (CAP). The CAP is one of the largest subsidy schemes in the modern world, with over 50% of the European Union's budget dedicated to it.[6] Although African nations are reasonably efficient in agriculture, firms find it incredibly difficult to access this exclusive European market due to this colossal subsidy.

## Consequences

The consequences of such heavy protection are immense, as it provokes a catastrophic chain reaction that only serves to perpetuate poverty. As aforementioned, key concerns regarding African development have been low investment and low exports. Yet the solution to higher investment is to build a steady and successful industry to which entrepreneurs and business may be attracted. Such investment can then be used to fund greater research and technological developments, allowing firms the ability to branch out into other industries. However, we still see Africa effectively languishing in a dying agricultural industry. With the inability to actually trade effectively in a global market, there is no little logical incentive to invest in Africa. A vicious and unfortunately perennial cycle thus results, whereby Africa must remain fighting for its survival in the agricultural sector without significant investment to improve agricultural production, not to mention investment for research and development.

## Responsibility

Some scholars insist that African leaders have played a large role in shaping the poor economic landscape of the continent, and they are not necessarily wrong.[7] However, while political instability is a major concern for prospective investors, the blame cannot solely be placed on African leaders. After all, we must ask ourselves, how can we expect the leaders of African nations to completely revolutionise their economies when it is nigh impossible for the same nations to access global markets? If there is no solid economic platform and no clear flow of trade, where can these nations obtain capital, investment and economic stimulants? Nowhere. While the problem in Africa is not simple or two-dimensional by any means, there are identifiable factors that have contributed significantly to the problem. It is by focusing on each individual issue that an adequate solution can be developed.

## Solution

An economic optimist would argue that the solution is to continue with trade talks facilitated by the World Trade Organisation (WTO). However, even the most optimistic economists may have lost faith in such a solution years ago. Since 2001, the 'Doha Round' of talks regarding the reduction of economic protection has come to be a resounding failure. The United States has continually refused to reduce unilateral agricultural protection whilst virtually no amount of negotiation has seen any substantial decrease in the European Union's CAP.[8]

Realistically speaking, for any substantial headway to be made in African trade, Western nations must reduce their protection on agriculture to ensure that Africa can begin to develop through trade. The only other real solution is to encourage investment within sub-Saharan African nations to facilitate the establishment of new industries, allowing for other forms of trade. Naturally, the latter solution is somewhat reliant upon ensuring political stability within Africa itself.[9] Until then, as tedious and as unsuccessful as they have been thus far, diplomatic efforts must continue to attempt to encourage the reduction of trade barriers. The benefits would certainly be enormous. With higher trade comes greater prospects for employment and opportunity. With this comes a higher average income for families, allowing for increases in education, welfare and quality of life in general.

## Conclusion

Since the failure of the Doha Round, the role that trade plays in pulling African nations from poverty has been largely forgotten. For the hope of African development, however, the importance of trade capacity must be duly recognised and acted upon. It is only through efforts to encourage free trade or, at the very least, lowered protection, that capital flow inside the African region can be increased. In doing so, citizens of African nations will finally be afforded an increased chance of employment and the opportunity to improve their quality of life. While it may not immediately appear so, free trade in agriculture could ultimately be the key towards solving one of the most difficult and prolonged humanitarian crises the world has ever seen.

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# The Implications of Israel's Attitude Towards International Law

*Joe Alizzi*

From the initial idea of a finding a national homeland for a displaced people, Israel has managed to steadily carve out its borders and become a dominant power in the Middle East. This brief consideration argues that Israel demonstrates a predominantly utilitarian approach towards international law in order to maintain an ostensible legitimacy for its actions, and that its use of international law serves a broader agenda of power assertion for geo-political expansion and dominance. The idea of 'recognition creep' is used as an analogy to describe the result of Israeli efforts to marry illegal actions with a manipulated form of international law in an attempt to portray those actions as legitimate, and thereby progressively broaden its platform to pursue its national interests.[1]

## Creation and manipulation

Israel's stance towards international law is strongly linked to its assertion of territorial sovereignty. The Israeli borders, still officially undetermined, feature in all areas that involve Israel and international law. In his speech to the United States Congress on 24 May 2011, Israeli Prime Minister Benjamin Netanyahu framed the discussion by claiming that 'the Jewish people are not foreign occupiers... This is the land of our forefathers ... [and] no distortion of history could deny the 4,000-year-old bond between the Jewish people and the Jewish land'.[2] However, history reveals a different perspective.[3] The seed for modern Israel is said to have germinated with the words of British Foreign Secretary, Arthur Balfour, who promised 'a national home for the Jewish people', although the word 'state' is not mentioned in his declaration.[4] A series of events, from the League of Nations provisional mandate to the United Nations partitioning Resolution 181 (1947), led to the official declaration of the State of Israel on 14 May 1948, with recognition granted from the world superpowers, the US and the USSR.[5]

Resolution 181 constituted the agreed-upon official borders between Israel and Palestine. As such, 'those borders henceforth could only be changed by one of two processes: first, explicit agreement between Israel and the authorized representatives of Palestine, and second, in ambiguous [cases] ... by international arbitration. The Security Council had, and has, no power to change international borders'.[6] Any alterations to borders that were not agreed upon would be in violation of international law. Consequently, land acquired during the six-day war in 1967 is technically illegal. However, previous Israeli and American assertions have been that Resolution 242's demand for 'withdrawal from territories' instead of 'withdrawal from the territories' involved a deliberate omission of the definite article 'the' to imply permission of a partial withdrawal instead of complete withdrawal, and hence permitting the use of acquired lands for settlements.[7] This argument is an example of the manipulation of international law to legitimise an illegal action in the pursuit of national interests, an example of 'recognition creep' – in this case, land acquisition.

