

CONTENTS

Global Issue 2019 | Volume 10, Issue 1

5

Heterosexism & Homosexuality:

The Performance of Privilege in Bahamian Society

Natino Thompson

19

"Alleged" Genocide in Darfur:

Post-9/11 Consensus Breaking and the 21st Century UN

Hanna McKinley

29

Why is Taiwan so Important?

The Manipulation of Nationalism in Legitimizing One-Party Rule in China

Yeung Jun Tao

45

The Dominant Male Perspective in Sexual Violence Laws:

A Radical Feminist Critique of the Lebanese Penal Code

Natasha Mouawad

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DESIGNER'S NOTE:

For this issue, I chose the Pop Artists of the 1960s - particularly Andy Warhol - as my inspiration for the cover and several of the illustrations inside the publication because many of these artists supported the LGBTQ+ movements of the twentieth century. Pop Art uniquely captures many of the sentiments of the last few decades, such as commercialization, a growing call for diversity, and a response to a changing media landscape. This design aesthetic fits perfectly with the excellent stories in this issue.

Dear Reader,

You are holding in your hands the second annual edition of the Global Issue. We are pleased to present you with some of the finest undergraduate scholarship on international issues from around the world. The mission of this annual issue is to celebrate and highlight perspectives of students outside the United States.

This issue also marks our first as Editors-in-Chief of YRIS. We are immensely grateful to former Editor-in-Chief Elisabeth Siegel for her dedication to this journal and its staff. Her mentorship inspired a new class of YRIS editors and writers, eager to tackle the tasks of the upcoming year. Lis revitalized YRIS during her tenure, and we certainly have big shoes to fill.

This year, YRIS has expanded to its largest ever membership in our ten year history, boasting a team of forty editors, writers, and designers. Thanks to our size and the hard work of our team, we are pleased to announce that there will be new content daily available on our website and Facebook Page. Look forward to plenty of news analysis, opinion articles, pop-culture pieces, and more.

We are proud of the unprecedented thematic and geographic diversity of this year's Global Issue. We hope these thought-provoking essays inspire conversation and inform you about socio-political issues around the globe.

Regards,
Jake Mezey & Qusay Omran

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Essays

Heterosexism & Homosexuality

The Performance of Privilege & Secrecy
in Bahamian Society

All over this archipelago, Bahamians have mastered the art of managing the simultaneously open and secret structure under which homosexuality exists.

This simple fact is critical to understanding the psychological burden heterosexism¹ places on LGBTQ+ people. The imposition of a life of secrecy is conferred upon LGBTQ+ individuals because of a heterosexist society, which unapologetically continues to deny the existence of the LGBTQ+ community, even when tangible evidence is presented. When it comes to secrecy surrounding homosexuality in The Bahamas, there are a plethora of mechanisms individuals use to hide their socially abhorred sexual disposition. These mechanisms substantiate the claims of psychological trauma experienced by LGBTQ+ individuals living in The Bahamas. They also further highlight the complexities, nuances and intersectionality of homosexuality which

¹ Heterosexism, or heterosexual privilege, is a system of oppression that reduces the experiences of sexual minorities to medical or criminal causes while victimizing people who are seen as sexual minorities through violence or diminished opportunity. 'Heterosexism sustains a legal system that denies equal protection and property rights (such as marriage) and holds in contempt the personal relationship of sexual minorities.' (see footnote 34).

subverts the dominant culture of society, making the act of same sex coitus—or even the very presence of a presumed or confirmed homosexual—a threat to the established order which perceives itself in opposition. The established order that exists in the Bahamas is none other than a neo-imperialist, colonial, ontologically white, capitalist, patriarchy. As an antagonistic, abstract force, patriarchal thinking and processes create internal conflicts within the minds of LGBTQ+ persons attempting to manage or navigate their sexuality through the terrain of Bahamian society. Simultaneously, these processes subject LGBTQ+ people to an inordinate amount of mental anguish. While it is understood that blatant discrimination against a group of people results in a negative social impact upon the group, it is apparent that Bahamian society is unable to acknowledge that such a discriminatory structure exists as a subculture within institutions such as the church, the law, and the workplace.

As a society, this failure to acknowledge the open-secret structure of homosexuality and heterosexism in The Bahamas hinges on the fact that to do so would undermine the neo-imperialist, colonial, ontologically white, capitalist patriarchal structure. In relation to homosexuality, as with many other national issues, Bahamian society exhibits an extreme case of cognitive dissonance. Bahamians are incapable of resolving this dissonance because of the low position of this issue on the list of priorities of a “developing” nation.

To acknowledge this homophobic societal structure would call for the erasure of delusions held as tacit beliefs, upon which every sector of this society has been formed. Delusions about marriage, as encased in law, ideas of conception and the binary framing of sexual acts are all pillars of Bahamian society, and an integral part of the societal system. This system is based on capitalism and a patriarchy whose ultimate goal is control, rooted in the indoctrination of values that maintain the status quo amongst the population. Consequently, as illogical as these beliefs often are, they are subsequently venerated and perpetuated rather than examined and challenged, especially when unequal benefits can be derived from traditional practices held in high regard by the dominant society, such as the institution of heterosexual marriage.

In an attempt to fill the void of research on the subject of homosexuality, this paper contends that certain privileges are extended to Bahamian heterosexuals which excludes, marginalizes, and discriminates against Bahamian LGBTQ+ people. As a result of this privilege, homosexuality in Bahamas continues to be seen from a heterosexist vantage point, reinforcing the psychological anguish experienced by LGBTQ+ persons all over the archipelago. The crux of the paper is to examine the secrecy surrounding homosexuality in Bahamian society, particularly within the church, the law, and the workplace.

Bahamian society tends to use marginalized groups like LGBTQ+ individuals as scapegoats for societal issues. This projection grants the perceived “dominant majority” the ability to abscond from responsibility and address



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perceived “ills” by blaming groups on the fringes of society. Subsequently, by means of projection and scapegoating, Bahamian society conjures up the idea of a “monster” which must be held responsible for societal issues. Through the use of bellicose and prejudicial language, these marginalized individuals are then perceived to be the “monsters” which the culture must fight against. Cohen (1996), declares “the monster is difference made flesh come to dwell among us”² and that this

*...monstrous difference tends to be cultural, political, racial, economic and sexual. The exaggeration of cultural differences into a monstrous aberration is familiar enough. The most famous distortion occurs in the Bible, where the aboriginal inhabitants of Canaan are envisioned as menacing giants to justify the Hebrew colonization of the promised Land (Numbers 13). Representing an anterior culture as monstrous justifies its displacement or extermination by rendering the act heroic.*³

The heroic act in this instance is the promulgation of the ideals of the dominant society through the compelled conformity of LGBTQ+ individuals, as a means of warding off these “monsters.” It is through this conformity that the individual is then rewarded for being in “harmony” with the Bahamian society and not opposed to it. In his book, *The Scapegoat*, René Girard further explains how the system, in this case Bahamian society, does not appreciate difference. This gives credence to heterosexism and its privileges for those who conform to its “standards,” while leaving those marginalized, minority groups: whether they be racial, economic, religious, political or sexual—to be excluded from receiving these benefits. Girard (1989) declares,

*The potential for the system to differ from its own difference, in other words not to be different at all, [means that it ceases] ...to exist as system...Difference that exists outside the system is terrifying because it reveals the truth of the system, its relativity, its fragility, and its mortality...despite what is said around us persecutors are never obsessed with difference but rather by its unutterable contrary, the lack of difference.*⁴

Enslaved Africans, potential rebellion against British imperialism, the color of one’s skin, the Haitian immigration “problem,” and the “homosexual agenda” are all part of Bahamian history and at one point or another have all been labeled as “monsters.” British colonial powers labeled the first two of these “monsters,” whereas the latter groups were designated scapegoats by the “independent” Bahamian nation.

The mystique surrounding these “monsters” only serves to entrench the members of the dominant society within rigid constructs that are in actuality a mere façade perceived as homogeneity or unity. However, at the microsystem level of the Bahamian society, no homogeneous thought exists in the group which claims to be the “majority.” Nevertheless, the thought of an idealized homogeneity in Bahamian society persists amongst those who claim the existence of a “monster” and regard it as being “...transgressive, too

2 Jeffrey Jerome Cohen, *Monster Theory: Reading Culture*. (Minneapolis: University of Minnesota, 1996), 7.

3 *Ibid.*, 7-8.

4 René Girard, *The Scapegoat*, trans. Yvonne Freccero (Baltimore: Johns Hopkins University Press, 1986), 33.

sexual, perversely erotic, a lawbreaker...[and that]...the monster and all that it embodies must be exiled or destroyed.”⁵ Nevertheless, when it becomes apparent that the “monster” never dies and is always a recurring fixture—the contradiction emerges. Then, and only then, it becomes explicit that the role of the “monster” is to compel members of society to pick a side. Those who stand in agreement with the label “monster” continue to actively avoid interrogating or solving issues perceived as “social ills.”

*These monsters ask us how we perceive the world, and how we have misrepresented what we have attempted to place. They ask us to reevaluate our cultural assumptions about race, gender, sexuality, our perception of difference, our tolerance towards its expression. They ask us why we have created them.*⁶

Along with the “monsters” invading Bahamian society and needing “eradication,” the Bahamian male finds himself entrenched in a unique and paradoxical patriarchal cognitive framework which spawns an internal conflict and a resulting psychological burden of secrecy. In his book, “Neuroses in the Sun,” psychiatrist Timothy McCartney discusses the Bahamian male and his “repudiated masculinity”⁷ for which he is continually seeking validation and overcompensating through “...a series of conquests [or] incessant talk about actual [but more frequently] fantasied sexual achievements...”⁸ According to McCartney (1971), the Bahamian male and his series of sexual conquests “...represents a continual confirmation of his manhood, i.e. his dominance [perceived as masculinity].”⁹ The pride of the Bahamian male lies in “...his ability to procreate...”¹⁰ One of the most important points made by McCartney is that the Bahamian male is emotionally satisfied not by these conquests but rather through “...his all male company and in all-male relationships...[of]... his male cronies...”¹¹ who joyously affirm the masculine image that he projects of himself. When this image is taken away from him, the Bahamian male is a “...deeply insecure individual.”¹² McCartney argues that this makes the Bahamian male susceptible to homosexuality. While it is extremely difficult to find supporting evidence for McCartney’s conclusion about susceptibility to homosexuality, it can be said that McCartney’s description is a rather accurate and well-articulated representation of the societal backdrop in which the Bahamian male finds himself.

Hence, this backdrop serves also to frame the “closet” of the Bahamian homosexual male, and indeed of LGBTQ+ individuals on the whole. The framing starts with the closet being used as a mechanism that underscores heterosexual privilege. Firstly, the closet is used as a mechanism to force individuals to deny the corporeality of their experience, which informs their identity, in order to receive the benefits offered to the “majority.” Therefore, the closet becomes the place where fear and hiding combine to foster a psychological burden of shame, silence, and secrecy.

At the epicenter of the debate concerning homosexuality in The

5 Jeffrey Jerome Cohen, *Monster Theory: Reading Culture*. (Minneapolis: University of Minnesota, 1996), 16.

6 *Ibid.*, 20.

7 Timothy O. McCartney, *Neuroses in the Sun*, (Nassau: Executive Printers of the Bahamas, 1971), 140.

8 *Ibid.*, 140.

9 *Ibid.*, 140.

10 *Ibid.*, 140.

11 *Ibid.*, 140.

12 *Ibid.*, 140.

Bahamas is the Christian church. No other institution in the nation has the peculiar ideological hold on all social sectors. In 1998, Alan R. Lee, Pastor of Calvary Bible Church, stated on the church's television series, "Open Word," that "in the Bahamas... for the most part, the adherents of this lifestyle [that is homosexuality] are still 'in the closet'..."¹³ He also declared, "if we were to take much of our local 'sip-sip' seriously, we would have to believe that there is a somewhat large, flourishing and quite active gay community in our country."¹⁴ The connection between the fact that a large portion of LGBTQ+ individuals indeed remain "in the closet" and the Church's involvement in the crystallization of that same closet is an idea that most members of the Christian church seem unable or unwilling to grasp. Herein lies one of the many contradictions present within this homophobic and heterosexist system. The inability to grasp this incongruent concept only further entralls LGBTQ+ individuals "in the closet" because:

coming out is a matter of crystallizing intuitions or convictions that had been in the air for a while already and had already established their own power-circuits of silent contempt, silent blackmail, silent glamorization, silent complicity. After all, the position of those who think they know something about one that one may not know oneself is an excited and empowered one—whether what they think one doesn't know is that one somehow is homosexual, or merely that one's supposed secret is known to them. The glass closet can license insult...¹⁵



"AT THE EPICENTER OF THE DEBATE CONCERNING HOMOSEXUALITY IN THE BAHAMAS IS THE CHRISTIAN CHURCH."

It should be noted that Pastor Lee, like many other religious "fanatics," as Voltaire hailed them, acknowledges that "the closet" does exist. In doing so, Pastor Lee admits not only that the closet is real for many LGBTQ+ individuals but also that "...the closet is the defining structure for gay oppression..."¹⁶ whether consciously or otherwise. It is the mechanism used by proponents of heterosexual privilege to identify, name and separate individuals that practice homosexual or "deviant" behavior. In fact, this position of power derived from heterosexual privilege and Christian ideology incites extremely prejudicial, discriminatory and inflammatory rhetoric from "believers" directed towards LGBTQ+ people. From the external perspective of non-believers, the use of this rhetoric within Bahamian society unfortunately often undermines the premise upon which the Christian faith is established, creating a dichotomy of epic proportions in the minds of non-churchgoers. The dichotomy is simple;

¹⁶ Ibid, 7.

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the Church is an organization and environment where a moral doctrine is preached, however its own members bear witness to the inability to put that doctrine into practice both individually and collectively. Consequently, this contradiction that many witness occurring is an institutionalized moral hypocrisy amongst church leadership and lay membership.

Furthermore, while some sermons preached within churches may not be outright hateful, the very undertones of these dispatches verbalize that homosexual acts and people are “abnormal” and “unnatural.” Even if not intended to be hateful or discriminatory, these messages often embolden self-identified Christians in their use of inflammatory rhetoric against LGBTQ+ people, because they view themselves as defenders of the faith. This very speech-act fosters a self-hatred within queer individuals attempting to find their social footing within the world or assimilate within the culture of the church. As a result of “the closet” and its attached power structures, LGBTQ+ persons experience an internal conflict known as internalized homophobia. According to Meyer (1995):

Internalized homophobia refers to the direction of societal negative attitudes toward the self. Long before they begin to realize their own homosexuality, homosexually-oriented people internalize societal anti-homosexual attitudes. When as adolescents or young adults they recognize same-sex attraction, they begin to question their presumed heterosexuality and apply the label "homosexual" or "gay" to themselves. Such self-labeling occurs before any public disclosure of their homosexuality. But as self-labeling begins, individuals also begin to apply negative attitudes to themselves, and the psychologically-injurious effects of societal homophobia take effect.¹⁷

Part of the human experience is to look for information that corroborates our beliefs as opposed to information that contradicts them. This confirmation bias is seen in the way that the Church ignores the fact that within the very scriptures used to preach heterosexism and patriarchy are stories of “closet-like” experiences. For example, the story of Esther is a tale of a unique experience in a “closet.” Esther’s experience of the closet occurs from a cultural vantage point, but this does not lessen the effects of the stigma, prejudice and discrimination incurred. In the story, Esther, who is often heralded for saving her people from genocide, marries King Ahasuerus and conceals the fact that she is a Jew. This identity prompts Esther to enter a kind of closet or secrecy, which she chooses not to reveal because of the perceptions held and declarations made by her prejudiced husband: that Jews should be regarded as unclean people, or, in terminology familiar to LGBTQ+ individuals—as an “abomination against nature.” King Ahasuerus’ trusted advisor, Haman, is intent on the extermination of the Jewish people because of his biases and prejudices, leading up to a climactic moment when Esther is urged by her cousin Mordecai to save her people by revealing her identity as a Jew. The time of her revelation, the fear and suspense surrounding that one moment by Esther “...would be recognizable to any gay person who has inched towards coming out to homophobic parents... [or friends].”¹⁸ This further

17 Ilan H. Meyer, “Minority Stress and Mental Health in Gay Men”, *Journal of Health and Social Behaviour* 36, no.1 (1995): 40.

