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## On Politics

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# **Modern Day Piracy**

## *Examining the Case of Somalia*

Ellora Howie

### **Introduction**

When speaking about pirates people often envision scenic Caribbean vistas of a bygone era, but today piracy has experienced a renaissance and is one of the biggest threats to global trade and security. In the last ten years incidents of piracy have more than quadrupled going from 90 reported cases in 1994 to 455 cases in 2003.<sup>1</sup> Modern day pirates have become a serious threat to international waters and their exploits have become more and more daring, targeting bigger and more high profile ships. In the areas of Southeast Asia and especially the Horn of Africa, trade has become so perilous that it has forced the hand of the world's most powerful nations as well as the United Nations Security Council (UNSC). Powerful international regulations have frequently been made to combat the growing threat of these pirates but often states lack the capacity to deal with these so-called 'criminals'. The legislation put forward is also faced with the harrowing task of how to get to the deeper causes of piracy within states. Many of the most recent proposals are mere band-aids while policy makers keep skirting the more dubious issues of failed states, severe poverty, and past infringements on sovereignty. Without addressing these key issues there is no hope in solving the crisis of high seas piracy. The question remains then what are the best kind of policies to deal with piracy, and are they being used effectively in the real world?

This paper aims to prove that without a better understanding of situation in Somalia, it will be impossible to combat piracy in the area, and we must further investigate best practices if any real progress is to be made. This will be done by giving a short history of the international laws and regulations

regarding modern day piracy. The paper will then point out how these historical understandings have made defining piracy very problematic and difficult in today's circumstances. It will then examine the case study of Somalia where piracy has had its greatest resurgence. Lastly, the paper will conclude with a discussion of the responses of the UN and the world at large and the direction that they are taking thusly.

## History of Applicable Law

Piracy has long been considered a *hostis humani generis*, or "the enemy of the human race".<sup>2</sup> Legislation regarding it goes all the way back to ancient times, with the first recorded instances being found in *Justinian's Digest* in 529 AD and in *King John's Ordinance* of 1201.<sup>3</sup> In the modern context, the first major piece of legislation regarding piracy came in the form of the 1958 Geneva Convention on the High Seas. It set out 8 key provisions for suppressing piracy. It was later followed by the 1982 UN Convention on the Law of the Sea. However, this convention did not really build on the Geneva Convention on the High Seas, but rather reaffirmed the intentions of the earlier treaty.

One of the most important contributions of this treaty was its definition of piracy, which remains largely unchanged today. The UN Convention on the Law of the Sea sets out the definition as such:

Piracy consists of any of the following acts: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed to: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any

State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).<sup>4</sup>

This definition presents many problems. The first problem, that of defining piracy as committed for ‘private ends’, is immediately apparent. Although piracy is usually used a form of livelihood for those who cannot find employment in the tumultuous and poverty stricken country from which they come, piracy often takes on a political character. In Somalia, pirates justify their action in the Gulf of Aden and around the Horn of Africa as a form of protest against over-fishing and waste dumping in their territorial waters.<sup>5</sup> This would then suggest that Somali pirates are actually sea terrorists. Another definitional problem is the ‘two boat paradigm’ that the Convention sets out. This fails to address the problem of internal seizures and that hijacking is not always one boat attacking another boat. Cases where the crew or passengers take over a vessel for either private or public gains can hardly then be considered an act of piracy. Lastly there is the issue that this definition sets out piracy as only existing on the high seas, disregarding all actions within the territorial waters off a state’s coast and dismissing them as sea robbery. This definition needlessly compartmentalizes piracy when it would be more effective to deal with it as a whole.

## **Piracy in Somalia and The Gulf of Aden**

The deficiencies of this definition come into plain view in the case of Somalia. Approximately 20,000 ships pass through the Gulf of Aden adjacent to the Indian Ocean each year, transporting cargo that includes 12 percent of the world’s daily oil supply.<sup>6</sup> With its failed state status and the high levels of traffic passing by its shores, Somalia has become a hotbed for pirate activity. Its

coastal waters have become more and more dangerous with cruise-liners being shot at, aid deliveries being jeopardized, and the crews of fishing, recreational, and aid vessels being taken hostage for ransom.<sup>7</sup> However, most troubling of all is that, between 2005 and 2007, the number of attacks and attempted attacks on private shipping vessels in the area has exceeded that of both the Malacca Straits and South China Sea combined. These areas were previously considered to be the epicentres of piracy in the world.<sup>8</sup> The chaos found at sea radiates out from the Somali mainland. Somalia has lacked a functioning government since 1991 which was preceded by years of instability. The internationally recognized Transitional Federal Government (TFG) has little power over the country.

As previously mentioned, much of the motivation for piracy derives from over fishing and pollution in Somali waters. With Transitional Federal Government having little or no sovereign authority to enforce territorial sea rights, over-fishing has become abundant. More than 700 foreign vessels, some of them armed, have taken advantage of this and have conducted unlicensed fishing or have been fishing under the 'license' of local warlords.<sup>9</sup> Another problem that has plagued the Somali people is the constant dumping of hazardous materials into their waters by foreign parties.<sup>10</sup> According to a spokesman from the UN Environmental Program who conducted an investigation in 2005, "there's uranium radioactive waste, there's lead, there's heavy metals like cadmium and mercury, there's industrial waste, and there's hospital wastes, chemical wastes, you name it".<sup>11</sup> According to the report from this investigation, the reason for this is cost. It is estimated that it costs \$2.50 per ton to dump toxic waste in Africa compared to \$250 per ton to dump waste in Europe.<sup>12</sup> This has only added to the local fishing communities' hardships. One of the powerful motivations to engage in piracy however, is money. Some ships and crew fetch as much as \$3 million in ransom.<sup>13</sup> The annual haul for Somali pirates was approximately \$30 million in 2008, although some estimates place

that figure at more than \$100 million. To put this into context, the money collected in ransom revenue exceeded the entire budget of the Puntland government for that year.<sup>14</sup>

Pirates in Somalia mainly tend to be out of work fisherman or former militia members of the Somali warlords.<sup>15</sup> They primarily come from the Puntland region of Somalia and are part of the various clans and organisations stationed there.<sup>16</sup> There appears to be no real unification or clear command structure, although they seem to be operating as an ad hoc branch of organized crime. Some press reports have suggested that the pirates are being controlled and directed by the Islamic insurgents in south-central Somalia.<sup>17</sup> There is no evidence, however, to support this assertion. However, the money collected from the ransoms is clearly going into the hands of an elite few, as evidenced by the construction boom taking place in the port cities of Somalia.<sup>18</sup> There are no reported numbers of how many pirates reside within Somalia, only that the number is on the rise from previous years.<sup>19</sup>

Pirates have been able to be so successful mainly because of their ability to effectively adopt technology into their operations. One of the most significant advances is their use of 'mother ships'.<sup>20</sup> Mother ships transport small pirate skiffs further from the coastline than they would be able to go by themselves. This allows them to go after bigger targets in international waters. Not only are these ships easily mistaken as small fishing boats, they are far more manoeuvrable than the ships they attack. Pirates have also adopted technology in other areas. Not only do they have small automatic and semi-automatic weapons, but they also commonly possess man-portable air defence systems and rocket propelled grenades. They also have better ships and weapons than would be expected, and commonly use GPS systems to help them spot ships from greater distances.<sup>21</sup>

With all of these factors converging, the Gulf of Aden has witnessed some of the most high-profile incidents of piracy of modern times. One of the most publicized attacks was the seizure of a Ukrainian freighter, the *Faina*, that was transporting 33 T-72 Russian tanks and depleted uranium ammunition to Kenya for consignment to the Sudanese People's Liberation Army on September 25, 2008. The *Faina* was later released in mid-February 2009. The pirates reportedly earned more than \$120 million in ransom money for the ship, cargo, and personnel.<sup>22</sup> Another alarming hijacking incident happened only two months later involved the 1000 foot supertanker, the *Sirius Star*, from Saudi Arabia. It was headed to the United States and carried more than \$100 million in oil.<sup>23</sup>

Incidents like these demonstrate the possible implications of pirate attacks. If the *Sirius Star* had been sunk or damaged (as is often threatened if shipping company owners refuse to meet the pirates' demands), it could cause an oil spill of such magnitude that it would have huge environmental ramifications. Additionally, in a time of such economic hardships, shipping costs have increased exponentially. In the Indian and Pacific Oceans, maritime piracy have cost shipping companies somewhere in the neighbourhood of \$13–\$15 billion annually in losses. In recent months, insurance rates have soared. Premiums for a single transit through the Gulf of Aden, for example, have risen from \$500 to as much as \$20,000.<sup>24</sup> This has caused shipping companies to greatly decrease or stop all business in the area. Many companies have decided to forego the use of Suez Canal all together and choose alternate routes that are longer and more costly in order to avoid the Gulf of Aden.<sup>25</sup>

## International Response

The threat of piracy to international security has drawn much attention from global organizations and world leaders alike. This has prompted the UN Security Council to take action. In 2007 the International Maritime Office prompted the Somali TFG

to advise the Security Council that, “it consents to [foreign] warships or military aircraft . . . entering its territorial sea when engaging in operations against pirates or suspected pirates endangering the safety of life at sea.”<sup>26</sup> Resolution 1816 was issued by the Security Council in June of 2008, and embodied these principles. It called for

increased coordination among those States with naval assets off Somalia; better information-sharing and cooperation over Somali piracy among and between States, international bodies and regional organizations; and encouraging States and organizations ‘to provide technical assistance to Somalia and nearby coastal States.’<sup>27</sup>

What was significant about this particular resolution was that states had to be approved by the Somali TFG and identified to the Secretary General as ‘cooperating’ before they were allowed to follow pirates into Somali water and use “all necessary means to repress acts of piracy”.<sup>28</sup> The resolution was then given a six month term after which point it would be terminated. This was a major landmark in the fight against piracy as Resolution 1816 and subsequent resolutions marked that piracy was finally being taken seriously by the international community.<sup>29</sup>

National and regional naval forces took full advantage of the rights that this new resolution provided them. To counter the threat of piracy, many nations have deployed warships to the Gulf of Aden in order to conduct patrols and escort ships. NATO and the European Union have both sent ships to participate in Combined Task Force 51.<sup>30</sup> Naval forces from the United Kingdom, Canada, Turkey, Germany, Denmark, the Netherlands, France, Pakistan, India, Iran, Russia, and other countries have also been deployed to the area.<sup>31</sup> Even China, for the first time, has contributed warships to the effort.<sup>32</sup> However, this shared military

initiative has been met with limited success and the number of hijacked ships has actually increased.<sup>33</sup>

Another solution suggested is to adopt the best practices of Southeast Asia which has had a long history in dealing with piracy. The Malacca Straits were once classified by Lloyd's of London (an insurance company) as a 'war risk' to shipping in 2005–2006.<sup>34</sup> One of the reasons this area was so successful in reducing the occurrences of piracy was the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).<sup>35</sup>

ReCAAP was signed by sixteen Asian states including Bangladesh, Brunei, Cambodia, China, India, Indonesia, Japan, Laos, Malaysia, Myanmar, the Philippines, Sri Lanka, Singapore, South Korea, Thailand and Vietnam on November 11, 2004.<sup>36</sup> The goals of the agreement were to prevent and repress piracy, arrest pirates, seize ships or aircrafts used in committing piracy, and to rescue the victim ships and crews. The member states planned achieve these goals by sharing information, cooperating in legal and judicial endeavours for the prevention and suppression of piracy (including extradition and mutual legal assistance), and cooperation in capacity building. This included technical assistance such as educational and training programmes.<sup>37</sup> This agreement obligates each state to cooperate fully in order to combat piracy. This agreement also created a central Information Sharing Centre (ISC), located in Singapore, in order to make information more readily available to states.<sup>38</sup> The ISC is composed of the Governing Council, which is the decision-making body made up of one representative from each state, and the Secretariat which is headed by the Executive Director, who is responsible for administrative, operational and financial matters.<sup>39</sup>

Another route that Southeast Asia has taken to combat piracy was to establish a tripartite surveillance regime. Indonesia, Malaysia, and Singapore banded together in order to provide

maritime air surveillance in the Malacca and Singapore Straits. Their efforts have shown a significant reduction of cases of piracy in the region.<sup>40</sup>

In the spirit of ReCAAP, African countries have started the process of setting up their own information sharing system. The beginnings of this can be seen at the Tanzanian Conference where states created a draft nonbinding regional memorandum of understanding.<sup>41</sup> They chose to make it nonbinding over the concern that, if they did make it binding, it would take substantially longer to be passed through national parliaments.<sup>42</sup> The draft does not establish a single information centre like ReCAAP, but instead Kenya, Tanzania, and Yemen offered to be communications and reporting centers and prescribed that other states should chose a single national focal point for the exchange of information.<sup>43</sup>

Another important divergence from the ReCAAP model is their recognition of the discussion on the concept of ‘ship riders’.<sup>44</sup> Ship riders are law enforcement officers that are (usually) from nearby coastal state and accompany foreign vessels on their route. These ship riders are then able to enforce their own state’s law against pirates. This is done so that foreign traders will not have to deal with judicial duties and trying pirates in their own domestic courts. Ship riders also may have to ability to authorize the pursuit of a pirate vessel into their territorial waters.

The draft of the Tanzania Conference does not recognize this fully however. It instead “provides a mechanism by which a State participant may request ad hoc permission from a coastal State to continue pursuit of a suspect pirate vessel into its territorial waters”.<sup>45</sup> Such a request is made much more accessible through the creation of single contact points laid out by the draft regional memorandum of understanding.<sup>46</sup> If it is adopted, it could offer an effective regional answer to the crisis of piracy. However, whether

or not the draft will be implemented and what it will look like if it is, remains to be seen.

## Conclusion

Piracy has deep roots within our history but there has been a problem of evolving our definitions as piracy itself has evolved. Somalia is a clear example of this as it presents a new conception of why piracy occurs, who exactly these pirates are, how they have adapted, and the possible challenges they present for the future. There have been a variety of attempts to deal with the problem but it is clear that piracy will not simply disappear by throwing more warships at it.

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## Notes

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<sup>9</sup> Guilfoyle, "Piracy off Somalia," 692.

<sup>10</sup> Dagne, "Somalia: Prospects ,"106.

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<sup>12</sup> Dagne, "Somalia: Prospects for a Lasting Peace," 106.

<sup>13</sup> James Kraska, "Coalition Strategy and the Pirates of the Gulf of Aden and the Red Sea," *Comparative Strategy* 28 (July 2009), 199. <  
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<sup>14</sup> Ibid.

<sup>15</sup> Dagne, "Somalia: Prospects ,"105.

<sup>16</sup> Ibid.

<sup>17</sup> Dagne, "Somalia: Prospects ," 105.

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<sup>22</sup> Dagne, "Somalia: Prospects for a Lasting Peace," 104.

<sup>23</sup> Kraska and Wilson, "Fighting Pirates," 41.

<sup>24</sup> Kraska and Wilson, "Fighting Pirates," 43.

<sup>25</sup> Ibid.

<sup>26</sup> Kraska, "Coalition Strategy and the Pirates of the Gulf of Aden and the Red Sea".

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<sup>28</sup> Keyuan, "New Developments in the International Law of Piracy," 337.

<sup>29</sup> Sauvageot, "Piracy off Somalia and Its Challenges to Maritime Security," 257.

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<sup>33</sup> Dagne, "Somalia: Prospects for a Lasting Peace," 106.

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<sup>36</sup> Keyuan, "New Developments in the International Law of Piracy," 333.

<sup>37</sup> Keyuan, "New Developments in the International Law of Piracy," 333-335.

<sup>38</sup> Ibid, 334.

<sup>39</sup> Ibid, 335.

<sup>40</sup> Keyuan, "New Developments in the International Law of Piracy," 338.

<sup>41</sup> Guilfoyle, "Piracy off Somalia,"698

<sup>42</sup> Ibid.

<sup>43</sup> Guilfoyle, "Piracy off Somalia,"698.

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# Citizen Engagement at the Local Level

Carly Lewis

## Introduction

The nature of Canadian democracy is constantly changing as the roles of citizens and government are redefined and their relationships to each other are reconceived. Recent trends in governance have engendered among citizens a lack of trust in political institutions and a lack of engagement in political affairs; these sentiments have resulted in what has been named a 'democratic deficit' by many scholars. This paper begins by examining various interpretations of the democratic deficit in order to determine a comprehensive understanding of the problem as it applies to the Canadian context. Not only do these perspectives point to an institutional deficit at the local level, but they also produce a set of criteria for evaluating successful citizen engagement processes. These criteria are then applied to evaluate specific institutional reforms that have been implemented at the local level in an attempt to reduce the democratic deficit. The shortcomings of these reforms reveal an additional principle necessary for genuine citizen engagement at the local level: a corresponding devolution of political power and authority. To support this conclusion, current political, structural, and financial limitations on municipal powers are detailed. Therefore, this paper argues that Canada's 'democratic deficit' can be significantly decreased by enhancing the ability of local institutions to facilitate and encourage genuine citizen engagement in the political arena.

## The Democratic Deficit

The notion of a 'democratic deficit' has often been articulated to diagnose citizens' lack of political interest and engagement. Susan D. Phillips and Katherine A. Graham define the democratic deficit as an existing disparity between, on one side,

the expectations of citizens in terms of the amount and forms of their political influence and participation, and on the other, the actual practices of government institutions.<sup>1</sup> In this sense, they argue that the public expects to be more legitimately involved in politics than present circumstances allow.

Phillips and Graham link this deficit to the results of policies that have promoted individual rights and responsibilities at the expense of the collective needs of citizens.<sup>2</sup> This is encouraged, they argue, by the “customer-service revolution” that has driven government reforms in recent years.<sup>3</sup> For example, they claim that the individualization of citizens as consumers of government services and the corresponding “professionalization of public participation” have in fact resulted in a greater distance between government and citizens and insincere public participation processes.<sup>4</sup> As a result, they claim, individual citizens are isolated from and have less trust in government, thus contributing to the democratic deficit.

Henry Milner claims that the democratic deficit is most visible in the decline of youth engagement in politics and the declining electoral turnout. While these areas are not the main focus of this paper, many of Milner’s arguments are relevant to understanding the roots of the democratic deficit and its potential solutions. For example, he argues that the lack of knowledge and the decline in the sense of duty both to understand and engage in politics are due to the failure to encourage civic participation as a habit.<sup>5</sup> He advocates education and youth programs as potential solutions; in this sense, his suggestions for potential reforms are targeted at the local institutional level and emphasize the need for citizen engagement in politics.

Michael Zurn offers a further clarification of the deficit. He says that a democratic deficit occurs when there is incongruence at either, or both, of two critical junctures: “first, between citizens and their representatives (the congruence of input and decision-

making systems), and second, between the space in which regulations are valid and the space in which social interactions are dense (output congruence)".<sup>6</sup> Zurn's first juncture is directly related to Phillips and Graham's definition of a democratic deficit: for instance, both imply that government policies must take citizen input into account. Therefore, this paper will argue that *genuine* public engagement, in which the results of engagement processes are taken seriously both by citizens and government, is a necessary element for reducing the democratic deficit.

The focus on local government as an arena for this public engagement is justified by the second half of Zurn's definition of a democratic deficit. In simpler terms, Zurn is claiming that a deficit occurs when the jurisdiction where rules apply does not coincide with the area actually affected by those rules in practice. Therefore, an unjustified devolution of practical responsibilities could be an example of 'output incongruence' in a federal system if it is not accompanied by parallel political authority. This is because while the rules are expected to be *implemented* at the lower level, they remain under the ultimate control of the higher level. This relates back to Phillips and Graham's claim that recent government reforms have downloaded financial responsibilities onto municipalities without granting them corresponding political power.<sup>7</sup> The Canadian Health and Social Transfer, introduced by the federal Liberal government in 1996, provides an example of this devolution: the federal government replaced its previous transfers for social assistance and services with a single, substantially smaller, block grant. This effectively reduced the federal government's administrative role in social housing, leaving provinces and in turn, local organizations and municipalities, to bear these burdens without corresponding financial support. As a result of moves such as this, these institutions are left without the necessary foundations to meet citizens' expectations: hence, a democratic deficit results.

This idea of a gap between expectations on local

governments and actual abilities of these institutions remains a consistent thread throughout local reform literature.<sup>8</sup> A democratic deficit is occurring at the local level, and institutional reform can address it.

## **Genuine Citizen Engagement**

Leslie A. Pal supports the idea that the democratic deficit necessitates the emergence of citizen engagement processes. He claims that “the continued lack of trust that citizens have toward government” and their frustration with perfunctory consultation processes of the past have encouraged a shift from processes of ‘consultation’ to processes of ‘engagement’.<sup>9</sup> The distinction between these processes is important for this paper. Pal outlines *citizen consultation* as an outdated concept solely focused on specific policy design and practical implementation processes, while he defines *citizen engagement* as a more broad discussion and exchange of values.<sup>10</sup> Similarly, Phillips emphasizes the evolution from simple stakeholder consultation to a focus on long-term collaborative relationships between citizens and government.<sup>11</sup>

This shift to citizen engagement represents new forms of interaction between government and citizens. The tools of engagement that Pal outlines, such as deliberative polling, citizens’ juries and dialogue, and volunteer sector partnerships, all encourage broad discussion and engaged participation from both citizens and government.<sup>12</sup> Similarly, Milner advocates the open communication of opinions through strategies such as letter-writing and debate as effective ways to educate and engage citizens.<sup>13</sup> Therefore, an effective engagement process emphasizes extensive discussions and demonstrates new relationships between governments and citizens.

In order to meet these qualities, Phillips and Graham suggest that civic engagement processes should fulfill six criteria:

they should balance the concepts of both collective and individual citizenship, be transparent, flexible, educative, sensitive to social differences, and politically connected.<sup>14</sup> To expand, the first principle implies that governments should consult and consider the needs of both individuals and social groups. Transparency and flexibility require the processes of interaction to be clearly defined and adaptable to unique local circumstances. Furthermore, comprehensive deliberation should be used to encourage educated choices. Being sensitive to social differences requires recognizing and avoiding the potential for privileging certain social groups over others. Lastly, engagement processes must be genuinely supported by both citizens and government as legitimate and politically binding.

In addition to Phillips and Graham's six criteria, Pal's definition of genuine citizen engagement as a broad discussion invoking exchanges of values and interests will also be added to the list. These criteria will be used to evaluate recent attempts by Canadian governments to engage citizens in the local political process.

## **Practical Examples and Results**

One federal and one provincial initiative were chosen for this thorough analysis. The provincial initiative took place in B.C., within the jurisdiction of land use and planning. This jurisdiction was chosen because many scholars identify it as the first and most prominent area where local government initiatives for citizen engagement have been used in Canada.<sup>15</sup> The federal initiative was chosen for its wide geographical application and the continued relevance of its targeted issue (homelessness in Canada). Both processes used extensive dialogue-based techniques that emphasized relationship-building as tools of engagement.

In 1992, in response to a demand for more public involvement in land and resource decision-making and policy, the

British Columbia Commission on Resources and Environment (CORE) and the Land and Resource Management Plans (LRMPs) established four regional planning processes in areas experiencing land use conflicts. Extensive public meetings, letter-writing campaigns, and roundtable discussions encouraged citizen participation in developing broad policy recommendations for land and resource use in the regions. These processes reflect Pal's shift from simple consultation to citizen engagement; they were a deliberate attempt to use the detailed local knowledge of citizens to come to a consensus on the needs of the various affected groups, and public participation was considered crucial to this initiative.<sup>16</sup>

In some ways, the CORE process met Phillips and Graham's criteria for successful processes of citizen engagement. By appealing to individual citizens for input on a collective issue, the process effectively balanced the concepts of both collective and individual citizenship. In addition, flexibility was achieved because the CORE processes were adapted to suit each of the four regions, resulting in separate and distinct resolutions and land plans for each local area.