To state that Resolution 242 does not require withdrawal from all territories goes against both the Resolution itself, the UN Charter and principles of international law. The second paragraph emphasises 'the inadmissibility of the acquisition of territory by war'. To read any other meaning into the Resolution after this paragraph is to contradict this statement. Further, the third paragraph emphasises that member states accept the provision of the Charter 'to act in accordance with Article 2' which among other things, states that members will refrain from the use of force in

a manner inconsistent with the Purposes of the United Nations. This would clearly include acquisition of land through war, a founding UN principle stemming from the Kellogg-Briand Peace Pact.[8] Further, it has been asserted that nothing in the UN Charter 'even remotely hints of a power or entitlement in the Security Council to change international borders...an occupying power has no right to de facto annexation of portions of the territory by population transfers'.[9] Nevertheless, Israel has used the Resolution to legitimise its annexation of lands successfully, with Resolution 242 and the 1967 borders having become a reference point for subsequent negotiations.[10] However, this 'recognition creep' has not stopped at the 1967 borders.

## 'Recognition Creep'

Settlements, bypass roads and a 'security wall' have formed part of the process of 'recognition creep' in the pursuit of Israel's goals of land acquisition through forced eviction and expropriation of lands.[11] Not only does the pattern of forced evictions, demolition of Palestinian structures and continued settlement activity violate international law, it also violates international humanitarian law and the Oslo Agreements because as an occupying force, Israel is subject to international humanitarian laws in Hague Convention IV, which prohibits that kind of construction, and the continued building of settlements violates the Fourth Geneva Convention.[12]

Israel has argued that bypass roads and the confiscation of land are justified under the Oslo Agreements, which mandates the redeployment of the Israeli Defence Forces.[13] Although Article 53 of the Fourth Geneva Convention permits destruction of property when 'absolutely necessary for military operations', it also prohibits destruction by the occupying power of real or personal property in any other situation. However, Israel has 'used West Bank land for military purposes, for settlements, and for roads designed to integrate the West Bank road system into the Israeli system'.[14] Hence, while invoking international law, security and military operations have been turned into methods for progressive acquisitions of land. Once established in these regions, a physical presence can de facto over time produce a gradual perceived legitimacy, or 'recognition creep'.[15]

## Self-Defence

The 'separation' or 'security' wall has served a similar purpose. It takes in some of the most fertile West Bank agricultural land as well as substantial parts of a crucial West Bank aquifer, and separates hundreds of thousands of Palestinians for the rest of their territory.[16] Again, an argument based on international law was used to gain legitimacy. Israel's UN General Assembly representative Gillerman stated that a security wall was necessary to prevent terrorist attacks and was permitted under 'the right of States to self-defence enshrined in Article 51 of the Charter'.[17] He also cited Security Council Resolutions 1368 and 1373, linking the use of force in self-defence against terrorist attacks, arguing a wall was less forceful than military action.[18] In the subsequent International Court of Justice Advisory Opinion on the wall, the court found that there were no grounds to claim self-defence against a non-state actor based on the reading of Article 51, which only provides for action against another state; 'the situation is thus different from that contemplated by Security Council resolutions 1368 and 1373, and therefore Israel could not in any event invoke those resolutions in support of its claim to be exercising a right of self-defence'.[19] Israel is not unique in invoking self-defence claims towards a terrorist attacks.[20] What is salient is the attempt to use international law, normally applicable to jus ad bellum (law on the use of force or the prevention of war) situations, to the building of a separation barrier which was itself deviating from the 1967 'green line' –already technically illegal – and hence 'creeping' further into West Bank territory.

## Judicial Balance?

This is not to say that there are no balancing tendencies within the Israeli body politic and judicial systems. The Israeli High Court has had opportunity to hear claims by displaced Arab landowners and has in some instances ordered the rerouting of the wall because 'the loss of land and access imposed on the local Arab population was disproportionate and unnecessary for the legitimate self-defence'.[21] However, the court's involvement with international law issues reveals the high level of awareness in Israel regarding the importance of maintaining legitimacy in the eyes of international law. Israel's

engagement with international law has been described as 'an essentially utilitarian attempt to gain legitimacy' and ensure 'Israel's legitimacy among the nations'.[22] Despite an increase of institutional influences within Israeli political and civic life that could invite a more moral approach to international law, Israeli geo-political interests still drive the utilitarian use of international law. But expansion can only occur if legitimacy is maintained and recognition granted.[23] The 'recognition creep' that has occurred in regard to Israel's behaviour would not have been possible if it did not have the support of the world superpower, the US, to reinforce dubious claims of legitimacy under international law.[24]

