



THE YALE REVIEW OF
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CLIMATE CHANGE, LAKE CHAD, AND INSECURITY

HOW RISING TEMPERATURES HEAT UP
TERRORISM IN THE SAHEL AND NORTH AFRICA

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Dear Reader,

We are pleased to present you with the fourth annual edition of the Spring Issue. The Spring Issue features an open submission process where undergraduate students from the United States and across the world can exhibit their best international relations scholarship. The mission of the Spring Issue is to provide a medium where the voices and perspectives of students studying international relations can be presented and appreciated.

We would like to take this portion of the letter to thank our incredible contributing authors who support our efforts at YRIS. Without their continued engagement, support, and trust in YRIS to review and publish their scholarship, we would not be the publication that we are today. Thank you for entrusting us with your scholarship and providing us the opportunity to report on the most critical global issues that you explore in your writings.

We would further like to thank our incredible design staff, editors, and all the individuals who work behind the scenes at YRIS. With every piece we are able to publish, we are awed by the incredible writing, editing, research, and design talent that we have at our hands. We recognize the incredible privilege and support system we have as we deliver on our promise of sharing student scholarship through our online and print mediums. Our board, especially, has been instrumental in helping us operate YRIS – from training our writers to scouring academic submissions. Our staff continues to exceed our expectations!

Our 2022 Spring Issue focuses on the theme of the environmental, economic, and geopolitical power structures which dictate interactions between both state and non-state actors. In light of the ongoing changes to the world order, we hope that the work of our featured authors informs your understanding of how changes to the environment and economy can have immense implications for the international relations landscape.

Sincerely,
Vishwa Padigepati and Blake Bridge
Editors-in-Chief

CORMAC THORPE

ALFIN FEBRIAN BASUNDORO &
TRYSTANTO SANJAYA

IDA THERESE PRESTEGÅRD HØVIK

Essays

Climate Change, Lake Chad, and Insecurity

How Rising Temperatures Heat Up Terrorism in the Sahel and North Africa

Climate change is one of the crucial factors behind the desiccation of Lake Chad and its effects have led to increased violence and migration in the Lake Chad Basin and throughout the Sahel.

This paper examines the links between Lake Chad's shrinking, the rise of Boko Haram, migrant insecurity, and interconnectedness of jihadist networks spanning North Africa and the Sahel, showing the layers of individual insecurity linked to climate change.¹ This paper argues that security in the region must be understood beginning at individual and social levels, as that is where the threats of climate change, violence, and migration interact most directly. Growing instability is a ground-up issue in the Sahel, and this paper proposes that jihadist networks are building a cross-Sahel band that will further destabilize the Sahel and North Africa, threaten the security of individuals, and potentially control migration.

¹ Laura Freeman, "Environmental Change, Migration, and Conflict in Africa: A Critical Examination of the Interconnections," *Journal of Environment and Development* 26, no. 4 (2017): 351-374.

Methodology

This paper draws on existing academic, government, inter-governmental, and news sources, which include case studies, field research, statistical analysis, and theoretical application. Combining elements of Critical Security Studies and Human Security frameworks, this analysis centers the individual, interpersonal, and collective and the causal relationships between them. It also discusses the relationships between those actors, external factors (namely environmental degradation), the state, and the region. Analysis begins with environmental change in Lake Chad and findings that connect it to violence and the growth of Boko Haram. The next segment of research focuses on migration routes, numbers, and patterns throughout the Sahel and North Africa and terrorist networks in the same region, examining jihadi-migrant and jihadi-civilian interactions in recent years. Then, individual and social connections between jihadist

groups are incorporated, forming a body of research that emphasizes their interconnectedness. Finally, news articles form the majority of current events research.

The Desiccation of Lake Chad

“Borno without Lake Chad is like Egypt without the Nile.”

– Ayo Obe²

Situated between Nigeria, Niger, Chad, and Cameroon, Lake Chad is the source of the livelihoods of roughly 30 million people.³ Droughts in the 1970s and 1980s caused the lake to dry up almost completely. Today, it has lost roughly 90-95% of the surface area it had in 1960.⁴ Roughly half of the shrinkage is caused by climatic changes,

mainly rising temperatures, chronic droughts, changing rainfall patterns, and desertification. The other half is caused by dams, mismanagement, and usage for agricultural purposes.⁵ Human activity, specifically irrigation, has nearly doubled the extent of the lake’s decline since the 1960s.⁶ These factors have caused what the UN describes as an ecological catastrophe.⁷

2 Ayo Obe, “Environmental Degradation, Climate Change and Conflict: The Lake Chad Basin Area,” *Medium*, April 22, 2016.

3 Abhijit Mohanty, Kieran Robson, Samuel Nguoping, and Swayam Sampurna Nanda, “Climate Change, Conflict: What Is Fuelling the Lake Chad Crisis,” *Down To Earth*, February 23, 2021.

4 Kateřina Rudinová, “Desiccation of Lake Chad as a Cause of Security Instability in the Sahel Region,” *Geoscape*, December 22, 2017; Michael Werz and Max Hoffman, “Climate Change and Migration in the Mediterranean: Challenges for the Future,” *IEMed*, accessed December 10, 2021; Theresa Krinninger, “Lake Chad: Climate change fosters terrorism,” *Deutsche Welle*, July 12, 2015.

5 Mark Notaras and Obijofor Aginam, “Sucking Dry and African Giant,” *Our World*, March 23, 2009.

6 Michael T. Coe and Jonathan A. Foley, “Human and Natural Impacts on the Water Resources of the Lake Chad Basin,” *Journal of Geographical Research* 106, no. D4 (2001): 3349-3356; Jason Rizzo, “A Shrinking Lake and a Rising Insurgency,” *The State of Environmental Migration* (2015).

7 Churchill Okonkwo and Belay Demoz, “Identifying Anthropogenic “Hotspots” and Management of Water Resources in Lake Chad Basin using GIS,” *Journal of Natural Resources Policy Research* 6, no. 2-3 (2014):135-149.



"GROWING INSTABILITY IS A GROUND-UP ISSUE IN THE SAHEL, AND THIS PAPER PROPOSES THAT JIHADIST NETWORKS ARE BUILDING A CROSS-SAHEL BAND THAT WILL FURTHER DESTABILIZE THE SAHEL AND NORTH AFRICA . . ."

Today, only Cameroon and Chad can be said to have permanent lake shore within their borders.⁸

As the lake shrunk, a ridge divided it into two pools, causing the death of fish species and subsequent food problems for the 150,000 fishermen who depend on the lake. People began to starve. Borders prevented free trade in markets in other countries on the lake, making it more difficult for locals to make a living.⁹ At the same time, the population reliant on the lake has nearly tripled since the 1980s, leading to mass shortage of resources necessary to sustain its inhabitants. The population is expected to continue to rise rapidly, as fertility rates are some of the highest in the world. At the 2015 UN Climate Change Conference, Nigerian Minister of Defense Mahamadou Karidjo stated that “a lack of water will lead to more poverty, hunger, and insecurity.”¹⁰

The four Lake Chad countries have low amounts of capital; poor education, health, and income; and some of the lowest Human Development Indexes in the world, especially when it comes to governance and political stability. People have little to fall back on as their livelihoods are destroyed. Dwindling resources, high unemployment, and dire prospects put the millions of people who depend on the lake at severe risk. Response to these threats is limited because of poverty, low levels of economic and political stability, weak institutions, and inadequate information. Despite the existence of the Lake Chad Basin Commission, created by the four bordering countries and designed to oversee water usage, it continues to lack funding, a strategic approach, and coordination.

Conflict and Boko Haram

As environmental conditions in Lake Chad worsen, security challenges increase. A vulnerable population with breeding resentments is susceptible to violence and can be easily recruited by violent groups.¹¹ Climate change does not always directly cause conflict; social, political, and economic factors often determine if and how environmental change causes political violence (and migration, which will be discussed later), so the causal link is complex and context dependent. In the context of Lake Chad, environmental degradation has led to loss of livelihoods in an already unstable, poorly governed region facing demographic pressure and a high degree of social diversity. Additionally, propensity towards violence increases among agriculturally dependent groups in less developed countries during drought; the loss of water in Lake Chad has a similar effect to drought. Therefore, given social, political, and economic factors, the emergence of conflict in 2009 due to Boko Haram can be seen, in part, as a result of climate change.

Boko Haram began as a group of radical Islamic preachers who infiltrated social and political circles in northwest Nigeria, giving it grassroots power. It rose in strength due to varied and interrelated historical, political, and social factors, largely exploiting existing grievances

8 Ayo Obe, “Environmental Degradation, Climate Change and Conflict: The Lake Chad Basin Area.”

9 Krinninger, “Lake Chad: Climate change fosters terrorism.”; Ben Taub and Alexis Okeowo, “Lake Chad: The World’s Most Complex Humanitarian Disaster,” *The New Yorker*, November 27, 2017.

10 Krinninger, “Lake Chad: Climate change fosters terrorism.”

11 Saheed Babajide Owonikoko and Jude A. Momodu, “Environmental Degradation, Livelihood, and the Stability of Chad Basin Region,” *Small Wars & Insurgencies* 31, no. 6 (2020):1295-1322.

and divisions, such as those between citizens and government authorities, Muslims and Christians, and the relatively well-off and relatively poor. By 2009, Boko Haram figures had gained authority in Borno State's capital, Maiduguri, having built a congregational community that surged to several thousand. The group depended on its local footprint to build legitimacy and gain funding; it was at the local level that it distorted conventional Islam and recruited loyal followers. After organizing Muslim communities to adopt sharia law but not seeing the socioeconomic transformation expected, the preachers concluded that sharia couldn't be implemented in a secular system, and the only way to achieve an Islamic government was through armed jihad. Grievances with police culminated in Boko Haram's first series of attacks on police stations in July 2009, which resulted in a five-day clash and the death of hundreds, including leader Mohammed Yusuf. Yusuf became a martyr, causing a rallying cry to reorganize into a deadly terrorist group, which would be led by Abubakar Shekau, Yusuf's deputy.¹²

Established as a violent group, Boko Haram leveraged the growing poverty due to depleting resources and the lack of education in the Lake Chad Basin to recruit from border communities, which have helped it remain resilient. The group deploys a robust system of proselytization, targeting the most vulnerable; recruiters offer economic incentives to recruit new, young members who have often been displaced from their livelihoods and have no better alternatives.¹³ It also homes in on the Kanuri people, disseminating manipulative information in Kanuri (a language many outside of Maiduguri don't speak) to illiterate and monolingual locals. Boko Haram destroys state-run schools and uses its funding to provide public services for the poor, positioning itself as a quasi-state body sensitive to the needs of the local population (in contrast to the Nigerian government, which is identified as the major cause of the plight of struggling communities). Because of this, it also attracts educated youths excited by its egalitarian, hopeful, anti-corruption preaching.¹⁴ Many youths join through family or low-level criminal structures, many are indoctrinated and drugged, and many are forced to join, sometimes by abduction.¹⁵ In 2015, Boko Haram had begun raiding the islands in Lake Chad and kidnapping entire villages to replenish its military ranks with new wives, children, farmers, and fishermen. Abubakar Shekau has kidnapped tens of thousands of children, forcing them into battle or marriage.¹⁶

Boko Haram has wreaked havoc on the people of Lake Chad, killing 20,000 people since 2009. The group has displaced more than 2.3

12 Audu Bulama Bukarti, "Violent Extremism in Sub-Saharan Africa: Lessons from the Rise of Boko Haram," *Tony Blair Institute for Global Change*, (July 2021).

13 Daniel Egiegba Agbiboa, "Boko-Haram and the Global Jihad: 'Do Not Think Jihad is Over. Rather Jihad Has Just Begun,'" *Australian Journal of International Affairs* 68, no. 4 (2014): 400-417.

14 Saheed Babajide Owonikoko, "The Key to Peace in the Lake Chad Area is Water, not Military Action," *The Conversation*, September 30, 2020; Freedom C. Onuoha, "Boko Haram: Nigeria's Extremist Islamic Sect," *Al Jazeera Centre for Studies*, (2012).

15 Theophilus Ekpon, "The Role of Young People in Preventing Violent Extremism in the Lake Chad Basin," *Civil Society Platform for Peacebuilding and Statebuilding*, (2017); Krinninger, "Lake Chad: Climate change fosters terrorism."

16 Drew Hinshaw and Joe Parkinson, "Boko Haram Leader, Responsible for Chibok Schoolgirl Kidnappings, Dies," *The Wall Street Journal*, May 21, 2021.



**"IN 2015, BOKO HARAM HAD
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FISHERMEN."**

million people across the region, and 10 million people are in need of emergency assistance. Attacks included 238 suicide bombings and mass kidnappings, and they soon spread to Abuja and Kano, even threatening international powers.¹⁷ Shekau was notoriously cruel, and after he moved away from communication with al-Qaeda over disagreements with his harsh methods, Boko Haram fractured. Disaffected members formed Ansaru in 2012, pledged allegiance to al-Qaeda, and fled to Nigeria's northwest. Ansaru tries to win the hearts and minds of locals, supporting farmers and attacking "infidel" government targets.¹⁸

In 2015, Abubakar Shekau swore allegiance to the newly created Islamic State (IS), becoming IS West Africa Province (ISWAP) and benefitting from technical and material assistance from ISIS/ISIL (IS Central). Then, in 2016, catalyzed by pressure from the Multinational Joint Task Force (MNJTF), a combined force of Lake Chad countries' militaries to fight ISWAP, the organization split again. Internal disagreements had been stirring due to losses to state forces and disapproval of Shekau's targeting of civilians, so council members reported him to IS Central, resulting in his removal. Shekau broke away and called his group JAS (the Arabic acronym for Boko Haram), while Mohammed Yusuf's son, Abu Musab al-Barnawi, led ISWAP. Fighting between the two groups ensued, killing hundreds, but ISWAP soon grew in strength to surpass JAS, with 3,500-5,000 active combatants on Lake Chad, roughly twice the size of JAS. JAS mainly targeted civilians, whereas ISWAP had a proto-state model and was responsible for more widespread violence that posed a stronger long-term threat. If anything, the split caused more violence, with 1,868 security personnel killed between 2018 and 2020, almost equal to casualties between 2011 and 2017.¹⁹

Offensives against Boko Haram (JAS) and ISWAP have been largely unsuccessful; MNJTF's contributing troops cannot follow jihadists as they flee from one Lake Chad country to another, nations are unhappy with how the others have handled the threat and thus have low political will to fight, and there is little effort to improve conditions of recaptured areas to avert future invasion.²⁰ Intervention policies to securitize the region can also cause more insecurity for individuals. Nigerian forces have been accused of massacring civilians under claims that they were jihadi-related; taking action against boats suspected to be Boko Haram's caused real fishermen to struggle; Chad forcibly displaced more than 110,000 people while sweeping islands for Boko Haram; and Niger's ban of refugee camps on its southern border for fear of harboring terrorists led to migrants seeking shelter in homes susceptible to flooding.²¹

Non-jihadi-related conflicts over resources have occurred in the Lake Chad Basin as well, usually between fishermen, farmers, and

17 Jason Warner and Hilary Matfess, "Exploding Stereotypes: The Unexpected Operational and Demographic Characteristics of Boko Haram's Suicide Bombers," *Combating Terrorism Center*, (2017).

18 Bukarti, "Violent Extremism in Sub-Saharan Africa."

19 Ibid.

20 Owonikoko, "The Key to Peace in the Lake Chad Area is Water, not Military Action"; International Crisis Group, "What Role for the Multinational Joint Task Force in Fighting Boko Haram?" last modified January 22, 2021.

21 UNHCR, "Refugees fleeing attacks in northeastern Nigeria, UNHCR watching for new displacement," last modified May 9, 2014; Taub and Okeowo, "Lake Chad: The World's Most Complex Humanitarian Disaster."

pastoralists as their means of survival come into direct competition and movement options are limited.²² Furthermore, Nigeria's reliance on militias fighting ISWAP and JAS might spell disaster should militias fracture or deviate from providing security.²³ Many people in Nigerian cities who are involved in crime are migrants fleeing environmental issues in the rural areas near Lake Chad. Harsh environmental trends in northern Nigeria have made mostly Muslim Fulani herders' seasonal movement to the south more permanent, clashing with mostly Christian farmers and contributing to the herder-farmer conflict over land in the Middle Belt of Nigeria that caused nearly 4,000 deaths between 2016 and 2019.²⁴



"BOKO HARAM HAS WREAKED HAVOC ON THE PEOPLE OF LAKE CHAD, KILLING 20,000 PEOPLE SINCE 2009. THE GROUP HAS DISPLACED MORE THAN 2.3 MILLION PEOPLE ACROSS THE REGION, AND 10 MILLION PEOPLE ARE IN NEED OF EMERGENCY ASSISTANCE."

Migration

A consequence of the climate-conflict nexus in Lake Chad is intensification of displacement and migration.²⁵ In Boko Haram's most violent year, 2014, huge flows of forced migration resulted in roughly 911,804 IDPs in northeast Nigeria, a number that continues to increase, and 120,000 leaving for neighboring countries.²⁶ As of April 2021, there were more than 2.9 million IDPs across Cameroon, Chad, Niger, and Nigeria, 72% being in Nigeria.²⁷ Due to climate conflicts in Lake

22 Freeman, "Environmental Change, Migration, and Conflict in Africa"; "More than 30,000 Flee to Chad to Escape Violence in Cameroon: UN," *Al Jazeera*, December 10, 2021.

23 Vanda Felbab-Brown, "As conflict intensifies in Nigeria's Northeast, so too does a reliance on troubled militias," *Brookings*, April 21, 2020; Mohanty, Robson, Nguoping, and Nanda, "Climate Change, Conflict."

24 Owonikoko and Momodu, "Environmental Degradation, Livelihood, and the Stability of Chad Basin Region"; Ignatius A. Madu and Cletus Famous Nwankwo, "Spatial Pattern of Climate Change and Farmer-Herder Conflict Vulnerabilities in Nigeria," *GeoJournal* 86, (2021): 2691-2707; World Watch Monitor, "5 Things to Know about Violence in Nigeria's Middle Belt," last modified September 11, 2017.