However, geography professor Greg Halseth and environmental planner Annie Booth's comprehensive analysis of the CORE initiative reveals that the process failed to fulfill the criterion of being sensitive to social differences. The CORE negotiations involved 'sector representatives' (members of specific local groups with opposing interests) in an effort to ensure inclusiveness; however, these representatives ended up privileging the special interests of these groups at the expense of the general local public.<sup>17</sup> Furthermore, the overall process was neither educative nor transparent. Overly technical information clouded with jargon limited the ability of citizens to educate themselves.<sup>18</sup> Halseth and Booth also claim that people were often confused "about their roles in the process, the overall task or mandate of the process and the decision-making power allocated to the process".<sup>19</sup>

This reveals a further problem that emerges from the failures of the CORE campaign: the inconsistent devolution of powers. Specifically, Halseth and Booth argue that “[t]here are problems inherent in devolving participation in decision-making without devolving decision-making authority”.<sup>20</sup> The purpose of the CORE initiative was to produce a policy *recommendation* for land and resource use in the region, which would then be communicated to the provincial government. There was no guarantee that the results of the engagement process would translate into policy; in other words, the devolution of powers to regional committees was not accompanied by the appropriate decision-making power to enforce the results of the participation process. The lack of CORE’s authority was further highlighted when, in 1996, the B.C. government single-handedly terminated the process despite considerable public objections.<sup>21</sup>

Another example of citizen engagement on the local sphere is outlined by Christopher Leo. He uses the term ‘deep federalism’ to describe government actions that have gone beyond traditional federal-provincial relations to engage the local-municipal political arena.<sup>22</sup> An example of deep federalism is the 1999 Supporting Communities Partnership Initiative (SCPI), a component of the National Homelessness Initiative that aimed to identify and encourage local solutions to homelessness. This federal initiative mandated the formation of a community plan as a binding precedent to the implementation of corresponding homelessness projects.<sup>23</sup> The mandated incorporation of local input fulfills Phillips and Graham’s criterion of being politically connected by ensuring that the results of citizen engagement directly translate to policy.

The SCPI further fulfills Phillips and Graham’s criteria of balancing the notions of individual and collective citizenship and being sensitive to social differences. Leo claims that “instead of proclaiming national policies and then trying to implement them in an undifferentiated way in communities across the country, [the

SCPI programs] contained provisions apparently designed to draw on community knowledge in determining what the particular conditions in each community were and how best to respond to them”.<sup>24</sup> Therefore, the process encouraged individuals and social groups to communicate their local knowledge and values. In doing so, the SCPI followed Pal’s idea of a shift from simple consultative processes to genuine engagement. Furthermore, the asymmetrical process also indicates its intentions of flexibility.

In order to assess the realities of these programs, Leo examines the implications of the SCPI program in Winnipeg, Vancouver, and St. John. His findings reveal that the SCPI also met the remaining criteria of being educative and transparent. Leo claims that in all three cities, local citizens were well educated on the relevant situation in their own and other communities; in turn, they successfully organized themselves to study policy options, formulate priorities, and implement corresponding programs.<sup>25</sup> Local implementation of policy results further ensured an accountable and transparent program.

Despite successfully meeting all of Phillips and Graham’s criteria, Leo still finds fault in the overall initiative. In the end, successful housing initiatives were not implemented or even promoted as viable solutions. He says “all parties were handicapped by the fact that, though the problem to be addressed was homelessness, the creation of housing was not one of the items the federal government was prepared to fund”.<sup>26</sup> Federal funds were provided for immediate and temporary sources of relief, such as shelters and transitional housing, but not for the affordable long-term housing initiatives requested by SCPI communities.<sup>27</sup> As a result, “\$23.5 million in federal funds were excluded from use for the community’s top priority”.<sup>28</sup> Therefore, despite intentions of flexibility and sensitivity to local differences, the program did not follow through in practice. As a result, Leo deems the SCPI an ultimate failure: “although the federal government took a stab at deep federalism by requiring a community planning process, it did

not follow through with the necessary degree of flexibility in funding conditions”.<sup>29</sup>

Leo ultimately determines that “the lesson to be learned here is straightforward: there is no point consulting the community if programme [sic] conditions preclude a constructive response to the consultation”.<sup>30</sup> This echoes sentiments voiced in the failure of the CORE process, in that the necessary resources for implementing responsive results must be devolved along with the responsibility for engagement processes. To support these conclusions of the importance of devolved political authority, the perspectives of Andrew Sancton and Warren Magnusson are detailed below.

## **The Limited Powers of Municipalities**

Both Sancton and Magnusson offer useful insights into how the limited powers of municipal government in Canada contribute to the democratic deficit. While neither specifically defines the democratic deficit, their respective arguments for the need for reform and citizen engagement imply an existing dissatisfaction with political institutions that echo the *sentiments* of a democratic deficit. For example, Magnusson believes that “Canadian democracy is thin and imperfect, in large part because we have failed to develop a set of municipal institutions that meet the need for local self-government”.<sup>31</sup> He claims existing municipalities “are so limited in their powers and so remote from their constituents” that they are unable to facilitate effective local governance.<sup>32</sup>

Similarly, Sancton implies that municipalities’ unconstitutional status and lack of legitimate political power has rendered them essentially ineffective as governing institutions.<sup>33</sup> In this way, he corroborates the idea mentioned by Halseth and Booth and Leo that the devolution of consultation powers is futile without a corresponding devolution of decision-making authority. Despite

local initiatives like the ones mentioned previously in this paper, Sancton maintains that “municipal government remains limited in its function and autonomy”.<sup>34</sup>

As a result, Magnusson claims, provincial and federal governments have often usurped the natural political role of the municipality.<sup>35</sup> For example, in 1998, the Ontario government controversially amalgamated six municipalities into one large Toronto municipality despite significant opposition from municipal councils and local public opinion. This is comparable to the B.C. government’s independent decision to cancel the CORE initiative in 1996, despite public outcry. Both Sancton and Magnusson lament the imposition of higher authority in local affairs. For example, Magnusson believes the city should be a venue for local self-government rather than imposed governance.<sup>36</sup> Similarly, Sancton believes that “municipal governments imposed from above are unlikely to take root in the communities they are supposed to serve”.<sup>37</sup>

A lack of political power is exacerbated by the structural dispersion of power at the local level. Magnusson says that “municipalities have become so fragmented their power no longer means anything in the political system”.<sup>38</sup> The division of power between independent local authorities such as school boards and police commissions means that no unified body exists to represent municipalities as a whole. As a result, Magnusson claims, the ability of municipal governments to speak for the electorate with democratic authority is undermined.<sup>39</sup> Sancton agrees: he claims that special-purpose bodies have overtaken responsibility for local initiatives so that “in most cities, the municipal government does not have direct responsibility for many important functions of government”.<sup>40</sup> These special-purpose authorities, as well as the provincial and federal government, are often reluctant to cede political influence and thus further preclude the devolution of powers to municipalities.

In addition to these structural and political obstacles to power, local institutions also face financial constraints. The main source of revenue for municipalities is derived from the property tax, but citizen opposition to higher taxes severely limits avenues for increasing this revenue. As a result, municipalities “are often unable to respond to perceived local needs because of these limited resources”.<sup>41</sup> Furthermore, rapid urban growth requires the development and maintenance of new infrastructures, an expense that often fall to municipalities. As a result, local governments are increasingly expected to provide more services with fewer funds. These financial concerns are exacerbated in recent times of fiscal retrenchment, in which federal and provincial cutbacks have further shifted “more responsibility and expenditure burden to municipal governments”.<sup>42</sup> As a result, municipalities remain financially, structurally, and politically restrained in their ability to encourage citizen engagement and promote local democracy.

## **Conclusions**

This paper began by outlining the problem of the democratic deficit in Canada. By analyzing and combining Phillips and Graham and Zurn’s descriptions of the deficit, a comprehensive understanding of the problem in the Canadian context was derived. Canadian democratic deficits exist not only at a social level (between citizens’ expectations of government and actual governing practices) but also on an institutional level (between the responsibilities of governments and their actual fiscal and authoritative abilities). Applied to the local sphere, this deficit implies the need for genuine citizen engagement through municipal institutional reform.

This institutional deficit was corroborated by an examination of both provincial and federal initiatives to engage local citizens in politics at the local level. The 1992 CORE initiative and the 1999 SCPI were examined in accordance with Phillips and Graham’s criteria for successful engagement. In

addition, Pal's definition of genuine citizen engagement as an opportunity for broad value-based discussions was added to these criteria. However, based on the failures of these initiatives and the insights offered by Sancton and Magnusson on the limitations of municipal powers, it seems there is at least one more requirement for ensuring successful citizen engagement at the local level: local institutional reforms to encourage citizen engagement must be accompanied by the appropriate legislative and financial power to implement the results.

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## Notes

- <sup>1</sup> Katherine A. Graham and Susan D. Phillips, "Citizen engagement: beyond the customer revolution," *Canadian Public Administration* Vol. 40, No. 2 (1997), 255.
- <sup>2</sup> Phillips and Graham, "Citizen engagement," 263.
- <sup>3</sup> Phillips and Graham, "Citizen engagement," 264.
- <sup>4</sup> Phillips and Graham, "Citizen engagement," 260.
- <sup>5</sup> Henry Milner, "The Problem of Political Drop-Outs: Canada in Comparative Perspective," in *Canadian Parties in Transition* 3<sup>rd</sup> ed., eds. Alain-G. Gagnon and A. Brian Tanguay (Peterborough, ON: Broadview Press, 2007), 438, 443.
- <sup>6</sup> Michael Zurn, "Democratic Governance beyond the Nation-State," in *Democracy Beyond The State? The European Dilemma and the Emerging Global Order*, eds. Michael Th. Greven and Louis W. Pauly (Oxford: Rowman & Littlefield Publishers, Inc., 2000), 93.
- <sup>7</sup> Phillips and Graham, "Citizen engagement," 259.
- <sup>8</sup> See Magnusson, Halseth & Booth, Sancton
- <sup>9</sup> Leslie A. Pal, *Beyond Policy Analysis: Public Issue Management in Turbulent Times*, 3<sup>rd</sup> ed. (Toronto: Nelson, Thomson Canada Limited, 2006), 265.
- <sup>10</sup> Pal, *Beyond Policy Analysis*, 265.
- <sup>11</sup> Susan D. Phillips, "From Charity to Clarity: Reinventing Federal Government-Voluntary Sector Relationships," *The Philanthropist* Vol 16, No.4 (2001), 258.
- <sup>12</sup> Pal, *Beyond Policy Analysis*, 267.
- <sup>13</sup> Milner, "The Problem of Political Drop-Outs," 456.
- <sup>14</sup> Phillips and Graham, "Citizen engagement," 267-269.
- <sup>15</sup> Phillips and Graham, "Citizen engagement," 260; Pal, *Beyond Policy Analysis*, 266; Andrew Sancton, "The Municipal Role in the Governance of

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- Canadian Cities,” in *Canadian Cities in Transition: The Twenty-First Century*, eds. Trudi Bunting and Pierre Filion (New York: Oxford University Press, 2000), 427.
- <sup>16</sup> Greg Halseth and Annie Booth, “‘What Works Well; What Needs Improvement’: lessons in public consultation from British Columbia’s resource planning processes,” *Local Environment* Vol. 8, No. 4 (2003), 441.
- <sup>17</sup> Halseth and Booth, “‘What Works Well: What Needs Improvement,’” 448.
- <sup>18</sup> Halseth and Booth, “‘What Works Well: What Needs Improvement,’” 453.
- <sup>19</sup> Halseth and Booth, “‘What Works Well: What Needs Improvement,’” 453.
- <sup>20</sup> Halseth and Booth, “‘What Works Well: What Needs Improvement,’” 453.
- <sup>21</sup> Halseth and Booth, “‘What Works Well: What Needs Improvement,’” 441.
- <sup>22</sup> Christopher Leo, “Deep Federalism: Respecting Community Difference in National Policy,” *Canadian Journal of Political Science*, Vol.39, No.3 (2006), 490.
- <sup>23</sup> Leo, “Deep Federalism,” 494.
- <sup>24</sup> Leo, “Deep Federalism,” 494.
- <sup>25</sup> Leo, “Deep Federalism,” 497.
- <sup>26</sup> Leo, “Deep Federalism,” 496.
- <sup>27</sup> Leo, “Deep Federalism,” 501.
- <sup>28</sup> Leo, “Deep Federalism,” 501.
- <sup>29</sup> Leo, “Deep Federalism,” 501-502.
- <sup>30</sup> Leo, “Deep Federalism,” 502.
- <sup>31</sup> Warren Magnusson, “Protecting the Right of Local Self-Government,” *Canadian Journal of Political Science*, Vol. 38, No. 4 (2005), 921.
- <sup>32</sup> Magnusson, “Protecting the Right of Local Self-Government,” 919.
- <sup>33</sup> Sancton, “The Municipal Role in the Governance of Canadian Cities,” 435.
- <sup>34</sup> Sancton, “The Municipal Role in the Governance of Canadian Cities,” 435.
- <sup>35</sup> Warren Magnusson, “Introduction: The development of Canadian urban government,” in *City politics in Canada*, eds. Warren Magnusson and Andrew Sancton (Toronto: University of Toronto Press, 1983): 29.
- <sup>36</sup> Magnusson, “Protecting the Right of Local Self-Government,” 919.
- <sup>37</sup> Sancton, “The Municipal Role in the Governance of Canadian Cities,” 440.
- <sup>38</sup> Magnusson, “Introduction,” 29.
- <sup>39</sup> Magnusson, “Introduction,” 29.
- <sup>40</sup> Sancton, “The Municipal Role in the Governance of Canadian Cities,” 428.
- <sup>41</sup> C. Richard Tindal and Susan Nobes Tindal, *Local Government in Canada*, 6<sup>th</sup> ed. (Scarborough, ON: Nelson, Thomson Canada Limited, 2004), 373.
- <sup>42</sup> Tindal and Tindal, *Local Government in Canada*, 344.

# Property Rights and the Colonial Vision

## *The Influence of Locke and Hobbes on British Columbian Land Title*

Stephanie Kowal

The case of British Columbian colonization provides the quintessential example of the influences that different early modern political thinkers could have on the organization and leadership of new commonwealths. The type of debate that emerged around indigenous land rights was wide and varied, and thus the actions chosen during British colonization differs greatly depending on which area of Canada is being discussed. The situation that colonizers grappled with in BC was one of organizing settlement and trade systems for the British while pacifying Aboriginal tribes and justifying the encroachment of the native land. From the very beginning, the west coast area and the Indigenous groups that lived there would present an interesting case for imperialists to manage. This paper will argue that although Hobbesian techniques, developed in *Leviathan*, were practiced during BC's colonization it was the Lockean tradition of individual rights, especially that of private property, as presented in *The Second Treatise of Government*, that drove what BC land treaty legislation looks like today. First, I describe and analyze pre-colonization BC as a state of nature, and discuss why it was not what Hobbes had believed it would look like. Second, this paper looks at Lockean and Hobbsian contractualism and how these visions were utilized in the British Columbian case. Finally, I analyze the radical change of direction in the treatment of Aboriginal land title. I should note that this paper is not exhaustive in that it does not account for the indigenous or other non-European perspectives of the treaty methods employed in pre- and early-colonial BC. However, from the European point of view this paper will explain how BC became the only province in Canada, until very recently, not to have Indigenous land title legislation.

At the time of first European contact, in 1774, hundreds of thousands of Indigenous people, including thirty different peoples with their own languages, cultures, political systems and territories, inhabited BC. Peaceful overlap of territory and trade existed between groups in the coastal areas.<sup>1</sup> Similar political-economic systems also functioned in the interior plateau area. Both areas, respectively, relied on fish or root harvests, as opposed to agriculture for sustenance.<sup>2</sup> The focus on aquaculture and the willingness to trade made for a relatively non-hostile settlement of pre-colonization forts. In addition, the tribes in the BC area did not practice private or tradable property.<sup>3</sup> Together, these aspects made for fairly painless colonization, especially for James Douglas, a leader that showed a genuine respect for the Aboriginal peoples.<sup>4</sup>

Between first contact in 1774 and the colonization of Vancouver Island in 1849 settlers did not interfere in aboriginal politics or society.<sup>5</sup> Immediately we can see that a Hobbesian state of nature did not exist before British colonization. Certainly individuals on what would be Vancouver Island and the coast of BC were not practicing Hobbes' state of nature. That is to say without government, individuals must forcefully master as many people as possible in order to protect their security. Hobbes explicitly attributes this vision of a state of nature to Indigenous populations stating, "it may peradventure by thought, there was never such a time, nor condition of was as this...but there are many places, where they live so now. For the savage people in many places of America... dependeth on natural lust, have no government at all; and live at this day in that brutish manner, as I said before".<sup>6</sup> If they were, in fact, using any means to preserve themselves there is no evidence of arms races, perpetual war or abundant uncertainty.<sup>7</sup> Without a sovereign there were functional trading posts in addition to overlapping but peaceful harvest grounds and territory. Men were undoubtedly working together in order to guarantee everyone's existence.

The form of existence that we see here more closely follows Locke's notion that a community can function and flourish without a commonwealth.<sup>8</sup> This form of community fits with Locke's laws of nature which stated that the individual must not only preserve themselves but also, by being judges and enforcers of the laws, they must preserve the others around them. These guarantees are what constitute individual rights. Locke illustrates this in his writing:

Every one as he is bound to preserve himself, and not to quit his station willfully, so by the like reason, when his own preservation comes not in competition, ought he as much as he can to preserve the rest of mankind, and not unless it be to do justice on an offender, take away or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another. And that all men may be restrained from invading other; rights and from doing hurt to one another, and the law of Nature be observed, which willeth the peace and preservation of all mankind...<sup>9</sup>

From this we can see two things. First, not only is life a right of nature but so is liberty. Second, by no means is a state of nature mutually exclusive with a state of war, as Hobbes believes.<sup>10</sup> The fact that individuals must be their own judges of law is one cause of a state of war. He admits, "I Doubt not...that it is unreasonable for men to be judged in their own cases...ill-nature, passion, and revenge will carry them too far in punishing others... I easily grant that civil government is the proper remedy for the inconveniences of the state of Nature," thus, he bases his logic for producing and agreeing to a social contract on the desire to enhance a community that already exists.<sup>11</sup>

Only after the Oregon Treaty of 1846 did Vancouver Island become a colony. With the gold rush beginning in 1858 the

mainland was colonized as British Columbia. Both colonies were led by James Douglas until his retirement in 1864.<sup>12</sup> For nearly one hundred years before the colonization of Western Canada, Britain recognized the land rights of the native peoples. The Royal Proclamation of 1876 stated that “if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name,” admitting land title regardless of whether this undermines aboriginal sovereignty.<sup>13</sup> By giving the heads of colonies the permission to extinguish aboriginal title by any means, this proclamation set the precedent to make treaties.<sup>14</sup> All of Canada, including British Columbia, would partake in the treaty making process prior to Canadian confederation.

Vancouver Island became a British Colony in 1849 controlled by the Hudson’s Bay Company and led by James Douglas. Both the British government and the Hudson’s Bay Company recognized indigenous land title when Douglas began to make treaty arrangements with fourteen different tribes of the island. The most important fact about the Douglas treaties is that they represented unequivocal recognition of aboriginal title. These treaties allowed the British to establish their rule in BC.<sup>15</sup> The Aboriginal population understood that they were selling their lands for settler use. This was an explicit agreement that can be perceived as a social contract.

Contractualism is the notion that foundations of the grounds of morality lie in actual or hypothetical agreements.<sup>16</sup> Both Locke and Hobbes’ concept of the social contract is founded on the idea of an instrumentally rational bargain between self-interested individuals resulting in an agreement that is mutually beneficial to both sides.<sup>17</sup> However, the contract, for Locke, is far more fluid and natural process than Hobbes’ vision of an explicit, single event. The difference between the two thinkers enters on how much power the sovereign obtains and how they can treat the individuals as citizens after the contract is produced. According to

Hobbes' state of nature, a contract is made because not doing so would be disastrous regardless of whether you entered into a contract out of mutual consensus or by means of force. For Hobbes, death would likely result regardless of the reason one chose not to consent to a social contract. Therefore, one could not agree with the terms nor want to be forced into a contract but the amount of authority that the resulting sovereign receives would be the same. Whether the citizens were the conquered, entering a contract by force, or newborn infants, entering a contract through tacit agreement, they are citizens and the sovereign is absolute.<sup>18</sup> As Lewis stated, "For a commonwealth to exist it must have been created under a situation that the power inequality was such that it was the same as victor and vanquished regardless of war ever taking place. This is to ensure that people fear the sovereign enough to follow the covenant".<sup>19</sup> These conditions are inconsistent with reality of the colonization of BC.

The case of BC defies Hobbesian logic given that the settler population was far outnumbered by the Aboriginal community. Guns were traded to the Indigenous peoples for decades and BC was not part of federated Canada thus had no army behind it.<sup>20</sup> Essentially, the situation which drove the social contract in BC was to secure the survival of the settlers; allowing the minority Europeans to live and industrialize without the fear of Indigenous upheaval. Treaties were not Hobbsian-style social contract in that they did not set up a unitary sovereign. Rather, treaties formed agreements of how and where the two groups would interact with one another. Again, this follows a Lockean ideal in that the social contract was made in order to facilitate what was already taking place in the state of nature.

The land bought by the government was paid for with foodstuffs, tools and blankets. When funds for treaties began to run out, the European settlers (Douglas and the British Columbian Assembly) urged Britain to send resources because they feared an 'Amerindian' backlash. During this time, the gold rush had begun

and there was a high flux of settlers coming to BC. Settler parties became weary of building settlements on land where Aboriginal title had not been extinguished. An explicit letter sent to the imperial government by the Aborigines Protective Society illustrates the general feeling by people at the time towards the issue of Aboriginal title:

The Indian, being a strikingly acute and intelligent race of men, are keenly sensitive in regard their own rights as the aborigines of the country, and are equally alive to the value of the gold discoveries... there can be no doubt that it is essential to the preservation of peace in British Columbia that the natives should not only be protected against wanton outrages on the part of the white population, but that the English Government should be prepared to deal with their claims in a broad spirit of justice and liberality <sup>21</sup>

The British government refused to further fund treaties, therefore, leaving Douglas hamstrung, unable to calm the settlers or the indigenous population.<sup>22</sup>

As the situation stood, the treaty system could not continue thus, Douglas had to develop a new order to appease British Columbian inhabitants. To do so he created a system of reserves. Paul Tennant claimed that these reserves were made to be no more than ten acres and that they were set up as communities of assimilation, where the Christian church would preach and education would follow a British model. Not only were these practices against indigenous culture, they were implemented with no input from the indigenous peoples.<sup>23</sup> Tennant continues to describe the new Douglas system as a method to save the native population from being systematically forced off their lands or exterminated.<sup>24</sup> Olive Dickason, on the other hand, notes the Indigenous need for smaller reserves given that most just wanted

access to harvesting areas, hence, they did not need vast expanses of space. Furthermore, she claims that Aboriginal peoples had so much control over the process that they were known to have reserves enlarged up to 200 acres upon request.<sup>25</sup> Additionally, Douglas granted the Aboriginal population with pre-emption rights—that is, the ability to purchase vacant, un-surveyed crown land before other nationalities could.<sup>26</sup> Both historians agree that Douglas was sympathetic, seeing the Indigenous peoples as political equals. Also, the fact that, under Douglas, violence did not break out in BC over treaty making difficulties, as it did in America, speaks to the just nature of the colony's leader.<sup>27</sup>

Although the second system appears, superficially, to be an almost violent form of assimilation, a closer look shows that it was not Douglas' first choice, nor did he do it to avoid making treaties. He was trying to maintain the rights of the Indigenous peoples. The notion of individual rights is an incredibly important creation by Locke. For Hobbes, the only inalienable right is the right to preserve oneself, "As first a man cannot lay down the right of resisting them, that assault him by force, to take away his life... the motive, and end for which this renouncing and transferring of Right is introduced, is nothing else but the security of a man's person, in his life, and in the means of so preserving life, as not to be weary of it".<sup>28</sup> He would argue that Douglas was still a man; therefore, it would be in his interest to make land treaties in order to preserve himself.<sup>29</sup> However, the language alone of the letters sent to imperial Britain acknowledges that the settlers understood and believed in a notion of individual Indigenous rights to property.