Through an instrumental and utilitarian use of international law, Israel has increased its borders from the official lines of 1948 and now beyond the formerly accepted 1967 borders. Israel has carefully analysed international law and shaped it to suit its national security agenda. It is important to note that 'occupation itself should be considered as a temporary situation, a transitional period following invasion and preceding the agreement on the cessation of the hostilities'.[25] In an era that has seen the rapid decolonisation of the globe and the almost universal rejection of annexation through war, it is remarkable that the Israeli occupation persists. However, for a State that has expansionist aims, time is the best ally in such an international climate. It has provided Israel incremental legitimacy gains through a utilitarian use of international law, 'recognition creep', and has allowed it to shape the borders so that it can maximise its national interests.

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# Freedom to be Fossil Free: Divestment as a Pragmatic Approach to Climate Change

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Gone are the days where the phrase 'environmental activist' simply conjures an image of ecologists camping out in forests to wage individual battles with big corporations. A heightened global understanding of the impending effects of climate change has led to a new wave of highly organised activism that has made its target the worldwide fossil fuel industry. The fossil fuel divestment movement represents a new era of activism, using both moral and logical appeals to force systematic change that dives to the heart of the global economy: money.

## A moral imperative

'Divestment' is a concept that has surfaced a few times throughout recent history in situations underlined by undeniable ethical issues; previous movements targeted apartheid in South Africa and the tobacco industry.[1] In 2012, the concept returned to the spotlight wrestling with a new moral dilemma; fossil fuels, climate change, and the dire consequences predicted for the globe. The reconceptualisation of this term under an environmental agenda is credited to Bill McKibben, founder of worldwide organisation 350.org, who introduced divestment under 350's "Fossil Free" campaign in an issue of Rolling Stone.[2] It has since gained traction around the world, both with individuals and on a larger scale in universities, cities, religious institutions, and large organisations.

The concept is relatively simple. As McKibben explains, "if it's wrong to wreck the climate, then it's wrong to profit from that wreckage".[3] The divestment movement asks institutions and individuals to withdraw their money from the fossil fuel industry by relocating their investments to cleaner, greener alternatives. This act intends to produce direct impacts through the withdrawal of funds and stigmatise the entire fossil fuel industry in a concerted move towards a low-carbon economy.

## A global stalemate

Historically, global efforts to tackle climate change have been unsuccessful. Previous attempts at intergovernmental action have lacked any real legislative power, resulting in poor adherence to agreed commitments.[4] Issues of free ridership can be linked to the collapse of agreements such as the Kyoto Protocol and the lack of progress towards internationally agreed targets such as the Millennium Development Goal of achieving environmental sustainability by 2015.[5] The divestment movement is significant in that it does not rely on the toothless bureaucracy of international organisations; instead, it gives power to people, as groups and individuals, to take real actions with real consequences, waging a collective battle against atmospheric polluters.

Inevitably, there has been significant skepticism directed at the viability of the divestment movement. The assumption that people and institutions will move their money for ethical reasons runs counter to the assumption of a 'rational' self-interested party that is the foundation of neoliberal economics. However, studies from around the world are being published that suggest that even a rationally-minded party would in fact be pursuing its best interests by divesting from fossil fuels.

## 'The Math'

Multiple studies, led by the Intergovernmental Panel on Climate Change (IPCC), have informed a global

consensus that a temperature rise of 2°C would have catastrophic consequences for human civilisation, recommending that any rise above this should be avoided at all costs.[6] Taking into account the correlation between increased $CO_2$ levels and rising global temperatures, scientists have calculated that in order to stay beneath 2°C, the world can afford to emit a further 565 gigatons of carbon. This effectively gives the world a 'carbon budget' of 565 gigatons, necessitating that 2,795 gigatons of the world's fossil fuels remain underground.[7]

These figures are problematic considering that the share prices of fossil fuels are valued with reference to the reserves available – most of which, given this logic, need to be considered unusable. This logic has led to growing international recognition from the financial community that fossil fuels have the possibility of becoming 'stranded assets', liable to rapid devaluation as greater worldwide awareness sparks new levels of legislation and regulation to ensure the carbon budget is not exceeded.[8] While there remains skepticism at the world's capacity to adhere to this limit, greater numbers of mainstream firms are acknowledging the risks posed by potential stranded assets, working from an assumption that it is now simply a matter of *when*, rather than if, they become so.[9]


## The Carbon Bubble and Stranded Assets

Mainstream financial advisors and investment companies are publishing advice to clients and offering alternative fossil fuel free investment portfolios.[10] A growing amount of literature suggests that diverting financial investments will not necessarily produce less returns; in some cases the opposite. Bauer et al. suggest there are no significant differences in returns between ethical and conventional funds in Australia, with models from financial advisors IMPAX similarly suggesting that fossil free portfolios could even increase profits.[11] The fact remains that climate risk for fossil fuels is not adequately captured in global financial markets, which is what the UK-based Carbon Tracker Initiative seeks to address.[12] Their reports are leading the case internationally to identify climate risk in shares and increase transparency. Combined, such initiatives are making it easier for institutions to assess and carry out divestment based on ethical or logical motives.