25 Freedom C. Onuoha, "Climate change, population surge and resource overuse in the Lake Chad area: Implications for human security in the north-east zone of Nigeria," In *Climate Change and Natural Resources Conflicts in Africa*, edited by Donald Anthony Mwiturubani and Jose-Ansie van Wyk (Pretoria, SA: Institute for Security Studies), 23-44.

26 International Organization for Migration, "Boko Haram May Have Displaced Over a Million in Nigeria," last modified January 20, 2015; IOM Displacement Tracking Matrix, "Monthly Dashboard #38," last modified November 26, 2021.

27 Migration Data Portal, "Migration Data in Western Africa," last modified May 26, 2021; Noémie Lehouelleur, "Displacement leaves families struggling to adapt in Lake Chad region," *UNHCR USA*, July 2, 2021.

Chad and the subsequent migration of herders and conflict with farmers, hundreds of thousands of Nigerians are displaced in the Middle Belt every year; roughly 300,000 were displaced in just the first half of 2018.²⁸

Even after fleeing violent conflicts, IDPs and refugees are not safe. Boko Haram has pivoted towards targeting people displaced by them, targeting IDP camps in as many as 20% of their operations.²⁹



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FOR RANSOM, AND
BEATINGS, RAPE, SLAVERY,
AND EVEN MURDER IN
DETENTION CENTERS."**

Initial settlement communities in Cameroon have also been subjected to attacks. Thus, many are motivated to migrate internationally out of necessity. From 2015 onwards, Nigeria has been the leading African country of origin for refugees and migrants traveling to Europe by sea, especially after a deadly 2014 in northeast Nigeria.³⁰

The journey to North Africa, and for some, to Europe, is a perilous one. Migrants from Nigeria join those from across West Africa (predominantly from Mali and Niger) by making the first journey, usually by public transportation, to smuggling hubs, mainly Agadez, Niger and Gao, Mali.³¹ Many of those from other parts of West Africa are also compelled to flee

conditions of increased environmental degradation (diminishing arable land, droughts, floods), conflict, and, thus, worsening existing insecurities.³² Trends in 2018 suggested that the number of migrants in Algeria and Morocco would increase as economic realities in the Sahel and West Africa worsened.³³ Routes involve smuggling and are done in a piecemeal fashion, with multiple legs cobbled together for a total cost that can be up

28 "Nigeria – Violence, Displacement in the Middle Belt (DG ECHO, ICRC, Media) (ECHO Daily Flash of 11 July 2018) – Nigeria," *ReliefWeb*, July 11, 2018; Samuel Stephen Wakkok and Raimund Bleischwitz, "Climate Change, Security, and the Resource Nexus: Case Study of Northern Nigeria and Lake Chad," *MDPI*, September 27, 2021.

29 Jason Warner and Hilary Matfess, "Exploding Stereotypes: The Unexpected Operational and Demographic Characteristics of Boko Haram's Suicide Bombers," *Combatting Terrorism Center at West Point*, (2017).

30 Phillip Connor, "At Least a Million Sub-Saharan Africans Moved to Europe Since 2010," *Pew Research Center*, March 22, 2018.

31 Vasileia Digidiki and Jacqueline Bhabha, "Returning Home? The Reintegration Challenges Facing Child and Youth Returnees from Libya to Nigeria," *Harvard FXB*. Accessed December 10, 2021.

32 Werz and Hoffman, "Climate Change and Migration in the Mediterranean"; UNEP, "Livelihood Security Climate Change, Migration and Conflict in the Sahel," *United Nations Environment Programme*, (2011).

33 Tsion Tadesse Abebe, "Legalizing migrants can boost economic growth, improve international relations and prevent radicalisation," *Institute for Security Studies*, February 27, 2018.

to \$2,000.³⁴ The first main route goes from Gao through northern Mali and across southern Algeria before entering Libya; the second goes from Agadez to Sebha, Libya before going north to the coast.³⁵ Once in or near Tripoli, migrants embark on the Central Mediterranean crossing to Italy.³⁶ Libya is one of the most important transit countries and has been used since 2000, but migration and migrant smuggling dramatically increased in 2011 after the collapse of the Gaddafi regime. Instability since then has led to near-unrestricted migration, and the majority of migrants in Libya are from sub-Saharan Africa.

Along the way, migrants have to face the lawless Sahara, often becoming victims of debt traps, trafficking, racist violence, kidnappings for ransom, and beatings, rape, slavery, and even murder in detention centers in Libya.³⁷ Hundreds of people die in the heat, and Algerian authorities have been found to abandon thousands of migrants in the desert. Boats across the Mediterranean are often filled over their capacity and completely inadequate to cross the sea, resulting in the deaths of thousands. Recently, with the Memorandum of Understanding agreement between Italy and Libya and the limiting of EU work permits granted, boats are often forced to return to Libya, and the number of migrants crossing the Mediterranean has plummeted.

Some statistics show a shift westward towards Morocco, but the route to North Africa through Niger remains a crucial corridor (at its peak in 2016, 311,000 people passed through).³⁸ No other passages from West Africa to North Africa and Europe are as popular. The only way to shut down the Niger-Libya route would require dissuading people from migrating and convincing the Nigerien government to crack down on smuggling networks, but there is little incentive for either. Perhaps counterintuitively, Agadez and the route to Sebha is one of few pockets of stability and relative prosperity in Niger, as long-standing tribal systems of smugglers are given protection.³⁹ Some of this protection comes from the state security forces, which would not be able to function without bribes paid by smugglers and migrants. However, much of the protection comes from armed jihadists.

Throughout the various routes to Libya, smugglers come in contact with jihadist organizations in the Sahel. Most of them are

34 Peter Seeberg and Zaid Eyadat, *Migration, Security, and Citizenship in the Middle East* (New York: Palgrave Macmillan, 2013).

35 Reuben E. Brigety, John Campbell, and Jendayi E. Frazer, "Global Conflict Tracker: Destabilization of Mali," Council on Foreign Relations, last modified April 8, 2022.

36 United Nations Office on Drugs and Crime, "Transnational Organized Crime in West Africa," accessed December 10.

37 The Migrant Project, "From Nigeria to Libya and Europe: the risks on the journey," accessed December 10, 2021; IOM UN Migration, "Migration dynamics in the Sahel and Lake Chad region," EU-IOM Joint Initiative for Migrant Protection and Reintegration, (2018); Giacomo Zandonini, "Nigerians returned from Europe face stigma and growing hardship," *New Humanitarian*, July 28, 2020; Annie Kelly and Lorenzo Tondo, "Trafficking of Nigerian women into prostitution in Europe 'at crisis level,'" *The Guardian*, August 8, 2016; Alex Duval Smith, "Inside Mali's human-trafficking underworld in Gao," *BBC*, April 21, 2015.

38 UNODC, "Transnational Organized Crime in West Africa: A Threat Assessment," *United Nations Office on Drugs and Crime*, (2013); Vatican, "Country Profile: Morocco." Migrants and Refugees Section, accessed December 10, 2021; Somini Sengupta, "Heat, Hunger and War Force Africans onto a 'Road of Fire,'" *New York Times*, accessed December 10, 2021; Migration Data Portal, "Migration data in Northern Africa," last modified June 14, 2021.

39 Peter Tinti and Tom Westcott, "The Niger-Libya Corridor: Smugglers' Perspectives," *Institute for Security Studies*, (2016).

deployed in northern Mali, southern Libya, and on the borders between Niger, Mali, and Burkina Faso. Although they have little involvement in the trafficking itself, jihadists often collaborate with smugglers to provide necessary protection in exchange for the migrants' money and weapons from smugglers. This symbiosis between smugglers and jihadist groups provides short-term security to migrants, but as the jihadist groups accumulate weapons and control of migration routes, long-term insecurity for the region and the potential that future migrants can be easily cut off.⁴⁰ Climate change has caused migration, which, because of the route it takes in the Sahel, leads to the expansion of jihadist network power and, thus, regional insecurity.

Jihadist Networks

Who are these jihadist groups, and how does Boko Haram play into this layer of insecurity of migrants and victims of jihadist violence throughout the Sahel? To understand the current jihadist landscape, it is necessary to understand North African and Sahelian security dynamics, which are directly tied.

The 2011 collapse of the Gaddafi regime in Libya was a critical event in destabilizing the region. Gaddafi had severely weakened the army in order to control the country with his paramilitary forces, so the security sector was in shambles after he was ousted.⁴¹ This caused thousands of Tuaregs to return to northern Mali in 2012, leading to the collapse of Mali's weak state and jihadist occupation.⁴² Just as migrant smugglers exploit spaces offered by the fragmented security environment (the "state vacuum"), militants do too: After the French government's retaking of northern Mali through Operation Serval, jihadist forces fled and regrouped in southern Libya (Fezzan), eventually relaunching attacks in Mali.⁴³ Libyan IS members are widespread (after being pushed out by a U.S.-Libya offensive), but there are roughly 100-200 fighters in southern Libya who may communicate with Sahelian jihadists. Al-Qaeda in the Lands of the Islamic Maghreb (AQIM), an Algerian branch of al-Qaeda, also uses Fezzan as a "safe haven." There are fears that North African jihadists who fought in the Levant may return to Fezzan as a launching point to continue their jihad in the region.⁴⁴

Another consequence of Gaddafi's fall was Libyan weapons flooding the region. Thousands—even some intended for Western-backed rebels—were taken by jihadist and criminal groups. Using these weapons,

40 Djallil Lounnas, "The Links Between Jihadi Organizations and Illegal Trafficking in the Sahel," *Middle East and North Africa Regional Architecture (MENARA) Working Papers*, no. 25 (2018); Tinti and Westcott, "The Niger-Libya Corridor"; Seeberg and Eyadat, *Migration, Security, and Citizenship in the Middle East*; Brigety, Campbell, and Frazer, "Global Conflict Tracker."

41 Eduard Soler i Lecha, "Security Sector Reforms in North Africa," in *North African Politics: Change and Continuity*, ed. Yahia H. Zoubir and Gregory White (New York: Routledge, 2016), 61-78.

42 Winrich Kühne, "West Africa and the Sahel in the Grip of Organized Crime and International Terrorism – Why the UN, EU and Germany Should Prepare for a Long Stay," *Sicherheit Und Frieden (S + F)/ Security and Peace* 32, no. 2 (2014): 113-18.

43 Djallil Lounnas, "The Libyan Security Continuum: The Impact of the Libyan Crisis on the North African/Sahelian Regional System," *Middle East and North Africa Regional Architecture (MENARA) Working Papers*, no. 15 (2018).

44 Hearing before the Subcommittee on Counterterrorism and Intelligence of the Committee on Homeland Security. Terrorism in North Africa: An Examination of the Threat, 115th Congress, March 29, 2017.

they established control over certain regions and trafficking flows, posing a threat to neighboring countries and the rest of the Sahel.

IS threats in Algeria, Tunisia, and Morocco are largely controlled by strong security forces and state repression, especially after 2015, but in Libya and the Sahel, instability, political division, lack of government, and lack of development continue to drive conflict. Libya formed a Government of National Unity in early 2021 to seek formal reconciliation between its two bloc authorities in Tripolitania and Cyrenaica, but the ceasefire has potentially allowed armed groups to flee and cause conflict abroad.

Boko Haram, now ISWAP and JAS, is clearly connected to jihadist groups throughout the Sahel and into North Africa. Its climate-change-driven expansion, discussed earlier, has made the group an important part of the jihadi environment in the region. Boko Haram took tactics and inspiration from jihadist groups in the Middle East, plagiarizing or mimicking their strategies, but 2010 was the first time it brought in support from outside Nigeria. The group reached out to AQIM seeking financial and technical assistance to launch a jihad, and they were provided with at least \$243,418 as well as training on how to make IEDs, according to both Algerian and US intelligence.⁴⁵ Its tactics of violence, use of internet forums, and use of videos all indicated an elevation in its level of sophistication. AQIM seemed to be making a focused attempt to extend its area of operations and sphere of influence into the Sahel and sub-Saharan Africa, in line with its extensions into Mauritania, Mali, and Niger in 2011. Boko Haram also benefited from weapons and ammunition smuggled into Maiduguri, likely from foreign stockpiles generated from the flood of arms from Libya. The group's exile from Nigeria following a 2009 security forces crackdown may have led to more weapons purchasing from connections in neighboring countries. When Boko Haram was deciding to pledge allegiance to IS, members consulted with IS in Libya and with Mali-based jihadists. There is evidence that IS Central attempted to use the group to obtain allegiance from other jihadist networks in Africa.⁴⁶

The jihadist ecosystem in the Sahel is complicated, but essentially covers two main regions: the Lake Chad Basin, where Boko Haram operates, and Liptako-Gourma, the tri-border region between Mali, Burkina Faso, and Niger. Understanding the network of jihadist groups in Liptako-Gourma is a necessary part of understanding why Lake Chad's dessication doesn't just affect Boko Haram's expansion, but also its connections to Liptako-Gourma groups and security in the Sahel more broadly.

Al-Qaeda in the Liptako-Gourma region originated from a faction out of the Algerian Civil War that courted al-Qaeda and rebranded to AQIM in 2007. AQIM, led by Abdelmalek Droukdel, established itself in local Algerian societies and economies, focusing on countering the state in the northeast and the south. After facing considerable defeats at the hands of the Bouteflika regime, the southern part of the organization

45 Bulama Bukarti, "Violent Extremism in Sub-Saharan Africa"; U.S. House of Representatives Subcommittee on Counterterrorism and Intelligence Committee on Homeland Security. Boko Haram: Emerging Threat to the U.S. Homeland, 112th Congress, December 2011.

46 "Message from the Mujahidin in West Africa to the Mujahidin in Somalia," in *The Boko Haram Reader: From Nigerian Preachers to the Islamic State*, ed. Abdulbasit Kassim and Michael Nwankpa (Oxford: Oxford University Press, 2018), 433-34.

retreated to Mali and embedded itself in the northern regions of Kidal and Tombouctou through aid and marriage. It had roughly 1,200 well-armed men in 2011.⁴⁷

In 2014, IS announced a caliphate and Abu Bakr al-Baghdadi requested for all radical jihadist organizations from around the world to join IS, causing division. Heeding this call, in May 2015, Adnan Abu Walid al-Sahrawi, a leader of a splinter group of AQIM, declared allegiance to IS and created IS in the Greater Sahara (ISGS) on the borders between Mali, Niger, and Burkina Faso.

Despite some initial tensions, the four main al-Qaeda-allied groups in and around the Liptako-Gourma region—AQIM, its main splinter group al-Mourabitoun, a Tuareg-led group called Ansar al-Din, and a central Malian group called Macina Liberation Front—all federated in early 2017 to form Jama'at Nasr al-Islam wal Muslimin (JNIM). This brought together anywhere between 700 and 2,000 fighters under one umbrella organization loyal to al-Qaeda.⁴⁸ Independent of JNIM and ISGS is Ansar al Islam, which has connections to Ansar al-Din and Macina Liberation Front, but is unaffiliated with al-Qaeda or IS.⁴⁹

Today, membership in Sahelian jihadist groups is somewhat fluid. Personal relationships between jihadists; common origins; and overlapping networks of ethnic, tribal, and familial interconnections lead to cooperation

between JNIM, ISGS, and Ansar al-Din, as well as smaller armed groups.⁵⁰ Senior members and lower-level liaisons between different sub-groups maintain ties and coordinate attacks in similar areas, and there have been at least five instances of ISGS-JNIM cooperation in raids. Non-jihadist armed and criminal groups sometimes have connections to the jihadist groups, and they may be increasingly coordinating.⁵¹ This creates a unique ecosystem that

has resisted divisions al-Qaeda and IS have in other parts of the world.

Jihadist groups in the Sahel often operate somewhat independently out of local territories where they've integrated into the communities (often ethnic groups), filling in roles traditionally held by the state. They seek to impose their version of Islamic law, but their appeal is based in human insecurity, not affinity towards radical Islam.⁵² The groups use



"VIGILANTE GROUPS AND LOCAL MILITIAS COMPLICATE THE SITUATION. MACINA LIBERATION FRONT, ISGS, AND ANSAR AL ISLAM ARE RESPONSIBLE FOR THE VAST MAJORITY OF VIOLENCE . . . "

47 Lounnas, "The Libyan Security Continuum."

48 Jacob Zenn, "Negotiating with Jihadists in the Sahel and Nigeria," *Lawfare*, June 14, 2020.

49 Katherine Zimmerman, "Salafi-Jihadi Ecosystem in the Sahel," *American Enterprise Institute*, April 22,

50 Hèni Nsaibia and Caleb Weiss, "The End of the Sahelian Anomaly: How the Global Conflict between the Islamic State and al-Qa'ida Finally Came to West Africa," *Combating Terrorism Center at West Point* 13, no. 7 (2020): 1-44.

51 Daniel Eizenga and Wendy Williams, "The Puzzle of JNIM and Militant Islamist Groups in the Sahel," *Africa Center for Strategic Studies*, December 1, 2020.

52 Isaac Kfir, "Organized Criminal-Terrorist Groups in the Sahel: How Counterterrorism and Counterinsurgency Approaches Ignore the Roots of the Problem," *International Studies Perspectives* 19,

their religious and ethnic group credentials to exploit criminal networks, tensions, conflict, division, and resentment towards the government to boost recruitment; spread chaos in small-scale disputes; and drive sub-regional insurgencies.