Private property was an obsession and an inalienable right for Locke. The right to private property was no less important than the rights to life and liberty. Paired with the idea that man must invariably preserve himself, the use of God given land for subsistence is necessary.<sup>30</sup> Labour is the factor that appropriates property. Locke was extremely specific in depicting property acquisition being not only the fruits picked and animals killed, but

also, and more importantly, the land cultivated, "...not the Fruits of the Earth (nor) the Beasts that subsist on it, but the Earth itself".<sup>31</sup> As Barbra Arniel pointed out, land appropriation, in the Lockean tradition, is based on agricultural settlement, not conquest.<sup>32</sup> This statement further explains that Douglas chose not to go to war with the Indigenous population of the area in order to force a social contract upon them. Given that each individual has the right to preservation all men must have access to the means to ensure that preservation. As a response, Locke created a clause stating that there must be enough land for all to exercise their rights. He wrote, "For this 'labour' being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for other".<sup>33</sup> This concept was seemed to be followed staunchly by Douglas. For example, Douglas made his belief in this clause apparent when he opened new land to Aboriginal tribes as they claimed need for it. An argument can be made that Douglas expanded the size of reserves strictly out of fear of an Indigenous backlash, which may be true, but there is little evidence that demands for larger amounts of land was what crippled his ability to lead. Furthermore, the reserves were enlarged unilaterally by Douglas only when the native tribes expressed need for the land, hence, Douglas was granting 'enough and as good' meanwhile, facilitating peaceful settlement for the British population. In other words, he was fulfilling the role of the state, which is to judge disputes, keep order and ensure that citizen's individual rights were respected.

Unfortunately, the effort that Douglas put into creating a colony that balanced both settler and Native citizen rights did not leave a similar legacy. The weakness of Douglas' policies was its basis on "his own personal magnanimity and that it was never codified in any legislative enactment," thus, when Douglas retired in 1864, there was no legal proof that these treatise ever existed.<sup>34</sup> The successor to the colony of British Columbia was Joseph Trutch, who led British Columbia into confederation with Canada in 1871.

Trutch had an invariably different stance on the status of First Nations than did Douglas. He considered the Indigenous peoples savages who were not candidates for rights to their claimed land. Moreover, he felt that they were of no value or utility to the lands and in turn felt that granting land title was against the good of the colony.<sup>35</sup> Trutch revoked pre-emption rights and prohibited the aboriginals from leaving their reserves, which he restricted to ten acres regardless of how many families lived there. These actions resulted in cases where a single white male could own a land package larger than the nearby reserve which was inhabited by a dozen Indigenous families.<sup>36</sup> Trutch's treatment of Indigenous peoples is shocking given that, in Canada's central provinces, it was standard issue to make treaties on the basis that each native family would get the same amount of land as a settler, which was approximately 640 acres.<sup>37</sup>

In 1870, Trutch was the first person in BC to actively deny Aboriginal title ever existed, in turn, allowing the federal government to claim no knowledge of, or to ignore, the British Columbian native policy developed by Douglas. Trutch bypassed Douglas' treaties by calling them 'friendship agreements', made possible since the treaties never went through a legislative process. Therefore, both levels of government considered themselves unencumbered by native title.<sup>38</sup> Trutch agreed to give reserves to the federal government on the basis that their areas would not exceed ten acres. John A. MacDonald was pleased with the manner that Trutch ran the province, refusing Aboriginal title. Trutch's oppressive method made for easy settlement and for that reason, among others, BC became desirable for Canadian confederation.<sup>39</sup>

Trutch's behavior speaks to both Hobbesian and Lockean influence. In regard to Hobbes' vision of a unitary sovereign power, the government would be absolutely justified in changing the policies towards the Aboriginal population; however, treating the majority of the population as savages would not be rational on Trutch's part as a man. In revoking the practices grounded in the

Douglas treaties and joining confederation Trutch forced a more traditional style social contract onto the Indigenous population. Under confederation Indigenous peoples were now part of a social contract with Trutch as the sovereign, although not an ideal unitary sovereign. For Hobbes, no one has individual rights, hence, Trutch would not be guilty of revoking land claims unjustly. However, one could argue that Trutch was granting such restrictively small parcels of land to the Indigenous peoples that he was threatening their ability to survive thus, not doing his job as a sovereign. In turn, Trutch put the province at risk of a rebellion which could have resulted in a return to the state of nature. As for Locke, these types of actions are based on the premise of positive law, that is, law created by the government. Understanding that there was no positive law surrounding the treaties, the land was justifiably deemed empty, and thus, no jurisdiction was required to appropriate the land.<sup>40</sup> Considering that the Aboriginal population at the time was still larger than the settler portion of citizens, this logic is inconsistent with Locke's desire for the majority to be the body that decides on positive law. Locke wrote:

For, when any number of men have, by the consent of every individual, made a community, they have thereby made that community on body, with a power to act as one body, which is only by the will and determination of the majority...it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority, or else it is impossible it should act or continue one body, one community...<sup>41</sup>

Initially one may mistake Locke's statement as proof that Trutch was acting out of the Hobbesian tradition as an absolute sovereign. However, with further analysis of *Terra Nullius* we can see that he, more closely, followed Locke's means for appropriating property.

Along with the right to property there are limits to how much property one can acquire. As discussed earlier, labour is the means by which one obtains property. It has been established that in order to preserve oneself they must put their labour into the land. However, Locke claimed that it is not one's property if they have so much that they cannot manage it all.<sup>42</sup> To let portions of land go to seed instead of improving it and making it fruitful would make that land as good as empty. This is exactly what the term *terra nullius* means, 'nobody's land'. If land must be worked to be owned, then land that does not have labour going into it is available for appropriation. Property is a natural right stemming from the fact that God gave man the land to live off of therefore, his definition of property is moral and not civil or legal ownership. Taking advantage of the, "naturalness in the relation between labour and property," along with moral underpinnings made it easy for a wide Christian population to understand and embrace property rights in practice.<sup>43</sup> This explains why there were no cries of injustice from the settler population which previously perceived the Aborigines as very intelligent and qualified for land title. It is the link between labour and industriousness that justified land appropriation and title for Englishmen in America. Following that God gave the land to man in common but intended that it be used and improved linked labour to industrious and rationality for Locke.<sup>44</sup>

Not only did Locke use this logic to justify the appropriation of native lands to settlers, he explicitly made a connection between non-industriousness and Amerindians, writing that "there cannot be a clearer demonstration of anything than several nations of the Americans are of this... for want of improving it by labour, have not one hundredth part of the conveniences we enjoy, and a king of a large and fruitful territory there feeds, lodges and is clad worse than a day labourer in England".<sup>45</sup> The agriculturalist argument became the best justification that could be given for abolition of Indigenous land title in BC and all throughout the British colonies.<sup>46</sup> As Arneil wrote:

In essence Locke is not excluding Amerindians from the 'industrious and rational' criteria. On the contrary when the Indian adopts an agrarian form of labour, a sedentary lifestyle and private appropriation while recognizing the Christian God and developing English forms of education and culture, he will qualify under both criteria and enjoy the right to share equally in God's gift;<sup>47</sup>

This is what Douglas was trying to do in his last years as leader of BC. Given the tight funding for treaty making and the desire to respect the rights of Aborigines, Douglas tried to assimilate the BC tribes, making it impossible for Britain to refuse their rights any longer. Despite Douglas' failures in each system, his was a just effort to try and provide 'enough and as good', a limit that Trutch felt did not apply to BC's Indigenous peoples.

After confederation, Trutch could no longer act as British Columbia's sovereign, but rather, since he was leader of a devolved power, he had to follow Canadian legislation and commitments. In 1874, the Liberal prime minister, Alexander Mackenzie unilaterally decided that BC was not properly addressing the basic need of its Indigenous citizens, thus, forcing Trutch to enlarge British Columbian reserves.<sup>48</sup> Trutch complied, after much dispute, but still only granted the minimum amount of land that was legally permissible. By the end of his administration, in 1899, Trutch left BC with no treaties and ninety reserves that averaged 183 acres each, regardless of how many families were living on them.<sup>49</sup> Just as Douglas did, the Canadian government attempted to follow the Lockean notion of 'as good left'. Because of the physical distance from British authority, Trutch acted as an absolute sovereign in a Hobbesian fashion until confederation when his power was considerably diminished. Locke believed in the importance of separation of power to check tyrannical the actions of leaders hence, confederation was the type of outcome he would have hoped for from a well organized commonwealth.<sup>50</sup>

Although the revocation of Indigenous land rights was justified by *terra nullius*, the question of how an Aboriginal rebellion did not occur remains. Accepting that British Columbian colonization was more deeply influenced by Locke's *Second Treatise of Government* than Hobbes' *Leviathan*, the notion of a rebellion would not be ridiculous. Although the appropriation of native land to Englishmen was just given that the Indigenous population was not practicing means to own private property it is interesting that, being the majority, they did not find Trutch's actions tyrannical and thus unjust. For Locke, *terra nullius* would make such a rebellion unjust given that no Aboriginal rights existed. However, even if the Aboriginal population could have launched a defensible rebellion, Locke argues that it would have been unlikely because "people are not so easily got out of their old forms as some are apt to suggest. They are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to."<sup>51</sup> His logic was not adequate for early BC because Trutch's actions were sudden and the Indigenous population had not been part of the social contract long enough to have built inertia sufficient enough to cause complacency.

The situation here is interesting because it reflects an inaction on the part of the Amerindians that would follow Hobbes' advice given in *Leviathan*. As Hobbes desired a unitary sovereign whose sole job was to protect the lives of the commonwealth's citizens, he would have considered the lack of rebellion a display of rationality on the part of the Aboriginals. Moreover, he would find Trutch's actions, systematically oppressing the majority of BC's population, irrational. In writing that "the end of Obedience is Protection; which, wheresoever a man seeth it, either in his own, or in another sword, Nature applyeth his obedience as man seeth it, either in his own, or in another sword, Nature applyeth his obedience to it, and his endeavour to maintaine it," Hobbes says that the lack of resistance shows a very salient notion of Hobbesian rationality in the Aboriginal citizens.<sup>52</sup> Hobbes portrays people as generally irrational, feeling they deserve rights which the

sovereign has not responsibility to grant them. Furthermore, he envisions private property as a dangerous privilege because this type of power external to the state would, with time, act as a disease to the functionality of the commonwealth.<sup>53</sup> By the time Trutch was in power it was to both the settlers and the Aboriginals understanding that private property was a human right. It is the placid nature of the Indigenous towards their loss of rights that fits Hobbes' tradition more so than Locke's.

BC's colonial history is a complex illustration of the different ethical stances colony leaders could take when organizing a new political and social order. James Douglas and Douglas Trutch both guided BC organization on Lockean tradition but the notions they chose to emphasize took the early colony on very different paths. In Lockean thought, Douglas' route of recognizing Indigenous land rights and respecting property limits to leave 'as good and enough' was equally as just as Trutch's use of *terra nullius* and denial of Aboriginal title. The social contract made was a textbook example illustrating the creation of a commonwealth in order to facilitate the industriousness and thus preservation of mankind, practices already present in the state of nature. Douglas proved to have an opinion of Aboriginals as equals, which resonates much more closely to today's idea of the relationship between BC citizens of European decent and First Nations peoples. Unfortunately, due to a lack of legislation, Douglas' legacy is one of small reserves, denial of land title and less protection than First Nations in the rest of Canada were able to obtain. The leadership and the citizenry of BC practiced both Hobbesian and Lockean principles but ultimately the importance of individual rights, especially that of property, shows the weight of Locke's influence. This influence led British Columbian treaty legislation and Aboriginal rights to be as they are today.

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## Notes

- <sup>1</sup> Paul Tennant, "Aboriginal Peoples and Aboriginal Title in British Columbia Politics" In *Politics, Policy and Government in British Columbia* Kenneth Carty Ed., (Vancouver: UBC Press, 1996), 47.
- <sup>2</sup> Mitja Durnik, "Property Rights as a "Consequence" of Economic System: The Case of John Locke and Canadian Aboriginals." *Innovative Issues and Approaches in Social Sciences (IIASS)* 1.1 (2008), 83; Tennant, "Aboriginal Peoples and Aboriginal Title" 47.
- <sup>3</sup> *Ibid.*, 48; Durnik, "Property Rights", 82.
- <sup>4</sup> British Columbia, *Paper Connected with the Indian Land Question, 1850-1875*, (Victoria: Richard Wolfenden, 1876), 13-14.
- <sup>5</sup> Paul Tennant, *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1848-1989* (Vancouver, UBC Press), 77.
- <sup>6</sup> Thomas Hobbes, *Leviathan* Ed Herbert W. Schneider (Indianapolis: the Liberal Arts Press, 1958),78
- <sup>7</sup> Lewis, "Recognizing Rights", 50.
- <sup>8</sup> John Locke, *The Second Treatise of Government* Ed. Peter Laslett (Oxford: Oxford University Press, 1988), para 21
- <sup>9</sup> *Ibid.*, para 5-6
- <sup>10</sup> Hobbes, *Leviathan*, 77.
- <sup>11</sup> *Ibid.*
- <sup>12</sup> Tennant, *Aboriginal Peoples and Politics*, 77.
- <sup>13</sup> King George III, *Royal Proclamation 1763*
- <sup>14</sup> Durnik, "Property Rights", 74.
- <sup>15</sup> Tennant, *Aboriginal Peoples and Politics*, 20.
- <sup>16</sup> Nicholas Southwood, "A Deliberative Model of Contractualism" *Politics Philosophy Economics* 7, no. 2 (2008): 184.
- <sup>17</sup> *Ibid.*
- <sup>18</sup> *Ibid.*, 185; Thomas J. Lewis. "Recognizing Rights; Hobbes on the Authority of Mothers and Conquerors" *Canadian Journal of Political Science/ Revue canadienne de science politique* 36, no. 1 (2003): 40.
- <sup>19</sup> Lewis, "Recognizing Rights", 50.
- <sup>20</sup> Olive Patricia Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Don Mills: Oxford University Press, 2002), 238.
- <sup>21</sup> British Columbia, *Paper Connected with the Indian Land Question, 1850-1875*, 13-14.
- <sup>22</sup> Peter A. Cummings & Neil H. Mickenber, *Native Rights in Canada*, (Toronto: General Publishing, 1972), 177; Tennant, *Aboriginal Peoples and Politics*, 25.

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- <sup>23</sup> Tennant, "Aboriginal Peoples and Aboriginal Title", 48.
- <sup>24</sup> Ibid.
- <sup>25</sup> Dickason, *Canada's First Nations*, 240.
- <sup>26</sup> Ibid., 219; Tennant, "Aboriginal Peoples and Aboriginal Title", 48.
- <sup>27</sup> Cummings, *Native Rights in Canada*, 173.; Dickason, *Canada's First Nations*, 219.
- <sup>28</sup> Hobbes, *Leviathan*, 82.
- <sup>29</sup> Ibid., 109.
- <sup>30</sup> Locke, *The Second Treatise of Government*, para 24.
- <sup>31</sup> Ibid., para 32.
- <sup>32</sup> Barbra Arniel, "John Locke, Natural Law, and Colonialism" *History of Political Thought* 13, no. 4 (1992): 603.
- <sup>33</sup> Locke, *The Second Treatise of Government*, para 26.
- <sup>34</sup> Robin Fisher, *Contact and Conflict: Indian-European Relations in British Columbia 1774-1890*, (Vancouver: UBC Press, 1977), 156.
- <sup>35</sup> Thomas R. Berger, *Fragile Freedoms: Human Rights and Dissent in Canada*, (Toronto: Clarke, Irwin, 1981), 222.
- <sup>36</sup> Dickason, *Canada's First Nations*, 241; Tennant, "Aboriginal Peoples and Aboriginal Title", 48.
- <sup>37</sup> Ibid., 46.
- <sup>38</sup> Ibid., 49; Cummings, *Native Rights in Canada*, 176.
- <sup>39</sup> Tennant, "Aboriginal Peoples and Aboriginal Title", 49.
- <sup>40</sup> James Tully, "Placing the *Two Treatise*" *Political Discourse in Early Modern Britain*, In Eds Nicholas Phillipson and Quentin Skinner, (Cambridge: Cambridge University Press, 1993): 257.
- <sup>41</sup> Locke, *The Two Treatise of Government*, II para 96.
- <sup>42</sup> Ibid., para 42.
- <sup>43</sup> Allen John Simmons, *Lockean Theory of Rights*, (Princeton: Princeton University Press, 1992), 224.
- <sup>44</sup> Locke, *The Two Treatise of Government*, para 34.
- <sup>45</sup> Ibid., para 41.
- <sup>46</sup> David Armitage, "John Locke, Carolina and the Two Treatises of Government" *Political Theory* 32, no.5 (2004): 618.
- <sup>47</sup> Arniel, "John Locke, Natural Law, and Colonialism", 587.
- <sup>48</sup> Canada, *Report of the Royal Commission on Aboriginal Peoples*, (Ottawa: Minister of Supply and Services Canada, 1996), 774.
- <sup>49</sup> Ibid.
- <sup>50</sup> Locke, *The Two Treatise of Government*, para 143.
- <sup>51</sup> Ibid., para 223.
- <sup>52</sup> Hobbes, *Leviathan*, 144.
- <sup>53</sup> Ibid., 213.

# **Japan's 21<sup>st</sup> Century Dilemma**

## *Shifting Demographics and the Immigration Question*

Myles Carroll

Since the 1990s, Japan has faced a double-edged sword of both stagnant economic growth and productivity, as well as a growing demographic crisis due to an aging, shrinking population, whereby the number of retirees will soon be approaching the number of working people.<sup>1</sup> Considering the consequences this will have in terms of the growing healthcare budget in relation to its shrinking tax base, how can Japan overcome this problem and maintain long-term economic prosperity? I argue that Japan's demographic challenge is substantial; both the growing number of retirees in proportion to working people and the declining overall population threaten to put Japan in a perpetual long-term recession. Arguably, any solution to this demographic challenge will not be sufficient unless it includes engaging in high-volume immigration as has been practiced in Europe, Australia and North America. However, such a policy would require a fundamental shift in the national consciousness of what it means to be Japanese; from one rooted in ethnic nationalism to one rooted in civic nationalism, as well as an overhaul of the social and physical infrastructure needed to support high-volume immigration.

This paper begins by outlining the demographic shift many have predicted for Japan over the next half-century. Next it discusses what the implications are for the current Japanese economy by examining the past twenty years of economic stagnation, and exploring the structural parallels between the underlying conditions that precipitated the 1989 stock market crash and the looming demographic shift that Japan will have to endure. Then, it considers how other literature has dealt with the extent to which immigration is a viable solution. Next, it examines other policies to dealing with the demographic challenge, outlining both

why they may be useful, and why they cannot fully solve the problem. Finally, it suggests high-volume immigration as a necessary element of any policy, and discuss its merits as well as the obstacles Japan will face in being able to implement it successfully. While it may valorize certain policy decisions, this paper is not intended to be prescriptive; it simply puts forth the argument that unless Japan can avert this demographic shift, its long term economic prosperity will very likely be compromised due to the growing proportion of retirees; the shrinking labour pool; the declining consumer base; and rising health care and pension costs. Whether it chooses to engage in the radical change needed to meet this challenge, or accept the implications of being a less affluent society will be a serious debate in Japanese society over the coming decades.

While they may disagree on the exact numbers, nearly all demographers and researchers are predicting a serious population decline in Japan over the next half-century and beyond. According to Ryuichi Kaneko, Japan's population is projected to fall by 30 percent from its current population of 127 million by 2055, to under 90 million people.<sup>2</sup> By that same year, the number of people aged 65 and older will be over 40 percent, almost double its current proportion, and quadruple what it was during the economic boom years of the 1980s.<sup>3</sup> By examining the implications of such a monumental demographic shift for the Japanese society, and in particular for the Japanese economy, these statistics can be given more context. More specifically it is difficult to understand what the future would hold for Japan in an era of tremendous demographic transformation without examining the recent past. In particular, the events during the late 1980s and 1990s indicate what might be one consequence of a permanently declining and aging population. How are the dynamics that lead up to the bursting of Japan's bubble economy in 1989 relevant to its future demographic challenge? To answer this question, further examination of the fundamental causes of the 1989 bursting of the bubble and the "lost decade" is necessary.

## **Economic problems of a shrinking population**

The post-war era was one of remarkable economic growth in Japan. Indeed, the Japanese economic miracle, as it is known, involved both double-digit growth in gross domestic product (GDP) and the development of one of the most egalitarian societies in the First World.<sup>4</sup> However, things started to spin out of control in the late 1980s, with increasing over-speculation in both financial and housing markets, and in late 1989, as the Nikkei Stock Exchange sat just under 39,000 points, four times its value two decades later, the situation finally began to unravel.<sup>5</sup> What followed was financial collapse – the Nikkei plunged, shedding half its value in a year, land value fell substantially and what is known as the “lost decade” ensued.<sup>6</sup>

Why was Japan's economy suddenly in crisis in 1990, and why has this crisis failed to go away since then? According to Hiroshi Yoshikawa, the crisis was brought on by insufficient demand.<sup>7</sup> Real wages were not increasing at a rate of more than 2 percent on average from 1975 until 1991, while the GDP grew at more than twice that speed.<sup>8</sup> At the same time, Japan's GDP is strongly correlated with private capital investment. During the early years of the recession, from 1988-1993, as GDP growth fell from 6 percent to 0.3 percent, private capital investment fell from 2.3 percent to -2 percent.<sup>9</sup> In the mid-nineties recovery, as GDP growth briefly rose to 5 percent in 1996, private capital investment grew from -2 to 2 percent.<sup>10</sup> Private capital investment is strongly correlated with GDP, and therefore low GDP growth and decline can be understood as part of a lessening or absence of profitable investment opportunities, as explored below.