Notable international divestment efforts have come from Stanford University in the United States, the British Medical association, the Uniting Church, and the city of Dunedin in New Zealand.[13] Closer to home, The University of Sydney has announced a freeze on all investments in coal, albeit without citing environmental reasons, in the first significant movement from an Australian university.[14] Individuals are similarly responding to this ethical dilemma by switching banks and superannuation funds in a search for financial returns that are not implicated in climate change.[15] As demand grows for fully fossil fuel free investments, more alternatives are being offered, including fossil free super.[16]

## Risk to reputation

As more high-profile institutions cite moral imperatives to divest, the fossil fuel industry becomes increasingly tarnished. This is important for the potential of the divestment movement to stigmatise the fossil fuel industry, a matter that is generally agreed upon in the

divestment debate.[17] Coal in particular has been flagged as likely to suffer from the stigmatisation of divestment campaigns, which has already led to tenacious responses from Australian industries.[18] As this pressure grows, it is likely that more initiatives to mitigate the global warming effects of fossil fuels, such as carbon capture and storage technology, will be used by the industry to credibly counter bad reputations. From an environmental perspective, this is only a short-term solution that does not address the fundamental flaws in the carbon-intensive economy. However, with a dwindling carbon budget already a reality, these measures form important transitional steps.

## Conclusion

The divestment movement itself is not enough to halt global warming, and alone it will not achieve McKibben's goal of reaching 350ppm atmospheric carbon levels. With all the information currently available, not even the best advisors can precisely predict the interplay of economic, social and environmental factors over the coming years. However, it is certainly the most formidable challenge to the business-as-usual approach that dominates global relations, and represents the beginning of long overdue shifts in global consciousness and economic systems to respond to the reality of climate change. The campaign is already moving faster than predicted, and fossil fuel companies are no longer in a position to simply ignore the claims divestment makes. Science, technology and the economy alike are targeted in this move that gives power to the people, indicating that divestment is one of the strongest ways that global citizens can push forward to create a sustainable future.

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# The Role of Narrative in the Governance of the Ebola Virus Epidemic

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Disease outbreaks and epidemics are a social indicator of power distribution and resource allocation. Communicable diseases are the major causes of morbidity and mortality in sub-Saharan Africa and they can significantly impede a developing country's economic growth.[1] Whilst the Ebola virus receives a proportionate amount of international attention for the chaos that it wreaks, the chronicling of fear and panic that this discourse engenders is neither sustainable nor equitable, and it encompasses too narrow a set of actors, institutions and disciplines. A closer look at the current Ebola epidemic in Sierra Leone, Liberia and Guinea exposes why such responses are problematic.

## The Power of Narratives

Historically, communicable diseases such as Ebola have been depicted as part of the African 'other'. They are framed as frightening phenomena that need to be contained or 'eradicated' before they reach international Western shores.[2] This dominant narrative instigates a reactive response that focuses on the technicalities of an external response rather than developing an understanding of the localities that are affected. A response akin to the latter can offer a rich insight into how an epidemic can be managed efficiently and with the least disturbance to pre-existing local systems.

Ebola has been distorted into a fearful entity since the 1990s, when articles, books and films fixated on the horrors of the disease. Richard Preston's book, *The Hot Zone* (1994) is infamous for describing, in gruesome detail, the symptoms of Ebola. The science-fiction-like depiction of the disease evoked a sense of fear that resulted in a perception of Ebola as a rapidly growing monster. Although the virus does need to be controlled, this type of response distracts us from paying attention to structural drivers of the issue.

## Stamping Out the Problem or Creating More Problems?

Ebola's capacity to kill and the lack of any cure means that upon it being identified, officials must quickly instigate protocol that focuses upon preventing the spread of the disease. This response does not always take into account contextual multidimensionality. The recent quarantining of Monrovia, in Liberia, has led to rising tensions, protests from both patients and healthcare workers, as well as many escapees from the quarantine zone.[3] These reactions can be attributed to food, water and healthcare shortages within the quarantined communities, as well as military involvement in enforcing the lockdown. Inevitably, those who are impacted by such top-down responses are the poorest, with the least access to resources.[4] The correlation between poverty and disease is not new, but the 'outbreak' discourse surrounding epidemics propagates the unfair marginalisation of those perceived as economically irrelevant.