Counterterrorism efforts have not prevented the spread of these networks; rather, they're adapting and strengthening, especially in the peripheries. Finding a political solution by negotiating with JNIM is a strategy Algeria has used in the past with jihadist groups, but the result may be territory ceded to the organization. Instead, most counterterrorism efforts have focused on military operations, the most prominent being the French Operation Barkhane and Operation Serval, the American Trans-Sahara Counterterrorism Partnership, and the EU Training Mission in Mali. In Algeria, the United States bolstered the security establishment and created conditions for abuse of military-led counterterrorism.⁵³

Policies and military initiatives promoted by France and the United States may actually be militarizing the region and causing more instability, reinforcing the status quo and abusing citizens' civil and political rights instead of addressing underlying issues. In Niger, the EU has spent at least \$713 million on security, but in addition to not being able to contain the increasing violence, the Nigerien army continues to kill and disappear hundreds of civilians during alleged anti-jihadist operations. In Mali and Burkina Faso, security forces caused more civilian fatalities in 2020 than violent extremist groups or communal violence.⁵⁴ Anti-terrorist forces can come too late and react abusively towards civilians. Counterterrorism and counterinsurgency operations that cause civilian deaths and violate human rights give up legitimacy and civilians' trust in the state, associating the state with indiscriminate violence and allowing jihadist groups to gain authority.

The number of attacks and deaths will continue to rise as governance structures break down and vulnerable communities accept jihadist protection. Violent activity involving militant Islamist groups in the Sahel doubled every year from 2015 to 2019 and surged through 2021, constituting the most rapid increase in jihadist group activity of any region in Africa.⁵⁵ There were more than 700 violent episodes in 2019, 203 people in Western Niger were killed by extremists in less than a week in March 2021, and hundreds were killed in Niger in the summer and fall of 2021.⁵⁶ Vigilante groups and local militias complicate the situation. Macina Liberation Front, ISGS, and Ansar al Islam are responsible for the vast majority of violence, which has caused thousands of deaths, millions of people displaced, and inhibited economic activity.

Generally, JNIM perceived no threat to its power from the much smaller ISGS, and intermittent issues had always stopped short of violence,

no. 4 (2018): 344–359.

53 Jeremy H. Keenan, "Security & Insecurity in North Africa," *Review of African Political Economy* 33, no. 108 (2006): 269-296.

54 Ornella Moderan, Habibou Souley Bako, and Paul-Simon Handy, "Military operations that cause civilian deaths and violate human rights are fuelling terrorist groups' propaganda," *Institute for Security Studies*, April 14, 2021; Michele Barbero, "France Bids Adieu to Its Military Mission in West Africa," *Foreign Policy*, July 7, 2021.

55 Pauline Le Roux, "Responding to the Rise in Violent Extremism in the Sahel," *Africa Center for Strategic Studies*, December 2, 2019.

56 *Ibid.*

resisting divisions between al-Qaeda and IS in the region. But beginning in July 2019, the two groups clashed, and more than 300 jihadists on both sides were killed as a result.⁵⁷ Violence is most likely due to ISGS's formal incorporation into ISWAP, and therefore integration with IS Central's structure and media apparatus, in March 2019. IS Central has since pushed for ISGS to have more confrontation with JNIM to suit IS's global narrative of conflict with al-Qaeda. ISGS has since increased the frequency and lethality of attacks and leveraged dissent within JNIM to expand into Mali and poach jihadist defectors, growing its power and leading to violence with JNIM. Summits to mitigate tension have so far been unsuccessful, but the two groups still manage to coexist in some pockets of territory.

In the Lake Chad Basin, ISWAP Core (which doesn't include ISGS) has sustained a high level of violence after 2019, despite the loss of IS Central's territorial caliphate in Iraq and Syria, showing ISWAP Core's autonomy. It is possible that more extreme members are ascending over their moderate counterparts as of June 2020 based on the number of attacks against civilians.

Interestingly, recent events suggest that the two jihadist arenas (in Liptako-Gourma and the Lake Chad Basin) are beginning to converge in northwest Nigeria. Ansaru, based in that area, became dormant in 2015 when it was suppressed by Abubakar Shekau, but it appears to have slowly revived. Its members include jihadists who fought under AQIM during the occupation of Mali in 2012 and 2013, and some who trained with IS in Libya in 2016.⁵⁸ This again highlights the ties between groups that have arisen from Boko Haram and other jihadist groups in the region. It already has an established detente with ISWAP Core and might be able to take advantage of the organization's leadership crisis to assert power for itself and al-Qaeda in northern Nigeria. It has been able to organize militant forces in Zamfara State to exploit its strategic position, Fulani networks, and banditry (bank robberies, kidnappings, rustling cattle). In March 2019, Zamfara had 180 deaths and 300 kidnappings, many thought to be due to Ansaru. The security situation in northwest Nigeria continues to deteriorate, and the region seems to have become a safe haven for terrorist groups throughout the Sahel trying to expand their reach.

ISWAP's new leaders are not amenable to al-Qaeda-affiliated groups, and ISWAP Core's recent activities supporting ISGS troops, announcing a new brigade in Burkina Faso, and potentially contacting JNIM suggest ISWAP Core, Ansaru, and Liptako-Gourma groups are primed to converge and compete. Essentially, ISWAP is taking advantage of its power that is due, in part, to climate change, to leverage connections and stoke conflicts with other jihadist groups that have expanded over the last few years. The large population in northwest Nigeria portends humanitarian disaster if jihadist groups continue to strengthen and increase violence.⁵⁹

57 Nsaibia and Weiss, "The End of the Sahelian Anomaly."

58 Jacob Zenn, "The Return of al-Qaeda's Faction in Nigeria: What's Going on in Zamfara?" *Terrorism Monitor Volume 17*, no. 6 (2019).

59 John Campbell, "Northwest Nigeria Potential Jihadi Linchpin in West Africa," *Council on Foreign Relations*, October 30, 2020.



**"VIOLENCE IS MOST LIKELY
DUE TO ISGS'S FORMAL
INCORPORATION INTO ISWAP, AND
THEREFORE INTEGRATION WITH
IS CENTRAL'S STRUCTURE AND
MEDIA APPARATUS, IN MARCH
2019."**

Current Events

Multiple recent events have led to a great degree of uncertainty about the future of jihadist violence in the region.

Abdelmalek Droukdel, emir of AQIM, was killed by French forces in June 2020, along with other JNIM-affiliated leaders. JNIM cofounder and AQIM Sahara emir Yahya Abou el Hammam was killed in 2019.¹¹⁴ Some argue that AQIM never developed strong recruitment and a loyal base of support in the Sahel because of reliance on ruthless control, criminal networks, and attacks on civilians. If this is the case, its regional influence will continue to wane as a result of its leadership's deaths. It may even be the case that JNIM will fracture without Droukdel's leadership. However, it is also possible that operations have been assumed by Ansar al-Din. Apparent splits and infighting between jihadist groups can lead to increased violence as the organizations adapt to remain resilient.

The Taliban's recent victory in its takeover of Afghanistan has helped embolden jihadist groups, leading to an uptick in terrorist attacks. This increase occurred in the midst of the COVID-19 pandemic, which has had an economic impact on African countries such that they have not been able to design counter-terrorism strategies.

Chadian President Idriss Déby was killed in April 2021 fighting against rebels who had gained weapons and power in ungoverned Fezzan, Libya, and are trying to overthrow the Chadian government. Chad has one of the biggest, most effective, and most heavily supported armies in sub-Saharan Africa. It has appeared as the most prominent African contributor on all fronts of the war against jihadist groups in the Sahel.⁶⁰ However, Chad's army was held together by Déby's personal involvement in negotiations and trust built up between tribes over a long period of time, so it will be extremely weakened without him. The rebels continue to advance towards N'Djamena and the Lake Chad region, highlighting the drastic consequences Libya's security vacuum can have region wide. With Chad preoccupied, jihadist groups in the Sahel may see an opportunity to expand.

Abubakar Shekau, leader of JAS, was killed in an ISWAP ambush in May 2021, and attacks on military positions in the Lake Chad Basin have increased since.⁶¹ This likely means that ISWAP took over Shekau's JAS faction and its bases in the Sambisa Forest. Combined with its recent population-centric insurgency strategy, it will be able to recruit, launch attacks, and defend against military incursions better than it has before. However, in August and September 2021, both the leader of ISGS, al-Sahrawi, and the leader of ISWAP, al-Barnawi, were killed. The future of ISWAP is unclear, but its leadership may have been replaced easily, as the group has threatened to establish a caliphate in Niger and attacks on Adamawa State in northwest Nigeria on Christmas Day, 2021.

After two military coups in Mali in just nine months, France decided to pull out the majority of its 5,100 Operation Barkhane soldiers and close its bases in Mali. This poses massive risks to locals: Ali Toure,

60 Marc, "The death of Chadian President Idris Déby Itno threatens stability in the region."

61 Moki Edwin Kindzeka, "Cameroon, Nigeria, Chad Say New Jihadist Terrorism Threats Warrant Change of Military Response," *Voice of America*, November 19, 2021.

a Malian working in the French military base in Gao, stated that “if the French army leaves Mali, jihadists will enter within two weeks and destroy the country.”⁶² France has tried to boost the preparedness of local armies to keep pressure on jihadis, but Mali has sought out other external help in the form of the Wagner Group, private military contractors with unofficial ties to the Kremlin. Chinese investment and Turkish interest in the region could spell great power competition in the region’s future.

On December 15, 2021, Burkina Faso’s government resigned amid protests over growing jihadist violence and the deeper, unresolved issues that drive it.

Towards a Jihadist-Migrant “Belt”?

Recent leadership vacuums in jihadist groups pose destabilizing threats to the region, with the potential of new leaders taking over and becoming more violent and cooperative with each other. Waning Chadian and French military aid will lead to the expansion of jihadist groups. Violent clashes between ISWAP and JNIM will likely play out, and a convergence of all major jihadist groups in the Sahel could endanger millions of people with increased violence, whether that plays out within jihadist networks or between jihadist groups and the state.

Internal migration in and around the Sahel is on the rise. 90 to 95 percent of all migrants in West Africa move between West African states, with an internal mobility axis that runs east to west in the Sahel. These migration routes coincide with the current locations and expected convergence of jihadist groups (see Figures 1 and 2). The indication of a cross-Sahel jihadist “belt” as groups begin to operate from central Mali in



"THE TALIBAN'S RECENT VICTORY IN ITS TAKEOVER OF AFGHANISTAN HAS HELPED EMBOLDEN JIHADIST GROUPS, LEADING TO AN UPTICK IN TERRORIST ATTACKS."

the west to Lake Chad in the east has the potential to disrupt and control migration flows, squeeze IDPs into incredibly dangerous situations, recruit vulnerable civilians into an expanding jihadist network, terrorize a rapidly increasing population in an already unstable stage, and cause new waves of refugees fleeing violence.

Conclusion

By examining the issues of climate change, jihadist violence, migration, and jihadist cooperation throughout the Sahel through the spatial lens of an individual in the Lake Chad region being displaced, migrating, and encountering insecurity while migrating, this paper offers

⁶² Sam Mednick, “As France plans to shrink Sahel force, jihadi threat grows,” *Associated Press*, July 8, 2021.



"THIS INCREASE OCCURRED IN THE MIDST OF THE COVID-19 PANDEMIC, WHICH HAS HAD AN ECONOMIC IMPACT ON AFRICAN COUNTRIES SUCH THAT THEY HAVE NOT BEEN ABLE TO DESIGN COUNTER-TERRORISM STRATEGIES."

a perspective on the multiple individual insecurities in Nigeria and West Africa more broadly. Understanding the individual insecurities of people within the Sahel and the interactions that occur due to environmental change; conflict; migration; and jihadist violence, recruitment, and coordination are essential to understanding the building of security threats to North African states. Events in North Africa have had a major role in destabilizing the Sahel, and that instability, exacerbated by climate change, has led to growing jihadist external threats and migrant insecurities that both must be addressed.

This paper substantiates Mohammed Ayoob in "The Third World Security Predicament" and Amitav Acharya in "The Periphery as the Core," that examining internal insecurity is necessary to understanding "Third World" contexts and security, which are crucial to understanding security of "core" states (in this case, North Africa).⁶³

Climate change is one of the many complex and intertwined contributing factors to the Sahel's current instability given the contexts its effects take place in. Climate change helped Boko Haram become a regional actor that has the power to work with other terrorist networks. Climate change, often through increased conflict, motivates migrants, leading to robust smuggler-jihadist cooperation that empowers jihadist groups. These two results contributed to the broader growth of jihadist groups throughout the Sahel, leading to increasing threats to security for tens of millions of people.

Climate change is a security issue.

Therefore, reviving and preserving Lake Chad is one of the central components to achieving individual security and regional stability. Development is also security issue in the Lake Chad region: improving social, political, and economic factors will mitigate the risk of environmental degradation leading to conflict, migration, and jihadist expansion.

⁶³ Mohammed Ayoob, *The Third World Security Predicament – State Making, regional Conflict and the International System* (Boulder: Lynne Rienner, 1995); Amitav Acharya, "The Periphery as the Core: The Third World and Security Studies," in *Critical Security Studies: Concepts and Cases*, edited by Keith Krause and Michael C. Williams (Minneapolis: University of Minnesota Press, 1997), 299-328.

Islamic State Provinces and Rival al Qaeda Affiliates' Areas of Operations in Africa, March 2017 to May 2020

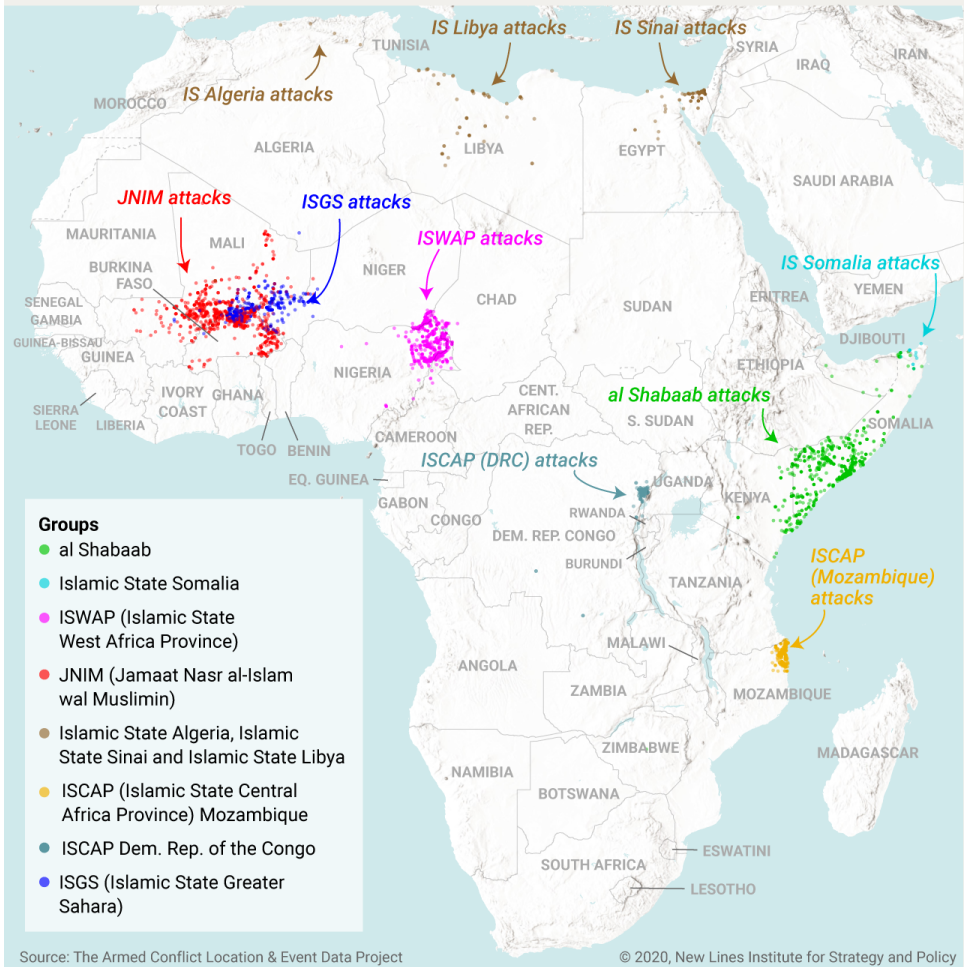


Figure 1: Jihadist Attacks in Africa (March 2017 - May 2020) This figure doesn't account for recent jihadist activity in northwest Nigeria.



Figure 2: Migration Flows in the Sahel (2018) (IOM)

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Relationship of Uncertainty

Why Indonesia Must Prepare for an Armed
Conflict with China

Will China's "peaceful rise" to great power status continue to be peaceful?

The world's largest country has become more aggressive on the world stage in recent years. From inching its military ever closer to Taiwan through a series of Taiwanese Air Defense Identification Zone, a zone where planes are obliged to signal their identities and intentions, incursions, to the use of a pseudo-military in the South China Sea, China is calling the rhetoric of a "peaceful rise" into serious doubt.

Indonesia should pay close attention to this shift and respond accordingly. While China and Indonesia have enjoyed a cordial relationship for more than two decades, Indonesia should prepare for the worst possible scenario. Because no one knows what China's long-term intentions are, the emergence of a militarily hostile China would be a serious geopolitical threat if not dealt with effectively. We put forth six reasons for why China's overarching expansionism must be dealt with by a strategic approach by Indonesia. First, we illustrate the sources of Indonesia-China tensions

which prove both countries are not as “friendly” as assumed. Second, the development of the Chinese military, especially its amphibious and power projection capabilities, is evidence that the country is becoming more and more aggressive and that the use of force to realize Chinese ambitions and goals is imminent. Third, Chinese political and military intentions are difficult to predict, making their military buildup even more ominous. Finally, we offer counterarguments against the three forces assumed to be the “peace guarantors” between China and other countries, namely Confucian principles, trade, and the United Nations.