When investment opportunities diminished in the late 1980s, an increasing amount of investment was drawn into speculative finance and property bubbles. A combination of low regulation, a high-value yen, and low interest rates caused investment in speculative capital, financial, and property markets

to skyrocket. According to John Price:

In 1987 ... Japan's GNP was valued at 345 trillion yen. In that one year alone, financial assets increased by 382 trillion yen. Land values went up by 345 trillion yen. ... One could have bought every single square inch of Canada and the U.S. for the same price as all the land in Tokyo.<sup>11</sup>

The surplus wealth in the Japanese economy very quickly concentrated in the few areas (speculative capital and property) that seemed profitable. However, when investors lost confidence in the Japanese market, the Nikkei collapsed, land value fell dramatically, unemployment grew and consumer confidence fell, with consumption growing by only 0.3 percent from 1989 to 1999.<sup>12</sup> The economic collapse of the early 1990s and subsequent “lost decade” can be understood as a consequence of an over-accumulation of capital, whereby businesses could not find legitimate places in which to invest, as a result of increasing productivity that was not matched by increasing consumption or wages. The implications of this for the future are in how Japan's shrinking market and labour force will make it even more difficult for businesses to find places to invest. Therefore, the most problematic implication of Japan's demographic shift is not the burden an aging population will have on the pension and healthcare infrastructures, but that an ever shrinking workforce will cause a perpetual crisis of over-accumulation.

The shrinking labour force will chronically be unable to maintain levels of consumption needed to ensure that surplus capital can be reinvested in the economy with the guarantee of profitable returns. According to David Harvey, surplus profits are the driving force of economic growth, but in order for their value to be realized, they must be reinvested in the economy, in “spatiotemporal fixes”, that is, either new territories where investments can be profitable, or in new sectors of the economy

which had previously not been open to investment.<sup>13</sup> If businesses cannot find new places in which to invest that will be profitable, their accumulated profits will be wasted, and there will be a crisis of over-accumulation, like what happened in 1989.<sup>14</sup> Therefore, businesses are inclined to look for “untapped” markets in which to invest, whether by expanding spatially to underdeveloped parts of the world where they can make profit, or by creating new ways of investing in the home market, which has recently involved speculative financial investment and property investment.<sup>15</sup> The economic growth of the 1980s was in part an expansion of investment into these new speculative financial realms, as well as outward investments in the American property market and in China.<sup>16</sup> While these waves of investment enabled economic growth in the short term, eventually the fictitious nature of these economic endeavours caught up with investors, and in 1989, the bubble burst.

As mentioned before, the crisis of over-accumulation comes as a product of businesses no longer having anywhere to viably invest their surplus profits. The demographic shift in Japan fundamentally exacerbates this problem because it means that there is a perpetually diminishing labour force and consuming class. Generally, economic growth works alongside population growth: as businesses generate surpluses, they are provided with both more potential workers to hire as they expand operations, and more consumers to sell their products to. Hence economic growth can take place without the immediate threat of a crisis of over-accumulation. However, in Japan, the population is shrinking, and businesses are faced with a shrinking labour supply, and a declining market. One legitimate response, as we have seen, is for Japanese businesses to pursue foreign markets. Recently there has been substantial investment in China as well as the United States, and these two markets are proving to be adequate “spatiotemporal fixes,” at least for now.<sup>17</sup> However, we have to wonder how much of these overseas investments are coming back to Japan, and how long this trend can last. It is fair to predict that if Japan's

population were to fall at the rate many predict, its economy would be achieving crises of over-accumulation at rapid intervals, and each bust would bring the economy further down that each following boom could compensate, because of the steadily diminishing market and labour force. As each “boom” would take place in a smaller market than the last, there would be less room to expand before the next crisis of over-accumulation. Matsutani Akihiko has argued that GDP growth is dependent on labour growth, and thus population decline will lead to GDP decline.<sup>18</sup> While technological innovation can counterbalance this problem, Japan's population is set to shrink too rapidly for technological innovation to compensate.<sup>19</sup>

Other consequences of this demographic shift need mentioning. As conditions for maintaining profitable investments and GDP growth deteriorate, Japan will be faced with the challenge of a growing population of retirees which will account for as much as 40 percent of the population by 2050.<sup>20</sup> The costs of providing healthcare and social security for nearly a half of the population will be monumental. According to Akihiko, Japan's social security budget could be over 100 trillion yen by 2030 – thus it is possible to hypothesize that statistics for 2055 will be even higher; compared to 65 trillion today.<sup>21</sup> While social security expenditures accounted for 15 percent of GDP in 1987, it could account for three times that in 2030.<sup>22</sup> Furthermore, by 2030, there will be less than 1.5 working people for every pensioner. By 2055, Japan will have four pensioners per every five working people.<sup>23</sup> Japan's healthcare predictions are even more concerning. The country's healthcare budget will have to grow from 21 trillion yen in 1990 to 120 trillion in 2025 to meet the needs of a rapidly aging population.<sup>24</sup> While it should be noted that statistical projections like these are highly contingent and by no means precise, in general, we can only expect the healthcare and social security budgets to increase substantially over the next few decades to meet the needs of a rapidly aging society. The public expenditures necessary to provide social services at today's levels will be

enormous, further constraining businesses and consumers because of the necessarily higher rates of taxation such programs will require, meaning that all the problems a declining population pose for economic growth and prosperity will be exacerbated.

## **Literature debate on Japanese immigration**

Ultimately, the question of whether Japan's demographic shift mounts a challenge to its long term economic prosperity is taken for granted: nobody disputes that the combination of a shrinking workforce and an aging society will perpetually reduce Japan's productive capabilities, as already demonstrated. However, the key area of debate on this issue centres on the question of whether or not immigration is the best solution. Some authors, such as Stephen Murphy-Shigematsu, David Blake Willis, Glenda Roberts and Mike Douglass have argued the viability of immigration reform by showing the extent to which Japan has always been culturally and socially diverse, and that its supposed unique monoculturalism and cultural unity are myths, both today and in history. Conversely, other academics, like Chris Burgess and Matsutani Akihiko have argued that it is not currently compatible with Japanese society.<sup>25</sup> Therefore it is important to reflect on the basic points made by either lines of thought, highlight their strengths and weaknesses, and consider which insights provided by each side may provide a better understanding regarding the issue.

Murphy-Shigematsu, Willis, Roberts, Douglass and Roberts, and Michael Weiner each make the claim that Japan is and has always been a more heterogeneous society than is depicted. Murphy-Shigematsu and Willis give examples of the emerging ethnic diversity in Japan, and contend that "in a rapidly changing Japan, 'the Japanese' themselves are being transformed as they confront a new range of diversity in their midst."<sup>26</sup> Weiner shows how the presence of foreign residents in Japan is not new, and cites how there were as many as 880,000 Korean residents in 1938, and 2.1 million in 1945.<sup>27</sup> Douglass and Roberts attempt to

dispel four myths about immigration in Japan: that Japan has no history of immigration; that the government can prevent immigration; that the immigration of low-wage labour will not be needed in the future; and that immigration imposes high costs on Japanese society and economy, especially in terms of crime.<sup>28</sup>

Contrary to these positions, Chris Burgess argues that the emerging discourse of Japanese multiculturalism with Murphy-Shigematsu and others discuss obfuscates the reality of a largely homogenous and closed society.<sup>29</sup> He begins by pointing out how Japan is unique in having a body of knowledge called *nihonjinron*, or the study of Japanese people. He uses this fact to articulate how there is a pervasive idea in Japanese society that Japanese people are somehow different from others, insofar as they deserve their own subject area. He further shows how Japan lacks any characteristics of multiculturalism in a policy sense, and cites the negative ways of how migrant workers are treated, both in policy and in discourse, as evidence of a lack of any cultural openness.<sup>30</sup> Similarly, Akihiko argues that foreign workers cannot be a solution because while they would fill labour shortages in the short term, "the experience of Germany suggests that an influx of foreign workers would become untenable ... and ... Japan would then shut the door."<sup>31</sup>

These positions represent two extremes that both neglect valid points in each other's arguments. Firstly, the pro-immigration side makes some very good points. Japan's history of a foreign presence is an important and often neglected fact. Furthermore, Douglass and Roberts show how foreigners are not actually responsible for any more crime than citizens, dispelling one of the common myths used to argue against immigration.<sup>32</sup> However, the pro-immigration side is mistaken to assume that the scope of Japan's historical colonial immigration policy that allowed a couple million Korean workers to reside in Japan while Korea was a colony is evidence enough that Japan is capable of accepting the scale of immigration needed today. This argument neglects the

statistical evidence that shows how the overall Japanese sentiment towards foreigners is more negative now than even 20 years ago, suggesting that whatever shifts to a trans-cultural Japan may be afoot, many people in Japan feel deeply anxious about the influx of foreigners.<sup>33</sup> Murphy-Shigematsu and Willis succinctly articulate the sheer variety of Japanese multiculturalism,<sup>34</sup> but their evidence is only anecdotal and does not prove that the positive trends they point to are generalizable beyond a small segment of the population. Overall, the writers from this side of the argument overemphasize small examples of how Japan is becoming multicultural, but fail to consider that immigration reform will clearly be a mammoth task.

Immigration sceptics like Burgess and Akihiko also have good points. Burgess convincingly demonstrates how through the very existence of *nihonjinron* and by virtue of the low opinion Japanese hold of foreigners, Japan presents an especially complex case for immigration reform. Similarly, Akihiko is arguably correct in suggesting that migration will pose new demographic challenges further down the line. However, he makes the mistake of only considering migrant labour, and not outright immigration, as a solution. Migrant labour involves a shifting side-community of workers, while immigration involves a permanent integration of migrants into society. Furthermore, his assumption that Japan would inevitably shut the door on migrants just because Germany has is flawed as it neglects the countless examples of countries where this has not happened. Burgess' argument is generally sound, but his pessimistic picture of the difficulties Japan faces in implementing high-volume immigration does not preclude the possibility of change. Overall, both of these sides to the argument make useful contributions to the debate. Therefore, it is important to draw from each. On one hand, the pro-immigration side is correct: Japan must begin immigration, and there are signs that point to the possibility for it to become viable in the near future. At the same time though, Japan is not currently suited, in terms of infrastructure or culture, for immigration, and hence serious reform

and cultural changes are needed.

### **The solutions and their limits**

Thus far, this paper has explored how Japan's potential demographic shift is likely to prevent long-term economic growth and prosperity. A shrinking population carries a strong risk of precipitating a perpetual downward trend in GDP growth as each business cycle becomes shorter, and each recovery fails to achieve the level reached before the last downturn. An aging population will only exacerbate the problem as more and more government resources are required to be channelled into social security and healthcare, and as far more people are leaving the workforce than entering it. Clearly, in order to avert economic collapse, Japan must avert this demographic shift. This paper has already discussed the arguments that are made for and against the viability of high-volume immigration.

However, some argue that there are better options to avert the demographic shift than immigration. Firstly, various discussions revolve around solving the crisis of under-consumption by compensating for the shrinking home market by increasing exports. However, it is hard to see how Japan will be able to increase its exports in the context of an emerging China. China's exports can only be expected to grow, and with lower labour costs, it would be a monumental task for Japanese exports to displace them. Another solution is to rely solely on short-term migrant labour. Proponents of this solution would say that this will overcome the condition of a shrinking labour force, without the problems of having to reorient society to accommodate immigrants.<sup>35</sup> The problem here is that the crisis of under-consumption is not solved. While Japan may be able to solve labour shortages, there will not be a parallel market expansion: the consumer base will continue to shrink indefinitely. Furthermore, as with other cases of migrant workers in Europe and North America, these workers would be lowly paid, and would be

generally sending their wages back home in the form of remittances, instead of spending them in Japan. One more potential solution comes in the form of increasing Japan's native population through pro-fertility policies to increase the birthrate. However, the gendered implications of such a policy are very problematic, considering how it orients women's "national purpose" as supplying more babies. Moreover, according to a 1998 survey, less than 20 percent of Japanese women say that they "derive satisfaction from child rearing," compared to half of American women and 70 percent of British women.<sup>36</sup> However, these statistics are not immutable, and with enough investment on family-friendly policies, enhanced childcare programs, and maternity leave benefits, the birthrate could be brought up, although not by enough to avert population decline. Yet even if pro-fertility social programs were introduced that rewarded families with three or more children, for example, these would be costly, and the "benefits" of such a program would not even begin to emerge until 2030 or 2035 at the earliest, even if such a program was introduced next year.

### **The reality of immigration reform**

Immigration could potentially solve all of the problems that these other solutions cannot. Unlike increasing exports, it would ensure a market for its products at home. Moreover, incomes earned in Japan would actually be spent in Japan, contrary to the empirical pattern seen in policies that seek to increase migrant labour. Unlike pro-fertility population policies, it does not take women back out of the productive labour market, and its results can be realized in the short term rather than decades down the road. However, immigration has its own set of problems, some of which are universal, and some of which are particularly pertinent to Japan. According to United Nations, Japan would require admitting 609,000 immigrants a year for the next 50 years in order to maintain its current labour force.<sup>37</sup> Alternatively, to maintain its current population, Japan would need to admit 381,000 immigrants

over the same period.<sup>38</sup> Japan faces two obstacles in meeting such a significant challenge. For one, Japan faces the costs of improving infrastructure to deal with immigrants, to integrate them into the labour market and into society, and to increase access to Japanese language lessons and other support programs.<sup>39</sup> Furthermore, Japan faces tremendous social costs of reorienting societal views of “non-Japanese” people<sup>40</sup>, and Japanese identity from one based on ethnic nationalism to one based on civic nationalism. Japan does not have the infrastructure to deal with the level of immigration espoused by the UN. This involves the physical infrastructure required to process applications and facilitate immigrants' integration into the labour force. However, this also involves social infrastructure necessary to ensure immigrants are not excluded from mainstream society. More specifically, this amounts to improving access to Japanese language training, creating programs for facilitating integration into communities, making education more multicultural and pluralist, and increasing funding for multicultural events, festivals, institutions, and programs; all of which are important elements in facilitating the integration of immigrants into mainstream society.<sup>41</sup>

Currently, Japan has a population of just over 2 million foreigners, a number it would need to add every six years if it were to maintain its current population.<sup>42</sup> In 2008, the Japanese Business Federation expressed its support for immigration reform that would allow unskilled as well as skilled labour to be brought into Japan.<sup>43</sup> Whether or not this represents a call for migrant labour or immigrants is unclear. However, according to Burgess, the current infrastructure is not set up to deal with a significant influx of either immigrants or migrants.<sup>44</sup> Furthermore, current immigration law states that workers can apply for naturalization if they have lived in Japan for five years and are able to support themselves economically.<sup>45</sup> In 1999, 16,000 people were naturalized, many of whom already held permanent resident status.<sup>46</sup> Yet it is currently almost impossible for anyone other than skilled labour or people with Japanese blood to get work permits

for that long.<sup>47</sup> Furthermore, because nationality is based on *jus sanguinis* instead of *jus soli*, babies born in Japan are not citizens unless they have Japanese blood.<sup>48</sup> Clearly, the present immigration laws, policies, or infrastructure is currently set up to deal with high-volume immigration.

## Future policy reform

While there has been little done in a policy sense to begin immigration reform, Japan has experienced an influx of migrant labour since the late 1990s. In 1999, over 108,000 migrant workers entered Japan, mostly from East Asia.<sup>49</sup> Overall, there were 670,000 migrant workers in Japan in 1999.<sup>50</sup> Since the 1990s, Japan's policy has been to seek skilled labour and professionals, but to limit the entrance of unskilled migrants as much as possible.<sup>51</sup> This policy framework is set to expire in 2010.<sup>52</sup> Since the 1990s, Japan has acknowledged the need to meet labour shortages with international migrants. However, in the long run, this will not be enough to avert economic decline. In the coming decade, policy-makers need to shift from migrant labour policies to immigration policies if the demographic shift is to be averted. Japan's limited experience with migrant labour will be helpful in realizing immigration reform. However, much has yet to be done if a shift in policy will be viable, as the infrastructural and legal obstacles to immigration reform remain. At the same time, there are social and cultural obstacles to immigration reform.

In the wake of 9/11 and perceived immigration problems in France, Germany and Britain, the Japanese have grown apprehensive to the influx of migrant labour.<sup>53</sup> Consequently, there has been a growing fear of migrants, and an association of foreigners with crime.<sup>54</sup> According to a 2005 survey, 55 percent of people felt that public safety had worsened over the past decade as a result of a rise in crimes committed by foreigners.<sup>55</sup> Unlike in other liberal democracies, a significant proportion of Japanese see Japan's ethnic homogeneity as inherently desirable, and even as the

basis for security and prosperity. In 2005, Taro Aso referred to Japan as “one nation, one civilization, one language, one culture, and one race”.<sup>56</sup> Most remarkable is that these remarks raised little controversy within Japan. Another deeply pervasive idea is that Japan represents not only an ethnically homogenous, but economically classless society.<sup>57</sup> This is channelled into apprehensions of what the growing presence of foreigners will do to Japan's economic equality. In terms of Japan's own minorities – the Ainu, Okinawans and Burukamin – state policy has largely been to ignore their existence as distinct groups within Japan.<sup>58</sup> These policies are a reflection of the popular conception of Japan as a single state, nation, race, ethnicity, and class.<sup>59</sup> For now, the overall cultural attitude many Japanese hold towards foreigners, and the conceptions they have of what it means to be Japanese are not compatible with any high-volume immigration policy.

What investments and changes are required to overcome the above problems and make high-volume immigration in Japan a viable policy? There is no doubt that they are considerable. High-volume immigration will fundamentally transform Japanese society. Even in the most successful cases – Canada, United States, Australia, the Netherlands – high-volume immigration policies have begotten new social tensions, economic inequality and culture loss. The national identities of these countries have been transformed significantly as an effect of immigration. Immigration in Japan will only be successful if Japanese people can come to terms with a reorientation of Japanese national identity from ethnic to civic. If Japanese people can come to associate “being Japanese” with the cultural, social, linguistic characteristics of their national society – but not the ethnic or racial characteristics – and accept that compromise and cultural fluidity are necessary to meet the current challenge, and then immigration reform can be successful. However, it will unavoidably cause Japan to look more like Australia, the Netherlands or Canada than its current self. Although Murphy-Shigematsu may argue that Japan is already as diverse as Germany, Italy or the UK 20 years

ago<sup>60</sup>; in actuality it represents a fundamentally more challenging case for multiculturalism than any Western European state. Certainly, the perceived monoculturalism, the existence of *nihonjinron* and the conception of Japan as one culture, one race, one language, one nation and one state are powerful discourses that provide unique challenges not present in any immigrant-receiving country.<sup>61</sup> However, while high-volume immigration is a challenge, it is not insurmountable. In earlier times, Japan has been able to rapidly reorient its society, its national purpose, and its national identity in order to meet new challenges, from the Meiji Restoration and subsequent rapid modernization in the late 19<sup>th</sup> century to the sudden (albeit enforced) move from militarism to pacifism in 1945.<sup>62</sup> How these changes can and ought to be accomplished will be questions of increasing significance in Japanese political discourse.

## Conclusion

It is hard to see how Japan can maintain the demographic balance needed to stave off economic collapse without instituting high-volume immigration. This is not to say that Japanese policies in dealing with the demographic challenge cannot be flexible and involve other approaches besides immigration; nor does it mean that immigration must meet the UN quota of 609,000 a year for the next half-century. The latter would be economically unattainable, politically unviable, and culturally inconceivable. However, it is just as difficult to see how Japan can avert the problem without beginning to accept a considerable quantity of immigrants. In this paper, I have shown how both facets of Japan's demographic shift – population decline and aging – will seriously exacerbate the poor economic conditions with which Japan has been grappling for the past twenty years, and could, in the worst case, lead to a perpetual recession, as businesses would have a perpetually decreasing labour pool and consumer base, making it increasingly difficult to make profitable investments. I have also demonstrated how the added costs of caring for an elderly society will put further strain

on Japanese society and economy. I have tried to explain why solutions to this problem beyond immigration either cannot sufficiently meet the demands (fertility increases, further export-growth), or do not address the problem holistically, and consequently will only cause other problems to emerge (migrant labour). However, these solutions should not be condemned outright; they may play an important role in overcoming the problem. Nonetheless, it is difficult to foresee a real solution to the problem that does not involve high-volume immigration.

Finally, I have examined the obstacles to immigration reform, some of which are universal, and others unique to Japan. The issue of immigration reform will be a hotly debated topic in Japanese political discourse. The Japanese people may decide that they are willing to compromise long-term economic prosperity and global significance in order to preserve their perception of a unique homogenous culture and society. Conversely, they may be willing to engage in the fundamental reorientation of society necessary to meet this 21<sup>st</sup> century challenge, in the way challenges were met in the 19<sup>th</sup> and 20<sup>th</sup> centuries. In this paper, I have clarified what the problem is, what the consequences of not acting are, what solutions are viable, and what the implications of these solutions are. The next question is whether the costs of perpetual economic recession and international decline outweigh the costs of transforming society from (supposedly) monoculturalism to multiculturalism: whether immigration reform is worth it for Japanese society.

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## Notes

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# **A Province Defined**

## *An Analysis of the Political Ideology of the 1952-1972 Social Credit Government of British Columbia*

Jacob Helliwell

The Social Credit policies of 1952-1972 resulted in the aggrandizement of contemporary British Columbia. Under the ambitious and charismatic leadership of W.A.C. Bennett, the Social Credit (Socred) government successfully implemented a policy of province-building through unrivaled infrastructure expenditures and a dedication to the development of the hinterland. The following will consider the actions of Bennett's twenty-year reign in relation to political ideology. Beginning with a sketch of the ideology behind 'right-wing,' the essay will move to analyze some of the actions of the Social Credit government. By this analysis, it can be argued that the BC Social Credit government was in fact a right-wing party, and policies that traditionally align with the left are explicable as Bennett's attempt to build a foundation for new wealth and resource exploitation.

### **What is right wing?**

The conceptualization of 'right-wing' has largely evolved out of the Enlightenment. The Enlightenment was a time characterized by the proliferation of rational thought. A systematic separation of church and state during the Enlightenment years led many theorists to explore and sketch out a depiction of Man as a rational being capable of running the affairs of the state and their own livelihood without church interference. As rational thought progressed throughout the Enlightenment, new political ideologies began to shift and take form. The terms 'right' and 'left' surfacing from the Enlightenment can often be traced back to the French National Assembly of 1789, when the "defenders of aristocratic privilege and hierarchy stood on the right side of the chamber,

while the proponents of greater equality and individual freedom stood on the left".<sup>1</sup>

Traditionally, these Enlightenment ideas are associated with the 'left' or liberal thought. Liberalism holds to individual freedom and rights against aristocracy, hierarchy, and arbitrary church or state power. This commitment to individual autonomy often makes liberals strong egalitarians in support of equal rights for all citizens. Growing numbers of liberals coming out of the Enlightenment helped to challenge the aristocratic privileges and the labels 'right' and 'left' became part of the political discourse of the late 18<sup>th</sup> century.<sup>2</sup>

The terms 'right' and 'left' have gone through substantial evolution and entrenchment since the late 18<sup>th</sup> century with most political systems holding their own interpretations of the terms. Conservatism, regardless of interpretation, is consistently viewed as synonymous with the 'right'.<sup>3</sup> The following will be a brief analysis of the common conceptions of conservatism and will sketch out the four characteristics applicable to the Social Credit government of 1952-1972.