18 Eve Kosofsky Sedgwick, *The Epistemology of the Closet*, (Berkeley and Los Angeles: University of

solidifies the point that the closet is juxtaposed to the power structure and its attempt to regulate those who are not benefactors of the privilege. Eve Sedgwick (1990) asserts:

When gay people in a homophobic society come out...especially to parents or spouses, it is with the consciousness of a potential for serious injury that is likely to go in both directions. The pathogenic secret itself, even, can circulate contagiously as a secret: a mother says that her adult child's coming out of the closet with her has plunged her, in turn, into the closet in her conservative community. In fantasy, though not in fantasy only, against the fear of being killed or wished dead by (say) one's parents in such a revelation there is apt to recoil the often more intensely imagined possibility of its killing them. There is no guarantee that being under threat from a double-edged weapon is a more powerful position than getting the ordinary axe, but it is certain to be more destabilizing.¹⁹



"THE LABELS 'DISCREDITED' AND 'DISCREDITABLE' SPEAK TO THE POWER GIVEN TO THOSE TACIT ASSUMPTIONS THAT ARE THE FOUNDATION FOR PSYCHOLOGICAL PRESSURES EXPERIENCED BY LGBTQ+ INDIVIDUALS THROUGH SOCIAL CONTACT."

Since the law contains no explicit decrees protecting homosexual individuals or members of the LGTBQ community in The Bahamas, "gay people are... legally discriminated against in housing, employment, entitlement and basic civil rights."²⁰ Additionally, the constitution's lack of protection of LGBTQ+ individuals, as well as the constant fear and suspense surrounding coming out of the closet, leads many to "pass" as heterosexual. What this means is that the closet becomes the place not only to hide but also to actively avoid events of prejudice, discrimination and violence, all of which the law enables by failing to present supportive anti-discriminatory legislation. According to Raymond M. Berger (1990):

Passing is the social process whereby the homosexual presents himself or herself to the world as heterosexual. Although this may seem a straight-forward process, in practice, passing embodies a complex set attitudes and behaviors that varies with personal and situational factors. Virtually every gay man or lesbian passes at some point and most gay men and lesbians, by virtue of the nonapparent nature of sexual orientation, pass with some people

California Press, 1990), 76.

¹⁹ Ibid., 80.

²⁰ Ilan H. Meyer, "Minority Stress and Mental Health in Gay Men", *Journal of Health and Social Behaviour* 36, no.1 (1995): 41.

at least some of the time.²¹

Adept “passers” frequently deal with internalized homophobia, internalized heterosexism, fear of rejection, victimization, constant fear of stigmatization, and labelling, all of which contribute to the psychological burden of secrecy. Individuals who “pass” on a continuous basis acquire their position of power within a heterosexist society by actively and carefully minimizing and avoiding experiencing acts of disrespect by simply upholding the systems upon which heterosexual privilege is derived. Passing individuals do so even if this means further disenfranchising LGBTQ+ individuals by enacting unjust laws for benefits and privileges of those that adhere to heteronormative standards. LGBTQ+ individuals unable to pass, find themselves labeled as “... discredited; that is the stigma is known beforehand or immediately apparent when the stigmatized person interacts with another person (as in the case of someone with a visible physical handicap). The essential social task for the discredited person is the management of the tension generated during social contacts.”²² In this way, this management of the tension experienced in social interactions becomes another facet of the closet for both passing and non-passing LGBTQ+ individuals.

Berger (1990), continues

Gay men and lesbians are familiar with the tension that exists when others are aware of their homosexuality, but the predominant situation for most gay men and lesbians is one in which they pass; that is, their homosexuality is not known to others... Where the person is discreditable; that is the stigma is not immediately apparent[,] the management of personal information is the essential social task of the discreditable person, and it has been described as a universal task in the identity formation process for gay men and lesbians. The person must decide ‘to display or not to display; to tell or not to tell; to let on or not to let on... and in each case, to whom, how, when and where.’²³

The labels “discredited” and “discreditable” speak to the power given to those tacit assumptions that are the foundation for psychological pressures experienced by LGBTQ+ individuals through social contact. It should be noted that social contact does not always involve social interaction/exchange. However, social exchanges always involve social contact. In one scenario, a “discredited” individual enters a room where an extremely prejudicial and discriminatory heterosexual or “passing” male exists. This social contact, even when no words are exchanged, can elicit an episode of prejudice, discrimination or violence, where the discredited individual could possibly be subjected to either a life-threatening act, a verbal assault or complete avoidance. Any one of these acts of aggression are based on the belief that the discredited individual is not “normal” somehow rendering them in one way or another as being unworthy of the respect or honor afforded to heterosexuals or “passing” LGBTQ+ individuals.

In an effort to minimize discrimination, prejudice and violence, “passers”

21 Raymond M. Berger, “Passing: Impact on the Quality of Same-Sex Couple Relationships”, *Social Work* 35, no. 4, (July 1990): 328.

22 *Ibid.*, 328.

23 *Ibid.*, 328.

develop an acute sense of awareness, known as “vigilance.”²⁴ This hypersensitivity to others is often accompanied with anxiety about every social interaction. Why this acute sense of awareness or vigilance? The answer, according to Meyer (1995), is that:

*The fear that others can disrespect [or discredit] a [LGBTQ+] person because of something he shows means that he is always insecure in his contact with other people; and this insecurity arises...from something which he knows he cannot fix.... Such an individual 'may perceive, usually quite correctly, that whatever others profess, they do not really 'accept' him and are not ready to make contact with him on 'equal grounds.'... 'Learning to hide'... [within the closet is the]... most common coping strategy of gay and lesbian adolescents.... 'individuals in such a position must constantly monitor their behavior in all circumstances: how one dresses, speaks, walks and talks become constant sources of possible discovery. The stress experienced by the vigilant person leads to a general experience of fear and mistrust in interactions with the dominant culture, and a sense of disharmony and alienation with general society.'*²⁵

Since no law exists to protect LGBTQ+ individuals, it allows for such homophobic and heterosexist acts, which are often perpetrated without any ramifications. In The Bahamas, there have been several murders of LGBTQ+ individuals in recent years. These cases have often ended with the assailant being given a reduced sentence or acquitted of the crime altogether. In cases where the assailant was not captured, there is little, if any, serious attempt at investigation and these never receive sufficient attention to be solved. This certainly speaks to the systematic dysfunctionality of the legal process as well as highlights how attitudes and apathetic responses toward homosexuality saturate national institutions that should offer assistance and in this case justice for its citizens.

As an example, the murders of world-renowned handbag designer Harl Taylor and former lecturer at the then College of The Bahamas Dr. Thaddeus McDonald in 2007 still remain unsolved to this day, although these murders occurred within inches of the heavily surveilled U.S. Embassy. Latherio Jones was sentenced to three years of probation for the 2004 murder of Trevor Wilson who made a sexual advance towards Jones. The prosecution appealed the case because it was felt that the judge had put forth an extremely lenient sentence considering the evidence available. A Bahamas Local article reported that Justice Dame Joan Sawyer upheld the sentence because Jones had already spent approximately five years in prison awaiting trial and he had been “provoked” by Mr. Wilson. Dame Sawyer continued, “one is entitled to use whatever force is necessary to prevent one’s self [from] being the victim of a homosexual act.”²⁶ She further added that the Court of Appeal “...agreed with the trial judge’s findings that ‘a further three years of supervision by the authorities

24 Expectations of rejection, discrimination and violence – with regard to the minority components of their identity in interactions with dominant group members.

25 Ibid., 41.

26 Bahamas Local, “Judge: Killing was justified to avoid a homosexual act,” last modified June 11, 2010, https://www.bahamaslocal.com/newsitem/2159/Judge_Killing_was_justified_to_avoid_a_homosexual_act.html.

would be of benefit to [Jones]' as opposed to a more severe sentence.”²⁷ The leniency of this sentence is reminiscent of the 2005 stabbing death of Dale Williams by Frederick Green-Neely. Mr. Williams was gay and allegedly HIV positive. This, coupled with the fact that Dale Williams allegedly “grabbed Mr. Green-Neely’s genitals’ and told him he had a crush on him” resulted in



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the killing of Mr. Williams.²⁸ Even more recently, in June 2019, the deaths of Bahamian Diplomat Alrae Ramsey and psychology PhD student Blair John in the Po River, Italy serve as evidence of the secrecy and silence surrounding perceived LGBTQ+ individuals and their murders. Even now that the bodies have been returned to The Bahamas and have been buried, there has been no comprehensive investigation into the matter. While this is certainly disturbing, this apathy is consistent with the reaction of the authorities, the court system, and general Bahamian public regarding the murders of perceived or confirmed LGBTQ+ individuals.

Likewise, workspaces across The Bahamas are rife with heterosexist institutional policies that further sponsor secrecy surrounding one's sexuality. For that reason, the inescapable “closet” tied to the LGBTQ+ experience becomes a permanent fixture in their work lives and workplaces. Depending on their place within a society, corporations and institutions can have a substantial amount of social influence, which may be further detrimental to those perceived as “deviant” individuals. One such institution is the educational system. The educational system is unique in that both teachers and students who are LGBTQ+ are punished in some measure for this “deviant” behavior. The systematic denial of pertinent truths for LGBTQ+ persons is an organized form of discrimination against a group of people whose behavior, deemed unacceptable by society, receives systematic punishment.

According to James R. King (2004), the discourse surrounding gay teachers is about “...a group that does not have a consistent identity.”²⁹ To

27 Ibid.

28 Ibid.

29 James R. King, “The (Im)possibility of Gay Teachers for Young Children,” *Theory Into Practice* 43, no.2 (Spring 2004): 123.

have an effective dialogue about LGBTQ+ teachers, King continues, “the talk itself must shift from homosexuals and teachers to discourse practices that construct ‘the homosexual’ as different from a ‘straight man.’ It is in the discursive contexts that homosexuality is produced and then used as extortion.”³⁰ LGBTQ+ teachers are extorted for their silence, their secrecy, and their compliance to the system. The secrecy and silence that the system engenders strips LGBTQ+ teachers of the freedom to disclose their sexual orientation or to mention details about their “private” life around students or colleagues, who are often obtrusive and pushy in the attempt to acquire such information. Additionally, the force of the system can be seen when LGBTQ+ teachers are “...fired, routinely, for so much as intimating the right to existence of queer people, desires, activities, [and] children.”³¹

This systematic extortion has significant implications for LGBTQ+ teachers and their performance within the educational system. Firstly, Kissen (1996) in her book *The Last Closet: The Real Lives of Lesbian and Gay Teachers* declares:

*Lesbians and gays [teachers & students] remain invisible even as schools acknowledge racism and sexism... Gay culture is still missing from ‘new’ multicultural curricula and that many administrators who have established policies against racist name-calling still tolerate homophobic slurs.*³²

Kissen simultaneously highlights the privilege given to heterosexual teachers and acknowledges the obstacles LGBTQ+ teachers must overcome in order to be viewed as competent and survive within a heterosexist educational system. On the other hand, for many LGBTQ+ teachers this can have a crippling effect. King (2004) articulates eloquently:

*As a closeted gay primary teacher, I constantly monitored my behavior around children. I was anxious about how other teachers, parents, and principals would interpret my interactions and relationships with my students. The paradox that my self-monitoring engendered is complex. As a strong child advocate, I valued the concern that I and other adults have for children. Therefore, like others around me, I was and am careful about the influences that prevail upon the children I teach. Yet how can I, by virtue of my sexual orientation, be unhealthy for kids?*³³

It is the malignant nature of heterosexual “...privilege in the workplace [which] maintains systems of discrimination and ensures the replication of LGBTQ+ people’s subordination.”³⁴ The holder of privilege can choose freely whether or not they wish to ignore differences in someone’s sexual orientation, a power not afforded to LGBTQ+ individuals. Whether heterosexuals will admit it or not, there is a clear divide that occurs the moment a teacher is found to be “different.” It is that difference which

30 Ibid.

31 Eve Kosofsky Sedgwick, *Tendencies* (London: Routledge, 1994), 2.

32 Claire Potter, “The Last Closet,” *The Radical Teacher*, no. 54 (1998): 37.

33 James R. King, “The (Im)possibility of Gay Teachers for Young Children,” *Theory Into Practice* 43, no.2 (Spring 2004):124.

34 Tonette S. Rocco & Suzanne J. Gallagher, “Straight Privilege and Moral/izing: Issues in Career Development,” *Wiley Periodicals*, no. 112 (Winter 2006).



"IF THERE IS ANY DISCUSSION OF SEX AND SEXUALITY, IT IS FROM THE PERSPECTIVE OF THE DISEASES STUDENTS CAN CONTRACT IF THEY REFUSE TO ABSTAIN."

divides and separates teachers; both, from their colleagues and pupils.

It is also this "...systematic separation of children from queer adults; their sequestration from the truth about the lives, culture and sustaining relations of adults they may know who may be queer..." which adds to the growing number of cases of HIV/AIDS and unsafe sexual practices.³⁵ In fact, "heterosexual" parents, teachers, and clergy intersect for one common cause: to keep "intelligible information, support, respect, [and] condoms..." out of the hands of sexually active gay adolescents.³⁶ Within secondary schools in The Bahamas "teaching about sex or sexuality in any form has been [practically] eliminated...[and]...replaced with fabulously ineffective abstinence programs that are focused only on the putative horrors of unwed motherhood."³⁷ If there is any discussion of sex and sexuality, it is from the perspective of the diseases students can contract if they refuse to abstain. To make matters worse, medical and mental health professionals add to the dilemma by "...invalidating and hounding kids who show gender-dissonant taste, behavior, [and] body language."³⁸ Nevertheless, work environments like the educational system highlight how heterosexual privilege fosters the psychological burden of secrecy for both employees and its patrons, creating a systematic domino effect from top to bottom of the organization or institution.

Throughout this paper, heterosexual privilege has been shown to enforce the psychological burden of secrecy through institutions like the church, the law, and the workplace. These institutions use heterosexist ideologies enacted through a legal framework to perpetuate the continued disenfranchisement of LGBTQ+ people in The Bahamas. Yet the intensity of the burden of secrecy placed upon LGBTQ+ people all over The Bahamas cannot be articulated in the words of one paper. Therefore, this paper is intended to serve as a catalyst for dialogue on heterosexism and homosexuality – a topic that the Bahamian society has been actively avoiding; at both the macro and the micro levels. For many LGBTQ+ people the psychological burden of secrecy is inexplicably tied to the complexities of the "closet" and the unique way each institution frames and upholds the structure of that closet experience. Upholding the closet and its accompanying framework simultaneously creates the platform that allows heterosexual privilege to exist while engendering feelings of powerlessness, hopelessness, and despair in the lives of LGBTQ+ people. Until Bahamian "heterosexuals" are made aware of the privilege from which they derive societal benefits and how that privilege is used to deny the inalienable human rights of LGBTQ+ people in The Bahamas, homosexuality will continue to be the "monster" upon which Bahamian society dumps blame for its perceived societal ills.

35 Eve Kosofsky Sedgwick, *Tendencies* (London: Routledge, 1994), 2.

36 *Ibid.*, 2.

37 Claire Potter, "The Last Closet," *The Radical Teacher*, no. 54 (1998): 37.

38 Eve Kosofsky Sedgwick, *Tendencies* (London: Routledge, 1994), 2.

Works Cited

- Rocco, Tonette S., and Suzanne J. Gallagher. "Straight Privilege and Moral/izing: Issues in Career Development." *Wiley Periodicals (Wiley InterScience)* 112: 29-39. 2006.
- Berger, Raymond M. "Passing: Impact on the Quality of Same-Sex Couple Relationships." *Social Work (National Association of Social Workers)* 35 (4): 328-332. 1990.
- Bahamas Local, "Judge: Killing was justified to avoid a homosexual act." Last modified June 11, 2010. https://www.bahamaslocal.com/newsitem/2159/Judge_Killing_was_justified_to_avoid_a_homosexual_act.html (accessed September 2, 2019)
- Cohen, Jeffrey Jerome. "Monster Culture (Seven Theses)." In *Monster Theory: Reading Culture*, edited by Jeffrey Jerome Cohen, 3-25. Minneapolis: University of Minnesota Press. 1996. Accessed January 23, 2018. https://www.englishwithtuttle.com/uploads/3/0/2/6/30266519/cohen_monster_culture_seven_theses_3-20.pdf.
- Girard, René. *The Scapegoat*. Translated by Yvonne Freccero. Baltimore: The Johns Hopkins University Press. 1986.
- King, James R. "The (Im)possibility of Gay Teachers for Young Children." *Theory Into Practice: Sexual Identities and Schooling (Taylor & Francis, Ltd.)* 43 (2): 122-127. 2004. Accessed March 21, 2018. <http://www.jstor.org/stable/3701547>.
- Kissen, Rita. *The Last Closet: The Real Lives of Lesbian and Gay Teachers*. Heinemann. 1996.
- Lee, Alan R. "Open Word." Nassau: Calvary Bible Church, March. 1998.
- McCartney, Timothy O. *Neuroses in the Sun*. Nassau: Executive Printers of The Bahamas. 1971.
- Meyer, Ilan H. "Minority Stress and Mental Health in Gay Men." *Journal of Health and Social Behavior (American Sociological Association)* 36 (1): 38-56. 1995. Accessed February 17, 2018. <http://www.jstor.org/stable/2137286>.
- Potter, Claire. Fall, "The Last Closet." *The Radical Teacher (University of Illinois Press)* (54): 37-38. 1998. Accessed March 18, 2018. <http://www.jstor.org/stable/20709982>.
- Sedgwick, Eve Kosofsky. *Epistemology of the Closet*. Berkeley and Los Angeles, California: University of California Press. 1990.
- Sedgwick, Eve Kosofsky. *Tendencies*. London: Routledge. 1994. Accessed September 28, 2017. <http://985queer.queergeektheory.org/wp-content/uploads/2013/04/Tendencies.pdf>.