Sources of Indonesia-China Tensions

Indonesia and China have had a complex relationship. They were considered “close friends” during the Soekarno era — an era between 1945 and 1966 when Indonesia’s first President, Soekarno, led the country.¹ From the 1950s to 1965, a strong political cooperation existed between the Chinese Communist Party (CCP) and its Indonesian counterpart (PKI).² China also supported Soekarno’s effort to uplift the anti-colonialism and anti-imperialism narratives known as *Nekolim*, organizing an “anti-imperialist Olympic Games” named Ganefo (Games of the New Emerging Forces) in 1963.³ Beijing and Jakarta also formed a new alliance between Indonesia, Cambodia, Vietnam, China, and North Korea⁴ to dissuade the Western superpowers at the time (e.g., the United States, the United Kingdom, Australia, etc. that underlined by Soekarno as “colonial powers” or “old emerging forces”) from harming Indonesia’s national interests.⁵

Relations between the two countries were abruptly severed after the failed coup of September 30, 1965, a coup attempt that was allegedly carried out by members of the Indonesian Communist Party (PKI) with support by China to overthrow Soekarno’s government.⁶ In the attempted coup,

it is believed the PKI targeted a number of generals close to Sukarno under the pretext the generals threatened Sukarno’s position.⁷ The New Order Government led by President Soeharto allegedly appointed by Soekarno to replace himself suspended the relationship until the end of the 1980s when the two countries were in a *detente*. Representatives of both countries had been in talks to resume their diplomatic relations since



"RELATIONS BETWEEN THE TWO COUNTRIES WERE ABRUPTLY SEVERED AFTER THE FAILED COUP . . . "

1 In this era, President Soekarno changed Indonesia’s foreign policy which was initially relatively non-aligned to lean towards the Communist Bloc. Relations between Indonesia and communist countries such as China, Vietnam, the Soviet Union, and North Korea strengthened, because it was seen by Sukarno as more in accordance with the concept of anti-colonialism carried by Indonesia (see Ricklefs, 2001).

2 Taomo Zhou, “Ambivalent Alliance: Chinese Policy towards Indonesia, 1960-1965,” Working Paper, Cold War International History Project (Washington, DC: Woodrow Wilson International Center for Scholars, 2013)

3 An acronym for “*neokolonialisme dan imperialisme*” (neo-colonialism and imperialism in Bahasa Indonesia).

4 Zhou, “Ambivalent Alliance: Chinese Policy towards Indonesia, 1960-1965.”

5 M. C. Ricklefs, *A History of Modern Indonesia since c.1200*, 3rd ed. (Basingstoke: Palgrave, 2001).

6 We add the word “alleged” as many details surrounding the event are still opaque and kept secret to this day by the Indonesian government. However, this is the consensus among the Indonesian elite at the time.

7 Ricklefs, *A History of Modern Indonesia since c.1200*.

1989, and finally, they were restored in 1990.⁸ Although their relationship has generally improved, especially economically, the two countries have not always had the same vision regarding security. In 2009, China submitted a map to the United Nations that included the nine-dash line territorial claim in the South China Sea.⁹ It triggered a series of protests from the Philippines, Malaysia, and Vietnam. The Chinese government was adamant, even starting to build and militarize a series of islands in the South China Sea in 2013.¹⁰

Although never involved in any geopolitical contestation in the waters of the South China Sea, Jakarta has repeatedly protested the incursion of Chinese naval vessels around the waters of Natuna Islands, a group of Indonesian islands located at the entry point to the South China Sea where Indonesia's Exclusive Economic Zone overlaps with China's nine-dash line.¹¹ The Indonesian Ministry of Foreign Affairs also emphasized the enactment of UNCLOS regarding the South China Sea disputes, following the Permanent Court of Arbitration ruling in 2016. Jakarta then sent concerns regarding the militarization of the Spratly Islands, underlining the risk of geopolitical instability in the region. Even with this series of rejections, China is still enforcing such "historical claims" on the waters and is sending numerous naval vessels and pseudo-military vessels known as "maritime militia" – a group of Chinese fishermen that is ostensibly dedicated to fishing but could be used by the Chinese military and law enforcement to "achieve political objectives in disputed waters" – to the waters of Natuna.¹² At the same time, Indonesia's naval power is feeble compared to that of the Chinese. The Chinese have taken further advantage of this situation by conducting malign maritime activities such as illegal, unreported, and unregulated (IUU) fishing in the Natuna waters, thus threatening Indonesia's sovereign rights in the area.

Despite these revelations that China has acted in a hostile manner on many different occasions, some argue that as "the PLA [People's Liberation Army] has not been involved in a shooting clash since 1989 and has not fought a real war since 1979," China's rise is peaceful and it will continue to be peaceful.¹³ This argument, however, disastrously misunderstands Chinese foreign policy as it is built upon the assumption that the *status quo* that has existed for the last several decades would continue to go on long into the future. China has not launched a war in 40 years, not because of Confucianism (which will be explained later in this article) or because China believed in pacifism, but because China was following Deng Xiaoping's dictum of 'hide your strength, bide your time' – an expression that China must continue its internal development,

8 Dewi Fortuna Anwar, "Indonesia-China Relations: Coming Full Circle?," *Southeast Asian Affairs* (2019): 2-3.

9 Cheng-Chwee Kuik, "China's 'Militarisation' in the South China Sea: Three Target Audiences," *East Asian Policy* 8, no. 2 (2016): 15-24.

10 Kuik, "China's 'Militarisation' in the South China Sea."

11 Klaus Heinrich Raditio, "Indonesia 'speaks Chinese' in South China Sea," *The Jakarta Post*, July 18, 2016.

12 Gregory B. Poling and Harrison Prétat, "Pulling Back the Curtain on China's Maritime Militia," *Center for Strategic and International Studies*, November 18, 2021; Aristyo Rizka Darmawan, "China's Traditional Fishing Rights Claim in North Natuna Sea Baseless," *The Jakarta Post*, April 4, 2020.

13 Xueting Yan, "Becoming Strong: The New Chinese Foreign Policy," *Foreign Affairs* 100, no. 4 (2021): 44; Kishore Mahbubani, "Three Misconceptions the West has about China," interview by Jarema Piekutowski, *Nova Konfederacja*, July 14, 2021.

not undertake “significant international responsibilities,” and follow a low-profile foreign policy.¹⁴ This policy, however, is never intended to be implemented in perpetuity. Instead, it is only an interim policy, to be implemented only until China’s eventual rejuvenation. As Deng Xiaoping himself argued in 1985, “[b]y the middle of the next century, when we approach the level of developed countries, then there will have been really great changes. *At that time the strength of China and its role in the world will be quite different* [emphasis added],” implying that once China reached its rejuvenation, the ‘hide your strength, bide your time’ foreign policy would be discarded.¹⁵ And there are signs Chinese leaders have concluded the global geopolitical balance shifted in favor of China after the 2008 financial crisis. At the 2009 Ambassadorial Conference, President Hu Jintao stipulated China must “actively accomplish something” in world affairs and, more disturbingly, China must “make more offensive moves.”¹⁶ This denotes a shift in the Chinese perception regarding its relative position in the global geopolitical balance and that the “hide your strength, bide your time” policy should not be expected to continue.

Furthermore, while China enjoys using “peaceful relationship” rhetoric in the conduct of Chinese foreign affairs, recent Chinese actions have cast doubt on China’s sincerity in maintaining peaceful foreign relations, particularly the peaceful settlement of disputes. As has been explained in the previous paragraph, Chinese leaders believe the time is ripe for China to make a newly concerted effort of global activism and to “make more offensive moves.” China launched military and pseudo-military moves against its weaker neighbors in the South and East China Seas, especially by using the Chinese ‘maritime militia.’ In May 2021, for example, 287 Chinese “maritime militia” fishing vessels entered and occupied the disputed areas of the Philippines’ Exclusive Economic Zones while being accompanied by Chinese coast guard vessels.¹⁷ Indonesia is also not immune to Chinese “gray zone warfare” tactics, as approximately 60 Chinese fishing vessels intruded into Indonesia’s Exclusive Economic Zone between December 2019 and January 2020, even though Jakarta continues to be “in denial” in regards to the Chinese pseudo-military offensive against Indonesia in recent years.¹⁸

Why is this the case? Hasn’t China convinced its neighbors enough that its intentions are peaceful and that it seeks to create a “community of common destiny” which would ostensibly benefit all its neighbors?¹⁹ Regardless of whether China sincerely and altruistically believes that it must hug its neighbors to create common prosperity, Chinese actions themselves betray the image that China wants to project across the world. Such actions include intimidating its neighbors with military and pseudo-

14 Youyi Huang, “Context, Not History, Matters for Deng’s Famous Phrase,” *Global Times*, June 15, 2011.

15 Rush Doshi, *The Long Game: China’s Grand Strategy to Displace American Order* (New York: Oxford University Press, 2021), 30.

16 Doshi, *The Long Game*, 186.

17 “Philippines Flags ‘Incursions’ by Nearly 300 Chinese Militia Boats,” *Thomson Reuters*, May 12, 2021.

18 Evan A. Laksmana, “Indonesia and China’s Maritime Grey Zone Strategy: In Denial,” *Fulcrum*, December 8, 2021.

19 Nur Rachmat Yuliantoro, *Menuju Kekuatan Utama Dunia: Sekilas Politik Luar Negeri Cina*, 2nd ed. (Yogyakarta: Gadjah Mada University Press, 2020), 75.



"FURTHERMORE, WHILE CHINA ENJOYS USING 'PEACEFUL RELATIONSHIP' RHETORIC IN THE CONDUCT OF CHINESE FOREIGN AFFAIRS, RECENT CHINESE ACTIONS HAVE CAST DOUBT ON CHINA'S SINCERITY IN MAINTAINING PEACEFUL FOREIGN RELATIONS, PARTICULARLY THE PEACEFUL SETTLEMENT OF DISPUTES."

military moves in the Taiwan Strait, the South China Sea, and the East China Sea and launching an extremely combative style of diplomacy known as ‘wolf warrior’ diplomacy.²⁰ It has become clear that China’s rhetoric of a harmonious world only applies in its relations with other great powers, while “smaller powers should recognize that China is big while they are small and comport themselves with appropriate deference.”²¹ This is best exemplified by a remark by Yang Jiechi, the Chinese Foreign Minister in 2010 when he said that “China is a big country, and other countries are small countries, and that’s just a fact.”²²

Thus, smaller powers, Indonesia included, must face China with “appropriate deference” and acquiesce, in some form or another, to Chinese interests, or face the consequences. There is also evidence that China is expecting Indonesia will acquiesce to its demands. For example, in December 2021, *Reuters* reported that China sent a letter to Indonesia protesting its natural resource exploration in the part of its Exclusive Economic Zone that overlaps with China’s nine-dash line.²³ Even more surprisingly, China also protested Indonesia’s military exercises with the United States Army, even though the exercises themselves took place primarily on land and far away from the South China Sea.²⁴ Even the peaceful-sounding ‘community of common destiny,’ should it become



"THE MORE THAN TENFOLD RISE IN THE CHINESE GOVERNMENT'S SPENDING ON THE DEFENSE SECTOR FROM THE BEGINNING OF THE 2000S TO THE 2020S ENABLED THE COUNTRY TO DEVELOP MORE SOPHISTICATED MILITARY HARDWARE SYSTEMS . . . "

a reality, would imply that its members must acquiesce, in one form or another, to Chinese ideals and demands, as the community is a “strategy by Xi Jinping to increase the development of international relations *according to the Chinese vision* [emphasis added].”²⁵ Failure to acquiesce could result

20 Peter Martin, *China’s Civilian Army: The Making of Wolf Warrior Diplomacy* (New York: Oxford University Press, 2021).

21 Lowell Dittmer, “China’s Dream, China’s World,” in *China Dreams: China’s New Leadership and Future Impacts*, ed. Chih-Shian Liou and Arthur S. Ding (Singapore: World Scientific, 2015), 45.

22 Richard McGregor, *Asia’s Reckoning: China, Japan, and the Fate of U.S. Power in the Pacific Century* (New York: Penguin Books, 2017), 248.

23 Allard, Lamb, and Costa, “Exclusive: China Protested Indonesian Drilling, Military Exercises.”

24 Allard, Lamb, and Costa, “Exclusive: China Protested Indonesian Drilling, Military Exercises.”

25 Yuliantoro, *Menuju Kekuatan Utama Dunia*, 75. The exact quotation is: “‘A community of common destiny’ adalah suatu strategi Xi Jinping untuk meningkatkan perkembangan hubungan internasional berdasarkan visi Cina.”

in the exclusion of a state from the ‘community of common destiny,’ at the very least, or even be coerced, militarily or by other means, into joining the community so that they are a member of a Chinese-led order.

China’s Growing Offensive Military Capability

The capacity of the Chinese military—hereafter mentioned as the People’s Liberation Army (PLA)—to conduct offensive operations is soaring under President Xi Jinping. Articulated by Xi in 2013, the modernization policy is a central component of the “China Dream.”²⁶ The more than tenfold rise in the Chinese government’s spending on the defense sector from the beginning of the 2000s to the 2020s enabled the country to develop more sophisticated military hardware systems, including aircraft carriers, latest generation destroyers, hypersonic missiles, and fifth-generation fighter jets.²⁷ It has also increased the PLA’s prowess in expeditionary missions, transforming the status of China from a low-key, inward-looking power into great military power. As the Mahanian doctrine of sea power seems to be further recognized by the Chinese government as a central strategy to gain geopolitical supremacy, the modernization of naval power, PLA Navy, remains pivotal.

While the Chinese government is continuing to insist its rise is peaceful in nature, those offensive moves send an assertive message that the country is not hesitant to use its military to defend and expand its geopolitical interests in the Indo-Pacific. For example, the deployment of Chinese aircraft carriers in the South China Sea means that the country may send its fighters to deter any foreign parties that disrupt the enactment of “China Dreams.” Today, the PLA Navy operates two full-size aircraft carriers that each may carry more than 40 aircraft and is constructing two others.²⁸ After steady progress and a series of delays, the next aircraft carrier, yet to be named, is planned to launch in 2022 and will enter service in 2023.²⁹ Those aircraft carriers are the key that facilitates Chinese military projection even further, given the capability of the vessels as moving airbases. It is noteworthy that the aircraft carriers will be protected by Type 055 guided-missile destroyers.³⁰ Armed with a series of the latest anti-ship and surface-to-air missiles carried in 112 vertical launching systems (VLS), it is a multi-mission-designed warship class that suggests the main role of area air defense, combined with anti-submarine warfare.³¹

To foster its amphibious capability – that in line with the plan of conquering Taiwan and a series of islands in the South China Sea, the country also rapidly developed a class of amphibious assault ships, namely

26 The International Institute for Strategic Studies, *The Military Balance 2020* (London: Routledge, Taylor & Francis Group, 2020).

27 “China’s Expenditure on Military Services 2020,” *Statista*, September 2021.

28 Matthew Funaiolo, Joseph S. Bermudez, and Brian Hart, “Signs Point to China’s Third Aircraft Carrier Launching Soon,” *CSIS Missile Threat*, November 9, 2021.

29 Rick Joe, “003 and More: An Update on China’s Aircraft Carriers,” *The Diplomat*, September 29, 2020.

30 “China Naval Modernization: Implications for US Navy Capabilities--Background and Issues for Congress” (Washington, DC: Congressional Research Service, December 2, 2021).

31 Daniel Caldwell, Joseph Freda, and Lyle J. Goldstein, “China Maritime Report No. 5: China’s Dreadnought? The PLA Navy’s Type 055 Cruiser and Its Implications for the Future Maritime Security Environment” (Newport, Rhode Island: US Naval War College, February 2020), 55.

Type 071, Type 075, and Type 076.³² All of them have the flexibility to conduct amphibious and expeditionary operations as they feature a vehicle deck, a landing deck, and a hangar. It can embark battalion-sized marine personnel and numerous vehicles, including air-cushioned landing crafts, armored vehicles, and four medium helicopters. While the aircraft carriers will be oriented as impediments to gaining air superiority, those assault vessels are directed to be the backbone of full-scale amphibious warfare.³³

Furthermore, China has also modernized its missile arsenal. The missile itself has a unique capability as both an offensive and defensive arm. It may create a deterrence effect to hinder any enemy incursion into its territorial waters as well as give the navy a substantial capacity to strike enemy ships from afar. Not to underestimate the other kinds of missiles, its latest anti-ship ballistic missile, the DF-21D, is one of the most feared weaponries of the PLA Navy. It has a range of over 1000 kilometers and can carry both conventional and nuclear warheads.³⁴ Thus, the DF-21D also claimed to be a real threat for the US aircraft carrier. The main problem to worry about is that the PLA Rocket Forces has conducted a series of live-firing exercises in Spratly Island since 2019.³⁵ This raises the possibility of the deployment of such a missile in the South China Sea afterward, in proximity to Indonesia's backyard in the Natuna Islands and waters. Moreover, there is still no anti-ballistic platform that has proven to be an effective interceptor for DF-21D.

This military advancement and aggression must be an alarm for the Indonesian Navy (TNI-AL) to consider the Chinese assertiveness in the waters as a direct threat that should be impeded comprehensively. Jakarta must take a further step in creating an effective strategy to maintain its sovereignty and sovereign rights in both its territorial waters and the Economic Exclusive Zone. Given that the most recent national defense white paper has yet to include Chinese aggression as a major threat to Indonesian sovereignty, it must be revised further to reaffirm the country's strategic autonomy in deterring external threats. The plan to modernize the Indonesian military must come out with a consideration of the state crisis regarding the exacerbation of Chinese maritime incursions, and therefore, put naval modernization on top priority.

The Inability to Predict Chinese Intentions and the Future of Chinese Military and Political Trajectory

On March 30, 2019, the incumbent President of Indonesia, Joko Widodo, responded to an attack by his contender for the presidency, Prabowo Subianto, during a presidential debate. Subianto attacked President Widodo for not having a large defense budget. He alleged that the money that is owned by the rich Indonesians is being moved offshore instead of being stored in Indonesia, thus reducing the capability

32 Patrick Porter and Michael Mazarr, "Countering China's Adventurism Over Taiwan: A Third Way" (Sydney: Lowy Institute, May 2021); Xavier Vavasseur, "China: End of the Type 071 LPD Program, Start of the Type 075 LHD One?" *Naval News*, August 5, 2019.

33 "Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2017" (Washington, DC: United States Department of Defence, 2017).

34 Sutton and Sam LaGrone, "China Builds Missile Targets Shaped Like U.S. Aircraft Carrier, Destroyers in Remote Desert," *USNI News*, November 7, 2021.