An understanding of pre-existing inequity and weak institutional capacity is paramount to successfully analysing the effectiveness of measures like quarantining. Guinea is one of the poorest countries in the world, ranking 178 out of 187 in the United Nations Development Programme Development Index.[5] Rural Guinea, where most zoonotic sources of haemorrhagic fevers lie in forests, lacks basic infrastructure, resources and capital investment.[6] Having been severely impacted by such systemic violence and marginalisation, it is understandable as to why measures like quarantining

would heighten a people's distrust of the state. Powerful actors and institutions scrutinise the actions of impacted communities without giving them adequate information or access to day-to-day livelihood, health and social needs. Such impositions will undermine the goals of epidemic governance if they engender inequitable outcomes and cause local people to resist efforts. This is apparent in southern Guinea, where Red Cross doctors were recently evacuated because young locals had threatened them with knives.[7]

## Culture Matters

The 'outbreak' conceptualisation of Ebola also tends to "grant agency and responsibility" of the disease to local cultural practices.[8] Traditional burial methods, the hunting or consumption of potential carriers of pathogens such as bats and the preference for traditional cultural treatments facilitate the spread of disease.[9] Yet, having one's cultural norms subverted can, understandably, increase locals' fear, anxiety and further distrust of external actors. Rather than treating cultural practices as a facilitator of epidemics, engaging with local cultures and harnessing their knowledge could assist in the management process. Apart from cultural perceptions, cognitive pressures such as the social stigma of having a disease can make it more difficult for people to report new carriers or get an early diagnosis.[10] Support systems, whether through social relationships or counselling centres, are a necessity to help victims and their families approach treatment centres, as well as rebuild their sense of social identity.

## Opportunity: A New Foothold for Communities

A sustainable long-term response to Ebola recognises that community involvement in decision-making is vital to mitigating any perceptions of distrust or anxiety that could otherwise undermine efforts to control the viral transmissions. The high recovery rate in the small Guinean town of Telimele can be attributed to local community leadership and the strong relationships that they established with doctors.[11] Telimele also has a clinic that is accessible by the entire population. However, the substantial justice of community participation is not always clear—there will still be questions of who is representing whom, and whose voices are allowed in the decision-making process.

Whilst effective community involvement is paramount to combatting epidemics, it must be accompanied by the provision of adequate resources, as well as healthcare and political support. This is the point at which the power of the epidemic narrative can be harnessed to advocate for greater resources and international cooperation. In encouraging more international involvement in West Africa, United Nations Secretary General Ban Ki Moon recognised that global health can no longer be "short-changed".[12] Indeed, if we consider epidemics to be symptoms of underlying social and political problems, they could become the catalysts for sustainable and equitable development goals.

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# Forgotten: The Struggles of Obstetrics in Afghanistan

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The central-Asian republic of Afghanistan has been marred by decades of large-scale conflict, including the Soviet invasion of 1979, years of civil war that culminated in the rise of the Taliban, and most recently the United States-led campaign in its "War on Terror". While the West continues to engage in discussions regarding the appropriateness of these interventions, little mention is made of the dire effects such warfare has had on the Afghani people. The mass emigration of at least one third of its population, many of them skilled professionals, has created a large academic vacuum, leaving essential skills in short supply.[1] The collapse of the agricultural system has left little cultivable land, only made worse by years of drought, famine, epidemics and widespread destruction of residential areas. Of most concern, Afghanistan's health indicators are shocking, with over 22 million people living in poverty and destitution. In 2002, 60% of the country did not have access to basic health services.[2] One in five children does not live long enough to experience their fifth birthday.[3] For those who do, they look forward to an average life expectancy of 45 years.

As is often the unfortunate reality in the developing world, women bear the brunt of ill health and conflict. In 2011, the country was named the worst place in the world to be a mother.[4] The highest maternal mortality ratio ever recorded, at 6,507 deaths per 100,000 live births, was documented in one of Afghanistan's provinces, Badakhshan.[5] In contrast, the maternal mortality ratio is an estimated 10 per 100,000. One Afghan woman dies every 30 minutes from a pregnancy-related cause - usually obstructed labour, eclampsia, haemorrhage or overwhelming infection post-partum.[6] For each woman who dies, 20 other women suffer long-term, often stigmatised, health consequences, such as the creation of abnormal connections between the vagina and bladder or rectum (termed 'fistulae'). Being pregnant in Afghanistan is a dangerous undertaking, and the African saying, 'pregnant women have one foot in the grave' is highly pertinent.

## A host of challenges

Poor maternal health in Afghanistan is a product of many factors, including war and extreme poverty. The issue is only compounded by a fertility rate that may simply demand too much from an already struggling health system. Half of all Afghan girls are married before the age of eighteen and become mothers at a very young age. Lack of family planning and the low female literacy rate is responsible for multiple pregnancies in short succession. These factors create the conditions under which women are most susceptible to pregnancy-related complications and, indeed, death.

Where care is available, it is often underused. The World Health Organisation (WHO) guidelines recommend at least four antenatal check-ups during pregnancy, although for many, access remains limited. Access to health clinics is tortuous, as public infrastructure, such as roads, is poor and public transport limited. It is commonplace for a woman to travel with a male relative and be escorted by willing vehicle-owners who live in the same area. The costs associated with accessing care, combined with the unfamiliarity amongst the women's families regarding the role and importance of antenatal care, are also major deterrents. As a result, traditional remedies are usually trialled prior to hospital admission. As an example, women who suffer eclamptic fits, a true

obstetric emergency, are sent to spiritual men to 'free them of the evil spirits possessing them'.[7] Women are thus reluctant to reveal their qualms and suffer at home, only consulting help when it is almost always too late.