"Alleged" Genocide in Darfur:

Post-9/11 Consensus Breaking and the
21st Century UN

From 26 February 2003 to present, the Darfur region of Sudan has experienced a genocide during which an estimated 200,000 civilians have lost their lives.

The Darfur crisis has engaged the attention and diplomatic efforts of both individual nations and international organizations, principally the United Nations (UN), whose efforts to prevent the conflict, including a variety of intervention initiatives, evidently failed the 'African' ethnic groups of Darfur. This paper will examine why the international community failed to act decisively and effectively to prevent this tragedy, with a principal focus on how the progress of the 1990s and early 2000s in establishing an international consensus on intervention was subverted by America's invasion and continuing involvement in Iraq.¹ On the premise of three observations, this paper argues that the American-led invasion of Iraq created an international environment that was not at all conducive to humanitarian intervention in Darfur, Sudan. First, the invasion held disastrous consequences for America's international moral authority, political influence, and military

¹ John Hagan and Alberto Palloni. "Death in Darfur" *American Association for the Advancement of Science* 313, no. 5792 (2006): 3.



"THE U.S. CREATED FAR MORE INSTABILITY THAN IT HAD SET OUT TO QUELL THROUGH REGIME CHANGE IN IRAQ."

capability, hampering all subsequent attempts to initiate defensive action in Darfur. Second, in the post-9/11 period humanitarian intervention did not reflect the immediate national security interests of the most militarily capable actors; ergo the United States was unable to overcome the lack of political will existing among them. Third, the absence of a moral consensus among the primary states regarding intervention in Darfur rendered the UN and its efforts largely ineffective. Thus, despite the existence of intervention

mechanisms such as the Genocide Convention, ICISS protocol, and later R2P, the international community failed to act effectively to prevent genocide in Darfur.

As scholar and professor Alex Bellamy has argued, the end of the 20th century saw an emerging consensus in support of effective humanitarian intervention.² The UN Security Council can legally authorize humanitarian intervention

under Chapter VII of the UN Charter, yet its "peacekeeping" missions did not prevent the mass killing of Tutsis in Rwanda and Bosnian civilians during the breakup of Yugoslavia. In response to such failures, Western states began to recognize that intervention in the absence of a UN mandate, while not "legal", could nevertheless be viewed as morally legitimate; the U.S. led NATO intervention in Kosovo can be considered a watershed event for this concept.³ Subsequently, the International Commission on Intervention and State Sovereignty (ICISS) report in 2001 represented an effort to re-define the nature of humanitarian intervention through a new framework for action under the title of "Responsibility to Protect" (R2P), which justifies state military intervention within a 'Just Cause Threshold'; i.e. in the event of large scale loss of life or ethnic cleansing. The R2P framework was created almost in tandem with Al-Qaeda's attack on the World Trade Center, and the resulting U.S.-led "War on Terror" and invasion of Iraq temporarily shelved the idea of humanitarian intervention as legitimate, whether legally or morally. It is in this context that one should examine the ongoing Darfur crisis.

In 2003, the Bush Administration invaded Iraq much to the detriment of American moral credibility, and the subsequent events of Darfur exemplify the loss of America's position as a normative actor on an international scale. Historically the U.S. enjoyed at least one instance of relative autonomy from UN sovereignty standards (in 1999 NATO received legitimation for intervention through a global moral consensus on Kosovo),⁴ though chiefly on the premise that U.S. policy and stance regarding international crises, whether at the core of U.S. national interest or not, provided a reference point for other actors.⁵ Now, as the U.S. displayed an ongoing commitment towards

2 Alex J. Bellamy. "Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq" *Ethics and International Affairs* 19, no. 2 (2005): 34.

3 Ibid.

action in Darfur, the international community remained unresponsive. In 2004, U.S. National Security Advisor Colin Powell took the novel step of labeling Darfur a “genocide” following a conclusive vote by Congress in July.⁶ In September, he spoke publicly on the matter: “... some seem to have been waiting for this determination of genocide to take action. [...] These people are in desperate need and we must help them. Call it civil war; call it ethnic cleansing; call it genocide; call it “none of the above.” The reality is the same. There are people in Darfur who desperately need the help of the international community.”⁷ The label successfully mobilized the support of international human rights organizations who lobbied extensively for action; American journalists and politicians also displayed a certain level of responsibility to safeguard the people in Darfur.⁸ Nonetheless, the concerted efforts of non-governmental actors had an inconsequential effect on the slow progress of the UN. In July and September of 2004, the U.S. failed in two separate efforts to impose sanctions on Sudanese government officials.⁹ The resulting resolution (1564) agreed upon by the Security Council merely threatened to impose sanctions.¹⁰ In December the U.S. proposed a UN mission to Darfur which was rejected with ineffectual discussions continuing into the following year.¹¹ Attempts to press sanctions or incite intervention were repeatedly rejected because the Security Council members were unwilling to threaten Sudan’s sovereignty and assume responsibility for its citizens. So what, exactly, had led the international community to question America’s moral standing so vehemently?

The U.S. created far more instability than it had set out to quell through regime change in Iraq; a fractured society, infrastructure damage, massive casualties, and ethnic conflict prompting a rise in terror organizations, would pose a far greater threat to Western security than Saddam Hussein. Having antagonized the Arab world in what the Arab League and Organization of the Islamic Conference (OIC) perceived as several misguided attempts at containing radical Islam (Iraq, Somalia), it was inconceivable that the U.S. would be able to gain support regarding its invasion of another Arab state; to be sure, this argument was used on multiple occasions to rebuke U.S. pleas for action within the UN assembly. The OIC expressly rejected American-led activism in the Security Council,¹² joined by both Pakistan and the Arab League who declined all sanctions against Sudan.¹³ Following suit, much of the Arab world displayed resistance towards intervention and soft power alternatives.¹⁴ In 2006, David Reiff of the New York Times wrote, “In Europe or the U.S., sending NATO forces to Darfur may seem like fulfilling the global moral responsibility to protect. But in much of the Muslim world, it is far likelier to be experienced as one more incursion of a Christian army

6 Alex J. Bellamy. “Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq” *Ethics and International Affairs* 19, no. 2 (2005): 31.

7 “The Crisis in Darfur.” *U.S. Department of State Archive*, U.S. Department of State, last modified September 9, 2004, 2001-2009.state.gov/secretary/former/powell/remarks/36042.htm.

8 Alex J. Bellamy. “Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq” *Ethics and International Affairs* 19, no. 2 (2005): 43.

9 *Ibid.*, 45.

10 *Ibid.*, 46.

11 *Ibid.*, 50.

12 *Ibid.*, 51.

13 *Ibid.*, 45.

14 Cheryl Igiri and Princeton Lyman “Giving Meaning to “Never Again”” *CSR*, no. 5 (2004): 22.

into an Islamic land.”¹⁵

Reiff’s perspective was not exaggerated. Sudan forcefully opposed U.S.-led activism in the UN, attempting to lobby other Arab and African governments around its supposed anti-Islamic agenda.¹⁶ As explained by scholars Igiri and Lyman “The Muslim Brotherhood in Sudan issued press releases attributing U.S. interest to a range of motives, including U.S. leverage over Egypt, crushing Sudan’s Islamic government, keeping Sudan dependent on U.S. food aid,”¹⁷ with Arab media quick to pick up on these ideas as well.¹⁸ America’s renewed interest for intervention raised questions as to its ‘true’ intentions, reinforcing suspicions of American imperialism. Few Security Council members were willing to support aggressive measures in Darfur that might be used as a retrospective rationale for Iraq, and furthermore, the accusations did not seem that far-fetched. As German Chancellor Gerhard Schroder noted in expressing discomfort surrounding the ICISS agenda, “unauthorized humanitarian intervention would be used by the U.S. and the U.K. to justify the Iraq war.”¹⁹ The Bush administration framed its intervention as a humanitarian gesture and it was now clear that the altruistic guise masked underlying national interest motives. War was being waged to fulfill the U.S. national security agenda, one which largely appealed to anti-Islam and anti-terrorist sentiments that arose in the post-9/11 period. The notion of humanitarian intervention as a vehicle for national interest would henceforth replace the emerging consensus of the 1990s, and every U.S. attempt to initiate defensive action in Darfur would fail. Whereas the U.S. might have enjoyed the support of other liberal states in the past, Canada, Germany, and France repeatedly expressed opposition towards the war in Iraq.²⁰ By the time of Darfur, the U.S. stood more isolated than ever.

It would be unfair to suggest that American failure in this regard was owed in whole to its loss of credibility, as apathy towards Darfur could also be ascribed to an overwhelming lack of political will. National security interests of the central states in the post-9/11 period held no direct correlation with intervention in the Darfur region, making it that much harder to generate a consensus on action. The erosion of American moral authority and leadership ensured that the international community would revert to more traditional calculations; each state would be more inclined to view the Darfur crisis through the pragmatic lens of its own national security interests. Most important in this regard were China and Russia, two permanent members of the Security Council. China made use of its Security Council veto power during the initial discussions on Darfur, strongly opposing intervention. While China’s commercial interests in Sudan were undoubtedly a consideration, Lee, Chan, and Chan argue that a concern for state sovereignty was China’s primary motivation at the time.²¹

15 David Reiff, “A Nation of Pre-Emptors?” last modified January 15, 2006. www.nytimes.com/2006/01/15/magazine/a-nation-of-preemptors.html.

16 Cheryl Igiri and Princeton Lyman “Giving Meaning to “Never Again”” CSR, no. 5 (2004): 21.

17 Ibid.

18 Ibid.

19 Alex J. Bellamy. “Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq” *Ethics and International Affairs* 19, no. 2 (2005): 39.

20 Alex J. Bellamy. “Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq” *Ethics and International Affairs* 19, no. 2 (2005): 37.

21 Pak Lee, Gerald Chan, and Lai-Ha Chan. “China in Darfur: humanitarian rule-maker or rule-taker?” *Review of International Studies* no. 38 (2012): 424.

In 2005, the Chinese government released a position paper which spoke to the absolute responsibility of a nation to protect its own people and the importance of maintaining sovereignty.²² As they vetoed U.S. proposals they argued that, without Sudan's consent, intervention would breach state sovereignty. Having been a victim of European colonialism and imperialism through much of the 19th century, China remained skeptical towards action that might weaken the "legal basis of national sovereignty."²³ Moreover, China did not want to support precedents that could be used to impede its own strategic interests, particularly in the case of disputed regions such as Taiwan. China's reluctance to support intervention could be seen as a strategy to diminish the role of the U.S. internationally and simultaneously gain influence among its regional counterparts. Similarly, Russia used its veto power to oppose potential U.S. hegemony. Since coming to power in 1999, Vladimir Putin has been determined to re-establish Russian strength and roll back the dismemberment of the USSR and is therefore inclined to degrade U.S. leadership and stature at every opportunity.



"AMERICA'S RENEWED INTEREST FOR INTERVENTION RAISED QUESTIONS AS TO ITS 'TRUE' INTENTIONS, REINFORCING SUSPICIONS OF AMERICAN IMPERIALISM."

Even within the U.S. there were major reservations as to the extent of any unilateral commitment to intervention in Darfur. Despite having vocalized a moral obligation towards stemming the human rights abuses, the Darfur crisis posed a national security dilemma for the U.S. In 2004, the Bush Administration removed Sudan from its list of uncooperative states after the Sudanese government provided counter-terrorism support for the "War on Terror."²⁴ In 2005, the Comprehensive Peace Agreement (CPA) was signed between the Sudanese People's Liberation Movement (SPLM) and the Sudanese government, ending the Second Sudanese Civil War. The U.S. spent a significant sum of political capital, effort, and prestige during the mediation and finalization of the CPA;²⁵ to jeopardize such an agreement with intervention would have negated their efforts, undermining the CPA and the American-Sudanese political relationship fostered in the aftermath of 9/11. Notably, these events occurred during a time when the Sudanese government was already being accused of human rights abuses. The Bush Administration demonstrated a clear prioritization of its political

24 Eyal Mayroz. "Ever again? The United States, genocide suppression, and the crisis in Darfur" *Journal of Genocide Research* 10, no. 3 (2008): 364.

25 *Ibid.*, 365.

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**"THE SUDANESE
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relationship with Sudan despite its alleged roll in genocide.

Additionally, defense budget constraints would limit the U.S. scope of action following military overstretch in both Afghanistan and Iraq,²⁶ while the Clinton Administration's failed operation in Mogadishu still plagued important public and private actors.²⁷ In contrast to those who championed the idea of military intervention were people weary of sending American soldiers back to the African continent (a rationale which prevented American soldiers from entering Rwanda in 1994). Similarly, America's major ally, the U.K., was in no position to support U.S. initiatives. Aside from military incapacity, the government of Tony Blair lost credibility with the British public due to its support of the Iraq invasion, and had no political capital to launch another. Overwhelmingly, national security and domestic political interests failed to coincide with the alleged genocide taking place in Darfur and, by this notion, hundreds of thousands perished.

Lastly, this paper will examine the UN's failure to generate a timely and effective response to the alleged genocide in Darfur, despite the existence of policy tools such as the Genocide Convention (1951), ICISS criteria (2001), and R2P (2005). The genocide debate closely followed initial reports of armed conflict in Darfur. The Sudanese government, if not a direct conspirator in genocide, should have been charged with complicity in genocide under article III (e) of the Genocide Convention. Additionally, the Janjaweed militia (comprised of government backed Arab-Sudanese tribesmen) committed actions against the African-Sudanese population in violation of Article II (a) (b), "killing members of the group"²⁸ and "causing serious bodily or mental harm to members of the group."²⁹ Seeing as the Convention requires that contracting parties "undertake to prevent and to punish"³⁰ acts of Genocide, and Article VIII states that "any Contracting Party may call upon the competent organs of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III,"³¹ it is disappointing that only the U.S. was ready to invoke the genocide label. Eventually, in 2005, Resolution 1593 referred the Darfur case to the International Criminal Court (ICC). In 2007 the ICC "issued arrest warrants for crimes against humanity and war crimes against former Minister of State for the Interior of the Government of Sudan and current Minister of State for Humanitarian Affairs, Ahmad Harun, and Janjaweed commander Ali Muhammad Ali Abd-Al-Rahman."³² The ICC argued that, while the government did not carry out a policy of genocide, it was complicit in crimes against humanity and war crimes.³³ Ironically, even George Bush stood in front of the UN General Assembly in 2007 and spoke of genocide following this failed

26 Touko Piiparinen. "The Lessons of Darfur for the Future of Humanitarian Intervention" *Global Governance* 13 no. 365 (2007): 373.

27 *Ibid.*, 378.

28 *The Yearbook of the United Nations.* UN Multimedia, <https://www.unmultimedia.org/searchers/yearbook/page.jsp?volume=1948-49&page=963&srq=genocide&srstart=0&srvolumeFacet=1948-49&s-routine=false&searchType=advanced>.

29 *Ibid.*

30 *Ibid.*

31 *Ibid.*

32 "The United Nations and Darfur" United Nations, last modified August 2007, https://www.un.org/News/dh/infocus/sudan/fact_sheet.pdf.