The disagreement between hierarchy and equality is only one of the fundamental issues separating liberalism and conservatism. Another major dichotomy is the internal split over whether the private interest of individuals should take precedence over the interest of society.<sup>4</sup> Liberalism holds strongly to the idea that individuals should be able to hold to their own interests as long as they do not cause harm to anyone else.<sup>5</sup> Conservatives, on the other hand, prefer the notion of a community within society. To conservatives, a nation is more than just a group of individuals in a geographical area; it is the uniting bonds of common culture, language and interests.<sup>6</sup> Conservatives are not necessarily against individual rights and freedoms; they are just willing to curb personal freedoms in exchange for the protection of society. Edmund Burke, whom conservatism analysts identify as the

“conservative archetype,” stressed the importance of harmonious community in molding virtuous persons; persons that will then be able to give back to society and provide leadership for the next generation to inherit the ideals of society.<sup>7</sup> Moreover, for strong and effective leadership, the community must be based on a hierarchical system.<sup>8</sup> A hierarchy is seen as essential as those with superior abilities will provide leadership and mentoring to subsequent generations in their maturity with society’s ideals.

Hierarchical relationships should be the basis of a conservative community. The argument is as follows: a society that lacks sufficient hierarchy will fail to provide incentives for individuals to excel if these individuals do not have distinctions in status.<sup>9</sup> Without incentives and competition, the society will result in “a stifling mediocrity and dragging of the entire society into economic stagnation, boredom, and apathy”.<sup>10</sup> This belief helps frame the conservative stance on the issue of individual rights held by liberals. It would be impossible in a societal sense for men to be equal; and thus, providing individual rights would be counter intuitive to the progression and sustainment of society.<sup>11</sup> It is important, therefore, to protect individuals, but never at the jeopardy of society. Gad Horowitz argues that Canadians have a strong acceptance of the facts of economic inequality, social stratification, and thus hierarchy.<sup>12</sup> This theory is sustained by Richard Sigurdson, who explores the New Democratic Party’s (NDP) inability to implement radical socialist change because they are operating in a capitalist structural system that is accepted and maintained by the majority of citizens.<sup>13</sup> Hierarchy is the lament of many citizens, though most accept its entrenchment and are unwilling to fight class conflicts when “cross-cutting cleavages ... divide citizens along religious, ethnic, geographical, or ideological lines rather than class ones”.<sup>14</sup> Rightists defend hierarchy as essential in maintaining prosperity and order because it organizes the complexities of society. Institutions such as government, corporations, schools and families must be hierarchically

structured and maintained like society in order to achieve their objectives.<sup>15</sup>

Traditionalism has been a major component of conservatism since Burke first rooted the ideals. To Samuel Huntington, “conservatism is the passionate affirmation of the value of existing institutions”.<sup>16</sup> Society evolves through slow historical growth and the product exhibits the enlightenment of the previous generations.<sup>17</sup> This, by no stretch of the word, means conservatism opposes all change. Naturally, it may be necessary to accede on secondary issues in order to preserve the fundamentals of society. This was particularly true for the Social Credit government under W.A.C. Bennett as we will explore shortly. Conservatism is not the absence of change, but the intelligible resistance to it.<sup>18</sup>

The three aspects of conservatism mentioned above are highly theoretical compared to some common perceptions of conservative governments. The fourth aspect that is important to mention is the long history of unique fiscal management. Conservatives often hold that the laws of commerce are the laws of nature and that the state should remain out of economic matters wherever possible.<sup>19</sup> That being said, the ‘tory touch’ in Canada led to a willingness of English-Canadian political and business elite’s to use the power of the state for the purpose of development and control of the economy.<sup>20</sup> The ‘tory touch’ is explained as the large influx of British conservatives into the political affairs of Canada when the united empire loyalists fled the newly formed United States of America after the Revolutionary War.<sup>21</sup> Conservatives also hold strongly to the idea of balanced budgets. Liberals and conservatives are often characterized by their approval or disapproval of social spending based on balancing the budget, where it is a common conception that liberals are far more willing to introduce a deficit budget.<sup>22</sup>

Conservatism has a long history throughout the world. In Canada the ‘tory touch’ helped to entrench conservative ideals into

our political discourse. As the nation spread west, British Columbia explored the impacts of liberalism, conservatism and socialism. Between 1952 and 1972 the Social Credit government worked hard to give off an aura of development, BC community and fiscal management. Building on the hierarchism, traditionalism, communitarianism, and fiscal management that characterize conservatives, we will now explore the twenty years of W.A.C. Bennett reign as premier and the actions of his Social Credit government.

## **20 Years of Social Credit**

W.A.C. Bennett campaigned tirelessly in the lead up to the 1952 British Columbia provincial election. As a member of the Social Credit party, he championed his South Okanagan seat and saw his party elect nineteen MLAs, enough to form a minority government. This was a remarkable feat considering the party held no seats in the previous legislature and was formally leaderless. Shortly after the election, however, W.A.C. Bennett was chosen as leader in a closed-door caucus election.

A few important events led to the election of a Social Credit government. Firstly, election of the Social Credit was constructed by the fragile Liberal-Conservative coalition. The Liberals were considered the dominant party in the coalition because of their greater number of seats in 1941. Furthermore, the formula used by the coalition to select candidates was grossly biased, and enshrined the dominance of the Liberals.<sup>23</sup> By the end of the 1940s there was tension within the coalition. The Liberals favoured greater government control and a development of a welfare state, while the Conservatives were hard fast to keep taxes low and government intervention to a minimum. A public dispute broke out between the partners and in January 1952 the coalition was officially null.<sup>24</sup> The loss of the coalition helped precipitate the creation of the Social Credit who did not emphasize specific policies but rather emphasized the ‘tory-touch’ by “[promising] a

way of life based on Christian principles, Alberta-style fiscal management, and individual freedom".<sup>25</sup>

As a last drive of the stake, the coalition government decided to institute a new voting method called single transferable ballot. This essentially allowed the electorate to number their preference of candidates. If, after all the votes were counted using first preferences, and there was no winner with a fifty-per-cent majority, then the candidate with the lowest first preference votes would be knocked off the list and the second choices on those ballots would be divvied up between the remaining candidates. The rationale was that the electorate would choose either the Liberals first and Conservatives second, or the Conservatives first and the Liberals second. This action would force the Co-operative Commonwealth Federation (CCF), the strongest political rival to the coalition, to a third preference standing that would likely never be elected. The election results were apprehensively close, and on second count most voters did not give their second choice to the Liberals or to the Conservatives. Instead, second choice votes were distributed to the Social Credit (CCF voters were also more likely to give their second choice to the new Social Credit government) triggering a Social Credit victory.<sup>26</sup> The lieutenant-governor called on W.A.C. Bennett, after his caucus-vote leadership victory, to form the government on 1 August 1952.<sup>27</sup>

Although the failure of the coalition and the new ballot system were two major reasons for the Social Credit victory, Gordon Hak explored the history of populism in BC and found that it had an immense impact on the election results. Leading up to the 1952 election, the BC Social Credit (Socred) organization had very shallow roots in BC, no support from the press, and an extremely vague platform.<sup>28</sup> Based on political history, this was a recipe for disaster. At this time, however, BC was wrought with large foreign corporations that had special access to the coalition government of the day. Populist sentiments challenged this dominant bloc, criticizing the growth of big business and monopoly.<sup>29</sup> The Social

Credit capitalized on this criticism and espoused a broad vision of a 'petit-bourgeoisie' society. The petit-bourgeoisie, to Hak, were those who did not control the development of the province but had space to acquire wealth, develop community association, formulate educational policies, and manage hospitals.<sup>30</sup> The thought was that the Social Credit government would open access to the decision making bureaucracy and cabinet, and create opportunity for the petit-bourgeoisie. This was a fallacy.

Bennett gave the illusion of a Social Credit government that was looking to end the longstanding social hierarchy in order to produce a petit-bourgeoisie society that renounced big business. Instead, Bennett exploited his legislative experience in order to organize a form of hierarchy within the legislature that suited his needs. According to Murray, there was no question who was the boss. As Bennett said later of his jerry-built cabinet, "they were a great team because they were all new and so they took advice well".<sup>31</sup> Like a man possessed, Bennett went to work to single-handedly rebuild the province's economy. The Social Credit victory did not usher in an ideal populist society.<sup>32</sup> Instead, W.A.C. Bennett took advantage of the inexperience of the new Social Credit MLAs, the lack of specific electoral commitments, the minority position of the Social Credit government, and the business community's fear of the continuing socialist threat to shape the party and the government around his personal agenda.<sup>33</sup> Over and above his authoritarian *posé* completely based on a self-dominated hierarchy, Bennett did little to quell the fears of big business held by the petit-bourgeoisie.

The Social Credit administration enticed foreign firms by granting easy access to resources and offering lucrative incentives for investment. In 1958 the legislative assembly passed an amendment to the Forest Act in order to consolidate forest tenures for large, externally owned timber corporations and to annul competition from small, locally operated companies.<sup>34</sup> The Forest Management Licenses given to the large firms gave them a

monopoly on timber extracts from their particular holding. Furthermore, to supply a growing domestic demand for newsprint, ten American owned pulp mills were introduced to the province between 1963 and 1974.<sup>35</sup> In consolidating political control, Bennett respected the realities of power and supported the large companies. For the 1953 election, Bennett “reoriented Social Credit as an anti-socialist, anti-union party, demonizing the CCF. Social Credit now attracted support from big business and, in this strange alliance, retained the support of right-wing populists”.<sup>36</sup>

For the twenty years that Bennett held power he maintained Social Credit populism regardless of his relationship with big business. It was two distinct reasons that maintained this coalition. First, the petit-bourgeoisie perceived the Socred government as the upholder of their traditional place in BC society. It was Bennett's government that offered the largest economic benefits and opportunities, regardless of foreign ownership and corporate size, as BC's economy expanded. Second, it was vastly through the Social Credit's policy of province-building that Bennett supported the petit-bourgeoisie and maintained his populist coalition. The first triumph in this regard was the completion of the Pacific Great Eastern (PGE) Railway to Prince George.<sup>37</sup> The reality at the time was that power was consolidated in Victoria and Vancouver. These two economic hubs were cut off from the majority of the province, making the hinterland an easy prey to Ottawa, Alberta and American expansionism.<sup>38</sup> Bennett did not believe that these hubs were the only places that counted in BC, and the PGE was the first step in his dream of populating and securing the hinterland. Following the 1953 election, now with a strong majority, the Socred government quickly extended the PGE into the Peace River country. The railways helped Bennett rapidly act on his policy to reverse underdevelopment in the interior and north.

Working with record revenues, infrastructure projects sprang up in every corner of the province. According to Jackman, “all governments build roads, but none were to do so on the scale

of the Social Credit government".<sup>39</sup> In 1958, following job action by employees of the Puget Sound Navigation Company and Canadian Pacific Railway's steamships, the BC Ferry Authority was established. The Authority was provided with its own vessels in order to expand communication between the coastal communities and to link the capital to the mainland in a sustainable fashion.<sup>40</sup> This is an important example of Social Credit government consolidation and nationalization of a company, not for the purpose of equity and equality, but for the purpose of building the foundation for stabilized economic relations.

Bennett's government also tore into its revenues for construction of new school buildings and employment of new teachers on a scale unknown in the past. The University of British Columbia (UBC) was given a larger grant, Victoria College became a full-fledged university and a new institution, Simon Fraser University, was created in Burnaby.<sup>41</sup> New engineers and professionals were hired to construct an oil and gas pipeline, build a superport at Roberts Bank, and upgrade and expand the provincial highway network.<sup>42</sup> The Socreds subsidized new logging roads throughout the interior by offering companies tax breaks and discounting resource rents in exchange for road construction. Much of the electorate was unhappy with the corporate tax breaks for big business, but W.A.C. Bennett defended his policy by arguing that they provide the most efficient, cost-effective, and sustainable way to create infrastructure in the province.<sup>43</sup>

Bennett's massive social spending and infrastructure expenditures are not typical of right-wing governments. Upon further examination, however, it is obvious that Bennett was motivated by conservative rationales. The Social Credit expenditures for province building were justified as building the foundation for future resource manipulation and exploitation. Bennett predicted great future returns for the interior and north's residents through large-scale exploitation of timber, water, and

mineral resources. Soren Larson argued “this ideology became the fulcrum of a dominant structure of expectation that enabled British Columbians to accept and ... advocate the rapid development of the northern resources at any social or environmental cost”.<sup>44</sup> With the belief that Victoria and Vancouver elites had not done enough to preserve the integrity of the province, Bennett was able to garner support for his province-building and defending of BC’s territory from the external political threats of Ottawa, Alberta and America.<sup>45</sup> Bennett was attempting to consolidate the BC population into a united front against outside ideologies and pressures in order to secure the resources of the province for British Columbians.

The Bennett government was not alone in protecting their province from external threats through province-building. Infrastructure spending surged nationwide in the 1960s and 1970s, strengthening the provinces against the federal government and serving the needs of a rapidly-growing population.<sup>46</sup> Not only did infrastructure spending surge but the weight of this financial burden was felt by the provinces. Bird and Tassonyi found that federal transfers to provinces were at their lowest point from 1963 to 1978 as a percentage of provincial revenues.<sup>47</sup> Moreover, provincial governments were frequently constrained from borrowing to fund infrastructure investment. Without federal transfers, it can be expected the provincial infrastructure expenditures would decrease. This was not the case. In fact, the share of infrastructure spending by provinces, expressed as the national average, was 63.3 percent.<sup>48</sup> Provinces Canada-wide, regardless of ideology, invested hoards of money in province-building and infrastructure development.

A remarkable aspect of Bennett’s social spending was his ability to eliminate the provincial debt.<sup>49</sup> According to Murray, Bennett did this by continuing Premier Johnson’s ‘pay-as-you-go’ policy of financing public works out of current revenue instead of borrowing as in the past.<sup>50</sup> Murray also points out, however, that

the Dominion Bureau of Statistics found that Bennett used the pay-as-you-go philosophy as well as disguising expenses as contingent liabilities.<sup>51</sup> This means that crown agency debts are not recorded on the provincial budget to give the illusion of no government debt. Regardless of crown agency debts, Bennett's prudent finances, high revenues and policy of pay-as-you-go saved the province billions of dollars, and helped quell the deficit from the previous coalition government.<sup>52</sup>

As the Social Credit administration underwent the implementation of their economic agenda, Bennett found the legislative process a nuisance.<sup>53</sup> To combat this, he would often keep sessions short and infrequent. This forced a diminished role onto the opposition who had no money or offices between sessions.<sup>54</sup> In fact, Bennett exploited the parliamentary system in order to introduce controversial legislation at the end of a session forcing sittings beyond normal adjournment times – this was his policy of legislation by exhaustion.<sup>55</sup> He held the press in contempt, restricted debate and refused to build a complex bureaucracy.<sup>56</sup> Luckily for Bennett, British Columbians never demanded substantive institutional changes.<sup>57</sup> Indeed, according to Norman Ruff, W.A.C. Bennett's twenty-year Social Credit regime instituted no substantive institutional changes. A limited Hansard was introduced, "but excluded coverage of much of the sitting by ignoring the lengthy time spent in consideration of budget estimates in the committee of the Whole House on Supply".<sup>58</sup> Bennett's resistance to institutional change helped label him as the conservative he was. It is interesting to note, however, that Bennett's contempt for parliamentary rules and traditions of courtesy and cooperation may have distinguished him from true conservatives, but he was conservative nonetheless.<sup>59</sup>

## **Conclusion**

After the first election of the Social Credit government in 1952, W.A.C. Bennett worked tirelessly to organize a hierarchy

that allowed him to have unprecedented control of economic and social policy. He was quick to implement his version of nation-building, spending billions of dollars to secure and inhabit the interior and north. Bennett also undertook large expenditures in health and education for the purpose of uniting British Columbians and giving them a sense of imagined community and provincialism. His policies helped him maintain his populist support regardless of the fact that it originally supported him for his preference of small- to large-business. Although many of Bennett's policies could be classified as left-wing, there is strong evidence that his policies were implemented to build the foundation for future business and exploitation of BC resources. Bennett held strong to the conservative ideals of hierarchy, community, traditionalism, and fiscal management. Community focus was expressed through his province-building and provincialism; traditionalism through his disregard for institutional change and reluctance to follow even the established rules; and fiscal management which climaxed with his elimination of the public debt. Broadly, the Social Credit government supported a hierarchical organizational structure through its continued support of big business and its attempt not at leveling the playing field, but at bringing the petit-bourgeoisie to the ranks of larger businesses. Bennett also supported hierarchy through his exploitation of legislative experience over his cabinet during his reign as the twenty-year Social Credit premier from 1952-1972.

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## Notes

- <sup>1</sup> Barry S. Clark, *Political Economy: A Comparative Approach* (Westport: Greenwood, 1998) 33.
- <sup>2</sup> Barry S. Clark, *Political Economy: A Comparative Approach* (Westport: Greenwood, 1998) 33.
- <sup>3</sup> G. Horowitz, "Conservatism, Liberalism, and Socialism in Canada: An Interpretation," *The Canadian Journal of Economics and Political Science* 32.2 1966: 165.
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- <sup>14</sup> Richard Sigurdson, "The British Columbia New Democratic Party: Does It Make a Difference?," *Politics, Policy, and Government in British Columbia*, ed. R. K. Carty (Vancouver, UBC, 1996) 319.
- <sup>15</sup> Barry S. Clark, *Political Economy: A Comparative Approach* (Westport: Greenwood, 1998) 34.
- <sup>16</sup> Samuel P. Huntington, "Conservatism as an Ideology," *The American Political Science Review* 51.2 1957: 455.
- <sup>17</sup> Samuel P. Huntington, "Conservatism as an Ideology," *The American Political Science Review* 51.2 1957: 458.
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- <sup>19</sup> Samuel P. Huntington, "Conservatism as an Ideology," *The American Political Science Review* 51.2 1957: 463.
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- <sup>26</sup> Gordon Hak, "Populism and the 1952 Social Credit Breakthrough in British Columbia," *The Canadian Historical Review* 85.2 2004: 278.
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- <sup>40</sup> S. W. Jackman, *Portraits of the Premiers* (Sidney: Gray's, 1969) 261.
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- <sup>51</sup> Peter Murray, *From Amor to Zalm* (Victoria: Orca, 1989) 136-7.
- <sup>52</sup> Peter Murray, *From Amor to Zalm* (Victoria: Orca, 1989) 127.
- <sup>53</sup> Peter Murray, *From Amor to Zalm* (Victoria: Orca, 1989) 129.
- <sup>54</sup> Peter Murray, *From Amor to Zalm* (Victoria: Orca, 1989) 129.
- <sup>55</sup> Peter Murray, *From Amor to Zalm* (Victoria: Orca, 1989) 129.
- <sup>56</sup> Peter Murray, *From Amor to Zalm* (Victoria: Orca, 1989) 130.
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# **Paving the Road to Gaza**

## *Israel's National Role Conception and Operation Cast Lead*

Christopher Haynes

On December 27, 2008, the Israel Defense Forces (IDF) began their assault on the Gaza Strip in what they called Operation Cast Lead. 13 Israelis and as many as 1400 Palestinians were killed in the three weeks of fighting. The war enjoyed wide support among Israelis: according to the Tami Steinmetz Center for Peace Research, 94% of Jewish Israelis (76% of Israel's population) supported the attack.<sup>1</sup> Operation Cast Lead caused enormous suffering in Gaza and has been a thorn in the side of Israelis since its commencement. Numerous human rights organisations have issued reports on the conflict accusing both sides of war crimes, and the Israeli government has denied any but the noblest intentions. How did we get here?

Most theories of war examine personal, system-wide, political or historical causes of war. However, if the government or military that initiates a war is held to account by its citizens, it is relevant to ask how the citizens themselves may have caused the war. What theories of war might be used to make sense of this conflict?

The theory of national role conception (NRC), as put forth by Holsti (1970) and extended by Backman (1970), attempts to explain foreign policy behaviour of governments in terms of identifiable patterns. These patterns form part of the “intellectual setting in which day-to-day decisions on foreign policy are made” because of the importance of image and self-image. Roles are classifications such as “non-aligned”, “bloc leader”, “satellite”, “revolutionary leader” and so on.<sup>2</sup> These roles describe “a broad but typical range of diplomatic behaviours and attitudes”, along with, perhaps, tendency to war.<sup>3</sup> For instance, a state with clear

role conceptions of “liberator”, “anti-imperialist” and “regional leader” may be expected to be involved in more wars than one adopting the roles of “mediator” and “developer”. The former describes Egypt in the mid-1960s (before the Six Day War and War of Attrition) and the latter describes Sweden in the same time period.<sup>4</sup> Given that a state's role describes a consistent set of actions and decisions, role theory can illuminate a state's self-image and thus predict when a state might fight to maintain its identity.

Holsti's theory of NRC examines general foreign policy statements made by high level state officials and policymakers. This essay takes a different tack. It attempts to analyse the common understandings most Israelis hold regarding their state's role in dealing with the Arab threat. Holsti writes that foreign policy decisions derive from three main sources: 1) policymakers' role conceptions; 2) domestic pressures; 3) significant external events or trends.<sup>5</sup> Instead of choosing number one, as Holsti does, I have chosen number two.

We will find Israel's NRC by studying Jewish Israelis' perceptions that were formed before Operation Cast Lead.<sup>6</sup> There are certain stories, certain versions of history that a majority or at least a plurality of voters, opinion leaders and decision makers agree on. These stories become experiences through their telling and retelling, and are highly formative of public perceptions. Pressure from other governments, norms, or “world opinion” do not adequately explain national behaviour in conflict.<sup>7</sup> Public perception, on the other hand, guides the hand of the state, and can lead to war. As Professor Mira Sucharov writes, “something happens between the point at which citizens articulate their preferences and those preferences are translated into policies.”<sup>8</sup> The citizens of a democracy approve policy enacted in their name, especially high-stakes policies such as those to go to war. Israel is a highly representative and pluralist democracy, and this applies as much to it as anywhere. In a democracy, the people must approve

of a war for it to last, and national leaders running the war need to believe they will have the support of the people when taking a potentially career-making decision. In initiating Operation Cast Lead, as seen above, Israel's leaders had that support.

Democracy may even increase the likelihood or ferocity of a war. Though it is widely held that democracies tend not to fight each other, they often “adopt a crusading spirit”, constraining policymakers and forcing them into ill-advised wars.<sup>9</sup> Democracies turn wars against groups they perceive as terrorist from conflicts of interests into “moral crusades” of good against evil.<sup>10</sup> According to Professor Jack S. Levy, the belief held by most liberals that elites always trick the public into going to war despite an otherwise peaceful political culture is wrong. There are numerous examples, Levy says, of a hawkish public pressuring the elites to declare war.<sup>11</sup> I should state that I am not looking to prove that Israelis pressured their leaders into the war in Gaza, nor that Israeli culture started Operation Cast Lead. This essay attempts, instead, to understand Israel's national role conception and thus better understand why the Israeli public supported the war, and why public pressure may have arisen. It proposes that approval for Operation Cast Lead was built into Israeli political culture. Thus, this essay asks two questions: what is Israel's national role conception, and how did Israel's role lead to support for Operation Cast Lead?

To answer these questions, we will look at the Israeli self-image of victimhood, its ethos of conflict and its effects as a major factor in Israeli culture, how Israelis feel about the occupation and how the Israeli media tie these things together and reinforce Israel's NRC. Finally, we will analyse Israeli perceptions of the events leading up to Operation Cast Lead through the lens of this NRC.

Along with things like geography and resources, NRC depends on public demands, national values and ideologies, and public

mood.<sup>12</sup> Consistency is key, and while public mood and demands vary over time, whatever patterns emerge in the long run are relevant to NRC. This essay will examine evidence of Israel's role and find that it points to what is best described by Sucharov as the "defensive warrior". This essay draws on various sources such as public opinion polls, election results and Israeli media accounts to give an accurate picture of Israel as defensive warrior. It asserts that the two essential and related elements of Israel's NRC are perceptions of victimhood and morality.