35 Associated Press, "Report: China Fires 'Carrier Killer' Missile in Disputed Sea," *Washington Post*, August 27, 2020.

to increase Indonesia's defense budget.³⁶ Regardless of the truthfulness and the credibility of the reasoning made by Subianto, President Widodo's response merits attention. He explained that he wanted to focus more on infrastructure development rather than defense, as "the information that I received told me that there would be no foreign invasion against Indonesia for the next 20 years."³⁷ This was a tremendously bold statement, and as we argue, an inaccurate one.

No one could read the mind of President Xi Jinping, and there is no way of knowing that for sure that he does not intend to attack Indonesia.³⁸ Even if we could be confident of Chinese intentions in the short-term, there is no way of knowing how they will change in the next 20, 30, or 40 years. No one even knows who will lead China in the next 10 years, let alone what his or her intentions are. In short, there is no way of knowing the intentions of China and Chinese leaders with 100% certainty. And, even if one knows the current intentions of President Xi, those intentions can change in a flash due to the changing strategic environment.³⁹ Thus, China can have benign intentions today and hostile intentions the next due to some strategic urgency to save the survival and security of the Chinese nation. Perhaps the United States acts militarily aggressively towards China and China needs to invade the Natuna Islands to guard the entrance to the South China Sea against American aircraft carriers. China will act aggressively towards Indonesia primarily due to the strategic environment and situation that necessitate his doing whatever is in his power to secure China's survival and security, not because Xi Jinping



**" . . . DOING
WHATEVER IS IN HIS
POWER TO SECURE
CHINA'S SURVIVAL
AND SECURITY . . . "**

is an evil schadenfreude that seeks pleasure in Indonesia's suffering, nor that Xi Jinping has some sort of grand ambition that seeks to rejuvenate the Chinese nation to its former glory.⁴⁰ With the fact that no one could predict Chinese intentions, the assumption that the international system is anarchic (which will be discussed later in this article), the possession of offensive military capability, the

primary goal for states, and the assumption that all states are rational actors, we have a potent cocktail of reasons why Indonesia must prepare for armed conflict with China.

36 Samuel Pablo and Iswari Anggit, "Jokowi Sebut RI Tak Bakal Perang, Prabowo: Kata Siapa?," *CNBC Indonesia*, March 30, 2019.

37 Iswari Anggit, "Jokowi Sebut 20 Tahun Tak Akan Ada Invasi Ke RI," *CNBC Indonesia*, March 30, 2019. The exact quotation is: *Tapi dari info yang masuk ke saya 20 tahun ke depan invasi dari negara lain ke kita tidak ada.*

38 Mearsheimer, *The Tragedy of Great Power Politics*, 43.

39 Mearsheimer, *The Tragedy of Great Power Politics*, 44.

40 We do not claim, however, that he absolutely does not have these intentions. We argue that these may be secondary or tertiary concerns while the primary concern would be in securing the survival and the security of the Chinese nation, which, in and of itself, is not an evil undertaking, but his duty as the President of the People's Republic of China.

The Not-So-Peaceful Confucianism

To counter and defeat the so-called ‘China threat theory’—that Beijing will coercively and aggressively amend the existing regional and international order—Chinese leaders and academics began to use the terms ‘peaceful rise’ and, later, ‘peaceful development.’⁴¹ One justification for this argument is that China will behave differently from the West because it adopts Confucianism as its dogmatic software underlying its political and international endeavors, and Confucianism dictates war must be eschewed.⁴² In short, China and the Chinese people will not act aggressively towards other states in a similar manner to Western countries when they rise because China uses an ideological software that simply doesn’t support that approach.

While this school of thought is quite reassuring to those that are worried about Chinese intentions, an in-depth and careful analysis of Confucianism would reveal that it is not as peaceful as previously thought. According to Yan Xuetong, the Dean of the Institute of International Relations at Tsinghua University,

Some claim that Confucius and Mencius advocate “no war” and are opposed to all war. *In fact, they are not opposed to all war [sic], only to unjust wars. They support just wars.* He [Confucius] uses the terms punishment and attack to distinguish between just and unjust war ... *Mencius also differentiates between just and unjust wars, showing that he believes that war is an instrument designed to implement justice or injustice and that it is a tool humans use to realize their goals [emphasis added].*⁴³

Thus, Confucius himself does not ban the use of war in its entirety. Confucius allows war if it is a “just war” to punish immoral leaders. Confucianism also believes war can be used to restore justice and rectify injustice.

While this may seem fair enough that a country can launch a war if it is just, it is important to remember that any state leader can justify launching war as a “just war” to punish immoral leaders or as a way to rectify some perceived injustice. Take United States as an example. The United States has almost always used some sort of a ‘just war’ narrative to justify its invasions and military interventions. For example, President George W. Bush used the following narrative to justify the Iraq War in 2003 in an address to the American people on the eve of the war:

“My fellow citizens, at this hour, American and coalition forces are in the early stages of military

41 McGregor, *Asia’s Reckoning*, 236.

42 For instance, see: Kishore Mahbubani, *Has China Won? The Chinese Challenge to American Primacy* (New York: PublicAffairs, 2020), 79-104.

43 Xuetong Yan, “A Comparative Study of Pre-Qin Interstate Political Philosophy,” in *Ancient Chinese Thought, Modern Chinese Power*, ed. Daniel A. Bell and Zhe Sun, trans. Edmund Ryden (Princeton: Princeton University Press, 2011), 35.

operations to disarm Iraq, *to free its people and to defend the world from grave danger.*

...

In this conflict, *America faces an enemy who has no regard for conventions of war or rules of morality.* Saddam Hussein has placed Iraqi troops and equipment in civilian areas, attempting to use innocent men, women, and children as shields for his own military – a final atrocity against his people.

...

Our nation enters this conflict reluctantly – yet our purpose is sure. *The people of the United States and our friends and allies will not live at the mercy of an outlaw regime that threatens the peace with weapons of mass murder* [emphasis added].⁴⁴

Based on the speech outlined above, President Bush used a “just war” narrative to support the arguably illegal war against Iraq. Regardless of whether the intentions of the United States in invading Iraq were really “to disarm Iraq, to free its people, and to defend the world from grave danger,” it is undeniable that the United States uses that narrative to publicly justify the Iraq War and to mask any ulterior motives the United States had in Iraq.

As other nations (especially the United States) have used some variation of the “just war” narrative, it is not an irrational thought that Chinese leaders could also utilize the same argument in launching a war against Indonesia to hide the real ulterior motive that China has in relations with Indonesia. For example, it is possible China could bring up the historical anti-Chinese sentiment in Indonesia and some examples of racism against Chinese-Indonesians to justify its attack on Indonesia.⁴⁵ Perhaps China could argue that they must rescue their fellow Chinese brothers and sisters from danger, a tactic that is used by the Russian media to partly justify its 2014 annexation of the Crimean Peninsula, where many Russian ethnic groups live.⁴⁶ There are already some signs of the usage of this rhetoric by China. In a departure from a long-standing Chinese policy, the Chinese Ambassador to Malaysia, Huang Huikang, stipulated in 2015 that “overseas Chinese, *huaqiao* (华侨) and *huaren* (华人), no matter where you go, no matter how many generations you are, China is *forever* [emphasis added] your warm maternal home (娘家),” implying China has some sort of “legal provenance” over the Chinese diaspora.⁴⁷

44 George W. Bush, “President Bush Addresses the Nation,” The White House, last modified March 19, 2003.

45 For full explanation see: Amanda Walujono, “The Discrimination of the Ethnic Chinese in Indonesia and Perceptions of Nationality” (Senior Thesis, Scripps College, 2014); Full Disclaimer: Trystanto Sanjaya is an Indonesian citizen of Chinese descent and serves as a research consultant for the Student Association of Belt and Road Initiative Chapter Universitas Gadjah Mada. However, we are under no pressure whatsoever to conform to a particular dogma or line of thought in the making of this article (although it is quite clear from the tone of this article that we have no friendly ties to the Chinese government or supported by the Chinese government in the making of this article in any way, shape, or form).

46 Michael Kofman et al., “Lessons from Russia’s Operations in Crimea and Eastern Ukraine” (Santa Monica: RAND Corporation, 2017), 79.

47 David Shambaugh, *Where Great Powers Meet: America & China in Southeast Asia* (New York: Oxford University Press, 2021), 163-64.

Using this narrative, China would be able to mask its true intentions and motives under a façade that the Chinese operation is designed to protect the Chinese ethnic groups living in Indonesia from perceived injustices, which would be consistent with the “just war” narrative permitted under Confucianism. Thus, “[l]ike liberalism in the United States, Confucianism makes it easy for Chinese leaders to speak like idealists and act like realists.”⁴⁸

However, what about the Chinese people? Would they be willing to enlist in the armed forces to follow the Chinese government? Could they be manipulated so that they are convinced they are following a Confucian dictum that the war they are fighting is a “just war”? In short, yes. Political leaders in China will always try to justify their actions to their citizens so that the people believe that they are fighting a country that is immoral and the war that they are fighting is just. Thus, “with the right spinmeister, Confucian rhetoric can be used to justify aggressive as well as a defensive behavior.”⁴⁹ Furthermore, the Chinese people would almost undoubtedly believe these moralistic arguments, as “they want to be told stories about the past in which they are portrayed as the white hats and opposing nations as the black hats.”⁵⁰

How could the Chinese government pull off a gigantic gaslighting attempt to convince 1.4 billion people that they are fighting a “just war”? For one thing, the Chinese Communist Party’s Propaganda Department “ruled supreme over the Chinese press.”⁵¹ The Chinese government could, with the flick of a switch, air and publish stories that they want. And, due to the tight media control in mainland China, it would not be difficult for the Chinese regime to manipulate its citizens and broadcast propaganda telling the Chinese public that they are fighting a “just war.”⁵² In addition, with the so-called ‘great firewall of China,’ it would be easy for China to just block stories that are incompatible with the state-run narrative.⁵³ Even without any significant media control, the United States government was successful in convincing the American people that the Iraq War was necessary, resulting in a majority of Americans supporting the Iraq War in 2003, even though the international legal justification for the war is, at best, doubtful.⁵⁴ Thus, with strict media control in China, it is not irrational to think that the Chinese government could do the same in convincing the Chinese people that the war they are fighting is “just.” This attempt would not be limited to the Chinese domestic audience, however, as China in recent years has been actively trying to shape international public opinion to “rally the target audiences—enemy states and also the general international community—into a defensive position” when they are producing negative opinions about China and to also insert China’s

48 John J. Mearsheimer, *The Tragedy of Great Power Politics*, 2nd ed. (New York: W. W. Norton & Company, 2014), 467.

49 Mearsheimer, *The Tragedy of Great Power Politics*, 467.

50 John J. Mearsheimer, *Why Leaders Lie: The Truth about Lying in International Politics* (New York: Oxford University Press, 2011), 66.

51 McGregor, *Asia’s Reckoning*, 172.

52 Ashley Esarey, “Speak No Evil: Mass Media Control in Contemporary China” (Washington DC: Freedom House, 2006).

53 Geremie R. Barme and Ye Sang, “The Great Firewall of China,” *WIRED*, June 1, 1997.

54 Pew Research Center, “Public Attitudes toward the War in Iraq: 2003-2008,” *Pew Research Center*, March 19, 2008.

preferred narrative across the international public community.⁵⁵

Trade: The Weapon to End All Wars?

Trade has long been touted as a cure to end the disease of war. According to this line of argument, trade and economic development, in general, would mean that the people of a country would be more prosperous, and that would make them more likely to avoid the risks of war. Therefore, trade and economic intercourse would be able to eliminate the possibility of war in a manner that is not able to be accomplished by the old balance

of power logic. Furthermore, in the words of Donald Kendall, the CEO of PepsiCo. In 1972, "...trade between nations could help to build bridges of greater understanding between different cultures and economic systems."⁵⁶ Therefore, a question must be asked: is it true that, in the words of Kishore Mahbubani, a Distinguished Fellow at the National University of Singapore's Asia Research Institute, "[s]ubmarines are stealthy, but trade is stealthier. Both generate security—the former by deterrence, the latter by interdependence. But the kind of security created by trade lasts longer?"⁵⁷

We disagree with this

view. To put it bluntly, there seems to be some sort of misinterpretation of the commercial liberalism thesis – the theory that the whole "trade will eliminate war" argument ostensibly rests on. The fact is that the commercial liberalism thesis itself does not eliminate the possibility of war in its entirety. Commercial liberalism only assumes that trade reduces the likelihood of war, not eliminates it:

...economic development tends to increase the material stake of social actors in existing investments, thereby *reducing* their willingness to assume the cost and risk of coercion through war or sanctions [emphasis added].⁵⁸

Consequently, even though the possibility of a war in the middle of intense economic intercourse is reduced, that possibility still exists, nonetheless. Thus, Indonesia will have to prepare for that possibility to happen as, if it does indeed happen, the consequences for unpreparedness would be grave.

History offers us one example of a war that happened despite



" . . . AN INTENSE TRADE AND ECONOMIC RELATIONSHIP BETWEEN INDONESIA AND CHINA DID NOT PREVENT CHINA FROM LAUNCHING ITS 'GRAY ZONE WARFARE' TACTICS IN THE SOUTH CHINA SEA . . . "

55 Paul Charon and Jeangène Vilmer Jean-Baptiste, *Les Opérations d'Influence Chinoises : Un Moment Machiavélien* (Paris: Institut de Recherche Stratégique de l'École Militaire, 2021), 46. The exact quotation is: "L'objectif de la guerre de l'opinion publique est de rallier les publics cibles – celui du pays ennemi mais aussi la communauté internationale de manière générale – à la position défendue par le pouvoir."

56 Paul Musgrave, "The Doomed Voyage of Pepsi's Soviet Navy," *Foreign Policy*, November 27, 2021.

57 Kishore Mahbubani, "In Asia, China's Long Game Beats America's Short Game: Beijing's Focus on Economic Ties Will Outlast Washington's on Military Alliances.," *Foreign Policy*, December 12, 2021.

58 Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51, no. 4 (1997), 530.

the existence of an intense trade. The period leading up to World War I is widely regarded as the “*belle époque*” of globalization, a period when trade was running at an extremely intense level.⁵⁹ In spite of this, World War I still happened in 1914. In the case study of Indonesia, an intense trade and economic relationship between Indonesia and China did not prevent China from launching its ‘gray zone warfare’ tactics in the South China Sea against Indonesia, even though Indonesia-China trade could suffer if one party (or both) decides to escalate the situation out of domestic political pressures or other factors.⁶⁰

So, why won’t trade eliminate war? Most importantly, political and nationalistic considerations often trump economic ones, especially if national security concerns and the survival of a state itself are threatened.⁶¹ This is because of the prerequisite for achieving prosperity is a secure environment to store accumulated wealth. If there is no security from foreign invasion or attack, then the accumulated wealth could be wiped out in an instant due to air attacks. For example, if China needs to invade the Natuna Islands for some strategic considerations that are crucial in China’s endeavor to secure its homeland, then they likely will.⁶² In this case, securing and occupying the Natuna Islands is crucial for China’s national security and state survival, even if it results in the termination of economic intercourse between Indonesia and China. In short, high politics will always trump low politics, as the success of the former is the prerequisite of achievement in the latter (just look at North Korea, where the state itself is secure from foreign invasion while it is in an economic malaise), while the opposite is not true. Thus, as two world wars have demonstrated, economic interdependence and trade do not eliminate the possibility of war in their entirety, and thus, states are not liberated from having to worry about what other states might do to alter the balance of power.⁶³ China could even gain a better economic deal with Indonesia if China could force Indonesia to sign an unequal treaty that gives China-exclusive economic rights and privileges. States sometimes commence wars with some expectation that if the state wins, the economic and strategic benefits will exceed the cost of destroying the economic interdependence in the first place.⁶⁴ Now, to respond to Mahbubani’s point, the security provided by submarines is extremely essential to safeguard the security that is provided by the burgeoning prosperity that results from trade, and without the submarines to provide security, all the gains that are made from trade could be wiped out.

So, why hasn’t China invaded the Natuna Islands? For one,

59 David Held and Anthony McGrew, “The Great Globalization Debate: An Introduction,” in *The Global Transformations Reader*, ed. David Held and Anthony McGrew (London: Polity, 2003), 4.

60 It is possible that Chinese President Xi Jinping is trying to look tough in front of the members of the Chinese Communist Party in preparation for the upcoming party congress in 2022 where Xi Jinping is widely expected to run for re-election after he abolished the presidential term limit in 2018. In Indonesia, perhaps there is some politicians that is stirring up nationalistic fervour in order to gain public support for the upcoming 2024 Presidential Election.

61 John J. Mearsheimer, *The Great Delusion: Liberal Dreams and International Realities* (New Haven: Yale University Press, 2018), 207-09.

62 China could use the Natuna Islands as a gate to the South China Sea to protect it from American aircraft carriers.

63 Stephen M. Walt, *The Hell of Good Intentions: America’s Foreign Policy Elite and the Decline of U.S. Primacy* (New York: Farrar, Straus and Giroux, 2018), 70.

64 Mearsheimer, *The Great Delusion*, 207.

perhaps Chinese leaders have decided that the strategic considerations in the meantime do not necessitate the urgent occupation of the Natuna Islands, as Indonesia and China still have a friendly and cordial relationship. For another, perhaps Indonesia could still be counted upon by China as a neutral actor and it is not in the best interest of China to push a neutral state onto the side of the United States when the situation does not yet necessitate the hostile occupation of the Natuna Islands. As reassuring as these may sound, as has been explained in previous parts, no one can predict the future with absolute certainty, and no one should expect that the *status quo* will last forever.