33 *Ibid.*

respite.³⁴

The Darfur crisis demonstrates that the Genocide Convention as a standalone response policy acted as another gross failure of the UN to foster timely collective decision making. A strong proponent with strong moral standings might have effectively led the UN Security Council in the pursuit of a policy of intervention through the Genocide Convention, which, following the Iraq War, the U.S. was not. Beyond the Genocide Convention, a global effort was made to utilize the ICISS protocol and its successor R2P, though a lack of moral consensus among the UN Security Council members surrounding interventionism in the post 9/11 period meant a repetitive use of the veto power. This occurred despite ICISS criteria suggesting that those powers should abstain from using the veto power in the midst of a humanitarian crisis. Lack of support for the ICISS criteria could be traced back to the Security Council annual retreat in 2002.³⁵ However, by 2003, a new fear was that the ICISS criteria might justify the U.S. invasion of Iraq as well as future incursions under the same guise.³⁶ Responsibility to Protect as a primarily state-centered idea meant that powers such as China and Russia strongly believed peacekeeping efforts should be left to Sudanese government officials. Moreover, due to the ambiguity of ICISS guidelines, many doubted that the Just Cause Threshold justified military intervention in this context.³⁷

It was eventually agreed that AMIS, an AU mission would be deployed to Darfur in mid 2004 with around 300 troops following the idea that any mission should have an ‘African character’ and that responsibility should lie with the African people.³⁸ Even when the AMIS mission failed as a result of undersizing and poor training, actors such as Germany, the AU, and the League of Arab States upheld their anti-intervention stance—knowingly rooted in the fear over Iraq.³⁹ To date only two resolutions have authorized sanctions against Sudan— Resolution 1556 imposing an arms embargo on “all non-governmental entities and individuals”⁴⁰ (a failure), and Resolution 1591, a watered down version of the U.S. proposal imposing a travel ban and asset freeze on four suspected war criminals.⁴¹ In 2005 Resolution 1590 was unanimously passed, authorizing a Chapter VII peace operation to facilitate cooperation;⁴² the deployment of UNMIS, which had already been monitoring the CPA, would be delayed several months. In 2006, UNMIS assisted in carrying through the DPA (Darfur Peace Agreement), although conflict would heavily increase thereafter. In Resolution 1769 it was agreed by the council that a UN/AU hybrid

34 “Text of President Bush’s Speech on Sudan” New York Times, last modified May 29, 2007, <http://www.nytimes.com/2007/05/29/world/africa/29iht-29sudan-text.5919156.html>.

35 Alex J. Bellamy. “The Responsibility to Protect and the Problem of Military Intervention” *International Affairs* 84, no. 4 (2008): 625.

36 *Ibid.*, 626.

37 *Ibid.*, 628.

38 Alex J. Bellamy. “Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq” *Ethics and International Affairs* 19, no. 2 (2005): 42.

39 *Ibid.*, 48.

40 “Resolution 1556” *United Nations Security Council Resolutions*, last modified July 30, 2004, <http://unsr.com/en/resolutions/doc/1556>

41 “The United Nations and Darfur” *United Nations*, last modified August 2007, https://www.un.org/News/dh/infocus/sudan/fact_sheet.pdf.

42 “Resolution 1590” *United Nations*, last modified March 24, 2005, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1590 (2005).



**"TO A
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mission (UNAMID) would deploy to Darfur in place of UNMIS.⁴³ This mission was not accepted by Sudan until 2007.

The ICISS criteria did not provide a useful framework to legitimize intervention without authorization from the Security Council.⁴⁴ Because of the overwhelming lack of consensus on the ICISS criteria, the 2005 World Summit Outcome was R2P, an ambiguous, watered down, two paragraphs outlining the responsibility to protect and how in some cases, this responsibility might fall to the international community. Action regarding Darfur was delayed over several years due to disagreement surrounding the provision of responsibility. Western-imposed sanctions or intervention were seen as veiled imperialism in the post-Iraq order and therefore responsibility would lie with the African people under AMIS. AMIS was deemed ineffective, and in 2007, it merged with UN forces to create UNAMID. By this time the conflict had been ongoing for around five years and there was still no collectively accepted framework for action. By ruling out genocide in 2007, the ICC created further constraints on reactionary efforts—freeing states of the obligation to prevent and punish.

This paper has laid out a comprehensive framework of the international environment as it existed during the Darfur crisis, with an emphasis on the negative shift in perspective surrounding humanitarian intervention following the U.S. invasion of Iraq. America's loss of moral credibility within the international community diminished its ability to mobilize the other great powers, who, owing to an additional lack of political will, remained unresponsive or in direct opposition to American policy. To a large extent the UN failed the 'African' ethnic population of Darfur who were targets of the ruthless ethnic cleansing of the Janjaweed. The question that remains is how, despite the existence of the Genocide Convention and R2P, the UN can overcome obstacles such as mistrust and competing national security interests. Can these institutions be modified or restructured around policy that is less ambiguous and is therefore less subject to misinterpretation and disagreement, or will they have to be replaced altogether? For now, this paper has displayed how national interests can subvert the attempts of even the most powerful international organizations to enforce human rights. Humanitarian intervention and the Responsibility to Protect, while seemingly idyllic solutions to human rights abuses globally, have done little to help countless victims over the past few decades, including those in Darfur. These states must find a way to combine national security interests with human rights needs internationally to avoid such atrocities in the future.

43 "Security council authorizes deployment of United Nations-African Union 'hybrid' peace operation in bid to resolve Darfur conflict" *United Nations*, last modified July 31, 2007, <https://www.un.org/press/en/2007/sc9089.doc.htm>.

44 Alex J. Bellamy. "The Responsibility to Protect and the Problem of Military Intervention" *International Affairs* 84, no. 4 (2008): 628.

Works Cited

- Bellamy, Alex J. "Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq." *Ethics & International Affairs* 19, no. 02 (2005): 31-54. doi:10.1111/j.1747-7093.2005.tb00499.x.
- Bellamy, Alex J. "The Responsibility to Protect and the Problem of Military Intervention." *International Affairs* 84, no. 4 (2008): 615-39. doi:10.1111/j.1468-2346.2008.00729.x.
- Hagan, John, and Alberto Palloni. "Death in Darfur." *American Association for the Advancement of Science* 313, no. 5793 (2006): 1578-579. doi:10.1126/science.1127397.
- Igiri, Cheryl, and Lyman, Princeton. "Giving Meaning to 'Never Again'" *CSR*, no. 5 (2004): 1-36.
- Kurth, James. "Humanitarian Intervention After Iraq: Legal Ideals vs. Military Realities." *Orbis* 50, no. 1 (2006): 87-101. doi:10.1016/j.orbis.2005.10.007.
- Lee, Pak K., Gerald Chan, and Lai-Ha Chan. "China in Darfur: Humanitarian Rule-maker or Rule-taker?" *Review of International Studies* 38, no. 02 (2011): 423-44. doi:10.1017/s0260210511000040.
- Mayroz, Eyal. "Ever Again? The United States, Genocide Suppression, and the Crisis in Darfur." *Journal of Genocide Research* 10, no. 3 (2008): 359-88. doi:10.1080/14623520802305735.
- Pipparinen, Touko "The Lessons of Darfur for the Future of Humanitarian Intervention" *Global Governance* 13, no. 3 (2007): 365-390.
- "Position Paper of the People's Republic of China on the United Nations Reforms" Ministry of Foreign Affairs of the People's Republic of China, last modified June 7, 2005, http://www.fmprc.gov.cn/mfa_eng/wjb_663304/zjzg_663340/gjs_665170/gjxw_665172/t199318.shtml.
- "Resolution 1556." United Nations Security Council Resolutions. Accessed March 21, 2018. <http://unsct.com/en/resolutions/doc/1556>.
- Reus-Smit, Christian. "The Concept of Intervention." *Review of International Studies* 39, no. 05 (October 08, 2013): 1057-076. doi:10.1017/s0260210513000296.
- Rieff, David. "A Nation of Pre-emptors?" *The New York Times*. January 15, 2006. Accessed March 21, 2018. <http://www.nytimes.com/2006/01/15/magazine/a-nation-of-preemptors.html>.
- "Security Council Authorizes Deployment of United Nations-African Union 'Hybrid; Peace Operation in Bid to Resolve Darfur Conflict | Meetings Coverage and Press Releases." United Nations. Accessed March 21, 2018. <https://www.un.org/press/en/2007/sc9089.doc.htm>.
- Taylor, Mark B. "Humanitarianism or Counter-insurgency?: R2P at the Crossroads." *International Journal* 61, no. 1 (2005): 146-58. doi:10.2307/40204135.
- "Text of President Bush's Speech on Sudan." *The New York Times*. May 29, 2007. Accessed March 21, 2018. <http://www.nytimes.com/2007/05/29/world/africa/29iht-29sudan-text.5919156.html>.
- "The Crisis in Darfur." U.S. Department of State Archive, U.S. Department of State, 9 Sept. 2004, 2001-2009.state.gov/secretary/former/powell/remarks/36042.htm.
- "The United Nations and Darfur" United Nations, last modified August 2007, https://www.un.org/News/dh/infocus/sudan/fact_sheet.pdf
- "The Yearbook of the United Nations." UN Yearbook. Accessed March 21, 2018. <https://www.unmultimedia.orgsearchers/yearbook-page.jsp?volume=1948-49&page=963&srq=genocide&srstart=0&srvolume-Facet=1948-49&sroutline=false&search-Type=advanced.preemptors.html>.

Why is Taiwan so Important?

The Manipulation of Nationalism in Legitimizing One-Party Rule in China

Since Tsai Ing-wen and the pro-independence Democratic Progressive Party (DPP) scored a landslide victory in the 2016 Taiwanese general election, cross-strait relations between mainland China and Taiwan have deteriorated to a large extent.

Beijing insisted that the so-called “92 consensus” - “one China, different interpretations” - be the basis of all communications across the strait.¹ Taipei was unwilling and unable to endorse the proposal, and argued that all developments in cross-strait relations must be based on the ‘existing political foundations’ with the constitutional order of the Republic of China (ROC) being respected. Clearly, Beijing did not accept this.

Since then, Beijing has from time to time warned Taiwan that it would

¹ Jean-Pierre Cabestan, *Beijing's Policy Towards President Tsai Ying-wen and the Future of Cross-Strait Relations*, (New Jersey: Whitehead Journal of Diplomacy and International Relations, 2017), 54-71.

resort to attacking Taiwan if it declares de jure independence.² Beijing took initiatives in various occasions to assert its sovereignty over Taiwan and isolate it from the international stage. Departing from the strategy of peacefully developing cross-strait relations emphasized by the previous president Hu Jintao, President Xi Jinping confirmed that he was not willing to pass the “Taiwan issue” on to the next generation.³ Hostile military actions were taken around the island several times, including conducting live-fire military drills at the Taiwan Strait.⁴ At least three of Taiwan’s diplomatic allies established ties with Beijing during Tsai’s administration - Gambia, Panama, and the Democratic Republic of Sao Tome and Principe.⁵ The fact that Taiwan has been excluded from World Health Assembly for three consecutive years indicated the narrowing of Taiwan’s participation in the international community.⁶ Beijing is trying to be more aggressive towards Taiwan than previously.

Experts in international relations must ask themselves: why is Taiwan so important to China such that Beijing has to emphasize its forceful attitudes towards Taiwan independence advocates? Compared to the mainland’s population of nearly 1.4 billion⁷ and area of 9,388,211 km², Taiwan is just a very small island with a population of 23.58 million and an area of 35410 km².⁸ The military power of Taiwan is totally outweighed by that of the mainland.⁹ Given the military superiority enjoyed by the mainland over Taiwan, the latter certainly constitutes no military threats to the former. Then, why is Beijing so eager to unify an island that is so small compared to the mainland upon which it bases its rule?

Both realist and liberalist perspectives in the field of international relations fail to explain why the Chinese Communist Party (CCP) is eager to declare its sovereignty over Taiwan. The realist perspective argues that mainland China and Taiwan are two strategic competitors, competing with each other through either balance of power or balance of threat.¹⁰ However, it cannot explain why the mainland continues to escalate its military actions towards Taiwan when the island no longer constitutes any tangible threat. The liberalist perspective holds a firm belief that the social and economic cooperation between the mainland and Taiwan will lead to political integration. However, it fails to explain why the two sides have remained

2 John Fuh-sheng Hsieh, *Cross-Strait relations in the aftermath of Taiwan’s 2016 elections*, (Netherlands: Journal of Chinese Political Science, 2017), 1-15.

3 Statement made by Xi to KMT Vice-President Vincent Siew Wan-chang in October 2013, <http://www.scmp.com/news/china/article/1325761/xi-jinping-says-political-solution-taiwan-cant-wait-forever>

4 Kristin Huang, *China fires up drills near Taiwan Strait in test of combat strength*, (Hong Kong: South China Morning Post, 2019). Accessed 20 June, 2019. <https://www.scmp.com/news/china/diplomacy/article/3009074/china-fires-drills-near-taiwan-strait-test-combat-strength>.

5 Yitan Li and Enyu Zhang, *Cross-Strait Relations after the 2016 Taiwan Presidential Election: The Impact of Changing Taiwanese Identity*, (Netherlands: Journal of Chinese Political Science, 2016), 1-23 Accessed 20 June, 2019 <http://www.wpsanet.org/papers/docs/WPSA2016%20Li%20and%20Zhang.pdf>.

6 Nick Aspinwall, *Taiwan Picks Up International Support After Being Barred from World Health Assembly*, (The Diplomat, 2019). Accessed 20 June, 2019. <https://thediplomat.com/2019/05/taiwan-picks-up-international-support-after-being-barred-from-world-health-assembly/>.

7 Data by the World Bank Group. Accessed 20 June, 2019. <https://data.worldbank.org/country/china>.

8 Data by Worldometers. Accessed 20 June, 2019. <https://www.worldometers.info/world-population/taiwan-population/>.

9 Peter Enav, *Taiwan Under the Gun: An Urgent Call to Action*, (Taiwan Sentinel:2017). Accessed 20 June, 2019. <https://sentinel.tw/taiwan-gun-urgent-call-action/>.

10 Yitan Li and Enyu Zhang, *Changing Taiwanese Identity and Cross-Strait Relations: a Post 2016 Taiwan Presidential Election Analysis*, (Netherlands: Journal of Chinese Political Science, 2017), 1-23. Accessed 20 June, 2019. <http://www.wpsanet.org/papers/docs/WPSA2016%20Li%20and%20Zhang.pdf>.

hostile towards each other recently.

This essay attempts to argue that the main audience of Beijing's Taiwan policy is neither Taiwan nor the international community, but the people in the mainland instead. In this essay, I find that the major purpose of Beijing in standing firmly against the Taiwan independence movement is to legitimize the one-party rule of CCP over the mainland China instead of unification. The first part will provide a brief background on different sources of legitimacy employed by authoritarian regimes. Next, the background of nationalism in the history of modern China will be discussed. Third, the role of how nationalism affects Beijing's attitude in its territorial disputes with its neighboring countries will be analyzed. Finally, the means by which the CCP creates a nationalist image by standing firmly against the Taiwan authority will be examined.

LEGITIMIZING AUTHORITARIAN REGIMES

Legitimacy has long been a headache for authoritarian regimes. In order to sustain long-term existence, simply relying on repression and coercion is insufficient.¹¹ Without societal support, a regime needs to employ a large military force in repressing dissidents and vast resources on monitoring

citizens, incurring a large cost to the regime. Legitimacy refers to the rightfulness and justification of the authority in ruling a territory. With legitimacy, an authority can prove to its citizens why they should consent to be subordinate to the authority and observe the rules set by such authority. The authority can thus secure societal support. This makes governance more effective and less expensive, and in turn makes the authoritarian regime more enduring and sustainable.

Authoritarian regimes usually suffer the problem of a legitimacy deficit that democratic governments do not.¹² In a modern democracy, the institutional arrangement, which is usually popular voting, guarantees that popular support is the prerequisite for the ruler to stay in

power. It solves the problem of legitimacy, as the ruled public decides who will be the ruler. However, an authoritarian regime is one that implies the institutional arrangement excludes the ruled public from deciding the leader. Political participation by ordinary citizens is excluded. Therefore, the ruler does not have the direct endorsement of the ruled public and can hardly claim to represent the public.

In order to survive for a long period of time, an authoritarian regime can not only rely on coercive apparatus suppressing any revolts and dissidents, but they also need to overcome the legitimacy deficit to prevent the questioning



"WITHOUT SOCIETAL SUPPORT, A REGIME NEEDS TO EMPLOY A LARGE MILITARY FORCE IN REPRESSING DISSIDENTS AND VAST RESOURCES ON MONITORING CITIZENS..."

¹² Guoguang Wu., *China's Party Congress: Power, Legitimacy, and Institutional Manipulation*. (Cambridge: Cambridge University Press, 2015), 24-53



"IF THE GOVERNMENT CAN NO LONGER FUEL ECONOMIC GROWTH AS ENORMOUS AND RAPID AS BEFORE AND FAILS TO PROVIDE THE SOCIAL ECONOMIC WELFARE EXPECTED BY ITS CITIZENS, THE REGIME WILL FAIL TO LEGITIMIZE ITSELF."

of its legitimacy by the public.¹³ The CCP, as an authoritarian regime in East Asia, suffers from the problem of a legitimacy deficit which its democratic neighbors such as Japan, South Korea, and Taiwan do not share. It lacks regular and universal elections that allow citizens to select their leaders and vote the noncompetitive officers out of office. Civil liberties and political participation are also limited, preventing citizens from voicing their opinions against the government. Therefore, the CCP has to resort to various means in legitimizing itself in order to claim that it represents the 1.4 billion Chinese people under its rule.