The challenges do not end for women if they make it to the health clinic or hospital. Corruption is rife and women with contacts within the hospital or who are wealthy enough to provide unofficial payments are afforded better treatment.[8] Corruption affects the poor disproportionately, as they are less likely to receive the treatment they deserve. While it is tempting to condemn the health professionals who demand bribes, the politics of poverty are never straightforward. Without the extra payments, many health professionals are unable to feed their families owing to their meagre wages. Staff also experience high levels of workplace stress as they are overworked due to the deficit in trained professionals to look after patients. This translates to poor patient care. Authoritarian treatment at a time when women are most vulnerable harbours mistrust of the medical system. The issue is compounded after-hours when the overwhelmingly overworked female health professionals return home to their families.

## Progress and pitfalls

Despite Afghanistan's woes, recent years have seen progress in improving the maternal mortality ratio. In 2001, the Ministry of Public Health rolled out a basic package of health services as part of a healthcare system reform.[9] Maternal health was tackled specifically in the National Reproductive Health Strategy, and Rabia Balkhi Hospital in the capital, Kabul, was chosen to become a maternal health facility and training centre.[10] Between 2002-2006, the number of births presided over by a skilled health worker rose from 50,000 to 190,000.[11] This was mainly due to a community-based midwife training scheme to address the skills shortage, and the provision of a basic emergency obstetric care scheme.[12] There are now 2,200 midwives in Afghanistan, improving the provision of care in rural areas.[13] However, this still falls short of the required number, of approximately 6000-8000.[14]

The state of maternal health in Afghanistan is deplorable and little known or discussed in the rest of the world. The challenges experienced by women are thus difficult to fathom. However, the suffering of Afghan women is a universal struggle shared by women throughout the developing world for whom the greatest danger lies not in bullets and bombs but in pregnancy. A valuable lesson from recent progress in Afghanistan is that even poor countries can make practical progress to combat pregnancy-related deaths, and effective strategies are those that empower and educate the local community. However, for continued and sustainable development in the uncertain Afghan climate, motivation and support from the international community is needed to address the skills and infrastructure deficit in a country just emerging from the ashes of war.

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# Can China take the Renminbi to the World?

*Matthew Fitzpatrick*

Over the past two decades, we have witnessed the stupendous growth of China's economy. This has been largely attributed to the rise of the middle class, and the "opening up" of the nation of over 1.4 billion people to the international community to embrace business, trade, entrepreneurship and innovation. As technology, logistics, and regulation have developed, China has positioned itself, and its extremely large, flexible and hard-working labour force, to become the largest importer and exporter of goods and services in the world. Step by step, it has been implementing reforms allowing it to compete in the international arena. At the World Economic Forum Annual Meeting of New Champions in September 2014, Premier Li Keqiang spoke of China's economy transitioning away from its traditional manufacturing and skilled labour role within the global supply chain, to one of the world's leading innovation nations. Premier Li spoke of several major reforms that are currently taking place to invite investment and increase ease of business; particularly, the establishment of special free trade zones, financial regulation reform, and the internationalisation of the nation's currency, the renminbi (RMB). This article will examine the rationale behind China's efforts to internationalise the RMB, and the significance this reform has for the global economic environment.

## What does it mean when a currency is "internationalised"?

With China already a major trading partner of a number of nations within the global economy, it is becoming increasingly important for global businesses to conduct trade and investment in the currency in which they are incurring costs. This removes the risk of foreign exchange fluctuations to a company's bottom line and allows them to focus on their core business. There is increasingly a strong demand for transactions to move away from the US dollar (USD) and towards China's own currency, the RMB.

## Why internationalise?

There are a number of advantages to internationalising the currency. The most obvious benefits are the reduced transaction costs for businesses conducting business entirely in RMB. Indeed, Allen Cheng writes that the costs of FX transactions, hedging instruments, derivatives and fees typically total a cost of 1.5% of each transaction, which could be averted.[1]

Internationalisation would mean that the currency is freely accessible outside of the issuing nation, such that transactions between parties can occur in this currency, completely outside of the issuing nation. A side effect of this is that the build-up of foreign currency reserves, principally aimed at promoting liquidity for offshore transactions, will increase the demand for Chinese government bonds, which provide a reasonable return and can be easily converted back to cash when the currency is needed. This increase in demand will reduce the country's borrowing costs, benefiting the corporate sector.[2] This allows Chinese corporations to issue debt or equity into capital markets to raise funds and expand operations, increasing liquidity and availability of investible securities. Ultimately, deeper and more efficient financial markets make for a better allocation and distribution of capital, and encouraging saving where appropriate and investing in targeted areas provides long-term benefits to the entire economy.[3]

## What is RMB?

**RENMINBI (RMB)** – is the official name of China's currency. It translates to "People's Currency".

**YUAN** – is the main unit of currency. That is 1 yuan is 1 unit of Renminbi – similar to 1 dollar.

**ONSHORE RMB (CNY)** – this is the currency code of Renminbi that resides in the Mainland Chinese market. It is not freely convertible.

**OFFSHORE RMB (CNH)** – this is the currency code of Renminbi that resides outside of Mainland China. It is freely convertible. The "H" here is for "Hong Kong", where the largest volume of off-shore RMB transactions take place. Note that depending on the country that the currency transaction is settled in, there are variants to CNH, such as CNS (Singapore), CNT (Taiwan) and CNL (London).