To make matters worse, economic interdependence does not even prevent China from acting in a hostile manner towards Indonesia. In recent years, China has been using its economic relationship with other countries as a unilateral political-economic weapon to achieve China's interests and objectives. Most recently in 2020, China imposed unofficial embargos on imports from Australia after it called for an independent investigation into the origins of the COVID-19 pandemic.⁶⁵ This heightened fears

that "such gambits are only a taste of what is to come as China goes to greater lengths to use its economic influence to bully other countries."⁶⁶ Thus, it is entirely possible China could use its trade relationship with Indonesia to force Indonesia to acquiesce to Chinese demands regarding the South China Sea. If China decides to resort to such action, then Indonesia will have a lot more to lose than China, as China was the source of 27.2% of Indonesia's imports in 2019 and the destination of 15.4% of Indonesian exports, while in the same year Indonesia was the destination for only 1,75% of Chinese exports and the origin of 1,82% of Chinese imports.⁶⁷ Why hasn't China used its economic relationship with Indonesia as a

weapon? One reason is that, possibly, China does not see the necessity for doing so while Indonesia and China still have a friendly relationship, especially since Indonesia has not pursued any actions that gravely insult or threaten China. However, Indonesia, we believe, will not be able to stand down forever while its legal Exclusive Economic Zone around the Natuna



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65 Audrye Wong, "How Not to Win Allies and Influence Geopolitics: China's Self-Defeating Economic Statecraft," *Foreign Affairs* 100, no. 3 (2021), 44.

66 Wong, "How Not to Win Allies and Influence Geopolitics," 44.

67 "Indonesia (IDN) Exports, Imports, and Trade Partners," Observatory for Economic Complexity, n.d.; "China (CHN) Exports, Imports, and Trade Partners," Observatory for Economic Complexity, 2020.

Islands that overlaps with China's nine-dash line is molested severely with China's 'grey zone warfare' tactics, as there will be domestic political pressure on the Indonesian government to take a hard line in defending Indonesia's territorial integrity. And when that happens, there is a possibility that China will impose sanctions and tariffs on Indonesian imports, effectively weaponizing Indonesia-China economic interdependence as China will be hurt only a little while Indonesia's economy would be severely hit.

In addition, behaving in a hostile manner towards Indonesia could push it into the US' orbit. For example, in 2017 Australian Prime Minister Malcolm Turnbull stated Australia would not choose between China and the United States.⁶⁸ However, after China imposed sanctions and tariffs on Australia in 2020, Australia became a major proponent of the AUKUS alliance, an alliance claimed to focus on containing China along with the United States and the United Kingdom.⁶⁹ Thus, given that Indonesia and China still have a friendly diplomatic relationship, it would not be wise for China to push Indonesia into the US' and AUKUS' orbits when the current strategic environment and rationale do not yet necessitate the hostile occupation of the Natuna Islands. However, no one should expect that the current strategic environment and rationale will exist in perpetuity. Thus, even with the high level of trade between Indonesia and China, Indonesia still must expect the possibility of an Indonesia-China war.

False Hopes in the United Nations

Others point out that, as Indonesia is an active member of the United Nations, the United Nations would stand by its principles and defend Indonesia via peacekeeping forces or other means of military operations. Therefore, some questions must be asked: will the United Nations defend Indonesia against Chinese aggression? Will the United Nations defend a nation that has been attacked in a manner contradictory to the ideals enshrined in the United Nations Charter, that "[a]ll member states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or any other manner inconsistent with the purposes of the United Nations"?⁷⁰ Will the United Nations, at the very least, authorize a peacekeeping mission to protect Indonesia from Chinese aggression? The short answer, we argue, is no.

Firstly, will an international institution, such as the United Nations, and other international rules and norms be able to alter the behavior of other states to make it more peaceful? We beg to differ. Research by John Mearsheimer found "institutions have minimal influence on state behavior, and thus hold little promise for promoting stability in the post-cold war world."⁷¹ Why is this the case? International institutions are mostly avenues for exercising state power and states join international

68 Rod McGuirk, "Australian Prime Minister Won't Choose between China and US," *Associated Press*, March 24, 2017.

69 Sam Roggeveen, "How Nuclear Subs Could Transform Australia, Its Alliance and Asia," *Lowy Institute*, September 16, 2021.

70 "Charter of the United Nations" (1945).

71 John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, no. 3 (1995): 7.

institutions mainly for this reason. Indeed, international institutions and organizations themselves are created by the most powerful states to “maintain their share of world power, or even increase it.”⁷² Thus, power politics are still alive and well in an international institution. The same case is also true for international norms. When matters of state survival and critical security are at stake, states would do whatever they can to secure their ultimate objective: state survival.⁷³ Lastly, there is scant evidence the United Nations is capable of resolving political disputes involving a great power, as great powers, by definition, have great capability and would employ their resources to secure their objective, regardless of whether that endeavor violates international norms and laws or even goes against the established rules of an international institution.⁷⁴ For example, when the International Court of Justice ruled the United Kingdom must return the Chagos Islands or British Indian Ocean Territory to Mauritius, the United Kingdom simply ignored the ruling.⁷⁵ Of course, no one expected the United Kingdom would voluntarily give up a territory containing a



"LASTLY, THERE IS SCANT EVIDENCE THE UNITED NATIONS IS CAPABLE OF RESOLVING POLITICAL DISPUTES INVOLVING A GREAT POWER . . . "

strategic airbase to comply with an unenforceable court ruling, and there is almost nothing that Mauritius can do to enforce the court ruling.

Secondly, will the United Nations Security Council condemn unilateral Chinese aggression to Indonesia and send in peacekeeping forces or even “... take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such

action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations”⁷⁶ In short, no. Any UN Security Council resolution would require a simple majority and the affirmative vote (or at least the abstention) of the five veto-wielding permanent members of the United Nations Security Council. China, however, is one of the permanent members of the UN Security Council and can veto any resolution that it does not like. In addition, sending peacekeeping forces and taking “such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security” requires the authorization of the United Nations Security Council, and there is a 99% certainty that China would veto the resolution if it is not friendly to China.⁷⁷ Worse, China could even propose its resolution

72 Mearsheimer, “The False Promise of International Institutions,” 13.

73 Mearsheimer, *The Great Delusion*, 158.

74 Mearsheimer, *The Great Delusion*, 211.

75 Ahmed Mujuthaba and David Brewster, “Maldives Embroiled in Mauritius-UK Tussle over Chagos,” *Lowy Institute*, December 8, 2021.

76 “Charter of the United Nations” (1945).

77 “Deploying Peacekeepers,” United Nations Peacekeeping, n.d.; “Charter of the United Nations” (1945); Article 27 of the United Nations charter stipulates that “a party to the dispute shall refrain from voting.” However, the word “shall” is also similar in meaning to the word “recommend.” Thus, China could interpret that it is not an obligation that a party to the dispute must refrain from voting, but only a norm and recommendation. Referring to previous paragraphs, China will never refrain from voting when the council is voting on matters that could be detrimental to China’s vital strategic interests.

against Indonesia and force the other non-permanent members to vote for the Chinese resolution or face economic retribution. This is not a baseless assumption, as China has been reported to have threatened to “block agricultural exports from Brazil and Uruguay” if they did not vote for the Chinese candidate for the Director-General of the Food and Agricultural Organization.⁷⁸ Perhaps the only thing that would come out of the United Nations in support of Indonesia is a *cliché* statement coming from the United Nations Security Council, General Assembly, or the Secretary-General recommending (or, in a harsher language, demanding) both sides of the conflict to refrain from further violence. Words without actions will not save Indonesia

The most important takeaway from these arguments is the United Nations is not synonymous with a world government that could protect other states from harm illegitimately inflicted by other states. The United Nations does not have a world police force that could go and rescue states when their security is being threatened. The United Nations itself is not even a world government. Thus, states could not turn to the United Nations and expect the response to be like when one goes to the police to report a burglary. This is what is referred to by John Mearsheimer as the “911 problem.” There is no world government that a threatened state can call for help. The only thing that could save a state from being swallowed or threatened by other states is the capability of their own armed forces and “the possible self-interest of third parties.”⁷⁹ As a consequence, due to the difficulty of deterring and discouraging potential aggressors, states have an abundance of reasons to distrust other states and to prepare for an armed conflict with them.⁸⁰

We recognize the United Nations authorized an armed intervention to expel Iraq from Kuwait during the Gulf War in 1991. However, that intervention was only authorized and legalized after the passage of UN Security Council resolution 678, which successfully avoided the veto of the Soviet Union and China, as “Soviet Leader Mikhail Gorbachev... had a greater stake in cooperating with Washington than in preserving Saddam’s gains.”⁸¹ Given that a future vote on a UN Security Council resolution to authorize an armed intervention will undoubtedly mean a military attack on Chinese forces, no one should expect that the dynamics of 1991 will be repeated. No sane Chinese diplomat in the UN Security Council would let a resolution that would mean an attack on his or her country’s forces pass, as, at the very least, Chinese diplomats must “demonstrate political obedience” to the Chinese government and “perceived political mistakes” would result in “serious consequences.”⁸²

Conclusion

The rise of China since the 2010s cannot be fully described as peaceful. Apart from its positive initiatives in establishing global cooperation for economic development, trade, and other “peace-guarantor” sectors,

78 Elizabeth C. Economy, *The World According to China* (Cambridge: Polity, 2022), 201.

79 Mearsheimer, *The Tragedy of Great Power Politics*, 53.

80 Mearsheimer, *The Tragedy of Great Power Politics*, 53.

81 Ray Takesh and Steven Simon, *The Pragmatic Superpower: Winning the Cold War in the Middle East* (New York: W. W. Norton & Company, 2016), 313-14.

82 Martin, *China’s Civilian Army*, 199.

China is also currently developing an intensive military and carrying out military expansion into the South China Sea area recently to strengthen its geopolitical position with the title “China Dreams.” Practically, this step contradicts the “peaceful rise” narrative Xi Jinping has promoted from the beginning. As a middle-power country that often experiences Chinese intrusion, the Indonesian government needs to rearrange its strategy to deal with this situation. Despite having close diplomatic relations, the six key points described above are the basis of the argument that the risk of armed conflict with China is still significant. Jakarta must not take the cordial relationship with China for granted, but it also needs to be careful in acting and making decisions, especially by strengthening its strategic autonomy so as not to become a victim of China’s geopolitical expansion.

It is important to emphasize one point: the aim of this article is not to push for there to be an armed conflict between Indonesia and China. We believe that it is in Indonesia’s and China’s, as well as the world’s, interest for peace to be maintained. However, weakness only breeds conflict. Indonesia’s weakness only invites increasing Chinese molestation towards Indonesia, as China knows that Indonesia is too weak to do anything. This is already evident, albeit slightly, with the many incursions of Chinese fishing vessels into the waters of the Indonesian Exclusive Economic Zone that overlaps with the nine-dash line. If Indonesia has strong relative power (not just military but also economic, political, etc.) vis-à-vis China, then China will think twice or thrice before making aggressive moves against Indonesia, as the aggressive actions could backfire. Therefore, to prevent further Chinese military and pseudo-military abuse of Indonesian territory and to safeguard the sovereignty and security of Indonesia, Indonesia must prepare for the possibility that war with China may occur. Not because Indonesia wants a war to occur, but to prevent and prepare for it. Shortly, Indonesia must adhere to the principle of “*si vis pacem, para bellum.*” If you want peace, prepare for war.

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Holding Transnational Corporations to Account

A Comparative Analysis

It is a hot summer day in Cambodia's capital city Phnom Penh.

A large group of factory employees have gathered in Freedom Park, a plaza commonly used for political protests and demonstrations. Under the blazing sun, these garment workers and activists put their safety at risk in order to voice the injustice they face in the Cambodian garment industry. “Workers don’t ask for much. The minimum wage is enough only for one person, but we need to have enough for the family, the children, and our old parents. If I fall sick, I can’t afford to go see the doctor. We are forced to take up loans, and so the money simply vanishes when the salary arrives. We don’t even earn a living wage,” one protesting worker said. “I beg you who buy Cambodian clothes,” another protester pleads, “Help us, we suffer”.¹

The Cambodian textile industry employs as many as 800,000 workers and amounts to a \$7 billion industry², making it the largest employment sector in the country. Transnational corporations, who operate their apparel production in Cambodia, strongly influence the

¹ Aftenposten, “Sweatshop Ep. 5: - Hva Slags Liv Er Dette?” (Aftenposten. April 21, 2017): 00:52-01:46.

² Matt Blomberg and Mech Dara, “Will Cambodia’s Garment Sector Rebound after ‘Horror Year’?” *Reuters*, December 18, 2020, sec. APAC.

textile industry. The lives of garment workers have become gradually more difficult as production efficiency and hours worked have risen while wages have dropped. The TNCs place larger orders, offer less payment, and request the finished products be delivered quicker than ever. These problematic demands reflect harshly on the factory workers who are left with no free-time and pitiful wages that do not even begin to cover basic living costs.

This paper asks whether TNCs can be forced to respect human rights in the factories. To answer this question, I closely examine the current situation in Cambodian factories, analyze past legal disputes and Cambodian labor law, and analyze the Norwegian Act of Transparency. As the goal of this research is to assess which legal mechanism most effectively secures TNCs' compliance with human rights in their supply chain, I will re-introduce the legal disputes and examine how the Transparency Act may have contributed to a different outcome.

Methodology

I assess whether TNCs can be forced to comply with human rights in developing economies by combining philosophical analysis with qualitative research. For the philosophical comparative analysis, I look at published research on the topic of statism and cosmopolitanism as well as human rights in supply chains to set the bar for what domestic law ought to do to secure human rights in businesses' supply-chains internationally. I further pursue a qualitative approach by conducting several semi-structured interviews with different actors who actively work to improve the circumstances for factory workers in developing economies such as Cambodia. Through these interviews and case studies of previous legal disputes between factories, workers, and TNCs, I aim to showcase the current trend of TNCs' noncompliance with human rights standards.



"THE LIVES OF GARMENT WORKERS HAVE BECOME GRADUALLY MORE DIFFICULT . . . HOURS WORKED HAVE RISEN WHILE WAGES HAVE DROPPED."

What are Nation-States' Responsibilities?

To assess whether a law can effectively hold TNCs accountable for human rights violations in the supply-chain, we first need to identify the standard by which the law should be appraised. Political philosophy can help us to do this since it outlines ideals of global socio-economic justice against which we can evaluate the legitimacy of current laws. In the following section, I set forth a theory of socio-economic justice that is largely inspired by the work of Laura Valentini. I determine the appropriate balance between statism and cosmopolitanism in the globalized, contemporary setting. It is essential to establish why and to what extent nation-states ought to interfere with the affairs of other states. If we first establish what type of interference is justified, we are left with an ideal that we can measure existing laws up against. This makes it clearer to recognize their flaws and shortcomings when assessing their legitimacy.

Statist or Cosmopolitan Approach

The two main theories of global justice are statism and cosmopolitanism. They present rival perspectives of how justice should be approached and enforced globally and whether nation-states ought to intervene in each other's affairs. I commence my analysis with political philosophy. This is because we must determine an ideal that we can measure currently existing laws up against before we move forward with the legal analysis. In this section, I aim to answer which approach to global justice is likely to prove most effective when discussing the issue of human rights abuse by TNCs in developing nations whether nation-states' interference may be justified.

The basis for my analysis of human rights is rooted in the United Nations' Universal Declaration of Human Rights (UDHR). Fundamental to all human rights is the right to personal liberty and freedom from slavery and servitude. Furthermore, the right to "just and favorable conditions of work and to protection against unemployment" as well as "the right to form and to join trade unions for the protection of his interests"³ are embodied in the UDHR and therefore fundamental for my definition of human rights in this research.

I will first introduce the statist and cosmopolitan views of social justice. Following this, I will identify the flaws of each of the two theories before presenting an applicable middle ground to serve as an ideal we can measure current legal mechanisms up against.

Statists approach the debate of global justice through the belief that states are the main actors in the global arena with power to bargain among each other.⁴ Therefore, although each state carries certain responsibilities, they do so exclusively to their respective citizens. This is because each state should first and foremost work towards developing a just system within its own borders. Notable statist, such as David Miller, reject global egalitarianism and argue that the resources and opportunities available to people in different countries are not a measure of global justice⁵.

The contemporary cosmopolitan approach, on the other hand, aims to apply principles of egalitarian socio-economic justice internationally, not just within the nation-state. Cosmopolitans see the world as being interconnected and deserving of reciprocal rights and opportunities. To ensure the implementation of these rights, cosmopolitans argue that interference between nation-states may be necessary. Some extreme cosmopolitan theories go as far as to suggest a singular global governance entity as an effective remedy to socio-economic global injustice⁶, but this is not the cosmopolitan theory I will be referring to in my article. Rather, I will be referencing the theory that encourages globally applicable socio-economic justice.

It is important to note that both a purely statist and a purely cosmopolitan approach to socio-economic justice are equally inapplicable

3 United Nations, "Universal Declaration of Human Rights," *United Nations*, December 10, 1948, Art. 23.

4 Laura Valentini, "Coercion and (Global) Justice," *American Political Science Review* 105, no. 1 (February 2011): 205.

5 David Miller, "Against Global Egalitarianism," *The Journal of Ethics* 9, no. 1-2 (March 2005): 65.

6 David Miller, "Cosmopolitanism: A Critique," *Critical Review of International Social and Political Philosophy* 5, no. 3 (October 2002): 80.

to the real, contemporary world. I suggest we instead identify a suitable meeting ground between these two approaches to socio-economic global justice. The statist approach takes for granted the assumption that all nation-states operate based on equal prerequisites such as mutual non-interference.⁷ This is not the case as global trade has heavily affected the power-balance between nation-states. TNCs' presence, in particular, makes non-interference between nation-states an unrealistic pre-condition for international relations. As a result of global trade constantly increasing, no state can be completely independent of the influence or exploitation by surrounding states.

Cosmopolitanism, on the other hand, does not place enough weight on nation-states as important actors with the power to bargain and enforce legal sanctions, especially towards businesses. The socio-economic justice that cosmopolitans aim to achieve is only possible when nation-states force businesses, by legal means, to operate their supply chains without exploiting developing economies. Therefore, cosmopolitans, by applying socio-economic egalitarian justice on a global scale, fail to recognize nation-states as important vehicles to uphold human rights internationally. Cosmopolitans must instead recognize that nation-states are powerful actors whose influence is not simply contained within their respective borders. On the contrary, they have the potential to bargain for human rights to be upheld internationally.