Traditionally, the CCP has adopted ideological adaptation as its major source of legitimacy by framing itself as leading the class struggle and creating a brand of communism ideal for China.¹⁴ According to the Chinese constitution, the "highest ideal and the ultimate goal" of the CCP rule is to achieve communism in China. The achievement of communism is the major reason why the CCP's one-party rule is a must for China and any opposition to it must be suppressed. However, this created a dilemma for the CCP when it initiated market reforms in the late 1970s.¹⁵ As part of these reforms, the CCP replaced the original communist policy with quasi-

capitalist economic policies, moving away from the communist ideal it aimed to establish towards establishing a capitalist society. The state no longer controls all significant industries and economic sectors in the country.¹⁶ Private enterprises are allowed to be established and play an important role in propelling economic growth. The CCP even amended its ideology in various ways in order to justify the economic reform. In 2002, the "Three Represents" slogan promoted by former Secretary General Jiang Zemin was added to the Constitution, which suggested that the CCP not only represents the workers and farmers, but also the new "advanced productive forces" of urban economic and social elites. In 2004, Article 11 of the Constitution was amended to guarantee the protection of the rights, interests and legality of individual and private enterprises by the state. These actions show that the CCP is moving

13 Marcus Mietzner, *Authoritarian elections, state capacity, and performance legitimacy: Phases of regime consolidation and decline in Suharto's Indonesia*, (Los Angeles: International Political Science Review, 2018), 83-96.; Johannes Gerschewski, *The three pillars of stability: legitimization, repression, and co-optation in autocratic regimes*, (Democratization, 2013), 13-38.

14 Jinghan Zeng, *The Chinese Communist Party's capacity to rule: ideology, legitimacy and party cohesion*, (Netherlands: Springer, 2015), 1-28.

15 Ibid.

16 Bruce Dickson, *Integrating wealth and power in China: the Communist Party's embrace of the private sector*, (Cambridge: The China Quarterly, 2007), 827-854.

away from the communist ideology it once claimed. Ideological adaptation can therefore no longer provide sufficient legitimacy in justifying the CCP's one-party rule.

In view of this, the CCP also tries to justify its rule by its economic performance.¹⁷ Performance legitimacy has been widely adopted by authoritarian regimes in justifying their rules. In performance legitimacy, the regime establishes its legitimacy by achieving certain concrete goals, such as strengthening national power and economic growth. The CCP has adopted the strategy since the market reform in the late 1970s.¹⁸ The CCP also openly states its "Two Centenary Goals" by the years 2021 and 2049.¹⁹ By the year 2021, which marks the centenary of the establishment of the CCP, China would have doubled its GDP and GDP per capita from the levels of 2010 and transformed China into a prosperous society. By 2049, the centenary of the founding of the PRC, China would have the GDP per capita at the level of moderately developed countries and realized modernization. Since the market reform, China achieved an economic miracle enviable to many.²⁰ Statistics find that the Chinese economy experiences an average annual growth of 9.7% since 1970. Besides this, the size of China's GDP rose from the eighth in the world in 1980 to the second in 2010, surpassing many successful economies, such as Germany, France and Japan. The economic growth achieved by China in the past several decades does legitimize the CCP's rule to a large extent.

However, the CCP government is well aware of the shortcomings of performance legitimacy. If the government can no longer fuel economic growth as enormous and rapid as before and fails to provide the social economic welfare expected by its citizens, the regime will fail to legitimize itself.²¹ An especially alarming example is the fall of Suharto's regime in Indonesia during the 1997 Asian financial crisis.²² In the 1980s, Suharto began to rely on performance legitimacy by bringing economic prosperity to the country. He was successful at the beginning, doubling the GDP per capita between 1984 and 1996. However, when the Asian financial crisis enveloped the region and dealt a hard blow to the economy in 1997, Suharto lost power in a popular uprising. This reveals the undeniable fact that performance legitimacy cannot guarantee survival of a regime given that no economy grows forever. In 1989, the crisis of economic legitimacy led to a nationwide demonstration that caused one of the most serious legitimacy crises in post-1949 history of China. The economic reform also caused serious social problems, such as rising income disparities, regional development imbalances, deficits in the provision of public goods, and growing unemployment.²³ The CCP noticed that it could not rely on its economic performance as the sole source of legitimacy and must seek other

17 Yuchao Zhu, "Performance legitimacy" and China's political adaptation strategy, (Netherlands: Journal of Chinese Political Science, 2011), 123-140.

18 Ibid.

19 Ding Lu, *China's "Two Centenary Goals": Progress and challenge*, (Singapore: East Asian Policy, 2016), 79-93.

20 Hongxing Yang and Dingxin Zhao, *Performance legitimacy, state autonomy and China's economic miracle*, (Abingdon-on-Thames: Journal of Contemporary China, 2015), 64-82.

21 Marcus Mietzner, *Authoritarian elections, state capacity, and performance legitimacy: Phases of regime consolidation and decline in Suharto's Indonesia*, (International Political Science Review, 2018), 83-96.

22 Ibid.

23 Schubert Gunter, *One-party rule and the question of legitimacy in contemporary China: Preliminary thoughts on setting up a new research agenda*, (Abingdon-on-Thames: Journal of Contemporary China, 2008), 191-204.



**"THE CCP
SUCCESSFULLY
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bases of legitimacy. Had the CCP solely relied on economic performance, it would have been very unlikely that it would still hold power when its economic growth decelerated in recent years.²⁴

In view of the shortcomings of both ideological legitimacy and performance legitimacy, the CCP regime realized that nationalism is the strongest weapon in legitimizing its rule over the country. Capitalizing on the history of modern China and boosting the nationalist atmosphere, the CCP successfully employed nationalism to legitimize its rule by standing firm in various territorial disputes and exploiting the Taiwan agenda.

NATIONALIST NARRATIVES CREATED BY THE CCP

The historical memory in the 19th and 20th centuries shared by millions of Chinese provides a hotbed for the rise of nationalism in China. To many Chinese, the narratives of the history of the 19th and 20th centuries are filled with national shame and humiliation.²⁵ Since the first Opium War (1839-1842), China experienced a continuous period of invasions by foreign imperialists. The period between the first Opium War and the Second World War marked the weakest period of China in its history. China suffered foreign invasions in various external wars, including the First Opium War, the Second Opium War (1856-60), the Eight Nation Allied Army's invasion (1900), Japan's Twenty-one Demands (1914) and the War of Resistance against Japanese invasion (1937-1945). In these invasions, China surrendered its territories to foreign powers as either colonies or semi-colonies. With this history, the CCP included four features in its nationalist narrative templates: (i) China was invaded by imperial powers, (ii) enormous crimes were committed against China by these imperial powers, which included forcing China to accept a series of unequal treaties, compromising Chinese sovereignty, (iii) some heroic Chinese bravely resisted the invasion of imperial powers in spite of the failure of the weak and corrupt government to do so, and (iv) the CCP successfully led the Chinese to win the eventual and ultimate victory against imperialists and restore the national spirit.²⁶ All these support the conclusion that the CCP is the true savior of the nation from foreign invasion and humiliation.

Making use of the historical memory of the century of national shame and humiliation, the CCP narrates that it has a historical role in saving the Chinese nation and restoring the national strength. The preamble of the Constitution states that the establishment of the People's Republic of China (PRC) was a "glorious revolutionary tradition" that overthrew the imperialism that made China a semi-colonial country.²⁷ It emphasizes that the CCP, under the leadership of Chairman Mao Zedong, ignited such a revolution. Besides, the leaders of the CCP also in various occasions emphasize the historical role of the CCP in revitalizing the nation.²⁸ The

24 Justin Yifu Lin, *China's growth deceleration: Causes and future growth prospects*, (DOC Research Institute, 2019) Accessed 20 June, 2019 <https://doc-research.org/2019/02/china-growth-deceleration-causes-future-growth-prospects/>

25 Lei Zhang, *The Google-China dispute: The Chinese national narrative and rhetorical legitimation of the Chinese Communist Party*, (Rhetoric Review, 2013), 455-472.

26 Ibid.

27 Preamble. Constitution of the People's Republic of China. Accessed 20 June, 2019, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm.

28 *Xi Jinping and the 'Chinese Dream'*, (DW, 2018). Accessed 20 June, 2019. <https://www.dw.com/en/xi-jinping-and-the-chinese-dream/a-43685630>

CCP Secretary General Xi Jinping pledged for a “great rejuvenation of the Chinese nation” by 2049, which means that China will once again appear as a global power by that time. The nationalist mission and agenda of the CCP justify its exercise of the sovereignty of China, consolidate the popular support of its rule and build its legitimacy.

The CCP benefits from the nationalist narratives and nationalist legitimacy in two main ways. First, it successfully demonizes any foreign criticisms on its political system by branding them as an attempted humiliation



"TO THE SURPRISE OF MANY, THE GOOGLE-CHINA DISPUTE DID NOT PROMPT ANY SOUL-SEARCHING AMONG THE CHINESE OR RAISE AWARENESS OF THEIR LACK OF POLITICAL FREEDOM."

of Chinese sovereignty. This invalidates all foreign criticisms on its rule. One example is that the CCP manipulated the history of the destruction of Yuanmingyuan, an old summer palace in Beijing for the Qing dynasty, in creating its historical narratives. Yuanmingyuan was burned to the ground by British and French troops in 1860, and many antiques in the palace were transported to western countries.²⁹ During the 1980s, the CCP began to construct the historical legacy of the palace by creating the Yuanmingyuan Ruins Park and included it firmly in the CCP political agenda. In the early 1990s, the CCP launched the Patriotic Education Campaign to remind the Chinese people of the humiliation by foreign powers, allowing them to be demonized. This successfully triggered nationalist sentiment among Chinese.³⁰ An ultra-nationalist blogger Wei Yahua wrote a blog called “Is the Humiliation of the Burning of Yuanmingyuan Repeating Itself?” In this blog, he argues that foreign powers did not respect the sovereignty of China and always entered the nation unhindered. In a blog entitled “The Regret of Yuanmingyuan,” the writer reminds his fellow Chinese not to forget the past of the nation, saying that history would repeat itself otherwise. The effect of the manipulation of such national sentiment is clearly depicted in later diplomatic conflicts with foreign countries.³¹ When the US-led NATO army accidentally bombed the Chinese embassy in Belgrade in May 1999, an article in the People’s Daily newspaper echoed the bombing with the burning in Yuanmingyuan. In the 2008 Beijing Olympics, some French

29 Robert Weatherley and Ariane Rosen, *Fanning the flames of popular nationalism: the debate in China over the burning of the Old Summer Palace*, (Asian Perspective, 2013), 53-76.

30 Lei Zhang, *The Google-China dispute: The Chinese national narrative and rhetorical legitimation of the Chinese Communist Party*, (Rhetoric Review, 2013), 455-472.

31 Robert Weatherley and Ariane Rosen, *Fanning the flames of popular nationalism: the debate in China over the burning of the Old Summer Palace*, (Asian Perspective, 2013), 53-76.

demonstrators disturbed the Olympic torch relay as a protest against human rights records in China. The Xinhuashe Zhongwen Xinwen News Agency soon issued an article criticizing the hypocrisy of the French protesting by arguing that their actions against the Yuanmingyuan only makes their human rights claims invalid.

It can be seen clearly that the nationalist legitimacy of the CCP rule demonizes all foreign criticisms against CCP rule. When any foreigners criticize or protest against the CCP's authoritarian rule, the CCP simply resorts to two types of logic. First, the CCP argues that the foreigners must apologize to the Chinese people for the humiliation and invasion in the past before they criticise the CCP's rule. Second, they frame the foreigners' criticism as another attempt to intervene in Chinese internal affairs and compromise Chinese sovereignty. In order to preserve Chinese national dignity, the CCP must not surrender to foreign criticism. These two methods successfully demonize foreign criticism and secure the popular support for the CCP's authoritarian rule. This was clearly depicted in the Google-China dispute in 2010.³² On 12 January 2010, Google's chief legal officer David Drummond announced that Google was considering the option of shutting down in China as the Chinese government did not allow freedom of speech on the web. To the surprise of many, the Google-China dispute did not prompt any soul-searching among the Chinese or raise awareness of their lack of political freedom. Instead, the Chinese took the dispute as another instance of foreign powers attempting to build a hegemony over China. As a result, many nationalist slogans resulted from the netizens, such as, "Drive away Google, drive away imperialistic America's hegemony! Strengthen our China." The nationalist sentiments shift public attention away from the reflection on the Chinese political system to the topic of humiliation.

Nationalist sentiment also gives the CCP a strong bullet in rejecting any call for democratic transition within the territory. When there is any dissent within the territory urging an end to the authoritarian rule of the CCP towards a democratic transition, the CCP can simply announce that the democratic movement is a veil of another foreign intervention. In 2014, Hong Kong people launched the Umbrella Movement in protesting against Beijing's policy in forbidding universal suffrage in Hong Kong. In rallying support of the CCP's rule, Beijing put the blame on foreign interference to hostile governments in driving the movement. The Foreign Ministry released a statement attributing blame to the foreign media for urging foreign governments to interfere in Chinese home affairs.³³ This kind of propaganda successfully rallied mainland Chinese to condemn the movement.³⁴ Pro-movement Hong Kong celebrities such as Chapman To Man-chak, Anthony Wong Chau-sang, and Denise Ho Wan-sze were said to betray the Chinese blood for giving their support of the movement, banning them from performing in the mainland. After the movement,

32 Lei Zhang, *The Google-China dispute: The Chinese national narrative and rhetorical legitimation of the Chinese Communist Party*, (Rhetoric Review, 2013), 455-472.

33 Hilton Yip, *Beijing Blames Foreigners When Hong Kongers March*, (Financial Policy, 2019). Accessed 20 June, 2019 <https://foreignpolicy.com/2019/06/19/beijing-blames-foreigners-when-hong-kongers-march/>

34 Vivienne Chow and Kang-chung Ng, *Beijing mouthpiece calls for pro-Occupy celebrities to be banned from mainland*, (Hong Kong: South China Morning Post, 2014), Accessed 20 June, 2019 <https://www.scmp.com/news/hong-kong/article/1623015/beijing-mouthpiece-calls-pro-occupy-celebrities-be-banned-mainland>

Denise Ho was never invited to any performance in the mainland, while Anthony Wong Yiu-ming had two shows in the mainland “indefinitely postponed” by concert organizers.³⁵ A talk at the Chinese University of Political Science and Law in Beijing by lyricist Lin Xi, who wrote the lyrics for the song “Hold Up Your Umbrella” to support the movement, was canceled.

The CCP employs similar tactics in handling the claim of the political dissidents for democratic transitions. When certain political dissidents call for democratic transitions, the CCP simply dismisses the claims by blaming foreign interventionists. This was the case in the Liu Xiaobo dispute in 2010.³⁶ Liu was a political dissident in mainland China and also a co-author of Charter 08, which called for an independent judiciary and freedom of expression in China. In 2009, he was charged with having “the goal of subverting our country’s people’s democratic dictatorship and socialist

system” and was imprisoned for eleven years. In 2010, he was awarded the Nobel Peace Prize. Chairman of the Nobel prize committee Thorbjorn Jagland called for the immediate release of Liu. The foreign ministry of China then criticized the committee for interfering with China’s internal affairs and infringing upon China’s legal sovereignty. In July 2015, the Chinese authorities apprehended more than one hundred lawyers and activists and accused them of being involved in “criminal gangs.”³⁷ In response to criticism of the detentions by the UN High Commissioner for Human Rights, Beijing dismissed the claims as another instance of foreign interference in its internal affairs.

These two routine responses show that Beijing can deny any democratic transition, accusing activists of being backed by foreign agencies and undermining Chinese sovereignty.

CCP’S ATTITUDES IN VARIOUS DIPLOMATIC CONFLICTS

In order to prove itself as the leader of the revolution that revitalizes the national pride and spirit of China, the CCP must display a firm stance against foreign countries when conflicts between China and foreign countries appear to infringe upon the exercise of Chinese sovereignty. This firm attitude can be seen in the nationalization of the Diaoyu Islands by



"IN RESPONSE TO CRITICISM OF THE DETENTIONS BY THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS, BEIJING DISMISSED THE CLAIMS AS ANOTHER INSTANCE OF FOREIGN INTERFERENCE IN ITS INTERNAL AFFAIRS."