## **Six Million Victims**

Operation Cast Lead's stated objective was "stopping Hamas' constant rocket and mortar fire on Israeli civilians and property".<sup>13</sup> The rocket attacks were not aimed at particular individuals: they were fired to cause pain. Who was under attack? Not a few people or towns in Israel: the people of Israel as a whole were under attack. In an interview, Dore Gold, an Israeli statesman and prime ministerial advisor, voiced the Israeli position quite clearly: "Israel was under attack for eight years".<sup>14</sup> That means that more than six million people are still victims after all these years. Do Israelis feel this way about themselves? Larry Derfner of the *Jerusalem Post* writes that, to Israelis, Israeli history is "one unbroken legacy of righteous victimhood".<sup>15</sup> Professor Tanya Reinhart said "the dominant narrative remains that Israel is struggling to defend its very existence", even though short-range rocket attacks might not seem like an existential threat.<sup>16</sup> Professor Ilan Pappé described Israel's self-image thus: "Israel presents itself to its own people as the righteous victim that defends itself against a great evil".<sup>17</sup> Sever Plotzker, a well-known Israeli columnist for *Yedioth Ahronoth*, one of the most widely read newspapers in Israel, wrote that, due to the apparent rise of political Islam and Muslim anger, "Israel finds itself an inch away from an erupting volcano, on the frontlines of the 'clash of civilisation'".<sup>18</sup> Such arguments reflect the common understanding in Israeli discourse: Israel is fighting for its life.

Where does this narrative come from? Since victimhood is perceived as characterising Jewish Israeli society, the narrative is transmitted at every level.<sup>19</sup> In the army and mass media, to which we will turn shortly, Israelis repeat the narrative; however, Israelis begin learning about the Jewish people's suffering in school.<sup>20</sup> The Peace Research Institute in the Middle East believes that Arab and Jewish teachers and schools present "deeply entrenched and increasingly polarised attitudes on both sides of the Palestinian-Israeli conflict".<sup>21</sup> Professor Elie Podeh of the Hebrew University of Jerusalem writes that a state or national education system is a major instrument for inculcating the desired values of the society.<sup>22</sup> As a consequence, Israel's education system "has consistently aimed to emphasise Jewish and Zionist identity" in its teaching of the Arab-Israeli conflict.<sup>23</sup> Podeh finds that Israeli textbooks' teaching of Islamic history, religion and culture contain "many distortions, biases and omissions", and are "explicitly patronising and prejudicial". He quotes one popular textbook as saying that the Jews "exercised tremendous influence over the mostly illiterate Arabs".<sup>24</sup> Textbooks usually ignore the Arab presence in Palestine when the Jews arrived, calling the land empty of inhabitants. The "very small number of Arabs" who were there are characterised as "thieves, cowards, lazy" and, central to the myth that Palestinians have no legitimate claim to the land, "lacking national consciousness".<sup>25</sup> Accordingly, around one third of Israelis believe that "the ultimate aspiration of Arabs" is "to conquer Israel and wipe out a large part of its Jewish population".<sup>26</sup> These beliefs are central to feelings that any security measures are justified against the Arab enemy.<sup>27</sup>

A high school teacher in Jerusalem named Yitzhak Komem says that, whatever the textbooks teach, his job is circumscribed by society itself. There are taboos on the language one can use to describe the conflict. Israel's 1948 war was a war of independence and it is not permissible to call it something like a "Jewish war of expansion".<sup>28</sup> Most students bring ready-made opinions to the classroom. He decries them as generally very ignorant about the

facts of the conflict. They do not know why Jerusalem is holy to Muslims or what the PLO was or wanted beyond being terrorists.<sup>29</sup> From mass media, family and friends, students learn numerous falsehoods that they take as facts. Some of the most damaging are, that all the Jews of the British Mandate period wanted to live in peace and harmony with their Arab neighbours; the Palestinians left their lands in the 1948 war because invading Arab armies told them to; Palestinians living in "the territories" have nothing against Israeli rule but are incited to uprisings; and that the Israelis always offer peace and the Palestinians always reject it.<sup>30</sup> Overall, students are "defenseless against stereotypes. Without being acquainted with the basic facts, real understanding is impossible.... Not knowing means in effect not sympathising".<sup>31</sup> So when they went to war in Gaza, the Israelis were fighting faceless terrorists.<sup>32</sup>

Victimhood is a complicated phenomenon, but has generalisable symptoms across ethnicities. Those who feel their group is a victim tend to have a history of violent trauma caused by aggression; a belief that no aggression the enemy initiates is justified; the fear that the aggressor could strike again at any time; and the belief that the world is against the victim.<sup>33</sup> We will see in the following sections that all these elements of victimhood are present in Israel's recent history.

## **The Formation of Israel's National Role Conception**

Israel's pre-state experiences played a highly formative role in its NRC.<sup>34</sup> Israelis see Israel as a defensive warrior. Israel needs to be a warrior because its pre-state experiences that form its dominant narratives are those of oppression (slavery in Egypt), military defeat (eg. at Masada in 73 CE), or, most prominently, genocide (the Holocaust).<sup>35</sup> Its early state experiences, such as the Arab states' ganging up on Israel in 1948 or 1967, reinforced this perception. To this day, Israelis feel the need to be an ever stronger David in the face of the Goliath that has always surrounded them.

But why "defensive"? In this case, defensive means taking

up arms only when necessary, engaging only in wars of no alternative and only employing "purity of arms".<sup>36</sup> Experiences such as the Holocaust have made Israelis afraid of becoming aggressive and in particular, genocidal.<sup>37</sup> Assuming it fits with this NRC, the IDF can never attack innocents and never fight wars of aggression. The first five Arab-Israeli wars were wars of self-defense: the innocent David facing down the evil Goliath and winning.<sup>38</sup> Moreover, when Israelis have perceived their state as aggressor, in the Lebanon War of 1982 and during the first Intifada, they subsequently voted into power a government who ran on a platform of peace. Sucharov's contention is that Israelis felt cognitive dissonance over these events, as anyone could when one's self-image is in question, and they decided, collectively, that it was time to realign their desired self-image with reality. Israel, the more powerful side, graciously gave something to the weaker Palestinians. The Oslo Accords were signed.

But something happened, or appeared to happen, that turned this benevolence into violence. The Oslo Accords were part of a peace process that continued through the 1990s. In 2000, Ehud Barak and his negotiating team met with Yasser Arafat and his at Camp David. The talks broke down, however, after something happened. What, precisely, happened? Well, we can never be sure: contradictory reports emerged about why the talks collapsed. However, the story the Israeli press latched onto immediately, and which has formed the dominant Israeli narrative since, was Barak's: Arafat rejected a very generous offer by Barak and started the second Intifada.

The dominant narrative is illustrated by two accounts of the Israeli perspective. First, journalist Jonathan Cook writes that

"[Israeli] officials argued that the Palestinian leader [Arafat] had been hoping at Camp David to use demographic weapons, most notably the insistence on the right of return of millions of

Palestinian refugees, to destroy Israel as a Jewish state and turn the whole area into 'Greater Palestine'. When he failed, they alleged, he fell back on Plan B, unleashing the armed Intifada."<sup>39</sup>

Nigel Parsons of Massey University puts it another way. The negotiators from Israel and the US quickly spread the idea that

"the genial Clinton and well-intentioned Barak could not persuade and intransigent Palestinian leadership to accept an offer of unprecedented generosity. Insatiable and rapacious, the unworthy Palestinians, and principally Yasser Arafat, then went home to plan, provision and orchestrate a violent uprising against an innocent Israel to better extract an improved deal by force."<sup>40</sup>

The benevolent Israelis had spent seven years giving to the Palestinians, only to be snubbed in the most violent way. After this attack, which could only be against the state of Israel and the Israeli people themselves, Israel was fully justified in taking whatever action deemed necessary to end the bloodshed. After all, it was acting defensively.

## **The Israeli Media**

The Israeli media play a major role in reinforcing Israel's role as defensive warrior. Take the case of the Six Day War, Israel's greatest military victory. The historical accounts show that the leaders of Egypt, Syria and Jordan were not optimistic about their prospects in any conflict with Israel. They did not particularly want war.<sup>41</sup> But they were beholden to their public nonetheless, and, according to Benny Morris at least, the public everywhere in the Middle East was whipped into war frenzy, thirsting for blood, unable to wait because they knew Israel was about to meet its

doom.<sup>42</sup> Israelis, especially Holocaust survivors, saw a repeat of the 1930s, and "there was a feeling of a noose tightening around the nation's neck".<sup>43</sup> Israeli newspapers likened Nasser to Hitler.<sup>44</sup> The press had a huge effect on public opinion--so big that it could make people feel in danger of losing their lives and their country when there was no such danger. Perceptions have led to support for war.

That was more than 40 years ago. The media continue to portray Israel as isolated and teetering on the brink of destruction. In his book *Suppression of Guilt*, Daniel Dor outlines how Israeli media enable the feeling of victimhood and shroud the state of Israel in innocence. His opening example is of the day the International Court of Justice commenced hearings on the legality of Israel's Anti-Terrorism Fence around the West Bank. The day before, a suicide bomber killed eight Israelis on a bus in Jerusalem. The news stories of the day combined the two events to turn judgment away from Israel and toward the ICJ. How dare they judge us? This and Dor's other examples explain how the Israeli media, including the so-called doves such as Haaretz, do most or all of the following: suppress information that might imply guilt; accentuate the Jewish people's victimhood; counter-blaming (they are guilty, therefore I am not); dismissing the judging authority (who are they to judge us?); blurring intention (that was an accident; we meant to do something far more innocuous); claiming coercion (they forced our hand); and bluntly tossing guilt aside in defiance (yes, I did that; so what?).<sup>45</sup> The Israeli media are "[o]bsessed...with the discourse of guilt" and as such, Israeli society cannot develop the "discourse of *responsibility*" (italics in original) it needs if Israelis want the violence to end.<sup>46</sup> Dor also says that the Israeli media's job is to describe what it should feel like to be Israeli. During Operation Defensive Shield, a large-scale IDF operation in the West Bank, the Israeli media showed "being Israeli" meant "being accused by the entire world, and sometimes by other Israelis, of something you are not guilty of".<sup>47</sup>

Tamar Liebes, director of Israel's Smart Institute of Communication, states that Israeli journalists and publishers do not see themselves as critical outsiders but as actors within the Zionist movement.<sup>48</sup> A consequence is that criticism of the military is muted in Israel.<sup>49</sup> Yonatan Mendel, writing in the *London Review of Books*, gives numerous examples of how the Israeli media enable the image of Israel as defensive warrior. First, the IDF never intentionally kills anyone. Even when it dropped a one-ton bomb on Gaza, killing one gunman and 14 innocent civilians, it successfully completed a "targeted assassination". "An Israeli journalist can say that IDF soldiers *hit* Palestinians, or *killed* them, or *killed them by mistake*, and that Palestinians *were hit*, or *were killed* or even *found their death* (as if they were looking for it), but *murder* is out of the question."<sup>50</sup> (Italics in original). Furthermore, the IDF never initiates anything. It only "responds" to rockets, "responds" to terrorism and "responds" to unjustifiable Palestinian violence.<sup>51</sup> With such media treatment of the Israeli versus the Palestinian condition, one could be forgiven for mistaking the Israelis for the captive people.

According to Reporters without Borders, Israeli journalists have not been allowed in the occupied territories for the past two years. In November 2008, on the eve of Operation Cast Lead, the IDF closed Gaza Strip to foreign journalists, claiming that it was being "adequately covered by reporters already there".<sup>52</sup> Journalists cannot see things for themselves and, according to Reinhart, with a few exceptions, the Israeli press is compliant, and "faithfully recycles military and governmental messages".<sup>53</sup> If the press does not give one the opportunity to feel guilty or responsible for the outbreak of violence, and if those committing the worst atrocities are the enemy, it is easy to maintain both the victimhood and the purity of morals necessary for the defensive warrior.

The media's treatment of the case of Gilad Shalit is an example highly illustrative of Israel's dominant perceptions. Gilad Shalit is a corporal in the IDF who was captured by Palestinian

militants in a border raid on the Gaza Strip in 2006. He has been in captivity ever since. Professor Daniel Bar-Tal of Tel Aviv University explains that Gilad Shalit is seen as a victim of a kidnapping, a form of violence that Israelis consider beneath them.<sup>54</sup> A defensive warrior would never stoop so low as to kidnap anyone. But why was the word "prisoner of war" never used? Because it would provide the enemy with legitimacy, as more than terrorists. Mendel describes the media's reaction as one designed to reinforce Israel's self-image as moral soldier:

"[F]our days after the Israeli soldier Gilad Shalit was *kidnapped* from the Israeli side of the Gazan *security fence*, Israel, according to the Israeli media, *arrested* some sixty members of Hamas, of whom 30 were elected members of parliament and eight ministers in the Palestinian government. In a well-planned operation Israel captured and jailed the Palestinian minister for Jerusalem, the ministers of finance, education, religious affairs, strategic affairs, domestic affairs, housing and prisons, as well as the mayors of Bethlehem, Jenin and Qalqilya, the head of the Palestinian parliament and one quarter of its members. That these officials were taken from their beds late at night and transferred to Israeli territory probably to serve (like Gilad Shalit) as future bargaining-chips did not make this operation a kidnapping. Israel never *kidnaps*: it *arrests*."<sup>55</sup>

Since the IDF has an entire legal system on its side, it can never be accused of such a terrible crime as kidnapping. Palestinian prisoners are faceless, while Gilad Shalit has become a national hero. Haaretz, considered one of the more dovish of Israeli newspapers, runs a counter at Haaretz.com displaying the time, *to the second*, that Gilad has been under lock and key. Over a Jewish

holiday in 2009, newspapers displayed pictures of Gilad as a toddler, dressed in a sad clown costume. Poor Gilad: an innocent boy kidnapped by terrorists. The 7700 Palestinian prisoners held in Israeli jails, apparently, are all guilty.<sup>56</sup>

As discussed above, to the victim, no violence by the enemy is justified. Any IDF operation that is merely *responding* to foul crimes like *kidnapping* or Qassam rocket fire can be seen as morally pure. Israel needed to become a warrior to defend the Jews against a world out to get them, and it needed to become a defensive warrior to shield itself from guilt. Let us now turn to the warriors that embody the image.

## **The Ethos of Conflict**

In a recent survey, the Tami Steinmetz Center for Peace Research found that, while less than 40% of the Jewish Israeli public felt they could trust the police and the government, 91% of Jewish Israelis trusted the IDF.<sup>57</sup> In an earlier one, 60% of Jewish Israelis strongly agreed that wearing the IDF uniform is a great privilege.<sup>58</sup> These results say more than just that the military is generally moral; it situates us at the heart of Israel's NRC.

A central point of Holsti's definition of NRC, as we saw, was that it provided an intellectual backdrop against which important foreign policy decisions are made. As such, decision makers know that they can count on some 91% of their constituents to support military actions against the Palestinians, and trust that they used "purity of arms". As we saw with our look at media coverage, nearly all abuses the IDF commits are either unknown (because reporters cannot enter the occupied territories), unreported or glossed over. Its opponents are terrorists and those who want to drive the Jews into the sea.<sup>59</sup> We can see both victimhood and morality, the two components of Israel's NRC, at work in the suppression of guilt, the victimisation of the Jewish people at every rocket attack unpunished and in Levy's "moral

crusade" that drives the public's perceptions of the IDF's operations.

But the IDF are not the only crusaders. The media, as Liebes noted, are actors within the Zionist movement. The public is as well. Most men and women, from the age of 18, are called up to serve in the military for at least two years, and remain reservists for many more. It is a nationalising force in Israel. Ehud Barak, Yitzhak Rabin and Ariel Sharon, three recent prime ministers, were all military leaders before they became civilian politicians. As a consequence, Israelis widely believe in the goals and morality of the IDF, as indicated by the deep trust of the military shown in the Tami Steinmetz survey result. As Jewish Virtual Library puts it, "[i]n essence, the society and army are one...with those in and out of uniform virtually interchangeable".<sup>60</sup> Combine the feelings inculcated by military service with an Israeli education and the people become the soldiers, the defensive warriors, all mobilised with a crusading spirit. They are all aware of Israel's "ethos of conflict".

Daniel Bar-Tal identifies the features of Israel's ethos of conflict. In the first place, the Zionist claim to the land of (Eretz) Israel extends back two thousand years, far further than the Palestinians'.<sup>61</sup> Second, the most central need and value of Israeli society is existential security. This need drives Israel's foreign policy, and acting aggressively can always be justified in its name. At any given time in the past three years, about half of Israelis have supported an immediate strike on Iran's nuclear sites.<sup>62</sup> Even bigger proportions--76% to 82%--supported the construction of the "security fence" around the West Bank as it was being built.<sup>63</sup> Binyamin Netanyahu won the 1996 election by promising to guard Israel's security, while making voters believe Shimon Peres, his opponent on the left, would sacrifice Israelis' security for a peace treaty. There had been "a string of Hamas-sponsored terrorist attacks during the election windup", so the Israeli collective mind was focused on security.<sup>64</sup> Both Netanyahu and Peres played on

Jewish Israeli fears, each trying to convince the public they could contain the Arabs.<sup>65</sup> For a counterexample, the 1982 invasion of Lebanon was widely protested, and conscientious objectors appeared in Israel for the first time. Israelis did not agree with a war fought in their name that did not seem to provide any increase in security. When a war can be justified with goals that specifically mean ending attacks on Israeli civilians, the people do not feel any cognitive dissonance. The IDF is doing what it is supposed to.

Third, Israeli society holds dominant beliefs about patriotism and national unity. The intractable conflict has meant that a consensus has arisen that all people, as an intertwined society and military, must be willing to sacrifice in times of need. Israelis must be ready to endure hardship and even to die in battle. Those who show patriotism are rewarded; deserters and conscientious objectors are stigmatised.<sup>66</sup> Consistent majorities of Jewish Israelis believe that a soldier "may not" refuse an order to serve in the occupied territories or evacuate settlements.<sup>67</sup> This consensus has made it difficult to criticise the justness of Israel's security means and ends. The media have, at times, focused so intensely on victims that to question the IDF's goals and tactics would be unconscionable. Dor's look at the television media on the first day of Operation Defensive Shield quotes a Channel 2 news broadcast that opened with the following. "...Twenty people were murdered in a suicide attack in Netanya yesterday. It seems that the sentence in our Hagada - 'in every generation they have risen against us to annihilate us' - has not rung so true for many years".<sup>68</sup> It "is hardly an atmosphere conducive to inquiry about the objectives of the military operation just embarked on by the IDF".<sup>69</sup> Like guilt, critical inquiry must be suppressed. A united front in the face of aggression plays into the defensive warrior NRC by insisting that Israelis will once again be victims if they do not stick together.

Fourth, Israelis hold negative stereotypes of the "other" that serve to delegitimise the enemy. They, of course, are not alone: all

collectives hold views of outsiders that are negative. Israeli views of Arabs are worth examining. Bar-Tal describes early stereotypes of Arabs as "primitive, uncivilized, savage, and backward. In time, as the conflict deepened and became more violent, Arabs were perceived as murders, a bloodthirsty mob, treacherous, cowardly, cruel, and wicked".<sup>70</sup> We learned above that narratives of victimhood, an essential part of Israel's role conception, are learned in school. This learning and its accompanying stereotypes perpetuate the demonisation of the Arab enemy. They still want to drive the Jews into the sea. They are rejectionists: they rejected the UN Partition Plan of 1947, rejected peace with Israel at the Khartoum Conference after the Six Day War, rejected Barak's generous offer in 2000, and Hamas, of course, is the biggest rejectionist group of all (or at least, for now). And when Israel offered a worthy peace deal, from 1993 until the present it was rebuffed.<sup>71</sup> After Hizbullah in 2006 kidnapped two soldiers to taunt Israel into a war, an article in the Israeli paper Maariv stated "Messers Ahmadinejad, Nasrallah [leader of Hizbullah] and Mishal [leader of Hamas] are as bad as Hitler, perhaps more".<sup>72</sup> A slight exaggeration, perhaps? There is no reason to negotiate with or hold back against people who only understand the language of force.

Fifth, Israelis hold that members of their own society have positive traits and behaviours, pure values and intentions. This belief goes well with the age-old Jewish self-image as God's chosen people. Journalist and professor Henry Siegman says "Israel's public never tires of proclaiming to pollsters its aspiration for peace and its support of a two-state solution".<sup>73</sup> Such a positive self-image is the core of Israelis' beliefs about the morality of their nation, its military and the intractable conflict. Along with general feelings of peacefulness, courage and hard work, Israel's narratives portrayed it as moral and humane toward Arabs in times of peace and war alike.<sup>74</sup> Pappé says this last myth has a long history in Zionist discourse. "Every act whether it was ethnic cleansing, occupation, massacre or destruction was always portrayed as morally just and as a pure act of self-defense reluctantly

perpetrated by Israel in its war against the worst kind of human beings".<sup>75</sup> For example, in a book that Norman Finkelstein calls "canonical", soldiers who fought in the Six Day War spoke of how guilty and ashamed they felt about having to pull the trigger.<sup>76</sup> The assumptions behind these feelings of guilt lead to a kind of "righteous fury" that "shields the society and politicians in Israel from any external rebuke or criticism".<sup>77</sup> Pappé explains that the media shouted unanimously in righteous fury during Operation Cast Lead.<sup>78</sup> This purity of values and intentions is clear when one contrasts the typical Israeli reaction to the deliberate killing of civilians by Palestinians with the actions of the Irgun, a Zionist terrorist group in the British mandate of Palestine. The Irgun was also the group that bombed the King David Hotel in Jerusalem in 1946. Menachem Begin, later Israel's prime minister, was leader of the group at the time. And yet, a poll taken in September 2003 found 83% of Jewish Israelis strongly agreeing with the statement that "terrorism is never justified under any circumstances", and 79% did not consider IDF assassinations of Hamas and Islamic Jihad leaders acts of terrorism.<sup>79</sup> Either Israelis have conveniently forgotten the Irgun, or only the Jews' independence movement was justified in brutality.

All of these common beliefs "gave Israeli-Jewish society its dominant orientation in the context of the intractable conflict" and laid the ground work for legitimacy for any attack against those who would threaten Israel and its people.<sup>80</sup> They diminished in the wake of peace processes (starting with Anwar Sadat's trip to Jerusalem) and Israel's short period of cognitive dissonance (see Sucharov), but have risen again since the collapse of the Camp David talks of 2000. They form part of the "intellectual setting" for foreign policymaking that is Israel's NRC.

## **The Logic of Occupation**

The dominant Israeli attitude toward the occupation of the West Bank and the blockade of Gaza is a necessary part of this

orientation. The West Bank, at least, is a part of Eretz Israel. The media often refer to it as Judea and Samaria, invoking Israel's two millennia old claim to the land. Tight screws on the lid of the places where the suicide bombers and Qassam rockets come from are the most apparently logical tools to keep down the enemy and maintain security.

Israelis are not evil: Israel is a defensive warrior, not an aggressive one. Many Israeli human rights organisations have been started in order to monitor and lobby against the suffering of the Palestinians in the occupied territories. Uri Avnery believes hopefully that, while Israelis feel proud and protective of Eretz Israel, they feel that they have acted unjustly toward the Palestinian people, and are beginning to understand the meaning of the Nakba.<sup>81</sup> But these are isolated examples. NRC theory posits that foreign policy behaviour falls into identifiable patterns, and these patterns determine the state's NRC. Reinhart describes one such pattern for Israeli public opinion since the early 1990s. About one third, Israel's peace camp, is firmly against the occupation, another third believes in Israel's right to the whole land, and the final third has no ideological view of the matter. The latter group sided with the peace camp and supported the Oslo Accords, and has generally agreed with ending the occupation since.<sup>82</sup> But how much withdrawal are Israelis truly willing to put up with, and how do they perceive the territories?