More than anything, workers have a right to decent wages through which they are free to make liberated economic decisions for themselves. However, TNCs dismiss the responsibility to ensure workers' conditions under which such rights are granted. Instead, they undermine individuals' right to make economic decisions by enforcing salaries so low that they amount to less than a living-wage. This showcases the privileging of mere profit over basic human rights. In other words, I believe it is important to recognize the influence and power of nation-states while still holding them responsible to ensure compliance with human rights in business.

We have seen that it is necessary to interfere with the neglect of human rights in businesses' outsourcing of labor. The current imbalance in global distributions allows for strong economies to strip developing economies of resources they possess while allowing little to no opportunity for these nations to develop economically. Now we must look at what the benchmark for justified interference is and how we recognize it. In order to explain how TNCs are responsible for this exploitative system, I will turn to Valentini's explanation of systemic coercion. If we consider the relation between TNCs and the Cambodian factory workers, TNCs are clearly forcing workers to accept poor working conditions through systemic coercion. Even if no one physically forced them to accept the position at the factory and its entailed conditions, the TNCs still carry responsibility because they participate and contribute to the existence of such an unethical system.⁸ The workers in Cambodia, or any other developing nations where TNCs produce their wares, are forced to accept poor labor conditions due to the lack of decent alternatives. To successfully rectify this unjust system,

7 Valentini, "Coercion and (Global) Justice," 212.

8 Ibid, 213.



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the responsibility falls to the nation-states themselves to ensure that businesses respect human rights in their supply chains. In order to ensure this, nation-states should introduce legal measures designed to counter the situation that essentially restricts the freedom of Cambodian workers. The next section shifts focus to discuss the situation in Cambodian factories, informed by publications and interviews.

Case Studies

I will now turn to two cases from Cambodian garment factories that thoroughly display the utmost lack of responsibility taken by its key actors, including factory management, Cambodian legal bodies, and TNCs. These cases are prime examples of how transnational corporations dismiss any form of responsibility unless the companies find themselves at risk of receiving negative public relations or legal sanctions. First, I will introduce each respective case. Second, I will take a closer look at what, in specific, workers are entitled to under Cambodian Labor Law. Lastly, I will compare their legal rights with the outcome of the two cases in order to show the immense gap between the theory and practice of Cambodian Labor Law.

Wai Full Garments (Cambodia) Limited

Wai Full Garments was a Cambodian textile factory and listed supplier to the apparel brands Next, Arcadia, ASOS, and Superdry. Wai Full Garments shut down in May 2021. As a result, at least 332 workers were dismissed from employment with the following points of severance:

1. Final wages
2. Unused annual leave
3. 15 days' wages as compensation in lieu of prior notice
4. 14 and a half days' wages as employment seniority indemnity
5. An adjustment figure (later confirmed to be damages)⁹

As a consequence of the COVID-19 pandemic, finding employment has become increasingly difficult. Due to these former employees having now lost their only source of income, many workers were forced to accept the amount they were offered by Wai Full. Despite this, the former Wai Full workers submitted a complaint to the Kandal Provincial Department of Labor and Vocational Training. A conciliation was held, and the remaining points of dispute were then forwarded to the Arbitration Council for resolution.

The Arbitration Council is a national institution with quasi-judicial authority derived from the Labor Law of Cambodia. It is recognized as an independent institution operating under values of transparency, predictability, and responsiveness. The Arbitration Council claims it is not influenced by external interference, provides case hearings and decisions within 15 working days, and provides further accessible explanations and reasoning behind their legal decisions.¹⁰ The Arbitration

9 Arbitration Council, "Wai Full Garments (Cambodia)", (2021): 5.

10 "The Arbitration Council," Welcome to The Arbitration Council, n.d.

Council is, in other words, trusted as an impartial legal body whose job is to assist with resolutions in labor disputes in the country.

In a hearing held in May 2021, and in the arbitral award issued the following month, one point of dispute was considered:

“The Employee Party demands the employer calculate each worker’s employment seniority from their first employment contract until the date the employer dismissed them for payment of compensation in lieu of prior notice, employment seniority indemnities and damages to employees.”¹¹

The workers claimed their employer had not calculated their severance according to the provisions of the Labor Law. The employer calculated their seniority only from the date where they were transferred from a fixed-duration employment contract (FDC) to an unspecified duration employment contract (UDC). To summarize, these workers had been working in the factory on short-term contracts before finally being granted standard employment. However, when the factory closed, they did not receive proper compensation in lieu of prior notice, as only the long-term contracts were considered when calculating seniority bonuses.

Paragraphs 6 and 7 of Article 73 of the Cambodian Labor Law elaborate on the termination of fixed-duration employment contracts:



"[. . .] TRANSNATIONAL CORPORATIONS DISMISS ANY FORM OF RESPONSIBILITY UNLESS THE COMPANIES FIND THEMSELVES AT RISK OF RECEIVING NEGATIVE PUBLIC RELATIONS OR LEGAL SANCTIONS."

“At the expiration of the contract, the employer shall provide the worker with severance pay proportional to both the wages and length of the contract. The exact amount of the severance pay is set by a collective agreement. If nothing is set in such an agreement, the severance pay is equal to at least five percent of the wages paid during the length of the contract.

If an unspecified duration contract replaces a fixed-duration contract upon the latter’s expiration, the employment seniority of the worker is calculated by including the periods

¹¹ Arbitration Council, “Wai Full Garments (Cambodia),” (2021): 8.

*of both contracts.*¹²

This essentially means that when an employer has been transferred from a fixed-duration contract to an unspecified duration contract, as the workers of Wai Full had been, seniority is to be counted from the first contract. Thus, the workers were rightfully entitled to greater compensation than they were offered. The Arbitration Council confirmed these points, stating that seniority should be calculated from the first contract.

However, in February 2020, the Director of the Department of Labor Inspection, Ouk Chanthou, issued a letter to an employer federation body in Cambodia. Without authorization to make or alter laws, he stated several far-fetched interpretations of the domestic Labor Law. Among these claims, he stated that according to Article 73 of the Labor Law, in cases where FDCs are transferred to UDCs, seniority indemnity

payment for prior notice is to be counted only from the UDCs. As we saw in the excerpt from the Cambodian Labor Law above, this is an incorrect interpretation. However, Ouk Chanthou's influence as the Director of the Department of Labor Inspection imbued the letter with authority it does not command. Ouk Chanthou's letter undermined the Arbitration Council who, following this, went against their original claim and refused to present a final decision in the case. This took away the workers' only legitimate grievance mechanism.



"AMONG THESE CLAIMS, HE STATED THAT ACCORDING TO ARTICLE 73 OF THE LABOR LAW, IN CASES WHERE FDCS ARE TRANSFERRED TO UDCS, SENIORITY INDEMNITY PAYMENT FOR PRIOR NOTICE IS TO BE COUNTED ONLY FROM THE UDCS."

Violet Apparel

When Violet Apparel Co. Ltd garment factory suddenly closed its doors on July 1, 2020, allegedly because of the COVID-19 pandemic, their workers were provided with nothing but a single day's notice. Thereupon, as many as 1,284 garment workers were left unemployed.¹³ Matalan did not respond to the factory closure and has failed to take any responsibility whatsoever. Nike claimed they had not used Violet Apparel as their manufacturer since 2006. However, pictures from inside the factory show that Nike clothes were being made there until, at least, the end of 2019.

These garment workers were not only deprived of employment but were also not given the termination compensation they were legally entitled to, in accordance with Article 73 of the Labor Law. Cambodian Labor Law clearly states that employees are entitled to a requisite period of prior notice before termination takes effect. If there is no prior notice,

¹² Ibid, 8.

¹³ "FIRED, THEN ROBBED Fashion Brands' Complicity in Wage Theft during Covid-19," *Worker Rights Consortium*, April 2021, 17.

workers are to receive economic compensation equal to the length of each worker's entitled requisite period of prior notice. Such length depends on length of employment, ranging from one week to as much as three months in cases where the worker has been employed longer than five years at a respective factory. Violet Apparel had many workers who had been employed there for many years prior to its shutdown in 2020. The average period of required prior notice averaged two months.¹⁴

Current Practices and Obstacles

My findings of current practices in Cambodian factories derive mostly from publications by, and interviews with, representatives from the NGO The Future in Our Hands and the Center for Alliance of Labor and Human Rights. The two labor disputes involving Cambodian garment factories discussed above provide insight into current factory practices, labor conditions, and shortcomings, not to mention the role that TNCs play in Cambodian labor conditions. As exemplified in the case studies, circumstances often force Cambodian workers to accept unfair compensation.

I previously stated the importance of closing the gap between legal theory and real-life practices and will now elaborate in greater detail the reasoning behind this statement. In order to understand which legal

mechanisms most effectively force TNCs to comply with human rights in their supply chains, we must take a closer look at Cambodian Labor Law. Cambodia has labor laws that should in theory protect workers' rights. Unfortunately, as the outcomes in the cases presented above clearly show, they are not functioning properly. In this section I will look closer at the reasons why Cambodian Labor Law is not functioning optimally and

discuss an effective remedy to ensure that TNCs comply with the proper treatment of workers in their supply chains.

One of the interviews conducted for this research is with Patrick Lee who works as a legal consultant for the Center of Alliance of Labor and Human Rights in Cambodia, commonly referred to as CENTRAL. Some of the work the organization does involve helping local workers organize into independent trade networks and conducting talk shows online to discuss current issues, amplifying Cambodian people's voices internationally. Patrick Lee is a member of their Legal Union department. The Union provides legal aid, consultation, and representation to Cambodian trade unions, as well as advocacy with international apparel companies.



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14 Ibid, 25.

My qualitative research shows that the main problems that legal mechanisms related to labor law must confront are low wages, utilization of short-term contracts beyond the legal span of two years, workers' fear of organizing in labor unions, and the absolution of responsibilities from TNCs. The main factors that prevent Cambodian Labor Law from effectively protecting workers are corruption and large economic influence by western TNCs that operate their production in Cambodia. These companies wield undue influence because the textile industry accounts for a large portion of Cambodia's national income. The resolution of both cases, however unsatisfactory, clarifies two crucial points: First, domestic corruption undermines the Cambodian labor law, and second, transnational corporations fail to comply satisfactorily with legal sanctions.

Low Wages

A living wage is, according to *Future in Our Hands*, a wage that, within a regular working week, covers “basic needs the worker and their family has, such as food, clean water, housing, clothing, education for their children, basic medical services, and some remains in order to save and/or pay unexpected expenses”.¹⁵

Currently, Cambodian textile workers are mostly paid according to production quantity. In order to earn enough money to survive, garment workers are urged by factory owners, who are again forced by TNCs to accept contracts with increasingly stringent conditions, to produce between 60 and 70 pieces of clothing per hour, which often does not amount to Cambodia's minimum wage of \$192 per month.¹⁶ To achieve the minimum wage, workers must take on excessive labor. Even then, the minimum wage is not an adequate living wage. Consequently, in order to cover basic needs, garment workers are forced to accept overtime daily as well as extra shifts on their days off. In order to boost production while at work, garment workers interviewed by *The Future in Our Hands* said that they attempted to meet production requirements by consuming as little water as possible to avoid toilet breaks that would cause a reduction in their already extremely low wages.¹⁷

One might assume that these wages are not at all low if you examine them in the context of the generally low prices in Cambodia. Therefore, in order to place the current wages of Cambodian garment workers in perspective, a report was published by *Future in Our Hands* comparing the purchasing power of textile workers in several Asian countries, Cambodia included, with their Norwegian counterparts’.

What is particularly instructive about the Norwegian counterexample is that despite the country's lack of a national minimum wage, even low-skilled workers receive a decent living wage. A core reason for this is that nearly all workers in Norway are members of labor unions. The country's largest union is the Norwegian Confederation of Trade Unions (LO) with

15 Framtiden i Våre Hender and Eirik Hovland Steindal, “Syr Klær for Lommerusk,” (July 2009): 8.

16 IndustriALL, “Inadequate Minimum Wage Increase Hits Workers Hard,” IndustriALL, (September 2020).

17 CENTRAL Team et al., “Bestseller – a Good Deal for All? Lack of Transparency and Violations of Workers' Rights at Two of Bestseller's Suppliers in Cambodia and India” (Framtiden i våre hender, July 2017): 25.



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as many as 970,000 members¹⁸. This is quite a significant number in a country with a workforce that amounted to 2,917,000 people by the end of the fourth quarter of 2021.¹⁹

While Norwegian garment workers can afford 10 kilos of onions after one hour of work, their Cambodian counterparts can only afford 0.5 kilos. In order to afford one kilo of meat, a Cambodian worker must work as many as 15 hours. A Norwegian textile worker, on the other hand, can afford 2.5 kilos of meat with one hour's wages. In order to afford public transportation to and from their workplace, Cambodian factory workers must work as many as 21 hours to afford a monthly transport card. According to the Cambodian factory workers interviewed for the report, their wages were too low to cover any medical treatment. When calculated, one hour's wages would cover only 0.09 percent of the price of one medical consultation.²⁰

Such working conditions are a direct consequence of TNCs' unwillingness to pay decent wages to the factory workers they exploit. TNCs are using inhumane practices to exploit the Cambodian workforce, and these workers are not protected under effective labor laws.

Overtime

According to Cambodian law, a regular workday is eight hours with a legal limit of two hours overtime. However, this law is not followed by most factory owners. Workers are often forced, either by their low wages or by the owners of the factories, to agree to several more hours of overtime daily.²¹ Consequences for noncompliance are even lower paychecks and sometimes getting laid off by the factory.

Another reason why factory workers in Cambodia often feel pressured to accept unreasonable amounts of overtime is that employers abuse short-term contracts. According to Cambodian Labor Law Articles 67 and 73, a worker hired on a fixed duration contract (FDS) has the right to an undetermined duration contract (UDC) after being employed for a maximum of two years.²² However, according to FIVH's reports, this law is often not followed, and employees feel pressured to accept increasing amounts of overtime work in the hope of one day receiving a long-term employment contract. Because factory workers are not allowed to participate in labor unions while on short-term contracts, employers may misuse such contracts in order to stop workers from complaining about the unfair treatment they experience.²³

Labor Unions

Officially, Cambodian law states that employers cannot prevent workers from organizing in labor unions. In practice, however, this is not always the case. One current issue is the proliferation of pro-government

18 The Norwegian Confederation of Trade Unions, "Hvem vi Er," *Landsorganisasjonen i Norge*, n.d.

19 Statistics Norway, "Labour Force Survey," *Statistics Norway*, 2021.

20 Eirik Hovland Steindal, "Mye Jobb – Små Marginer - En Undersøkelse Om Tekstilarbeideres Kjøpekraft" (Framtiden i Våre Hender, August 2010).

21 Future in Our Hands, Center for Alliance of Labor & Human Rights, and Action Labor Rights, "Overworked & Exposed: Short Term Contracts and Gender Issues in the Myanmar and Cambodian Garment Industries.," (Framtiden i Våre Hender, May 2019): 7.

22 Ibid, 15.

23 Ibid, 8.

unions. According to Lee, these unions have informal agreements with factory management in which they receive large sums of money per month for keeping quiet about the conditions in the textile factories. Furthermore, they not only support the current government, but their leaders have even been appointed to positions in the Ministry of Labor²⁴. This gives significant of power in Cambodia and further undermines workers' rights. Two of the largest pro-government unions in the garment sector are now led by the Secretary of State within the Ministry of Labor. Workers attempting to organize independent unions in Cambodia must fight both TNCs and pro-government unions.

Consequentially, the Legal Union faces opposition from not only TNCs, but also pro-government unions. This is one example of micro-corruption, which prevents laws from operating effectively in practice. Because corruption undermines the rule of law, the Cambodian Labor Law has failed as an effective legal mechanism.

Oftentimes when independent unions attempt to organize in Cambodian factories the union leader is dismissed, or the management threatens workers until they resign from the union. Lee refers to the case of Tripos International, a case he worked on himself, as an example of this. According to Cambodian law, there must be at least 10 workers to form a labor union²⁵. After the Legal Union assisted a group of 10 workers with filling and submitting their application to the local Labor Department, the factory management threatened the workers and forced them to sign letters of resignation from the union. These letters were then brought to the Labor Department and the case was dismissed on the grounds of there not being enough members to establish the union. The case has since been revisited and the union is currently operating. Nonetheless, this shows the lengths to which factory management and the government can go to stop workers from utilizing their legal rights.

In another, similar Legal Union case, union members were accused of drug abuse. As Lee explains, these claims had no substance whatsoever and all drug tests were negative. However, the workers were still detained by the police for over a day and had to obtain further negative tests at their own cost. In the end, they were never reinstated to their factory positions, and the local union was shut down.

These two cases show the ways through which corruption disturbs the legitimacy of Cambodia's legal framework. In theory, the Labor Law may seem to protect workers' rights, but in practice, the law itself is not applied at all. This is due to several external factors, including TNCs' trend of paying less while demanding more and corruption in Cambodia's political domain. The report "Bestseller - A Good Deal for All?" published in 2017 includes in-depth interviews with thirty-four workers at two of Bestseller's suppliers in Cambodia and India. According to the interviewees at the Cambodian supplier, all but one worker claimed there are one or more labor unions at their factory. However, as they all carry close ties to the factory management, they are not representative of the workers' interests. Few of the workers interviewed believed it was

24 Patrick Lee, telephone interview by Ida Høvik, July 30, 2021.

25 Ibid.

possible to establish a workers' union on their own.²⁶ The findings in this report further back up the cases brought by the Legal Union and show a greater trend. These obstacles are hindrances that any effective law must overcome, and the Cambodian Labor Law has failed to do so.

Because we are dealing with a \$7 billion industry, the income from these textile factories is extremely important for Cambodia. Low wages, forced overtime, and fear of organizing in labor unions are all connected to the same issue of oppression. The garment workers are treated as mere tools of production, not as living, breathing human beings. Because the textile industry is so important to Cambodia, the fight for human rights in the supply-chains is not only a fight against TNCs but also the government.