35 Amy Qin and Alan Wong, *Stars Backing Hong Kong Protests Pay Price on Mainland*, (New York: The New York Times, 2014) Accessed 20 June. 2019 <https://www.nytimes.com/2014/10/25/world/asia/hong-kong-stars-face-mainland-backlash-over-support-for-protests.html>

36 ‘Liu Xiaobo must be freed’ - Nobel prize committee, (BBC, 2010), Accessed 20 June. 2019 <https://www.bbc.com/news/world-asia-pacific-11966449>

37 Verna Yu, *Chinese police detain more than 100 lawyers and activists in weekend sweep*, (Hong Kong: South China Morning Post, 2015), Accessed 20 June. 2019 <https://www.scmp.com/news/china/policies-politics/article/1838240/chinese-police-detain-more-100-lawyers-and-activists>

Japan in 2012 and the border conflicts in Tibet region in 2017.

The Diaoyu Islands (The Senkaku Islands) have been a long dispute in Sino-Japanese relations.³⁸ Both countries claim the islands as their own territories, despite the fact that the territory is effectively under the control of Japan. Then Prime Minister Yoshihiko Noda announced his plan to nationalize the islands. The nationalization led to large-scale demonstrations in China, resulting in damages of property worth hundreds of millions of dollars to Japanese owned stores and factories. Beijing even initiated military actions around the islands, including the regular dispatch of Maritime Surveillance Agency (MSA) ships in the surrounding waters and deployment of the People's Liberation Army Navy (PLAN). In September 2012, Beijing increased the scale of law enforcement patrols around the islands. Chinese law enforcement activity in the disputed area was formalised. The action was unprecedented and much firmer than before.

The territorial conflict between China and India in 2017 is another example of the CCP showing its firm attitude against any foreign intervention in its own territory. China and India have a long history of territorial disputes in the Tibet region.³⁹ Disputed territories in Tibet include both the eastern and western sectors. In 1962, China waged a war against India in the disputed territories in response to India's establishment of military posts there. Despite the fact that China withdrew its army within one month after the war started, the territorial dispute has remained unresolved. In 2017, China planned to build a road on the border, which India claimed would give China access to India's strategic positions.⁴⁰ Indian border guards then created a human wall in the border and prevented Chinese workers from building the road. Beijing retained a firm stance against India by sending troops to the border region which resulted in a stand-off between the two sides and stopped fifty-seven Indian pilgrims from entering Nathu La pass in Sikkim on their way to a holy Hindu site in Manas Sarovar lake in Tibet. Beijing also demanded India to unconditionally withdraw the troops. Finally, the two countries resolved the conflict by withdrawing all troops from the border.

Both incidents are territorial disputes where China engaged neighboring countries. In the two disputes, the Chinese authorities stood firmly in asserting sovereignty over the disputed territories by deploying troops to the disputed areas. Such action is necessary for the CCP to legitimize its rule by claiming that it rejuvenates the national spirit. By standing firmly against foreign powers during the dispute, the CCP can claim to the domestic audience that it is capable of protecting the nation and is therefore the only legitimate government in the territory. Any attempts to overthrow it must be cracked down upon.

TAIWAN IN CHINESE NATIONALISM

Taiwan is in a difficult position regarding Chinese nationalism due

38 Sanaa Yasmin Hafeez, *The Senkaku/Diaoyu Islands crises of 2004, 2010, and 2012: a study of Japanese-Chinese crisis management*, (England: Asia-Pacific Review, 2015), 73-99.

39 David Malone and Rohan Mukherjee, *India and China: conflict and cooperation*, (Survival, 2010), 137-158.

40 *What's behind the India-China border stand-off?* (BBC, 2017) Accessed 20 June, 2019 <https://www.bbc.com/news/world-asia-40478813>

to historical reasons.⁴¹ Nationalism is a relatively modern concept and only found its way to China in the late-Qing period (1842-1912). It had not had its first Chinese translation until 1901 when the Chinese scholar Liang Qichao referred nationalism to the Chinese phrase *minzu zhuyi*. The doctrine of nationalism was not imported to China without difficulties. The revolutionary Sun Yat-sen acknowledged that there had never been the existence of a Chinese national identity and noticed that members of Chinese nation were like a “heap of loose sand.” The building of the Chinese nation and the Chinese national identity only took place in the 1930s when Taiwan was occupied by Japan. Taiwan was therefore excluded from the process of Chinese nation building.

In the 1920s and 1930s, many Taiwanese revolutionary organizations had the objective of establishing Taiwan’s independence from Japan rather than reunification with China.⁴² At that time, the national identity of the Taiwanese people was not yet established. In 1949, Kuomintang (KMT) lost the civil war within mainland China and retreated to Taiwan. The KMT had a strong historical and social lineage with the mainland.⁴³ It believed that there was only one China, which is the Republic of China (ROC), and both Taiwan and the mainland were part of this ROC.⁴⁴ The KMT also bore the ultimate mission to liberalize the mainland which it lost to the CCP during the civil war. The KMT government instructed the public education system to promote the Chinese identity, displaying maps and flags of the ROC and teaching Sun Yat-sen’s “three principles of the people.” During the KMT’s rule in Taiwan before the democratic transition, the KMT tried to build up the Chinese national identity awareness among the Taiwanese people and down play the pan-Taiwanese identity.

Despite this, the pan-Taiwanese identity still begins to emerge and replace the Chinese national identity, which first motivated the CCP to assert its sovereignty over the island. In the 1980s, Taiwan was transformed from a one-party authoritarian system to a multiple-party democracy, with the KMT and the DPP as the two dominant parties. The DPP was a pro-independence party and aims to replace the Chinese national identity with the Taiwanese one.⁴⁵ In 2000, Chen Shui-bian won the presidential election and became the first non-KMT president of Taiwan. During his eight years in office from 2000 to 2008, he promoted a “de-Sinification” series, which included the promotion of *Xiangtu Wenxue* (native literature) and the addition of the word “Taiwan” to the passport jacket. School curricula were also amended to emphasize the unique cultural and historical characteristics of Taiwan.

Taiwanese people have experienced a significant change in their identity recognition.⁴⁶ According to a survey conducted by the Institute in Political Science at the National Sun Yat-sen University in 2015, 74%

41 Christopher Hughes, *Taiwan and Chinese nationalism: National identity and status in international society*, (Routledge, 2013), 21-45.

42 Ibid.

43 Yitan Li and Enyu Zhang, *Cross-Strait Relations after the 2016 Taiwan Presidential Election: The Impact of Changing Taiwanese Identity*, Accessed 20 June, 2019 <http://www.wpsanet.org/papers/docs/WPSA2016%20Li%20and%20Zhang.pdf>.

44 Yitan Li and Enyu Zhang, *Changing Taiwanese Identity and Cross-Strait Relations: a Post 2016 Taiwan Presidential Election Analysis*, (Journal of Chinese Political Science, 2017), 17-35.

45 Ibid.

46 Ibid.



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BY
JAPAN."**

of Taiwan's people identify themselves as Taiwanese rather than Chinese. This echoes the results of a study by the National Chengchi University's Election Study Center, which showed that the percentage of Taiwan's people who identified themselves as Taiwanese increasing dramatically from 17.6% in 1992 to 59.3% in 2016, while the percentage of people identifying as Chinese fell from 46.4% to 33.6%. Both surveys indicated that a majority of Taiwan's people do not identify themselves as Chinese. Furthermore, the Taiwanese people's support of unification also decreased significantly.⁴⁷ Various surveys by Opinion Research Taiwan, the Election Study Center of National Chengchi University and TEDS concluded that the percentage of people supporting unification fell from 56.9% in 1992 to 15.8% in 2016 whereas the percentage of people who would rather desire for the status quo increased from 30.6% to 52.3% in the same period. All these results point to the fact that most Taiwanese people do not view the island as part of China and do not value unification as a top priority.

The CCP worries that the various Taiwan opinion polls may encourage the DPP to declare formal independence. If the DPP really does so, the move would reflect the CCP's failure in unifying the territory and thus undermine the CCPs' nationalist legitimacy. It would also encourage secessionist movements in other parts of China, including the Tibetan and Uyghur independence movement, which would make it much harder for the CCP to maintain social stability in the related regions. Therefore, leaders in Beijing cannot afford any risk of Taiwan seeking formal independence and continue to openly warn the Taiwanese government on the consequences of declaring independence. In 2016, Secretary General Xi Jinping announced his zero tolerance policy for any separatist movements in the Chinese territory, which to his understanding included Taiwan.⁴⁸ In 2019, Wang Zaixi, a former deputy director of the State Council's Taiwan Affairs Office warned Taiwan that the Chinese authorities would accelerate the reunification of Taiwan if the island's authorities continued its support of the independence movement. To the CCP, Taiwanese independence is too big of a risk, as it brings into question the notion that the CCP will rebuild the Chinese nation and restore the national spirit.

Second, the continuing existence of Taiwan's democracy makes it embarrassing for the CCP to maintain its one-party authoritarian rule. Since the end of martial law in 1987, Taiwan underwent a series of democratic transitions, which transformed Taiwan into a mature democracy.⁴⁹ In the 1980s, the KMT government was under great pressure to forgo its authoritarian rule. In 1986, the DPP was established to become the biggest opposing political party to the KMT on the island. This also marked that the KMT government, under the leadership of Chiang Ching-kuo, began to ease its grip on opposition parties. In 1996, Taiwan held its first direct presidential election. In 2000, Taiwan experienced its first power transition.

47 John Fuh-sheng Hsieh, *Cross-Strait relations in the aftermath of Taiwan's 2016 elections*, (Netherlands: Journal of Chinese Political Science, 2017), 1-15.

48 Sue-lin Wong, *China's Xi vows zero tolerance for separatist movements* (Reuters, 2016), Accessed 20 June, 2019 <https://www.reuters.com/article/us-china-politics-sunyatsen/chinas-xi-vows-zero-tolerance-for-separatist-movements-idUSKBN1360N4>.

49 Yitan Li and Enyu Zhang, *Changing Taiwanese Identity and Cross-Strait Relations: a Post 2016 Taiwan Presidential Election Analysis*, (Journal of Chinese Political Science, 2017), 17-35.

Opposition DPP candidate Chen Shui-bian became the first non-KMT president of Taiwan, and the KMT lost the presidency for the first time on the island since 1945. In 2008 and 2016, Taiwan experienced two other power transitions in peaceful ways. These three power transitions prove that Taiwanese democracy is as mature as most Western democracies.

The continued democratization further distinguishes the political experience in Taiwan from the mainland.⁵⁰ This is one of the factors that contributes to the increase in the percentage of Taiwanese people in support of the status quo rather than reunification. It also provides an ironic contrast to the authoritarian rule in the mainland, putting political pressure on the



"THE CONTINUING EXISTENCE OF TAIWAN'S DEMOCRACY MAKES IT EMBARRASSING FOR THE CCP TO MAINTAIN ITS ONE-PARTY AUTHORITARIAN RULE."

CCP in transforming from one-party authoritarian rule to a democracy. In 2016, Taiwan's then President Ma Ying-jeou urged Beijing to move towards a democratic style of development and voice support for pro-democracy demonstrations in Hong Kong.⁵¹ In 2013, Chen Guangcheng, a legal activist in the mainland who left during a diplomatic crisis, praised the democratic rule of law in Taiwan.⁵² In 2019, Taiwan's Mainland Affairs Council issued a statement urging Beijing to apologize for cracking down on protests in Tiananmen in 1989 and push for democratic reforms proactively. Taiwan increasingly became an agent of democratization on the mainland and posed a threat to its authoritarian rule.⁵³ To prevent the questioning of its political system by Taiwan, the CCP must insist that Beijing is the only legitimate government ruling the Chinese authority and the Taiwanese authority is illegitimate in criticizing the political system of the mainland.⁵⁴ By emphasizing that the Taiwanese authority is not the legitimate government on the island, the CCP can simply dismiss any call for democratic transition in the mainland.

⁵⁰ Ibid.

⁵¹ *Taiwan President Ma Ying-jeou calls on Beijing to move towards democracy*, (Hong Kong: South China Morning Post, 2014) Accessed 20 June, 2019. https://www.scmp.com/news/china/article/1613552/taiwan-president-ma-ying-jeou-calls-beijing-move-toward-democracy?_escaped_fragment_=&edition=hong-kong.

⁵² Austin Ramzy, *Chinese Activist praises Taiwan's Democracy*, (New York: The New York Times, 2013). Accessed 20 June, 2019. <https://www.nytimes.com/2013/06/25/world/asia/chen-guangcheng-praises-democracy-in-taiwan.html>.

⁵³ *Taiwan urges Chia to 'repent' for Tiananmen Square crackdown*, (Doha: Aljazeera, 2019) Accessed 20 June, 2019. <https://www.aljazeera.com/news/2019/06/taiwan-urges-china-repent-tiananmen-square-crackdown-190603061620801.html>.

⁵⁴ Hardina Ohlendorf, *The Taiwan Dilemma in Chinese Nationalism: Taiwan Studies in the People's Republic of China* (Asian Survey, 2014), 471-491.

Third, the de facto independence of Taiwan is also a humiliation to the military force of CCP. After the KMT government retreated to Taiwan, the CCP tried to reunify the island various times. During the last stage of the Chinese Civil War, the CCP's People Liberation Army (PLA) attacked the Quemoy islands, the outlying islands in Fujian province.⁵⁵ Surprisingly, the KMT army defeated the PLA in the Guningtou Battle. The KMT's victory in the battle was important in protecting the retreat of the KMT government to Taiwan and the safety in Taiwan Strait. It also thwarted the CCP's attempt to further annex Taiwan. In August 1958, the CCP began an intensive artillery bombardment against the Quemoy islands.⁵⁶ The action was believed to be the prologue of the CCP's invasion of Quemoy and Matsu. With the help of the US's naval units, the KMT government again successfully protected the islands. The military failures of the CCP in occupying Quemoy was a humiliation to the CCP and also raised doubts on the CCP's ability and capability in unifying Taiwan and restoring the Chinese nation. Under this background, the CCP must exercise military actions in waters surrounding Taiwan to highlight its military superiority over Taiwan in order to prove its ability in unifying the island and serving as the only legitimate government.

CONCLUSION

As an authoritarian regime, the CCP's one-party rule faces the problem of a legitimacy deficit in the mainland. Neither ideological adaptation nor economic performance can provide sustainable legitimacy for its rule. Instead, nationalism provides a much stronger source of legitimacy in justifying the CCP's one-party rule. The CCP makes use of the historical memories among the Chinese in the 19th and 20th centuries and creates the historical narratives that the CCP leads the Chinese to resist imperialism and restore their national spirit and pride. In various territorial disputes, the CCP stands firmly against neighboring countries in affirming its nationalist spirit. Most importantly, the CCP firmly maintains its "one China" policy and insists that the Taiwanese government is illegitimate in order to affirm that it is the only legitimate government in rejuvenating Chinese nationalism. Through exploiting nationalism, the CCP successfully rejects and dismisses any call to move towards democracy and abolish authoritarian rule.

55 JJ Zhang, *Of Kaoliang, bullets and knives: Local entrepreneurs and the battlefield tourism enterprise in Kinmen (Quemoy), Taiwan*, (Tourism Geographies, 2010), 395-411.

56 Xiaobing Li, Jian Chen, and David Wilson, *Mao Zedong's Handling of the Taiwan Straits Crisis of 1958: Chinese Recollections and Documents*, (Cold War International History Project Bulletin, 1995), 207-25..