According to Mendel, the occupied territories were originally termed the "Administered Territories"; today they are often simply called the territories. "It might make sense for citizens of an *occupied territory* to try to resist the occupier, but it doesn't make sense if they are just from *the Territories*".<sup>83</sup> There is also much talk in the press of "illegal outposts", meaning smaller settlements that most Israelis disagree with; however, this wording obscures the fact that all settlement of conquered land is illegal. In March 2008, 55% of survey respondents called the West Bank a "liberated territory", as opposed to 32% who called it an "occupied

territory".<sup>84</sup> In contrast to Reinhart's assertion about the majority of Israelis' wanting to end the occupation, a 2008 survey found that 66% of respondents opposed withdrawal to the 1967 borders (the borders of Israel under the UN Partition Plan, Israel's boundaries before the Six Day War, the basis of some Arab peace proposals).<sup>85</sup> Journalist Amira Hass reckons that Israelis do not regard the settlements as any kind of temporary bargaining chip. The proof, she says, is in the growth of the settlements during the "peace decade" of the 1990s.<sup>86</sup> Examination of dominant Israeli perceptions of the occupation do not find strong opposition to it.

Many Israelis who approve of granting Palestinians their own state seem to find no inconsistency with holding on to large settlement blocs. Likewise, despite a clear majority's supporting the two state solution, on the eve of Operation Cast Lead 63% of Israelis surveyed believed Palestinians would destroy Israel if they could. On the other hand, proportions of Israelis favouring the establishment of a Palestinian state have risen from 21% in 1987 to 65% in 2007.<sup>87</sup> So why does Israel continue to brutalise Palestinians in the occupied territories?

According to Hass, most Israelis are convinced that Israeli military offensives in the occupied territories are effective means of curbing terrorism.<sup>88</sup> Add to this belief the corresponding one, described variously above, that the IDF can do no wrong, and there is no need to change Israel's self-perception as highly moral. When asked if Israel's policy toward the Palestinians was too harsh, of all Israelis, including Arabs, 36% said "correct" and 25% said "too easy". Only a third--consistent with Reinhart's claim--believes it is too harsh.<sup>89</sup> Why should these figures be surprising? Most Israelis believe that the state of Israel never consciously kills anyone, and the occupation is necessary to protect Israelis from Palestinians, who continually kill deliberately. Writing in *Maariv*, journalist Dan Margalit reflects the dominant narrative that feeds Israeli understanding of IDF actions. "[E]ven if an Israeli shell killed them, there was no intention to kill peaceful civilians on a beach in

Gaza. On the other hand, the Qassam [rockets] fired at Sderot is an ongoing, systematic and conscious effort at the premeditated killing of [Israeli] civilians".<sup>90</sup> He concludes that "only a world lacking integrity and full of conspiracies ignores the decisive difference in intentions between the two sides".<sup>91</sup> There is no moral equivalency (despite the wildly uneven death tolls) because, as Leon Wieseltier of the *New Republic* argues, "the death of innocents [is] an Israeli mistake but a Palestinian objective".<sup>92</sup> The occupation can continue to safeguard Israeli security interests, with all its accidental Palestinian deaths, and there is no disconnect between it and Israel's defensive warrior NRC.

Jewish settlements are a thorny issue, but as a major part of the occupation, they also show clear patterns in Israeli thinking. Surveys found that less than 20% of Israeli respondents in 2006 and fewer in 2007 think all settlements should be dismantled.<sup>93</sup> Even if Palestinians held up their end of a peace agreement, one third of Israelis (39%) would oppose all withdrawal from the West Bank, one third (36%) would support evacuating some settlements and one fifth would support evacuating all of them.<sup>94</sup> Though Israelis, of course, want peace, they seem to see it as somewhat incompatible with security. A June 2008 poll revealed that a slight majority opposed "dismantling most of the settlements in the territories" if it meant peace with the Palestinians.<sup>95</sup> Another found that, again, even if it meant peace with the Palestinians, relinquishing the Western Wall and Temple Mount was unthinkable (opposed by 96% and 89% respectively.) The same survey found only a quarter in favour of stepping up peace negotiations.<sup>96</sup> Besides, why dismantle settlements again? The last time they did that, the ungrateful Palestinians voted a band of terrorists into power. The University of Colorado's Ira Chernus says that "[t]he Israeli public would rather have war than accept...a genuinely just peace".<sup>97</sup> The status quo may be perceived more favourably. To find out why, let us return to the violence that followed the collapse of the Camp David talks in 2000.

## **The Road to Gaza**

Role relations are reciprocal. In other words, NRC depends on how a state views the NRC of its role partners, or other actors it deals with.<sup>98</sup> The patterns of Israel's actions toward the Palestinians between Intifadas displayed a kind of unspoken agreement between parties. This agreement is not the type that only one set of leaders commits to; it persists beyond the short tenure of any decision makers. In short, it is "you do not harm Israelis and we will give you concessions." These concessions were originally the autonomy offered by the Oslo Accords. Such agreements commonly take place between role partners who cast themselves and each other into roles that seem suitable.<sup>99</sup> Having cast itself as a defensive warrior, Israel casts enemies such as Hamas and Hizbullah as terrorist organisations (rather than political parties).<sup>100</sup> When each party acts in accordance with its own interpretation of its role, the relationship between the actors is strained.<sup>101</sup> When the weaker accommodates to the wishes of the stronger, in this case, by ceasing suicide bombings, uprisings in the territories, rocket attacks and so on, the potential for conflict diminishes accordingly.<sup>102</sup> However, the Palestinians did not see their role in the same light as Israelis did. As Camp David ended and the Second Intifada began, the unspoken agreement was violated.

It soon became a matter of course that there was no Palestinian partner for peace, that the Palestinians' goal was to destroy Israel and its inhabitants, and that negotiations with terrorists were out of the question.<sup>103</sup> In March 2002, suicide bombings killed 135 Israeli civilians.<sup>104</sup> Operation Defensive Shield, which took place mostly in April 2002 in the occupied territories, was supported by 90% of Israelis.<sup>105</sup> Anger was high not only because Israelis were dying but because the agreement had been so violently repudiated. The first of a string of right wing governments was elected, and Ariel Sharon became prime minister. 20 years earlier, it was widely believed that Sharon had not only ordered the IDF to allow the massacres at the Sabra and Shatila

refugee camps during the First Lebanon War, but also misled the government in order to prosecute the war.<sup>106</sup> However, what the Israeli public wanted was someone they knew would beat the Palestinians to a pulp. Sharon would prove once again he could do so.

The operation killed some 500 Palestinians. Though only 30 Israeli soldiers met the same fate, as part of the war on Arafat's armed uprising, the deaths were regarded as an unwarranted attack on the state of Israel.<sup>107</sup> Cook explains: "The rising death toll on the Israeli side, even if it paled beside the Palestinian one, allowed government spin-doctors to present the intifada as a well-planned assault on the Jewish state, led by the Palestinian security forces under the direction of Yasser Arafat himself".<sup>108</sup> After all, the IDF only killed by accident; the Palestinians just wanted to sow suffering. Media coverage of Defensive Shield did nothing to hide Israel's morality. TV channels 1 and 2 time and again expressed their undivided support for the soldiers and gave little voice to Israeli opposition parties. "Even more importantly, both channels make an effort to conceal the fact that the IDF closed the territories to journalists during the first phase of the operation. The anchors never inform their viewers that what they are watching is secondhand material provided by the IDF".<sup>109</sup>

It was in front of this backdrop that the Roadmap for Peace was unveiled. Among other provisions, the Roadmap committed Israel to withdraw from Palestinian cities and freeze settlement expansion, and the Palestinian Authority to put an end to Palestinian violence and hold elections. The official Israeli line, generally believed by Israelis and Westerners, was that the government was fully committed to the two state solution as expressed in the Roadmap.<sup>110</sup> In June 2003, Mahmoud Abbas, Ariel Sharon, George Bush and Jordan's King Abdullah met in Aqaba, Jordan, to implement the peace plan. "From the Aqaba summit onwards, any Palestinian resistance to the army's brutality could not be tolerated because, in the eyes of Israeli public

opinion, Israel had already fulfilled its part of the bargain" when Sharon promised to end the occupation.<sup>111</sup> Sharon, now a man of peace in the eyes of his compatriots, completed a unilateral withdrawal from Gaza in 2005. Though not all Israelis agreed with the disengagement, they clearly saw it as a concession. But, inevitably, Israel's giving was only to result in its continued victimisation.

The Palestinian elections that the Roadmap envisioned brought Hamas to power. Stunned, Israeli and foreign officials immediately stated they would not deal with a terrorist group, democratically elected or not.<sup>112</sup> Hamas took over the Gaza Strip and allowed rockets to continue to dot the sky of southern Israel. Israel was under attack, and the rockets were not going away. Israel and Egypt worked together to blockade Gaza, to turn the vice on Hamas and force it to renounce violence. In 2007, a survey found that more than 50% of Israelis were in favour of a ground operation in Gaza, and 62% said Israel should depose the Hamas government by force.<sup>113</sup> Roughly the same percentage approved of a ground operation in January and May of 2008 as well.<sup>114</sup> Concessions had not helped to fulfill Israel's top priority, security, and neither had blockade. Perhaps ceasefire would do it.

But ceasefire was not a particularly popular idea. A defensive warrior, after all, accomplishes nothing without his sword. Pressure from the opposition (Likud) pushed the government not to sheath the sword at all. Binyamin Netanyahu said at the time, "This is not a relaxation, it's an Israeli agreement to the rearming of Hamas".<sup>115</sup> "In the next conflict we will find ourselves facing deadlier weapons and we'll pay a heavier price. We have to have faith in our own military strength and we have to utilize it to bring Hamas down. Anything else is escapism".<sup>116</sup> Some polls taken at the time reveal that public mood in Israel generally agreed and was not conducive to peace.

At the time of the ceasefire, a poll of Jewish Israelis found

that about as many supported as opposed a ceasefire agreement; a majority opposed negotiations with Hamas; and a clear majority said they believed the majority of Israelis opposed negotiations with Hamas. Most opposed releasing Marwan Barghout, a high ranking Fatah leader, from prison, unless it was in return for Gilad Shalit.<sup>117</sup> 78% of Israelis surveyed said a condition of the truce should have included Shalit's release.<sup>118</sup> A clear majority said that meetings between Ehud Olmert and Mahmoud Abbas were not beneficial and should stop; a majority believed it would be impossible to reach a "compromise agreement" with Abbas and Fatah; a minority believed a political settlement with the Palestinians would be possible within ten years and a quarter believed it would never be possible; even if a settlement is reached and a Palestinian state is established, a quarter believe "full reconciliation" would be possible within ten years and 29% believe it would never be possible; 70% disagree with the proposal to make Jerusalem a shared capital of Israeli and Palestinian states; two thirds were worried they or their family members would be harmed by Arabs in their daily lives.<sup>119</sup> Admittedly, these results may have been skewed by the fact that, the month prior to the surveys, Israelis observed Holocaust Remembrance Day, Israeli Fallen Soldiers and Victims of Terrorism Remembrance Day, National Independence Day, and Jerusalem Day (the day Jerusalem was reunited with Israel after the Six Day War). They may simply have been in the mood to be victims.

Nevertheless, the ceasefire began on June 18, 2008. Some debate in Israel on the future of Gaza during the ceasefire centered on the question, who benefits from this temporary ceasefire? Hamas would have time to increase the range of its rockets but Israel would be able to develop a defense against them.<sup>120</sup> The fact that both sides violated the ceasefire did not escape attention but, as righteous victims, the Israelis considered Hamas's actions criminal. According to the Israeli government, 1750 rockets and 1528 mortar bombs were fired into southern Israel from Gaza in 2008.<sup>121</sup> The fatalities these bombs caused were very few in

number, and as such, official Israeli statistics focus on the number of rockets fired and the "close to 30%" of residents of Sderot, the town that was usually the target of Qassam rockets, who suffered shell shock.<sup>122</sup> These statistics led the Israeli public to conclude that Hamas had broken a ceasefire Israel had not needed to offer it. Can a defensive warrior be blamed when it righteously attacks terrorist murderers? Of course not; and that is why even Amos Oz applauded Operation Cast Lead.

Amos Oz is an Israeli writer and professor. An influential member of the Israeli peace camp, Oz is a prominent advocate of the two state solution, a member of the peacenik Meretz party and a founder of the NGO Peace Now. Surely, if anyone would speak out against the war, it would be Oz. But instead, he joined in the chorus.<sup>123</sup> In an interview with *the Guardian*, Oz said "Israelis were genuinely infuriated, as was I, about the harassment and bombardment and rocket attacks on Israeli towns and villages for years and years by Hamas from Gaza. And the public mood was 'Let's teach them a lesson'. Trouble is, this so-called lesson went completely out of proportion".<sup>124</sup> What was he expecting? A stern, fatherly talking to? If peace advocates like Oz can support wars initially, approving of them because they are, at root, Zionists, and this is a war against anti-Zionists, then we can see where the 94% approval for Cast Lead came from.

The first five Arab-Israeli wars, plus Operation Defensive Shield and the Second Lebanon War, have always been considered wars of self-defense. Operation Cast Lead was no exception. Israel was under attack for eight years; thousands of rockets were hitting southern Israel; reporters were not allowed into the occupied territories and needed to take the government's word for what was happening; Gilad Shalit needed rescuing; the only language the Palestinians understand is that of force; the Palestinians answered peace with violence; the only way to protect Israel was to invade Gaza. With all this already taken as given, the logic of the operation was not difficult for Israelis to put together. They

supported it not despite but because of Israel's NRC.

## **Conclusion**

This paper has used the theory of national role conception to explain Israelis' decision to support Operation Cast Lead. I have shown how domestic factors such as culture, public mood and education have oriented Israel as a defensive warrior, an NRC comprising victimhood and morality. When viewed through the prism of the defensive warrior, it is visible how the combination of events that preceded Cast Lead would ensure that the Israeli public would support a war to end rocket attacks against Israeli civilians. High school textbooks shape the dominant narratives of victimhood and righteousness, while curdling and stereotyping perceptions of Arabs. Ancient and recent collective experiences do the same. Israel has had to become a warrior to protect itself against the world, but a defensive one to keep in line with its very scrupulous conduct. The Israeli media, especially with respect to coverage of Israeli-Palestinian conflict and the kidnapping of Gilad Shalit, reinforce this self-image at every turn. The vast majority of Israelis trust the IDF to safeguard the country and its role conception, making the IDF's actions unimpeachable in the eyes of most Israelis and fully justified in using violence to end terrorist attacks. The occupation is not really an occupation, since Israelis would never stoop so low, just like killing is always inadvertent. Israelis do not want to dismantle more settlements because such peace offerings are always thrown in their faces. Peace is not necessary. The status quo is easier: every time the Palestinians get rowdy, the IDF will take care of it. Israel's approval and waging of war in Gaza was understandable and predictable. In all probability, the next one will be as well.

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## Notes

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- <sup>2</sup> Holsti, K. J., "National Role Conceptions in the Study of Foreign Policy." *International Studies Quarterly*, Vol. 14, No. 3 (Sep., 1970): 246.  
Ibid., 233.
- <sup>3</sup> Ibid., 233.
- <sup>4</sup> Ibid., 276.
- <sup>5</sup> Ibid., 243.
- <sup>6</sup> Throughout this paper, references to Israelis and their opinions are not meant to represent all Israelis, only those who represent the mainstream, the majority, the dominant voice of Israel as a whole. Wherever possible, I have included survey results to be specific.
- <sup>7</sup> Ibid., 243.
- <sup>8</sup> Mira M. Sucharov, *The International Self: Psychoanalysis and the Search for Israeli-Palestinian Peace* (Albany, NY: State University of New York Press, 2005), 21.
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- <sup>12</sup> Holsti, 246.
- <sup>13</sup> Israeli Ministry of Foreign Affairs, "The Operation in Gaza –Factual and Legal Aspects," [http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Operation\\_in\\_Gaza-Factual\\_and\\_Legal\\_Aspects.htm](http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Operation_in_Gaza-Factual_and_Legal_Aspects.htm).
- <sup>14</sup> Al Jazeera, "Frost over the World - Middle East peace process - 16 Oct 09," <http://www.youtube.com/watch?v=xaZ5W4vAuP0>.
- <sup>15</sup> Larry Derfner, "Rattling the Cage: Some victims we are," *Jerusalem Post*, October 28, 2009.
- <sup>16</sup> Tanya Reinhart: *The Roadmap to Nowhere: Israel/Palestine since 2003* (London and New York: Verso, 2006), 1.
- <sup>17</sup> Ilan Pappé, *Israel's righteous fury and its victims in Gaza*, <http://ilanpappe.com/?p=82> (accessed November 11, 2009).
- <sup>18</sup> Henry Siegman, " Hamas: The Last Chance for Peace?," *The New York Review of Books* Vol. 53, No. 7 (April 27, 2006).
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University of Colorado, Boulder, Colorado, USA,  
[http://www.beyondintractability.org/essay/ethos\\_of\\_conflict/?nid=1079](http://www.beyondintractability.org/essay/ethos_of_conflict/?nid=1079)  
 (accessed November 11, 2009).

<sup>20</sup> Ibid.

<sup>21</sup> Peace Research Institute in the Middle East.

<http://www.vispo.com/PRIME/leohn.htm> (accessed November 2, 2009).

<sup>22</sup> Elie Podeh, *The Arab-Israeli Conflict in Israeli History Textbooks, 1948-2000* (Westport, CT.: Berin & Garvey, 2002), 21.

<sup>23</sup> Ibid., 26.

<sup>24</sup> Ibid., 76. Many such biases were eliminated in the most recent generation of textbooks. However, the above is an example from textbooks of contemporaries of Ariel Sharon, Ehud Barak, Ehud Olmert, Binyamin Netanyahu, and so on.

<sup>25</sup> Ibid., 80

Ibid., 81.

<sup>26</sup> Jewish Virtual Library.

[http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispopal\\_2007.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispopal_2007.html)

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<sup>27</sup> Podeh, 75.

<sup>28</sup> Yitzhak Komem, "Teaching the Arab-Israeli Conflict: Notes from the Classroom," *Palestine-Israel Journal*, Vol. 8, No. 2 (2001): 36.

<sup>29</sup> Ibid., 36.

<sup>30</sup> Ibid., 37.

<sup>31</sup> Ibid., 36.

<sup>32</sup> It would be fair to note that Israel's Ministry of Education now directs high schools to discuss an incident in 1956 where the IDF killed 49 Arabs. (Sucharov, 129) A small softening of attitudes toward the distant past is better than a complete ignoring or revision of history--we are not perfect, after all.

<sup>33</sup> Sarah Rosenberg, "Victimhood". *Beyond Intractability*. Ed. Guy Burgess and Heidi Burgess. July 2003, Conflict Research Consortium, University of Colorado, Boulder, Colorado, USA.

<sup>34</sup> Sucharov, 3.

<sup>35</sup> Ibid., 3.

<sup>36</sup> Ibid., 3-4.

<sup>37</sup> Ibid., 4.

<sup>38</sup> Ibid., 4.

<sup>39</sup> Jonathan Cook, *Blood and Religion: the Unmasking of the Jewish and Democratic State* (London and Ann Arbor, MI: Pluto Press, 2006), 35.

<sup>40</sup> Nigel Craig Parsons, *The Politics of the Palestinian Authority: from Oslo to al-Aqsa* (New York, NY: Routledge, 2005), 244.

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- <sup>41</sup> Norman G. Finkelstein, *Image and Reality of the Israel-Palestine Conflict*, 2<sup>nd</sup> edition (London and New York: Verso, 2003), 126-130.
- <sup>42</sup> Benny Morris, *Righteous Victims: a History of the Zionist-Arab Conflict, 1881-1999* (New York, NY: First Vintage Books, 1999), 309.
- <sup>43</sup> *Ibid.*, 310.
- <sup>44</sup> *Ibid.*, 308.
- <sup>45</sup> Daniel Dor, *Suppression of Guilt: Israeli Media and the Reoccupation of the West Bank* (London and Ann Arbor, MI: Pluto Press, 2005), 1-3.
- <sup>46</sup> *Ibid.*, 7.
- <sup>47</sup> *Ibid.*, 6.
- <sup>48</sup> Yonatan Mendel, "Diary," *London Review of Books* Vol. 30 No. 5 (March 6, 2008).
- <sup>49</sup> Sucharov, 43.
- <sup>50</sup> Mendel.
- <sup>51</sup> *Ibid.*
- <sup>52</sup> Reporters without Borders, *Foreign journalists allowed to enter Gaza Strip for first time in a month*, <http://www.rsf.org/Foreign-journalists-allowed-to.html> and [http://www.rsf.org/en-predateur26822-Israeli\\_defence\\_Forces.html](http://www.rsf.org/en-predateur26822-Israeli_defence_Forces.html) (accessed October 29, 2009). It was opened again but only briefly.
- <sup>53</sup> Reinhart, 9-10.
- <sup>54</sup> Eetta Prince-Gibson, "Prisoners Dilemma," *Jerusalem Post*, March 25, 2009.
- <sup>55</sup> Mendel.
- <sup>56</sup> Gideon Levy, "Return Gilad Shalit, but not at any price," *Haaretz*, August 30, 2009. Levy says Israeli prisons are portrayed as if they were rest homes.
- <sup>57</sup> Tami Steinmetz; Jewish Virtual Library, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/nationalpride.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/nationalpride.html) (accessed November 28, 2009).
- <sup>58</sup> Jewish Virtual Library, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/IDF.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/IDF.html) (accessed November 28, 2009).
- <sup>59</sup> Sucharov, 51.
- <sup>60</sup> Jewish Virtual Library, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispoiran.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispoiran.html).
- <sup>61</sup> Bar-Tal.
- <sup>62</sup> Jewish Virtual Library, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispopal\\_2007.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispopal_2007.html).
- <sup>63</sup> *Ibid.*
- <sup>64</sup> Michael Barnett, "The Israeli Identity and the Peace Process: Recreating the Unthinkable," in *Identity and Foreign Policy in the Middle East*, eds.

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- Shibley Telhami and Michael Barnett (Ithaca, NY: Cornell University Press, 2002), 80.
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- <sup>66</sup> Bar-Tal.
- <sup>67</sup> Jewish Virtual Library,  
[http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispopal\\_2007.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispopal_2007.html).
- <sup>68</sup> The Hagada is a Jewish text that sets out the order of the Passover Seder. Jews are religiously bound to read the Hagada as it tells of the Jewish liberation from slavery in Egypt.
- Dor, 53. Yitzhak Rabin said the same thing in a speech on Holocaust Memorial Day in 1987. (Teichman, 97)
- <sup>69</sup> Dor, 54.
- <sup>70</sup> Bar-Tal.
- <sup>71</sup> Dominic Waghorn, "Middle East Peace Process Faces Paralysis", *Sky News*, October 18, 2009. Also see my blog at  
<http://menso.wordpress.com/2009/10/18/251/>.
- <sup>72</sup> Keshev: The Center for the Protection of Democracy in Israel, *War to the Last Moment: the Israeli Media in the Second Lebanon War*,  
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- <sup>74</sup> Bar-Tal.
- <sup>75</sup> Pappe.
- <sup>76</sup> Finkelstein, 114.
- <sup>77</sup> Pappe.
- <sup>78</sup> Ibid.
- <sup>79</sup> Jewish Virtual Library,  
[http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispoterror.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispoterror.html).
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- <sup>81</sup> Uri Avnery, *Rest has come to the weary*, in Gush Shalom, April 11, 2009,  
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 (accessed November 7, 2009).
- <sup>82</sup> Reinhart, 8.
- <sup>83</sup> Mendel.
- <sup>84</sup> Jewish Virtual Library,  
[http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispopal\\_2008.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispopal_2008.html).
- <sup>85</sup> Ibid.