## Why is there an Offshore and Onshore Market?

Initially, there was only the Onshore market, which is heavily regulated. The price is set via a "managed floating system" by the People's Bank of China (PBOC) with a current +/- 2% intra day trading band. Furthermore, payments using CNY Foreign Exchange deals can only be remitted to and received from mainland China, and it remains restricted for the sole purposes of Trade and pre-approved financial transactions.

The Offshore market was established as one of the first measures towards the internationalisation of the RMB, to enable trade and financial transactions in a controlled manner without overhauling the entire system. CNH is an unrestricted, fully convertible and transferable market. The price is derived from the fixing of the CNY, but the price movements that continuously occur between these daily fixings are driven by supply and demand and as such, it is more of a free market. Payments can also be remitted to any global destination, such as Hong Kong and Singapore, using an offshore RMB clearer; this reduces fees, risk and enables greater speed of transacting.

## The Challenges Ahead

The RMB is currently a currency in motion. We are witnessing a transformation of the currency and its relevance within the global economy; in May 2014, the Bank of International Settlements rated it as the 9th most traded currency in the world, with projections that it is set to climb.[4] While it is argued that the RMB could take the number one spot in several years, a closer look at the position of the USD, which is a part of over 85% of daily FX transactions, allows us to appreciate the scale of its current dominance.[5] There is thus still some way for the RMB to go, and before it can even overtake the Euro as the 2nd most traded currency, China needs to reform a number of its conventions, including its practices towards commodities, international reserves and bonds. In order to achieve the status of a dominant currency, which is characterised by scale, stability and liquidity, China needs to face each of these hurdles.[6]

There are a number of different paths that China could take towards internationalising the RMB: cautious and slow, open and fast, or selectively open. The selectively open option seems to be the path China is currently taking. This approach allows for arbitrage opportunities

## below: RMB hubs around the world

Existing: Hong Kong, Singapore, Taiwan
Pending + Clearing Bank Confirmed: London, Frankfurt, Korea, Malaysia
Pending + PBOC signed MoU: Luxembourg, Paris
Awaiting Announcement: Sydney

Reference – ASIFMA, 'RMB Roadmap', May 2014, http://www.asifma.org/uploadedfiles/resources/rmb%20roadmap.pdf (accessed 19 September 2014).


between the mainland and 'special economic zones' such as the Shanghai Free Trade Zone.[7] In this instance, a company that operates in both mainland China and the Special Economic Zone can exploit the price differences that arise until there is a convergence to a price that does not necessarily reflect the value placed by companies operating in the mainland only. The development of Special Economic Zones, characterised by low regulation and simplified frameworks of business operation, is a measured step towards internationalising the currency, and serves as a pilot experiment for the impacts that internationalisation will bring to Chinese business.

Under the monitoring and regulatory mechanisms Chinese authorities have put in place, successful policies in these zones will likely be expanded across the nation.

## Establishing an RMB Hub in Sydney

There are currently discussions taking place to establish an RMB hub in Sydney. The effect of this would be to allow RMB transactions between Australian counterparties to take place and settle in real time in Sydney; that is, in a manner as efficient as if the transaction were taking place in Australia denominated

in Australian Dollars. This would be a step beyond the conduct of transactions in USD; currently, for a USD transaction to take place, the remittance message is conferred over to a US-based financial institution and matched by another US-based financial institution, after which the information is sent back to the two parties undergoing the transaction – a process that does not happen within a day. With the establishment of RMB hubs, there is thus the potential for the RMB to become one of the most convenient and low-cost currencies to use in Sydney, and further in each of the countries with an RMB hub, providing a practical incentive for global businesses to move away from USD and towards RMB-based transactions.

## Where to from here?

It is clear that we are witnessing China consciously take a path towards internationalisation and a more dominant role within the global economic community. What is unclear is what path precisely it will take, and how it will overcome the key hurdles on the way to internationalising the RMB. Jeffrey Frankel argues that the quest for a truly international currency does not stop with simply taking a significant share, but rather with utilising the networking effects and control of international regulation, standards and conventions to take close to 100%, just as the British Pound did in the 19th and early 20th century, and the USD from the decade following World War II to today.[8] Currency internationalisation is a winner-takes-all game that challenges some of the key foundations of the global economy. Each instance has been different to the last, and in the case of the rise of the RMB, the numerous possibilities for its direction as a global currency means we will simply have to wait and see how this transformation unfolds.

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# BOOK REVIEW

Title: Out of the Mountains: the Coming Age of the Urban Guerrilla
Author: David Kilcullen
Publisher: Scribe Publications Pty Ltd
Location: Victoria, Australia
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In U.S. Marine Corps parlance, David Kilcullen is certainly not "boot". That is to say, he is by no means an inexperienced newcomer to the field of warfare, conflict strategy and counterinsurgency. Kilcullen has had an exciting and varied career that began in the Australian Army, seeing him rise to the position of Lieutenant Colonel, before retiring to become a diplomat, policy advisor for the Australian and United States governments, university professor, and most famously, the senior counterinsurgency advisor to General David Petraeus in the lead-up to the 2007 US troop surge in Iraq. Drawing on Kilcullen's advice, this surge adopted a new approach of counterinsurgency (COIN), a then new and innovative strategy that emphasised the need for a synthesised understanding of both military force and local civilian factors if the root causes of insurgency attacks were to truly be addressed and eradicated.