Works Cited

- Al Jazeera. "Taiwan Urges China to 'Repent' for Tiananmen Square Crackdown." *China News | Al Jazeera*. Al Jazeera, June 3, 2019. <https://www.aljazeera.com/news/2019/06/taiwan-urges-china-repent-tiananmen-square-crackdown-190603061620801.html>.
- Aspinwall, Nick. "Taiwan Picks Up International Support After Being Barred from World Health Assembly." – *The Diplomat*. for The Diplomat, May 10, 2019. <https://thediplomat.com/2019/05/taiwan-picks-up-international-support-after-being-barred-from-world-health-assembly/>.
- "Beijing Mouthpiece Calls for pro-Occupy Celebrities to Be Banned from Mainland." *South China Morning Post*, October 26, 2016. <https://www.scmp.com/news/hong-kong/article/1623015/beijing-mouthpiece-calls-pro-occupy-celebrities-be-banned-mainland>.
- Cabestan, Jean-Pierre. "Beijing's Policy Towards President Tsai Ying-wen and the Future of Cross-Strait Relations." *Whitehead J. Dipl. & Int'l Rel.* 18 (2017): 55.
- "China." Data. Accessed October 2, 2019. <https://data.worldbank.org/country/china>.
- "China Fires up Drills near Taiwan Strait in Test of Combat Strength." *South China Morning Post*, May 6, 2019. <https://www.scmp.com/news/china/diplomacy/article/3009074/china-fires-drills-near-taiwan-strait-test-combat-strength>.
- "China's Growth Deceleration: Causes and Future Growth Prospects." *DOC Research Institute*, March 26, 2019. <https://doc-research.org/2019/02/china-growth-deceleration-causes-future-growth-prospects/>.
- "Chinese Police Detain More than 100 Lawyers and Activists in Weekend Sweep." *South China Morning Post*, August 4, 2016. <https://www.scmp.com/news/china/policies-politics/article/1838240/chinese-police-detain-more-100-lawyers-and-activists>.
- Deutsche Welle. "Xi Jinping and the 'Chinese Dream': DW: 07.05.2018." *DW.COM*. Accessed October 2, 2019. <https://www.dw.com/en/xi-jinping-and-the-chinese-dream/a-43685630>.
- Dickson, Bruce J. "Integrating wealth and power in China: the Communist Party's embrace of the private sector." *The China Quarterly* 192 (2007): 827-854.
- Gerschewski, Johannes. "The three pillars of stability: legitimization, repression, and co-optation in autocratic regimes." *Democratization* 20, no. 1 (2013): 13-38.
- Hsieh, John Fuh-sheng. "Cross-Strait relations in the aftermath of Taiwan's 2016 elections." *Journal of Chinese Political Science* 22, no. 1 (2017): 1-15.
- Hughes, Christopher. *Taiwan and Chinese nationalism: national identity and status in international society*. Routledge, 2013.
- Li, Yitan, and Enyu Zhang. "Changing Taiwanese Identity and Cross-Strait Relations: a Post 2016 Taiwan Presidential Election Analysis." *Journal of Chinese Political Science* 22, no. 1 (2017): 17-35.
- Li, Yitan and Zhang, Enyu, "Cross-Strait Relations after the 2016 Taiwan Presidential Election: The Impact of Changing Taiwanese Identity", *Journal of Chinese Political Science* (2016): 1-23, 20 June, 2019 <http://www.wpsanet.org/papers/docs/WPSA2016%20Li%20and%20Zhang.pdf>
- Lu, Ding. "China's "Two Centenary Goals": Progress and challenge." *East Asian Policy* 8, no. 02 (2016): 79-93.
- Malone, David M., and Rohan Mukherjee. "India and China: conflict and cooperation." *Survival* 52, no. 1 (2010): 137-158.
- Mietzner, Marcus. "Authoritarian elections, state capacity, and performance legitimacy: Phases of regime consolidation and decline in Suharto's Indonesia." *International Political Science Review* 39, no. 1 (2018): 83-96.
- Ohlendorf, Hardina. "The Taiwan Dilemma in Chinese Nationalism: Taiwan Studies in the People's Republic of China." *Asian Survey* 54, no. 3 (2014): 471-491.
- Preamble. *Constitution of the People's Republic of China*. Accessed 20 June. 2019, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm
- Qin, Amy, and Alan Wong. "Stars Backing Hong

- Kong Protests Pay Price on Mainland." The New York Times. The New York Times, October 24, 2014. <https://www.nytimes.com/2014/10/25/world/asia/hong-kong-stars-face-mainland-backlash-over-support-for-protests.html>.
- Ramzy, Austin. "Chinese Activist Praises Taiwan's Democracy." The New York Times. The New York Times, June 24, 2013. <https://www.nytimes.com/2013/06/25/world/asia/chen-guangcheng-praises-democracy-in-taiwan.html>.
- SCHUBERT*, G. U. N. T. E. R. "One-party rule and the question of legitimacy in contemporary China: Preliminary thoughts on setting up a new research agenda." *Journal of Contemporary China* 17, no. 54 (2008): 191-204.
- S Hafeez, Sanaa Yasmin. "The Senkaku/Diaoyu Islands crises of 2004, 2010, and 2012: a study of Japanese-Chinese crisis management." *Asia-Pacific Review* 22, no. 1 (2015): 73-99.
- Statement made by Xi to KMT Vice-President Vincent Siew Wan-chang in October 2013, <http://www.scmp.com/news/china/article/1325761/xi-jinping-says-political-solution-taiwan-cant-wait-forever>
- "Taiwan Population (LIVE)." Worldometers. Accessed October 2, 2019. <https://www.worldometers.info/world-population/taiwan-population/>.
- "Taiwan President Ma Ying-Jeou Calls on Beijing to Move towards Democracy." *South China Morning Post*, July 20, 2018. https://www.scmp.com/news/china/article/1613552/taiwan-president-ma-ying-jeou-calls-beijing-move-toward-democracy?_escaped_fragment=&edition=hong-kong.
- "Taiwan Under the Gun: An Urgent Call to Action." *Taiwan Sentinel*, September 6, 2017. <https://sentinel.tw/taiwan-gun-urgent-call-action/>.
- Weatherley, Robert D., and Ariane Rosen. "Fanning the flames of popular nationalism: the debate in China over the burning of the Old Summer Palace." *Asian Perspective* 37, no. 1 (2013): 53-76
- "What's behind the India-China Border Stand-off?" *BBC News*. BBC, July 5, 2017. <https://www.bbc.com/news/world-asia-40478813>.
- Wong, Sue-Lin. "China's Xi Vows Zero Tolerance for Separatist Movements." *Reuters*. Thomson Reuters, November 11, 2016. <https://www.reuters.com/article/us-china-politics-sunyatsen/chinas-xi-vows-zero-tolerance-for-separatist-movements-idUSKB-N1360N4>.
- Wu, Guoguang. *China's Party Congress: Power, Legitimacy, and Institutional Manipulation*. Cambridge University Press, 2015.
- Xiaobing, Li, Chen Jian, and David L. Wilson. "Mao Zedong's Handling of the Taiwan Straits Crisis of 1958: Chinese Recollections and Documents." *Cold War International History Project Bulletin* 6, no. 7 (1995): 207-25.
- Yang, Hongxing, and Dingxin Zhao. "Performance legitimacy, state autonomy and China's economic miracle." *Journal of Contemporary China* 24, no. 91 (2015): 64-82. Zeng, Jinghan. *The Chinese Communist Party's capacity to rule: ideology, legitimacy and party cohesion*. Springer, 2015.
- Yip, Hilton. "Beijing Blames Foreigners When Hong Kongers March." *Foreign Policy*, June 19, 2019. <https://foreignpolicy.com/2019/06/19/beijing-blames-foreigners-when-hong-kongers-march/>.
- Zhang, J.J. "Of Kaoliang, bullets and knives: Local entrepreneurs and the battlefield tourism enterprise in Kinmen (Quemoy), Taiwan." *Tourism Geographies* 12, no. 3 (2010): 395-411.
- Zhang, Lei. "The Google-China dispute: The Chinese national narrative and rhetorical legitimation of the Chinese Communist Party." *Rhetoric Review* 32, no. 4 (2013): 455-472.
- Zhu, Yuchao. "'Performance legitimacy' and China's political adaptation strategy." *Journal of Chinese Political Science* 16, no. 2 (2011): 123-140.

The Dominant Male Perspective in Sexual Violence Laws

A Radical Feminist Critique of the Lebanese
Penal Code

Jurisprudence represents a constant and sincere attempt to provide a guiding utopian vision of human existence.

Despite this purported idealism, jurisprudence has been defined by a masculine vision. Women are often not aware of the existential choice this poses because they have been blinded by male power. Feminist jurisprudence aims at breaking down conceptual and political barriers to women's freedom posed by this masculine and patriarchal jurisprudence. It aims at building a more perfect legal system that will protect against harms as understood by all forms of life and will recognize values generated by all forms of being.

Having a masculine jurisprudence means having laws written and understood by male standards, which poses an existential threat to women: the laws that govern every little detail in a woman's life are male. These laws do not account for the experiences of women, often letting them down when the differences between the male and the female experience are the

most at odds. This clash is best illustrated in cases of sexual violence. Often, the perpetrator is male, and the victim is female. But the law that tries to understand this phenomenon is from the male perspective. Thus, when it comes to studying the case, the law understands only the perpetrator's experience and not the victim's experience. This provides some explanation as to why the numbers of reported cases of sexual assault and unreported cases are outrageously disproportionate: women don't feel comfortable reporting their cases because they know that the law does not understand their subjective experiences as women.

In Lebanon, this masculine utopian vision rests in the honor discourse: it has built an intricate honor/shame system that revolves around sex and the men's honor. Despite having its own characteristics, this Lebanese masculine jurisprudence still poses an existential threat to women. Using a radical feminist lens, I will show how this male perspective in the Lebanese Penal Codes dealing with sexual violence oppresses women.

THE MALE POINT OF VIEW

Catharine A. Mackinnon, an American professor of law and feminist theory, writes that "the male point of view forces itself upon the world as its way of apprehending it."¹ What she means is that the male understanding, a hegemonic and systematic framework, shapes all forms of interaction and non-interaction that impact all aspects of societal life. In other words, the male point of view shapes existence itself. Men have seen themselves as being different from women, and indeed they are, because women have different physiologies and different experiences from them.

One of the spheres that the male perspective has shaped is the legal sphere. MacKinnon says that the state is male,² and that the law sees and treats women the way men see and treat women.³ This form of male dominance is one of the most insidious and pervasive systems of power because it is almost metaphysically perfect. MacKinnon claims that the male's point-of-viewlessness in the law is the "standard point-of-viewlessness" which dangerously rationalizes, legitimizes, and imposes the male objectivity and completely irrationalizes women's subjectivity. By doing so, authoritatively and coercively, the law creates a social order in the interest of the male gender through "embodying and ensuring male control over women's sexuality at every level, occasionally cushioning, qualifying, or de jure prohibiting its excesses when necessary to its normalization. [...] To the extent possession is the point of sex, rape is sex with a woman who is not yours."⁴ What men have done systematically and thoroughly is distance themselves from women, objectify them and construct different property values about the objectified women in order to control and dominate them in their own interests. It has permeated all spheres and has leveraged the law in an effort to consolidate and legitimize their dominance over women

1 Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press, 1983, pp. 635-658.

2 Susan Rae Peterson, "Coercion and Rape: The State as a Male Protection Racket," in *Feminism and Philosophy*, ed. Mary Vetterling-Braggin, Frederick A. Elliston, and Jane English (Totowa, N.J.: Littlefield, Adams & Co., 1977), pp. 360-71; Janet Rifkin, "Toward a Theory of Law Patriarchy," *Harvard Women's Law Journal* 3 (Spring 1980): 83-92..

3 Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press, 1983, pp. 635-658.

4 *Ibid.*



"IN THIS SENSE, THE LAW DOESN'T PROTECT WOMEN, IT PROTECTS MEN'S VALUES CONCERNING WOMEN."

based on their own constructed values. In this sense, the law doesn't protect women, it protects men's values concerning women. For example, rape, as defined by the law, centers upon a male-defined loss: the loss of "exclusive access." As MacKinnon puts it, whenever a rape case "most closely conforms to precedent, to 'facts,' to legislative intent, it will most closely enforce social male norms."

Laws concerning sexual violence require a new perspective, one based in the "female point-of-view," and a new relation between life and law in order to achieve a form of justice. This will not be possible until the Male Dominance apparatus is dismantled.

THE EXISTENTIAL DILEMMA OF THE MALE EXPERIENCE

Robin L. West, a leading feminist legal theorist, argues that modern jurisprudence is "masculine" and proposes two ideas in *Jurisprudence and Gender*.⁵ The first idea aligns with Mackinnon's proposition that jurisprudence is dominated by the male-perspective. She explains that the "fundamental contradiction" that characterizes women's lives, the values, and the dangers are not reflected at any level whatsoever in contract law, torts, constitutional law, or any other legal subfield.⁶ Women have values that flow from their potential and physical connection that are not recognized as values by the rule of law, and the dangers that women face are also not recognized as dangers by the rule of law.⁷

The second idea says that the rule of law is a coherent reaction to the existential dilemma that follows the description of the male experience in legal liberalism of material separation from the other. West explains that the existential condition of being a man is the fear of annihilation and the value of autonomy. In contrast, the existential condition of being a woman is the fear of separation and the value of intimacy. What the rule of law is doing, as West explains, is taking the male experience of material separation from the other and shaping itself accordingly. Thus, the rule of law acknowledges the danger of annihilation and the rule of law protects the value of autonomy, but it neither recognizes nor values intimacy, and neither recognizes nor protects against separation.⁸ When it comes to rape, West says that it is "understood to be a harm, and is criminalized as such, only when it involves some other harm," a form of harm that men can understand. This aligns perfectly with Mackinnon's idea that rape is a male-defined loss: "sex with a woman that is not yours".

When laws are reformed with the goal of bettering the situation of women, they are often reformed by characterizing women's injuries as analogous, if not identical with, men's official values. They might be progressive in one way or another, but as Mackinnon points out, "how is it empowering in the feminist sense?" What remains un confronted is why women are raped, as well as the question of what conditions produce men who systematically express themselves in violent ways towards women.⁹

5 West, Robin. *Jurisprudence and Gender*. Chicago: The University of Chicago Law Review, 1988, pp. 1-24.

6 *Ibid.*

7 *Ibid.*

8 *Ibid.*

9 Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press, 1983, pp. 643.

GENDER RELATIONS IN MODERN ARAB SOCIETIES

Lama Abu-Odeh, a Palestinian-American professor of law who wrote extensively on Islamic law, family law and feminism, writes about the production and reproduction of gender relations in contemporary Arab life.¹⁰ An idealized model of gender is imposed on Arab women: they are expected to abstain from any kind of sexual practice before marriage. In this heterosexual, honor/shame-based society, men attribute values to women and their virginity. Abu-Odeh discusses the significance of the hymen and says that it “becomes the socio-physical sign that signifies virginity and gives the woman a stamp of respectability and virtue.”¹¹ An idea of virginal femaleness is created by men and is then expected to be upheld by women.

The family is a core social unit in Arab society. Because of this, men’s respectability and honor are affected by their family member’s respectability and honor, especially the female ones. Abu-Odeh says “to be an Arab man is to engage in daily practices, an important part of which is to assure the virginity of the unmarried women in your family.”¹² To have a sister that lost her virginity before getting married brings shame to the family and thus brings shame to the brother or father as an individual, which can only be regained if the men avenge their loss of honor by killing the female.¹³ Men are not just threatened by their female family members but also by other men approaching their own female family members. This is because the one thing that needs to be physically protected is not the woman, but instead her hymen. The physicality of the hymen, and thus the physicality of honor itself made the brothers and fathers of women hyperaware about the fragility of their honor. Abu Odeh shows that this made the men fear other men’s approaches on the women of their family: “as women have internalized the censoring look of men, so have men internalized the censoring look of other men.”

Abu-Odeh brings up the role of “deal-making” to prevent losing one’s honor. Men promise each other that they will not approach their friend’s women because it would firstly and most importantly bring shame on the friend and secondly betray the friend’s trust. This deal has a double function of “nurturing their brotherly bonds and creating a certain camaraderie between them in their hunt for other women.”

MALE DOMINATION IN THE LEBANESE PENAL CODE

Abu-Odeh’s theory of production and reproduction of gender relations in contemporary Arab life links this theoretical framework to the observable male dominance in the legal frameworks of Arab Societies and, more specifically, Lebanon’s Penal Code. Drawing on West’s idea of material separation from the other, the Arab man’s existential condition lays in his honor, the fear of its annihilation and thus his annihilation, and the value of its autonomy and his own autonomy from it. To be an Arab man is to have honor, but it is also to be free from eternally guarding his honor. To achieve such a balance, MacKinnon explains that men have to authoritatively and

10 Abu Odeh, Lama. *Honor Killings and the Construction of Gender in Arab Societies*. D.C: Georgetown University Law Center, 2010, pp. 911-952.

11 Ibid.

12 Ibid.

13 Lama Abu Odeh talks about honor killing in her paper *Honor Killings and the Construction of Gender in Arab Societies*.

coercively enforce their values in their jurisdiction. Indeed the law focuses on honor and understands well what constitutes a violation of honor in Lebanon. The law in Lebanon constitutes the authoritative social order in the interest of men as a gender through “embodying and ensuring male control over women’s sexuality at every level, occasionally cushioning, qualifying, or de jure prohibiting its excesses when necessary to its normalization. [...] To the extent [that] possession is the point of sex, rape is sex with a woman who is not yours.”¹⁴

The law does not protect women, but rather protects men’s values concerning women. Consequently, the Arab man would have achieved the best outcome out of his existential condition by imposing his values in the law through masculine jurisprudence. The law protects his honor so that he does not have to do so himself. The law absolutely protects the fear of his honor’s annihilation, thus his own annihilation, and his value of his autonomy from women’s honor. This perfectly aligns with Abu-Odeh’s explanation of “deal-making.” The law enshrines individual-level deals and applies them to every man: “the function of these prohibitive demands is not only the preservation of actual virginity but the production of the public effect of virginity,”¹⁵ thus protecting men’s honor at the expense of women’s experiences.