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- <sup>86</sup> Amira Hass, "Indefinite Siege," *Counterpunch*, June 13, 2002.
- <sup>87</sup> Tami Steinmetz, November 2008; Jewish Virtual Library, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/ispopal\\_2008.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/ispopal_2008.html) (accessed November 3, 2009).
- <sup>88</sup> Hass.
- <sup>89</sup> Jewish Virtual Library, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/dahaf211103.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/dahaf211103.html).
- <sup>90</sup> Henry Siegman, "Is 'moral equivalency' so wrong?," *Council on Foreign Relations*, June 18, 2006.
- <sup>91</sup> Ibid.
- <sup>92</sup> Ibid.
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- <sup>94</sup> Ibid.
- <sup>95</sup> The Harry S. Truman Institute for the Advancement of Peace at the Hebrew University of Jerusalem, [http://truman.huji.ac.il/upload/truman\\_site\\_poll24\\_June2008%281%29.pdf](http://truman.huji.ac.il/upload/truman_site_poll24_June2008%281%29.pdf) (accessed November 4, 2009).
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- <sup>99</sup> Ibid., 313.
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- <sup>103</sup> Henry Siegman, "Sharon's Phony War," *New York Review of Books*, Vol. 50, No. 20 (December 18, 2003).
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- <sup>105</sup> Finkelstein, xxiii.
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- <sup>107</sup> Israeli Ministry of Foreign Affairs, "Operation Defensive Shield," [http://www.mfa.gov.il/MFA/MFAArchive/2000\\_2009/2002/3/Operation%20Defensive%20Shield](http://www.mfa.gov.il/MFA/MFAArchive/2000_2009/2002/3/Operation%20Defensive%20Shield).
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<sup>109</sup> Dor, 56.

<sup>110</sup> Reinhart, 18.

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<sup>112</sup> " Hamas sweeps to election victory," *BBC News*, January 26, 2006.

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<sup>116</sup> Attila Somfalvi, "Netanyahu: Government's consent to ceasefire inconceivable," *Ynet News*, June 19, 2008.

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# Prorogation

## The *On Politics* Panel Discussion [Opening Statements]

### **“The role of prorogation in democratic governance from a constitutional and political perspective”**

Avigail Eisenberg  
Transcribed by Robin Grantner

Thanks very much and thanks for the invitation to come here. I don't know if everybody knows what prorogation *is*. It is one of the practices by which parliamentary systems end the business of parliament. There are two ways to end the business of parliament. One is to adjourn it: during a sitting of parliament, adjournment means they take a break. The practice of adjourning parliament developed in the postwar period. Before that, they way to end parliament – that is end the business of parliament – was through the practice of prorogation.

Prorogation ends the business of parliament by ‘cleaning the slate’ rather than just pausing. All the bills die and the parliamentary committees are dissolved. After a period of time, – anywhere from a week to half a year – parliament reconvenes, reconstitutes all committees, introduces a new set of bills, etc.

In contrast, adjournment is a way of taking a break without wiping the slate clean. The same session of parliament continues, but with a break, for winter break or for the Olympics. The practice of adjourning instead of proroguing is a more recent practice. Canada adopted a parliamentary schedule that allowed for regular adjournments in the 1980s. As I said, previous to this, the practice was to prorogue.

The question I wanted to address tonight is how does prorogation affect our democratic institutions? The first democratic

institution that we'd want to think about is the constitution. With all the controversy around prorogation, one of the concerns expressed by many people was that, in a democratic country, this use of prorogation by Harper in 2009 was unconstitutional. The reason that people think it was unconstitutional, that it violated the constitution, is because it seemed that Harper was using the power of prorogation to dissolve these committees, to end their business and to end all the bills – that he was using it to avoid democratic accountability. Specifically, many people suspect that Harper wanted to dissolve the parliamentary committee and stop the business of the committee that was looking into the Afghan detainees scandal. This is either because he didn't like the witnesses that were going to be called, or that he didn't like the way in which that parliamentary committee was operating, and so the way to stop it was to prorogue parliament. As many of you know, this wouldn't be the first time Harper used prorogation for political ends. A year ago, in 2008, he prorogued parliament in order to avoid a non-confidence vote. The 2008 use was also an instance in which Harper seemed to be using the power of prorogation to avoid democratic accountability.

So, what of that? Does every prime minister prorogue? Prorogation happens, right? It's not an uncommon practice and it's certainly constitutional in the sense that it is part of the powers of the Crown – the Crown's prerogative powers. Legally and constitutionally, there is nothing wrong with Harper or any other prime minister using the power of prorogation. There is no convincing legal argument here that prorogation is unconstitutional. The Crown's prerogative powers are the powers originally held by the king to end parliament if he wanted. The idea is our parliamentary system, the Westminster system, is basically that the king can do no wrong and so he has these powers to prorogue, and to do other things, which are called Crown prerogatives. So there's nothing, in fact, wrong with the use of the power of prorogation in a legal constitutional sense.

However, in terms of democratic accountability, there's another story. Harper has used prorogation twice; and only one other Prime Minister in Canada has ever used it in order to avoid democratic accountability. That was John A. Macdonald in 1873, who used prorogation to avoid being questioned about the Pacific scandal. So it's not really commonly used in Canada. What if we looked at other parliamentary systems in the world? Maybe Dennis [Pilon] can speak to this. Japan, Britain – do they use the power of prorogation? Not really. It is used rarely and rarely if ever used to avoid democratic accountability. These kinds of scandals are actually quite rare. So, legally and constitutionally, there's nothing wrong with the Prime Minister using the power to prorogue, and like I said it's part of the Crown prerogatives. But it doesn't really have good democratic credentials.

The second democratic institution that's implicated here are the parliamentary committees. Parliamentary committees are used by parliament in order to investigate and keep track of parliamentary business. The committee that was dissolved and that was at the centre of this controversy was a special committee on the Afghan mission. That committee was hearing testimony by a man named Richard Colvin who was saying that the Canadian Forces were implicated in handing over prisoners, who were then tortured by the Afghan security forces. The committee was waiting for evidence to be introduced.

So, what do we think of the use of prorogation in this respect? Well, I've already told you what I think: I've argued that prorogation in this case was a way of avoiding democratic accountability. But, at the same time, those parliamentary committees don't work very well in our current system. In this case, what had been going on, was that the Conservatives had been boycotting that parliamentary committee in order to undermine its workings and halt its business.

The rule in parliamentary committees is if the members on

the committee from the party in power fail to show up – if one member from the Conservative Party fails to show up for a committee meeting, the committee cannot meet, which is precisely what was happening on this particular committee. The parliamentary committee could not meet because of that crazy rule – don't ask me where it came from, but I'm guessing it came from Harper's government. So the Liberals and New Democrats and Bloc Québécois were meeting anyway, unofficially. The Conservatives were sending people from the Prime Minister's Office, the PMO, unofficially to take notes on what was going on. The Conservatives really didn't like what the Liberals were doing because they were gaining media attention in the course of unofficially holding committee meetings. They needed a way to put an end to it and prorogation was one way to do it. From this vantage, it sounds like the problem is not as much about prorogation as it is about a committee system that doesn't work.

One last institution I want to say something about – actually, I'll say something about two institutions but I'll leave Jamie [Lawson] to discuss the last one with you. That is the Governor-General. If the Prime Minister wants to use the Crown prerogative, he has to ask permission of the Governor-General. In this case, Michäelle Jean said yes not once, but twice: in 2008 she said yes and in 2009 she said yes. So one of the questions is, could she have said no? The answer is yes, she could have said no. In saying no, she would have had to be willing to absorb a constitutional crisis, which is probably why she didn't say no. She has no appetite for a constitutional crisis. But, it is clearly within the power of the Governor-General to say no to the Prime Minister, in the same way that it's clearly within the power of the Prime Minister to use the power [of prorogation]. Both would be controversial, but both are constitutional.

Finally, the big issue in all this has to do with the way in which prorogation reflects the kind of parliamentary system we have, which is a system in which the executive has a huge amount

of power. The executive, namely the Prime Minister and Cabinet, has a huge amount of power over Parliament. A lot of people say that the way to get away from this scandal, to resolve it, is not to reform the Governor-General's role, not to look at parliamentary committees, not to reform the constitution, but in fact to create a statutory rule or practice that requires a majority of Members of Parliament to vote in favour of prorogation before the Prime Minister is allowed to use it. That's a smart idea. I don't think it's going to happen, because I don't think that once a government gets into power it has any incentive to consider legislation of that sort. There's also a cost to decentralizing parliament because the business of parliament becomes less efficient. When we elect governments we don't like, we hope their business will become really inefficient. But when we elect governments that we like, we want them to be able to put through agendas and to have the power, including the power of the executive, to get their programs passed. But that's something that Jamie's going to talk about. So there's the democratic institutions for you. Thanks very much.

**"The historical choice between a powerful parliament and power PM and cabinet: movements for social change"**

Dr. James Lawson  
Transcribed by Ellen Grant

Thank you very much for coming on this evening in the midst of essays to think about this issue: an issue that most of us on this panel would not have spent more than half an hour during our total PhD study-time, studying at the time we were studying. This was seen as a latent, barren issue, an antiquity, an unnecessary appendix of political life. But I would like to talk to you today about how different images, different old stories about parliament, about the executive, can be revitalized in different times in the English parliamentary system.

It's a system that is not entirely based on convention. It's not entirely based on tradition. But much of it depends on us being able to call up precedents in our mind that most closely resemble an emerging condition. A condition we are facing today will call up in our minds a prior event in the history of English-style parliamentary rule.

This is actually how the system works. In many ways the English parliamentary tradition we've inherited depends on the people participating in it sharing a set of stories, sharing a set of often-conflicting ideas about what parliament is really about, about what government is really about. I think that's important to bear in mind, because those of us who are interested in participating in politics through this system in order to make change need to be aware of these subtle, latent stories. We need to know the history of this system to know what its possibilities are.

In the history of trying to make major social and political changes, social movements and political parties have been unsure whether they want to side with a powerful parliament limiting the powers of the executive, or whether they want to side with a really powerful executive that is able to override loudmouths sounding off in parliament and delaying change. And right now many of us who aren't particularly fond of Steven Harper might be saying to ourselves, "This is really appalling, we need to stop Stephen Harper: parliament represents the people – shut down Stephen Harper". But at the same time there is a very strong and powerful tradition amongst movements for social change to favour the powers of the executive, the powers of the Prime Minister, to get things done – to move things through parliament, to get bills passed. There is a whole tradition in Great Britain – for instance, the Fabian socialists – who rely on parliament and the powers it gives to the executive to bring in a powerful and elaborate welfare state to equalize incomes and ensure basic social rights for everyone in society. And when we look to our south and we see the trouble that a president can have with nearly two-thirds majorities

in both houses of congress, we see the power of that argument too. Would we want a system where congress can block and override and stop a powerful executive with a powerful mandate from the people? This is what's holding up health care reform in the United States. We need to think about the particular situations that this parliamentary system finds itself in and [that we] let our minds turn to in the history of that system when we are trying to decide how to intervene politically to get change to happen.

So the rest of my talk is going to tell you a few stories that come out of this tradition. They point in quite different directions when it comes to the question of whether we should be favouring a powerful executive or a powerful government in trying to side with the people. To do what society needs, to bring our country forward. Some of these images are domestic, and some come from the "mother of all parliaments"; the English parliamentary system.

Some of the most acute moments that give us the most powerful and stunning images to work with, even today, come from the 17<sup>th</sup> century, a century that was driven by struggles between king and parliament. On the one hand, the very beginning of the English civil war in the 1640s: you have this incredible image of the entire population of London, basically siding with the Protestant parliament against a Catholic king. Going at it, rich and poor together, with shovels, and digging trenches around the city to protect themselves against the marauding armies of the King. This was an image that was drawn on by Winston Churchill during the raids against Britain under fascism. To cause people to rise up to dig Victory gardens, they invoked that past of the elected parliament standing up against a despotic king.

In that same period, we have this curious image of the army leader of the parliamentarians, Oliver Cromwell, speaking to the leftovers of purged and limited and degraded parliament in 1653, "You have sat too long for any good you have been doing lately, depart I say, and let us have done with you. In the name of God,

go!" Prorogation at its bluntest and most nasty.

Some of these images we see invoked in modern times. How many here for instance have seen the movie "V for Vendetta" or read that graphic novel? One of the most fascinating and disturbing movies: where you are called to sympathize with a character dressed up as Guy Fawkes, who in modern London invokes the 1605 moment in British history where Guy Fawkes nearly blows up Parliament. And you are actually invited to feel sympathy for this: that is a radical move on his part. But it's disturbing, violent: people get hurt, people get killed. You're asked to think, "Why do we hate parliament so much? Does parliament represent a kind of powerful interest in its own right that we rile against, that upsets us, that makes us mad?" So that's a question I'd like to leave in your minds. But I also don't want to leave you with just British examples.

When I think about Stephen Harper I think about the emergence of responsible government in this country. Before we were a country actually. In 1849 an interesting coalition emerged in government, a coalition between progressives in French-speaking Quebec and progressives in English-speaking Protestant Ontario. They were for responsible government, for having parliament control the executive, itself controlled by a majority. That was emerging gradually. But only with the emergence of the Baldwin-Lafontaine government in 1849 do we really get this accepted fully as a principle that counted in a colony. Colonies were supposed to answer to the parliament in Britain through the king.

What happened in that particular moment is another image that rises up in moments like this one. An image in which legislation was passed to compensate ordinary people for the destructive acts of an over-powerful executive ten years before. People's farms had been burned down by armies of the king, and the bill that passed legislation to compensate those people despite

the fact that they were Catholics, despite the fact that they had risen up against the government: the bill that passed so enraged the so-called King's men, the Tories, that they actually went into the parliament buildings in Montreal and burned them to the ground.

We don't remember these stories because Canadians aren't good at remembering these stories. But one of the things we can say: as a progressive person, if you're upset about prorogation, parliament has a role in standing up to the executive. And while we often want a powerful executive to get things done – our system allows that to happen in a legitimate way – there is also a place for parliament to push back. You can find yourself in situations where people get so riled up in that limitation on executive power that they will upset this delicate balance, and in extremes can really throw the constitution into crisis.

The good thing about this story, the burning down of parliament, is not that arresting image of parliament on fire: "whoo-hoo, everyone bring the marshmallows!" The arresting image that follows after that moment is that the government that brought in that controversial legislation decides that enough was enough. What did they do with this? They decide to act with restraint. They decide not to call in the army. They didn't try to arrest the opposition. They decide to punish the people who did the burning and they leave it at that.

They moved forward and brought in some of the more important pieces of colonial legislation that set the foundations for Canadian federalism and the current form of Canadian government. Under a system in which the cabinet, the executive has to answer to an elected parliament.

So I'd like to recommend history to you, the history of the English parliamentary system because it's a way of understanding how this delicately balanced thing works. And in crises of this sort, crises where you are troubled by trying to work

out what the legalities, the answers are, turn to history: it's really the only rule book we have in this system.

## **"The Conservatives Go Rogue"**

Dr. Dennis Pilon  
Transcribed by Megan Palmer

As I thought about possible titles for tonight's topic, I was thinking perhaps "Prorogue vs. Amateur-rogue", or maybe just plain "Rogue". The point I'm making is that when we think back on these recent events, things didn't appear to go quite the way that Prime Minister Harper and his team of advisors had hoped they might. As they sat plotting just before New Years, talking about their plans for responding to this ongoing recession and the lingering Afghan detainee issue, they assumed a prorogation would effectively wrong-foot their opponents. But the whole thing seemed to blow up in their faces, appearing amateurish, desperate, and undemocratic.

Since then, a lot of the debate over the government's actions has focused on the rules: was this a fair use or abuse of prorogation? Should the government have sought a recess instead? Etc. I'm not going to get into that debate. What I want to talk about is not the 'what' of prorogation, but the 'why'. Why did the Harper Conservatives reach for this? What was their reasoning? What did they think they would get?

To address these questions, I want to draw on the work of political scientist and Conservative activist Tom Flanagan. For insight into the thinking of the Harper Conservatives, you don't get a much better source than this University of Calgary political scientist, who has also doubled as a campaign manager and all-around helper to the Prime Minister in the federal party. In his book, *Harper's Team: Behind the Scenes in the Conservative Rise to Power*, Flanagan doesn't really tell us anything we couldn't have figured out on our own but he does shine a light on some of

the details of how this new Conservative party thinks. Much of this can be captured in his quote, "Politics is war by other means". I think that's a really telling indication of the way this Conservative party approaches politics. Even though Flanagan himself isn't in the upper reaches of the party right now, the insight still seems to apply. To Harper's Conservatives, *everything* is political. In other words, nothing is beyond making something political out of: every policy, every announcement, every vote, and every procedural decision. It's all just filtered through the lens of what can we get, how can we benefit, how can we win, and how can others lose?

So what is the war, then, that they're fighting? What are they trying to accomplish? Again, another fascinating quote can be taken from Flanagan's book where he says, "Canada is not a conservative country... yet." Here we see a kind of ominous undercurrent that seems to suggest that if the Conservatives just play their cards right, if they take the right steps, they can *get* to that conservative country. The seeds are there, they just need to till the soil and up will come this conservative land that Flanagan, Harper, and the rest of their supporters want. This is why the Conservatives must act strategically and tread carefully: because Canada's not a conservative country *yet*. Flanagan thinks that they need to be careful because until they get a majority they're not going to be in a position to make the kind of full-scale changes that they hope will tip Canada into the conservative dream that they have.

Here we should probably define some terms. For some, it is striking that today's Conservatives are not really very conservative, if you think of conservatives as people who want tradition, want things to stay the same, etc. In fact, this group wants things to change and change very quickly. I don't mean to suggest that today's Conservatives are a new brand of evil or are somehow meaner or nastier or bolder than in the past because past Conservative governments just as much wanted power and just as much wanted to introduce their policies. The difference is that past

Conservative governments faced a very different political context than the current Conservative government does. So, I'm not offering a normative critique or a cultural critique, i.e. that somehow today's Conservative party represents a break with their traditions or culture. Yesterday's Conservatives, I would argue, also didn't care much about tradition. But they could observe it, they didn't have to rock the boat, they didn't have to push the envelope on any of these kinds of rules, because they existed within a very different context. The older Conservatives could observe the traditional niceties of parliament because they usually had a majority government that allowed them to effectively marginalize considerable elements of their own political coalition and give them a lot more latitude to pick and choose the policies that they wanted to pursue.

All this dramatically changed with the 1993 election, which essentially represented the break-up of Canada's traditional conservative party, the Progressive Conservatives. In 1993, various elements within this political coalition – Quebec, the West, social conservatives, economic libertarians – were all unhappy with the party and unhappy in different ways. In the end, they all went in different directions. Some members in Quebec went to the Bloc, some westerners and social conservatives went to the Reform party, while others focused more on provincial affairs, like those that became the driving force in the Harris Conservatives (who pioneered a very libertarian economic view of conservatism). All this led to fifteen years in the wilderness at the federal level as conservatives (and here I mean 'small c' conservatives) had to figure out whom to back as their most effective champion. So from 1993 to 2008, people who identified with conservatism were unsure of their footing. How could they get back into a competitive situation?

In the end, the two main English Canadian conservative parties did manage to merge in the early 2000's. But even united they've been having some difficulty winning a decisive victory.

They won a minority government in 2006 and were re-elected as a minority government in 2008. This suggests that their coalition is still pretty wobbly. So far they haven't been able to count on the same level of support that the old Progressive Conservatives had. So Harper, when he came to power in 2006, faced significant coalition tensions. And given that he's only secured a minority government, he is very vulnerable to the conflicting pressures emanating from within his coalition – from social conservatives, economic conservatives, Quebecers and westerners, etc. The problem is that without a majority government, he can neither act decisively on policy nor effectively manage his internal coalition.

Okay, back to prorogation – which is, after all, what I am supposed to be talking about. Well, neither of the prorogations was technically wrong, but both were deeply political. In the first prorogation in December 2008, the point was to save the Conservative government from itself. Imagine walking into a room and picking a fight with *everybody* at the same time - not so smart when you are a minority government. So they played their hand in the first prorogation crisis and they paid a deep price for it. For instance, to save his government, Harper had to attack the proposed coalition links with the Bloc, a strategy that was widely interpreted as attacking Quebec, at least within that province. This proved costly politically as cultivating Quebec support for his government had been a key part of Harper's strategy aimed at getting a majority. But to save his government in the short term, he took the risk of alienating Quebecers.

In the second prorogation, the Conservatives hoped it would help them to dodge a losing issue, namely the Afghan detainee scandal. Here is where we get back to the internal coalition dynamics within the Conservative party if we want to understand why Harper used prorogation. The point of the prorogation here was to "change the channel". The opposition had managed to finally get a grip on an issue that Harper, up till then seemingly a "Teflon man", could not manage to deflect. And there

are some good reasons this particular issue was an ongoing problem for the Conservatives. First, Quebec has never been quite as gung-ho about the military stuff as the rest of the country. On the other hand, the Conservatives owe a lot of support in their base to a generally pro-military position. So it's a very difficult balancing act that the Conservatives have to do hang on to the different elements of their coalition. The Afghan detainee issue was only making it harder for them to rebuild their efforts in Quebec.

But, more importantly, it was starting to effect elements of their base as well. While it might take a lot to shift Albertans from the Conservative Party, the rest of the country is not so stuck. So things like the detainee issue are just the sorts of topics that might move economic conservatives to the federal Liberals. Canadians don't like to think that we're abusing international law. We may do it – we're no angels – but people don't like to think it. The fact that this issue was getting so much play was starting to hurt the Conservatives in just the swing ridings that they would have to rely on to get their majority, while also weakening some of their base in provinces like Manitoba and Saskatchewan. The fact that the issue could cut across public opinion and potential Conservative voters in so many ways, perhaps fuelling vote-switching, was why prorogation seemed like a good idea to Harper and company.

Harper's second prorogation in little over a year sparked what seemed like a strong critical response from the public to his decision. But has it really hurt his chances of furthering his ultimate goal of getting his party a majority of seats in the House of Commons? To cobble together a majority coalition, Harper needs to hang on to the Harris Conservatives in Ontario, he needs some Quebec support, and he needs to hang on to his base in the West, in rural Ontario, and the Maritimes. The Conservatives had hoped to change the channel on the Afghan detainee issue with prorogation and, while shutting down Parliament may have been characterised as undemocratic by their foes, they had their own

democratic agenda in the background – namely Senate reform. The Conservatives were confident that with the ability to appoint new Senators and get themselves close to a majority in the Senate, they would be able to come back to Parliament leading a “democratic reform” agenda for the upper house. Meanwhile, they hoped everyone would forget all about prorogation. The question that we have to ask is “Will it work?” and that’s just what we’re going to find out.