TNCS' Responses

“There is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits”.²⁷ My interviews with Lee provided evidence of the descriptive validity of Friedman’s claim. In Lee’s experience, parent companies hardly ever get involved in cases of workers’ rights abuses. In the few cases they do, it

is because the specific situation poses threats to their corporation’s image or profit margin. He recalls a case from 2017 in which a local factory shut down. He tells of how workers were not paid proper compensation by the TNC despite the Arbitration Council’s order to do so. After attempting to resolve the case for as long as eight months, the Legal Union filed complaints that threatened to bring the case to the media unless the company cooperated.

It was at this point that the company

was willing to respond, and the case was then resolved.

It seems transnational corporations blindly follow this Friedman Doctrine: the pursuit of profit outweighs any social responsibilities they owe their supply chain. The Arbitration Council, despite being a national institution with quasi-judicial authority derived from the Labor Law of Cambodia, cannot measure up against the dominance of TNCs even in cases of illegality. If TNCs are getting away with violating Cambodian Labor Laws, are there no legal mechanisms that can successfully hold these titans responsible?

TNCs’ motives for utilizing developing countries such as Cambodia for low-cost production is only to increase profit margins, even if such a pursuit strips as many as 800,000 Cambodian textile workers of their basic human rights. The very existence of the textile factories, or sweatshops, builds upon such global inequality.



"IN THEORY, THE LABOR LAW MAY SEEM TO PROTECT WORKERS' RIGHTS, BUT IN PRACTICE, THE LAW ITSELF IS NOT APPLIED AT ALL."

26 CENTRAL Team et al., “Bestseller,” 6.

27 Milton Friedman, “A Friedman Doctrine – the Social Responsibility of Business Is to Increase Its Profits,” *The New York Times*, September 13, 1970, sec. Archives.

The Friedman Doctrine

Arguments following the Friedman Doctrine from businessmen and scholars tend to focus on how these workers have no better alternatives. They argue that factory jobs provide stable opportunities for labor, however inhumane, that grant economic stability and opportunities workers would not have had otherwise. Among such scholars we find Professor Matt Zwolinski who, in the article “Sweatshops, Choice, and Exploitation,” presented several justifications for the power imbalance that enables exploitation of factory workers by TNCs.

Zwolinski argues that first of all, developing countries are poor, and sweatshops offer a very attractive alternative to other jobs available. These jobs must be better than the workers’ other options, considering they consented to the position.²⁸ This contention is, however, completely false. TNCs are not doing anyone a favor by utilizing sweatshops but are acting on their own greed for maximized profit. What their production is offering is not liberation from poor job-alternatives, as Zwolinski suggests, nor is it offering the opportunity to save money and eventually climb the social ladder.

Zwolinski argues that the coercion of poverty reduces a worker’s options, but so long as he is still free to choose from among the set of options available to him, we will do him no favors by reducing his options still further. “Indeed, to do so would be a further form of coercion, not a cure for the coercion of poverty”.²⁹ Thus, Zwolinski claims that while he is not in favor of forced labor, taking on a job in a sweatshop is voluntary because choosing among few options is still a choice. However, I believe Zwolinski’s argument on the matter of voluntary versus forced labor is flawed. The belief that TNCs are providing opportunities for a nation to develop its economy and give its citizens the chance to climb the social ladder, leaving behind the suffocating chains of poverty, is a complete falsehood.

As I mentioned in my philosophical analysis, coercion is not limited to physical force. Systemic coercion constrains the humane labor options for Cambodian textile workers. Because there are no better opportunities for survival, the workers are forced to accept inhumane working conditions and pitiful wages. Their situation is such that their choice is between terrible working conditions in sweatshops or a likely death. The fact that the workers consented to inhumane treatment carries little moral value when the choice was made under systemic coercion.

In the end, the only ones who gain from such a relationship are TNCs who utilize cheap labor for profit. When such a large part of a population is kept in unskilled labor and not paid enough to provide for themselves and their families, they are unable to improve their socio-economic situation. Even if the workers receive a minimum wage, it is not necessarily a living wage. Because TNCs utilize countries like Cambodia for cheap apparel production, workers are not paid enough to improve their socio-economic situation.

According to interviews with Cambodian textile workers in the

28 Matt Zwolinski, “Sweatshops, Choice, and Exploitation,” *Business Ethics Quarterly* 17, no. 4 (October 2007): 692.

29 Ibid, 701.

Future in Our Hands' report, "Overworked & Exposed," female workers experience sexual harassment, forced overtime, and restricted use of toilets. Their safety is in danger when they work late and must get home after dark. One female worker witnessed a male colleague pulling up a female worker's skirt, and a man, working as a Chinese translator, undoing another worker's bra. They also report receiving comments from male colleagues stating they "look like virgins" or "look like they have birthed many children".³⁰

This situation does not live up to the ethical standard put forward in my philosophical analysis. So far, I have used legal philosophy to assess what should be done to secure human rights in developing countries, and why these matters. Following this, I covered current practices in Cambodian factories and the TNCs' responses to such practices. TNCs' lack of intervention to improve conditions in their supply-chains is alarming. Cambodian textile workers are oppressed, not only by factory owners and corrupt legal bodies, but also by TNCs who exploit them to maximize their profits.

Impact of Corruption

Now I will look at one way that corruption is creating a gap between Cambodian Labor Law in theory and in practice. This analysis will show why the Labor Law is not effective in securing human rights in domestic factories. Corruption is one of the core reasons why binding regulations must be imposed on businesses. As displayed by the outcome of Wai Full Garments and Violet Apparel, it is clear that businesses cannot be trusted if left to voluntarily adhere to human rights norms.

In the semi-structured interview with Lee, I inquired about his observance of the relationship between written labor law and real-life practices in Cambodia. He admitted that there is a big gap between the current law and its practice. A letter from the head of the Department of Labor Disputes in the Ministry of Labor displays the gap between written law and current practice. In February 2020, the head of the Department of Labor Disputes in the Ministry of Labor sent a letter to an employer federation body in Cambodia. In this letter, he presented several interpretations of the laws surrounding compensation in lieu of prior notice. These interpretations were at odds with the Arbitration Council's interpretations. They also went against what is directly stated in the labor law.³¹ As a result, the Arbitration Council now dismisses any cases that involve compensation in lieu of prior notice, as they claim they do not have jurisdiction to rule on this issue, and the case must be taken to court.³² The Arbitration Council, who is trusted to be an impartial body, is now completely undermined. They do not know whether to follow the law or the letter from the head of the Department of Labor Disputes.

It is incredible how a single letter carries so much undeserved authority, to the point that it undermines the Arbitration Council.

³⁰ Future in Our Hands, Center for Alliance of Labor & Human Rights, and Action Labor Rights, "Overworked & Exposed," 5.

³¹ Patrick Lee, "EN Joint Position on Severance," August 10, 2021, 3.

³² Patrick Lee, telephone interview by Ida Høvik, July 30, 2021.

Effectively, this has robbed workers of huge sums of compensational money.³³ This case of corruption goes to show how Cambodian Labor Law cannot be trusted to serve as an effective legal mechanism to protect labor rights, as it tends to favor profit over human rights. This reality goes to show that labor laws are not sufficient in ensuring dignified working conditions and a living wage. Further anti-corruption and transparency measures are also necessary. In my next section, I will introduce the Norwegian Transparency Act and see whether it effectively holds TNCs responsible for securing human rights compliance in their supply-chain.

The Norwegian Transparency Act

The aim of the “Act on Business Transparency and Work with Fundamental Human Rights and Decent Work”, commonly referred to as the Norwegian Transparency Acts is to “promote businesses’ respect for basic human rights and dignified working conditions in regard to production of wares and services. The law shall secure transparency around supply chains and secure their businesses to carry out and account for due diligence assessments”.³⁴ One of the key features of this law that places it above other existing due diligence acts is its demand for enforceable transparency in supply chains. The Act grants the public the right to access information related to current human rights practices in businesses’ supply chains.

The Transparency Act was first promoted in the Council of State on April 9, 2021, and the law was passed on July 18, 2021, although it is important to note that the law will not take effect until 2022. The story of Norway’s Transparency Act began in 2016 as an idea from the NGO Future in Our Hands. According to the Future in Our Hands’ representative, Carin Leffler, the suggestion that eventually became the Transparency Act has roots in Norwegian civil society. The proposed law from Future in Our Hands was first considered in parliament in 2016.³⁵

The government unanimously decided in June 2016 that such a law must be investigated on the basis of the following facts:

1. “Businesses are not contributing enough to improve working conditions in their supply chains.
2. Norwegian consumers have inadequate information and rights with respect to the circumstances under which the wares and services they purchase have been produced.
3. That there have been increased requests for information that enables consumers to make the choice not to contribute to undignified working conditions in the supply chains.

That organizations as well as consumers wished a right-based admission to know more in detail whether or not wares are produced in an ethical and responsible way, which will consequently cause a greater push for increased responsibility among businesses.”³⁶

33 Ibid.

34 Ministry of Children and Families, “Act Relating to Enterprises’ Transparency and Work on Fundamental Human Rights and Decent Working Conditions (Transparency Act)” (2021): Sc. 1.

35 Carin Leffler, “Fra Idé Til Åpenhetslov,” *Framtiden.no*, June 10, 2021.

36 Ibid.

Essential Elements

I will now go in detail into the essential elements that contribute to the uniqueness of the Transparency Act and how it differs from existing due diligence laws. The Transparency Act deals with consumers' right to access information about the circumstances under which their products were produced.³⁷ This grants the people the choice to make ethical decisions, but, even more importantly, it puts legal responsibility on the TNCs to comply with these information requests. If the company should fail to meet a valid request, the company faces the risk of penalty for non-compliance.³⁸ By granting the consumer the right to evaluate the supply-chain, the Norwegian Transparency Act already stands out from the sea of less effective due diligence laws.

One example of such a law is the UK's Modern Slavery Act introduced in 2015. Originally, its focus was strictly domestic, not addressing the utilization of slave labor in businesses' supply chains abroad. The Home Office further stated that the government did not intend to include any measures for this, as such responsibilities would prove burdensome to businesses.³⁹ However, after much campaigning, Section 54 was later added to require large corporations to publicly state their efforts, or lack thereof, to work towards improved working conditions in foreign factories.

Section 54 states that commercial organizations who fall under the Act's criteria must prepare an annual statement and make it available on their websites showing their progress toward improving human rights



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in their supply chains. Alternatively, businesses under this law may publish a statement admitting they have done nothing to improve the situation of workers in the supply-chain who may be victims of slave labor.⁴⁰ One important thing to note regarding this law, however, is that non-compliance with section 54 carries no legal sanctions whatsoever.

In contrast to the UK Modern Slavery Act, non-compliance with the Norwegian Transparency Act carries legal consequences. The Act covers not only Norwegian companies but also foreign companies selling

37 "Transparency Act," 6.

38 *Ibid.*, 4.

39 Rowena Mason, "Companies Not Asked to Report Slavery in Supply Chains under New Laws," *The Guardian*, June 10, 2014.

40 "Modern Slavery Act 2015," *Legislation.gov.uk*, 2015, 54.

their products or services in Norway if they meet at least two out of these three criteria, as stated in paragraph 3 of the act:

1. Sales revenues of NOK 70 million
2. Balance sheet total of NOK 35 million
3. Average number of employees in the financial year: 50 full-time equivalents⁴¹

Furthermore, if we turn to paragraph 11, which elaborates on the enforcement of the law, it lists legal consequences for non-compliance. The Norwegian Consumer Agency who is granted responsibility for ensuring compliance, and economic enforcement penalties await companies who do not abide by the law.⁴²

As mentioned above, Paragraph 6 of the Transparency Act elaborates on the “Right to Information and the Duty to Disclose.” This grants any person the right to information from any medium- or large-sized company, under the definition of the Act, about the circumstances under which their products or services are produced.⁴³ The Act addresses the government’s concern for business compliance with human rights in the supply chain and the consumers’ right to make enlightened choices about the products they purchase.

The fact that the Act adapts elements from international law adds to its uniqueness. For example, the UN’s Guiding Principles on Business and Human Rights (UNGP) are featured in Section 4: “The enterprises shall carry out due diligence in accordance with the OECD Guidelines for Multinational Enterprises”.⁴⁴ Although states are obliged under international law to protect citizens from human rights abuses, international law is often difficult to ratify and enforce.⁴⁵ Thus, the incorporation of elements from international law suggests a new approach to bridging the gap between international and domestic law.

International laws such as the UNGP have received criticism for not enforcing legal obligations on businesses. The UNGP, though beautifully crafted, lacks the coercive legal mechanisms necessary to obtain businesses’ compliance. In other words, it is *soft law*, meaning it is not legally binding, in contrast to domestic *hard law*.⁴⁶ The Norwegian Transparency Act, as domestic hard law, adapts elements from international law into the legally binding and enforceable Norwegian Transparency Act. This shows the influence of international law as it is incorporated into domestic law.

Application

Lastly, to test the effectiveness of the Norwegian Transparency Act, I return to the cases of Violet Apparel and Wai Full Garments. I apply The Norwegian Transparency Act to these cases to test its possibilities and limitations. As the Act has not come into force yet, I will analyze these

41 “Transparency Act,” 3.

42 *Ibid.*, 11.

43 *Ibid.*, 11.

44 *Ibid.*, 4.

45 Claire Palmer, “What Can Post-Democracy tell Us about TNCs and Extraterritorial Violations of Human Rights?,” *The Political Quarterly* 87, no. 1 (November 4, 2015): 78.

46 *Ibid.*, 78.

cases to assess how the law could make legal remedies accessible to factory workers whose human rights were violated while manufacturing for TNCs (whose presence in Norway is significant enough to fall under the Transparency Act). By applying the Norwegian Transparency Act to the legal disputes of Violet and Wai Full, I can answer the question of which legal mechanisms most effectively hold TNCs responsible for complying with human rights in their supply-chains.

The greatest challenge to implementing Cambodian Labor Law, based on case studies and interview, is corruption. Corruption makes it difficult to prosecute the injustices (low wage, overtime, and fear of organizing in labor unions) discussed under Current Practices. Because of the corrupt system, making TNCs accept responsibility for conditions in the factories they utilize is difficult, and without consequences for their violating HR, they have no incentive to remedy their inhumane practices. However, this is exactly why more Western due diligence laws like the Norwegian Transparency Act are necessary. Because foreign TNCs selling products in Norway must also obey this law, textile workers will likely find the Western due diligence law more effective in addressing human rights violations than current Cambodian Labor Law.

Furthermore, organizations such as CENTRAL may greatly benefit from Western due diligence laws in their work to ensure that TNCs accept responsibility for their inhumane treatment of their factory workers. Because the Norwegian government is not dependent on TNCs the same way Cambodia is, the legitimacy of legal proceedings in Norway is unlikely to be hindered by the same issues of corruption. As previously discussed, Cambodian workers experience much adversity in the

establishment of independent labor unions, and pro-government unions receive payments from factory management to keep quiet about factory conditions. This creates difficulties for workers to get their basic rights met. However, because the TNCs that have a presence in Norway fall under the Norwegian Transparency Act, the Act has the potential to force TNCs' compliance.

Based on the case studies and interviews, even in cases where

workers have been properly compensated, the responsibility to do so has fallen on the factory management, not the TNCs. In contrast to Cambodian Labor Law, the Norwegian Transparency Act is directly targeting the businesses themselves. By introducing legal sanctions for non-compliance with human rights in the supply-chain, Norway is moving towards the philosophical ideals outline earlier in which nation-states have the responsibility to rectify the system that allows for human rights abuses and systematic coercion.

Lastly, I would like to consider some of the shortcomings of the Transparency Act. First, companies are not obliged to include the name



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of the factory where a specific item was manufactured. This could create difficulties in verifying that the information provided is truthful. However, since the Act doesn't take effect until 2022, it is still difficult to know yet whether this will prove a major obstacle. Perhaps the most significant shortcoming of the Transparency Act is that it does not offer remedies to victims of TNC mistreatment. The law only imposes penalties to the businesses. The Act could be greatly improved by allowing the victims, such as the workers of Violet Apparel, to seek remedies by bringing the case to court.

Conclusion

This paper aimed to determine through which legal mechanism TNCs' can be successfully forced to comply with human rights in the supply-chain. I began by establishing the cosmopolitan ideal of justified interference between nation-states to prevent TNCs from participating in the systematic coercion of Cambodian laborers. Then, I presented two real-life cases, followed by an appraisal of current obstacles experienced by factory workers in Cambodia. The main obstacles are the absence of a living wage, excessive enforcement of mandatory overtime, and fear of organizing in labor unions. Based on my findings, I argued that corruption strips the legitimacy of Cambodian Labor Law and, as a result, these violations go mostly unpunished. Following this, I addressed the counterargument which attempts to justify sweatshop-labor in developing economies based on the workers' consent to the job and its entailed conditions. Through utilizing philosophical comparative analysis, I found this criticism faulty because workers accept sweatshop-labor as a result of systematic coercion. Lastly, I presented and discussed the possibilities and limitations of the Norwegian Transparency Act. Although the law had not yet taken effect when this paper was produced, I believe it can introduce a novel approach that can force TNCs to comply with human rights in their supply chains. Unlike Cambodian Labor Law, the Norwegian Act targets TNCs, which is necessary to ensure that Cambodian garment-workers are treated fairly.

When identifying possible solutions to TNCs lack of compliance with human rights in their supply-chains, it is necessary to take into consideration aspects from both statist and cosmopolitan approaches to socio-economic justice. TNCs' strong presence in Cambodia makes statism in its pure form unapplicable in real-life. However, their emphasis on the political power of nation-states in enforcing regulations under which businesses must comply is crucial when identifying solutions to the issue at hand.

Of course, the Transparency Act itself is far from perfect. There are aspects in which it could be significantly improved, particularly regarding the absence of legal remedy for victims of TNCs' unethical behavior. The Transparency Act, however, is not to be underestimated. It takes a novel approach by incorporating aspects of international soft law and making them legally binding for TNCs. It is a step in the right direction to make TNCs operate in accordance with human rights in their foreign supply chains.

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