"TO BE AN ARAB MAN IS TO HAVE HONOR, BUT IT IS ALSO TO BE FREE FROM ETERNALLY GUARDING HIS HONOR."

LAWS IN THE LEBANESE PENAL CODE

The Lebanese Penal Code does not recognize sexual violence as a crime committed against people but rather a crime against the values and morals of society. In fact, laws concerning sexual violence are not found in the Penal Code’s section for crimes and offenses against an individual’s life and integrity. Rather, they are found in a different section: attacks on morals.¹⁶ The Penal

Code also fails to enumerate or identify other forms of sexual violence such as sexual assault and abuse. In fact, it does not clearly define sexual assault as a violation of physical safety and sexual independence, although these acts can be punishable as indecent. These laws hint towards the protection of honor rather than the victim.

In my research I have found that Articles 503, 507, and 512 of the Penal Code have been the most used in cases of sexual violence:

Article 503: Whoever, with the use of violence or threats, has forced a person in a sexual act outside marriage will be punished with not be less than 5 years of prison. The punishment will not be less than 7 years if the victim was younger than 15 years old.

Article 507: Whoever, with the help of violence or threats, has forced a person to undergo or to do an act contrary to modesty, will be punished with hard labour for a

14 Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press, 1983, pp. 635-658.

15 Abu Odeh, Lama. *Honor Killings and the Construction of Gender in Arab Societies*. D.C: Georgetown University Law Center, 2010, pp. 911-952.

16 Lebanese Criminal, Code C. pén. Libanais

duration not inferior to 4 years. The minimum of the punishment will be of 10 years if the victim didn't have 15 years.

Article 512: Whoever has laid hand in an impudent manner or has committed an analogue act of impudicity on a minor of either sex younger than 15, or on a woman or girl of 15 years or more without her consent, will be punished with imprisonment that will not exceed 6 months.

Cases of sexual assault revolve around the concept of virginity and the physicality of the hymen. Therefore, medical examiners usually conduct medical examinations in order to prove or disprove the virginity of the victim. The resulting medical reports are a crucial element in rape cases because they represent the physical breaking of social morals. I have selected three different cases in order to highlight the importance of the medical report and the hymen in Lebanese jurisprudence.

COURT CASES

*Case File n° 2016/106*¹⁷

Court: Criminal Court

Number: 106

Year: 2016

Date of Hearing: 23/03/2016

Presiding Judge: Faysal Hadid

Counsellor Judges: El Khoury – Al Qossais

Decision Number: 2016/106

Facts: On the 8th of April 2010, the plaintiff Lana Antoun Sidi filed a lawsuit against her husband Henry Abdel Karim and the Nepalese migrant domestic worker Sanu Peltamanuk, accusing them of adultery.¹⁸ Sanu testified and said that her husband forced her to have sex with him multiple times using violence and threats, raping her in a “brutally inhuman way.”¹⁹ The prosecution brought Larissa Mamadou Go, a previous migrant domestic worker from the Ivory Coast, to testify in court against the accused. Mamadou’s testimony resembled Peltamanuk’s: she said that the accused raped her and sexually abused her as well. The accused denied having raped the two women and said that the true reason behind this case is that the plaintiff, his wife, wanted to get a divorce and that the Evangelical Church, to which they belong to and got married in, does not allow divorce in the exception of the case of adultery. He added that his wife was in a relationship with another man.

Decision: The court accepted the appeal filed by the defendant on the basis of changing the nature of the motive of lawsuit.

Reason: In this case, no medical reports were submitted by the plaintiff

¹⁷ Lana Antoun Sidi v. Henry Abdel Karim (2010) case number 2010/106 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=122501&selection=>.

¹⁸ Articles 487-489 punishes a woman who commits adultery with a prison sentence from three months to two years. She is found guilty if the act takes place inside or outside her home. A man committing adultery, however, has to be caught in the act in his own home or be known by others to be conducting an illicit affair to be sentenced to prison for one month to a year. A woman is required to have the testimony of witnesses to prove her innocence, whereas a man can be proven innocent based on lack of material evidence, such as incriminating letters or documents.

¹⁹ Details of the testimony can be found in the case report pp. 2: Lana Antoun Sidi v. Henry Abdel Karim (2010) case number 2010/106 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=122501&selection=>.

to prove the non-virginity of the victims. The testimonies of the two women were rejected by the accused's negation of the crimes and no other evidence was presented in court. Thus, the decision was based on believing the defendant's testimony over that of the women.

*Case File n° 2015/302*²⁰

Court: Criminal Court

Number: 302

Year: 2015

Date of Hearing: 17/06/2015

Presiding Judge: Jocelyn Matta

Counsellor Judges: Horwayek – Abdallah

Decision Number: 2015/302

Facts: In 2014, the plaintiff filed a suit against her husband, accusing him of the crime of attempted rape and sexual harassment of her three underage children, all between the ages of 10 and 14. All three children testified against their father. Dr. Bilal Sablough, the medical examiner, conducted three medical reports that prove anal penetration in all three girls. The accused consistently denied the crime and stated that his wife was promiscuous, having been in multiple relationships with multiple other men. The public prosecutor asked for the conviction of the accused, who asked for "acquittal, pity and mercy."²¹

Proving the perpetration of such crime requires concrete evidence that amounts to a recognition of the perpetration of the crime itself. This medical examination does not prove the perpetration of the crime and is not considered concrete enough. No new additional evidence has been submitted to the court by the prosecution.

Decision: The court acquitted the accused of the crime of rape as defined in Article 507,²² supported by Article 511,²³ on the basis of failing to prove the perpetration of the indecent act and the sex with his minor daughters by threat of violence, as well as insufficient evidence. His kids' and wife's testimonies were not taken as proof.

Reason: Medical reports are usually needed in order to prove sexual harassment and rape. What is being measured in these medical reports is the virginity of the victim: if the victim lost her virginity, then the act is criminal; if it cannot be proven that the victim lost her virginity because of the act committed, then it can't be used as proof of crime. In this case, the medical report clearly shows that there has been anal penetration of all three girls, but the court decided that the medical report was not enough proof. The defendant only had to deny the accusations in order to be acquitted, despite the fact that three testimonies were brought against him backed by medical proof.

20 K.T.v. R.T (2015) case number 2015/302 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=111527&selection=->.

21 Ibid.

22 Article 507: Whoever, with the help of violence or threats, has forced a person to undergo or to do an act contrary to modesty, will be punished with hard labor for a duration not inferior to 4 years. The minimum of the punishment will be of 10 years if the victim didn't have 15 years.

23 Article 511: The punishments detailed in articles 503 to 505 and 507 to 509 will be elevated if the accused is one of the people described in article 506.

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"THE PHYSICALITY OF THE HYMEN, AND THUS THE PHYSICALITY OF HONOR ITSELF MADE THE BROTHERS AND FATHERS OF WOMEN HYPERAWARE ABOUT THE FRAGILITY OF THEIR HONOR."

Case File n°2016/204²⁴

Court: Criminal Court

Number: 204

Year: 2016

Date of Hearing: 16/03/2016

Presiding Judge: Mohammed Mathbloum

Counsellor Judges: Al Habal – Al Hajj

Decision Number: 2015/302

Facts: On the 9th of November 2009, the plaintiff Nabil Mounir Yamout filed a suit against Hassan Mahmoud Meri accusing him of raping his daughter (N.Y). Nabil Mounir Yamout had legal guardianship of his underage daughter N.Y, and he was therefore able to prosecute the accused on behalf of the victim. The victim testified against the accused, describing how he raped her and how she lost her virginity. Dr. K.J., the medical examiner, provided a medical report that showed that the victim indeed lost her virginity. The accused stated that he knew the girl N.Y, and he had the intention of marrying her,²⁵ but denied the accusation of having raped her. The prosecutor asked for the conviction of the accused and asked for \$30,000 USD as reparation for damages caused by the assault. The defense asked for the acquittal of the accused on the basis of lack of evidence.

Decision: The court charged the accused under Article 503²⁶ of the Penal Code and supported by Article 512²⁷ of the Penal Code as a result of ascertaining the victim's testimony that the accused raped her by means of violence and threat. The accused stripped her of her honor at the time when she was still underage, evidenced in the light of the medical report's findings. Secondly, the court stipulated that the convicted pay 25,000,000 LBP to the family for damages.

Reason: In this case, the medical report clearly shows that the victim lost her virginity, which the court refers to as honor and dignity. The perpetrator was the cause of that loss and the medical report evidences it. The court understood the loss of dignity through rape as a grave crime, which is why it not only convicted the criminal but also made him pay LBP 25,000,000 for damages.

MALE POINT-OF-VIEW IN THE LAW

The Lebanese Penal Code is shaped by the male point-of-view: it constructs social order in the interest of the male gender. Male values are enshrined in legal codes which consequently rationalizes a patriarchal ideology and poses an existential threat to women as a gender.²⁸ In reviewing

24 Nabil Mounir Yamout v. Hassan Mahmoud Meri (2016) case number 2016/204 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=121294&selection=>.

25 At the time of the case, article 522 of the penal code wasn't repealed yet. This article gives the rapist a chance of evading prosecution and sentencing in case he marries the victim, which might've been an option for the defense in this case.

26 Article 503: Whoever, with the use of violence or threats, has forced a person in a sexual act outside marriage will be punished with not be less than 5 years of prison. The punishment will not be less than 7 years if the victim was younger than 15 years old.

27 Article 512: Whoever has laid hand in an impudent manner or has committed an analogue act of impudicity on a minor of either sex younger than 15, or on a woman or girl of 15 years or more without her consent, will be punished with imprisonment that will not exceed 6 months.

28 When I say 'doesn't make sense to women' I mean the idea of being a woman. Obviously, there are women who believe deeply in the patriarchal ideology and blindly accept it, and often reject any criticism



"WHAT IS BEING MEASURED IN THESE MEDICAL REPORTS IS THE VIRGINITY OF THE VICTIM."

cases of sexual violence, two elements have proven to be of great importance: the hymen and the medical report.

The Hymen and The Law

The fact that the Lebanese laws concerning sexual violence are not found in the Penal Code's section for crimes and offenses against an individual's life and integrity but are found instead under the attacks on morals section²⁹ shows how cases of sexual assault revolve around the concept of morals. An idea of virginal femaleness is created by male morality and is expected to be upheld by women. The law is then constructed to protect male morals using a male understanding of existence,³⁰ while the virginal femaleness becomes a protected idea in the law.

Indeed, as the selected case studies have shown, a crime of sexual violence is only committed when there is medical proof that the hymen has been broken. Otherwise, the nature of the assault becomes hard to understand because no attack on society's morals has been committed. What is being protected by the Lebanese Penal Code is not the rights of women; it is their virginity, and more specifically the hymen itself. The Lebanese male's point-of-view has authoritatively enforced its values in jurisdiction, it has become the "standard point-of-viewlessness"³¹ which dangerously rationalizes, legitimizes, and imposes the male objectivity and irrationalizes women's subjectivity. The rational and legitimate proof of crime here is the medical report: the report proving the loss of virginity is a crucial element in rape cases because it represents a physical manifestation of the breaking of social morals.

The Medical Report and Effect of Rational "Point-of-Viewlessness"

MacKinnon explains that men have to authoritatively and coercively enforce their values. Indeed, Lebanese law focuses on honor and understands very well violations of honor in Lebanon. The male's point-of-view in the law has become the unquestioned "standard point-of-viewlessness."³²

The "standard point-of-viewlessness" that the Lebanese male point-of-view has subtly enforced in the law can be seen in the legal system's overreliance on medical reports in sexual violence cases. The medical report has the function of providing logical and rational proof in cases of rape and other cases of sexual violence. To someone whose goal is to protect virginity, this medical report makes perfect sense as it analyzes the physical shape of the hymen and proves whether it has been broken or not. The medical report thus signifies male objectivity in the law. But to someone whose goal is to bring justice to sexual assault survivors, this medical report is useless and sometimes even inimical to their case. In fact, instances of sexual assault often surpass the definition that the law gives it, making it almost impossible to get justice when the law has such a narrow definition and understanding of sexual assault. The Office on Women's Health gives a list of types of sexual

of it on the basis of morals and tradition.

29 Lebanese Criminal, Code C. pén. Libanais.

30 MacKinnon explains that men have to authoritatively and coercively enforce their values in jurisdiction.

31 Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press, 1983, pp. 635-658.

32 Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press, 1983, pp. 635-658.

assault, including: “fondling or unwanted touching above or under clothes, voyeurism, exhibitionism, sexual harassments or threats, forcing someone to pose for sexual pictures, texting unwanted photos or messages, etc...” Because these acts of sexual assaults do not revolve around the hymen and honor, the Lebanese Penal Code does not recognize them as punishable acts. Women’s subjectivity is not recognized by the law. Instead the law protects men’s honor at the expense of women’s experiences.

CONCLUSION

As the sexual violence cases have shown us, those who win in court, whether they be the prosecutors or the defendants, are the men protecting their honor. In Case File n° 2016/106,³³ the defendant Abdel Karim’s appeal was accepted by the court, and his honor was thus defended by denying the accusations. In Case File n° 2015/302,³⁴ the defendant (R.T) was able to save his honor by denying the accusations and the medical report in this case did not prove the breaking of the hymen of the three girls. Because the medical report did not prove the breaking of the socio-physical sign of morals under Lebanese law, no crime had been proven.³⁵ In Case File n° 2016/204,³⁶ the plaintiff Nabil Mounir Yamout was able to restore his honor by winning a case against his daughter’s rapist. He initially lost his honor when his daughter was raped by Hassan Mahmoud Meri, but proving that rape happened and that his daughter lost her virginity—proven by the medical report—the plaintiff Nabil Mounir Yamout restored his honor when the defendant was charged with rape.

Angela Davis said “as you further shape the theoretical foundations of this movement and as you implement practical tasks, remind yourselves as often as possible that even as individual victories are claimed, the ultimate elimination of sexist violence will depend on our ability to build a new and revolutionary global order, in which every form of oppression and violence against humankind is obliterated.”³⁷ Feminism’s role in jurisprudence is to uncover how the patriarchy has subtly but systematically shaped the laws to enforce male standards and definitions of existence that consequently oppress women, and challenge this male apparatus. It should also aim to transform male jurisprudence and replace it with a humanist jurisprudence. In Lebanon, feminist NGOs have been challenging the dominant patriarchal jurisdiction and have had a few victories. Despite those small victories, masculine jurisprudence still poses an existential threat to women in Lebanon. The honor/shame system that plagues the legal system needs to be addressed and male values, enshrined in the law since the Ottoman era, need to be revised. The feminist movement in Lebanon has started this discussion, but it still needs to hold on to its utopian vision and stand its ground in the face of conservative opposition.

33 Lana Antoun Sidi v. Henry Abdel Karim (2010) case number 2010/106 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=122501&selection=>.

34 K.T v. R.T (2015) case number 2015/302 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=111527&selection=>.

35 The defendant was acquitted of his crimes on basis of lack of evidence.

36 Nabil Mounir Yamout v. Hassan Mahmoud Meri (2016) case number 2016/204 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=121294&selection=>.

37 Angela Y. Davis. *Violence against women and the ongoing challenge to racism*. Florida: Florida State University. Kitchen Table: Women of Color Press, 1985.

Works Cited

- Abu Odeh, Lama. *Honor Killings and the Construction of Gender in Arab Societies*. D.C: Georgetown University Law Center, 2010.
- Lebanese Criminal, Code C. pén. Libanais
- Mackinnon, Catharine A. *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*. Chicago: The University of Chicago Press.
- Susan Rae Peterson, "Coercion and Rape: The State as a Male Protection Racket," in *Feminism and Philosophy*, ed. Mary Vetterling-Braggin, Frederick A. Elliston, and Jane English (Totowa, N.J.: Littlefield, Adams & Co., 1977), pp. 360-71; Janet Rifkin, "Toward a Theory of Law Patriarchy," *Harvard Women's Law Journal* 3 (Spring 1980): 83-92.
- West, Robin. *Jurisprudence and Gender*. Chicago: The University of Chicago Law Review, 1988.
- "1 In 3 American Women Has Experienced Some Type of Sexual Violence." *Womenshealth.gov*, 14 Mar. 2019, www.womenshealth.gov/relationships-and-safety/sexual-assault-and-rape/sexual-assault.
- K.T v. R.T (2015) case number 2015/302 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=111527&selection=>.
- Lana Antoun Sidi v. Henry Abdel Karim (2010) case number 2010/106 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=122501&selection=>.
- Nabil Mounir Yamout v. Hassan Mahmoud Meri (2016) case number 2016/204 (Court of Appeal, Lebanese Criminal Court). Court decision transcript can be found online in Arabic: <http://legiliban.ul.edu.lb/ViewRulePage.aspx?ID=121294&selection=>.