In his latest book, *Out of the Mountains: the Coming Age of the Urban Guerrilla*, Kilcullen critiques current COIN strategy and offers a revised approach for conflict of the future. He argues that, unlike the Iraqi and Afghani wars of today, in which conflict has occurred primarily in sparsely populated, mountainous regions, future conflicts will take place in densely populated, coastal, connected cities. Kilcullen identifies four "megatrends" that will cause this change.

1. *Population growth*: The global population will increase to 9.5 billion by the year 2050.
2. *Accelerated urbanisation: 75%* of these 9.5 billion people will be urbanised.
3. *Littoralisation:* This urbanised population will be concentrated on coastlines in the developing world, in cities such as Mogadishu and Tripoli.
4. *Increasing connectedness:* Communication and networking opportunities for citizens and militants alike will increase because of easy access to the Internet, mobile telephones, and social media.

Over the course of the book, Kilcullen innovatively presents to the reader his reasoning as to why COIN strategy, which is currently geared towards the isolated warzones that we know, cannot afford to remain stagnant. He proposes that the entire way we think about cities must

change if we are to keep up with conflict of the future; rather than viewing them as static spaces, we should view cities as living, robust, breathing organisms with their own metabolisms, diseases, and immune systems. This metaphor allows the conflict theorist and practitioner to observe battle spaces as holistic entities that have complex interactions with a multiplicity of forces, far beyond solely military forces.

A key proposition in the book is Kilcullen's 'theory of competitive control'. This is the concept that social systems are constructs in which civilian populations gain a sense of normalcy, security and most importantly, predictability, from the services provided to them by those in control. An example of such control in a peaceful society such as Australia is the use of traffic lights, road rules, and law enforcement, which have a combined effect of creating normalcy, security, and predictability for Australian citizens on the road. However, Kilcullen writes that in conflicts and battle spaces, where unpredictability rules, these normative systems have the potential to be manipulated by criminal organisations and terrorist elements, such as Hezbollah in Lebanon and the Taliban in Afghanistan, who attempt to persuade citizens of their ability to provide better control. Where citizens fail to be naturally persuaded of this, physical coercion and violence are utilised to maintain the system. However, if an organisation provides nothing but extortion and fear, citizens will remain unpersuaded as to their security (for example, Al-Qaeda in Iraq prior to the Arab Awakening). As such, Kilcullen posits that 'competitive control' is a two-way street: Hezbollah and the Taliban work to persuade the population because they need the population to accept the services they provide, just as the population need Hezbollah or the Taliban to provide their services at all. Kilcullen's theory of competitive control allows us to observe the degrees of influence that an actor, whether governmental or non-state, can have over a society both logistically and psychologically. Kilcullen recognises that societies crave predictability; the problem to date is that Hezbollah and the Taliban, whether Western armed forces like it or not, can provide this. The means of winning this competition between insurgents and counterinsurgency forces for effective control of the population is a problem which COIN is yet to truly counter.

Kilcullen writes in a manner that is easily accessible for a wide audience. The reader's ability to engage with the material, however, could have been enhanced by the inclusion of necessary maps or illustrations. Notwithstanding this, *Out of the Mountains* is a valuable addition to discourse in international security, political science, urban theory, anthropology and media studies. His arguments are evocatively supported by a blend of personal conflict experience and research gleaned from fieldwork conducted by Caerus Associates, Kilcullen's Washington-based strategy and design firm. Analyses are diverse, including, but not limited to, explorations of previously identified megatrends in the 2008 Mumbai Attacks, the 2010 Kingston unrest in Jamaica and the 'network-enabled' Egyptian Revolution and 'Arab Awakening' that began in 2011. However, the recent rise of ISIS in Iraq and the lack of an end to the conflicts that rage in the Middle East certainly raise questions about Kilcullen's argument that conflicts in the war-zone environments of yesterday will soon recede, and that it is "time to take ourselves, both physically and mentally, out of the mountains". From the eyes of the United States and its allies, that may indeed be the goal, but it is far from being reached yet.

There are few strategies that have proven more difficult to implement in war than COIN. *Out of the Mountains* by David Kilcullen is exceptional as it offers a new theoretical framework on how to conduct COIN strategies. Refreshingly, the book does not restrict itself by being pigeon-holed into sub-disciplines. Instead, it provides a broad roadmap on how to approach, and perhaps solve, problems that will arise during future conflicts. While Kilcullen's predictions will only be tested with time, this book is highly recommended and essential reading for anyone seeking to further their understanding of the dynamic and ever-changing nature of conflict and insurgency.

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*This book is available for purchase at the UNSW Bookshop, with a discount available for readers of 'Politik at UNSW' upon mention of this issue. Enquire instore for details.*


*The cover invites you to consider the battle scars created by battlelines.*

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