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Dear Reader,

I am delighted to present to you the first ever volume of the UNA USA Cornell Journal of International Affairs. In the fall of 2015, our organization came together with the goal of launching an academic journal that would showcase the voices of Cornell students, both undergraduates and graduates, on campus and beyond. Our mission was twofold: to promote the discussion and debate of current international issues, and to bring the far-sighted views of Cornell students to a national platform. The analyses and solutions presented in this journal delve into the past, present, and potential futures of issues that span both across multiple borders and multiple topics, including law, culture, politics, and diplomacy.

In this journal you will find deep explorations of current events, thoughtfully proposed answers to convoluted questions, and multifaceted proposals to address complex dilemmas. In Africa, international aid to struggling nations continues to remain corrupted, inefficient and frequently misused. Jesse Van Genugten explores the history of aid in Africa and the successes and failures of various methods, while proposing a plan to restructure the current fractured system. In 1985, the South Asian Association for Regional Cooperation (SAARC) was formed to encourage regional political and economic cooperation. However, trade between the member nations remains unsatisfactorily low, a problem Ishneet Kaur will tackle as he explores the factors affecting trade patterns while focusing on the region's most dominant economic forces: India and Pakistan.

In Bangladesh, the aftermath of the Rana Plaza collapse of 2013—the deadliest structural accident of modern human history—has proven less than fruitful in reforming the institutional issues that led to the collapse. In order to address these underlying problems, Nina Gershonowitz and Gabriela Markolovic present a detailed review of each issue that led to the collapse and solutions for the future. Guantanamo Bay, the internationally-denounced detention center run by the United States as a counter-terrorism effort, has remained controversial since first brought to the attention of the global public. The legal complexities of the prison are explained by Christopher Hanna, who explores the horrific situation of the detainees and their context in international law. Finally, Jihed Hadroug delves into the sharp rise of Anti-American sentiment following one of the most prominent revolutions of modern history: the Arab Spring. Its consequences are far from limited to the Middle East, and Hadroug presents the impact the aftermath can have on US foreign policy.

My deepest thanks goes out to everyone who contributed to this journal and made it a reality. I am thrilled and honored to helm our first ever volume, and I look forward to many more journals to come.

Best Regards,



Jennifer Kim
Editor-in-Chief

RESTRUCTURING AFRICAN AID FOR ECONOMIC DEVELOPMENT

Jesse Van Genugten

Abstract:

Unfortunately, the history of aid to Africa is one of clear inconsistencies and almost whimsical policy guidelines, motivated largely by international self-interest and a lack of economic awareness of its effect on the African economies. These strategies perpetuated the structural deficit of many African countries—in physical infrastructure, economic strategy, and political standards—and created a dependency on future aid to achieve financial stability. To mitigate the reliance on a broken system of benefaction, the international approach to economic aid for underdeveloped Sub-Saharan African nations must be restructured and redefined. Principle goals of a new approach to African aid should promote the growth of domestic buying power, establish domestic and international accountability for the repercussions of aid practices, and focus on establishing sustainable infrastructure.

A Short History of Aid to Africa

It must be recognized that today there are overwhelmingly positive signs of growth

in the African economies. As the UN Economic Report on Africa explains, “Growth has been widely shared and remained strong across the majority of African countries, despite the disruptive impact of the global economic and financial crisis.”¹ However, other indicators, such as the increasing wealth gap, the Human Development Index, and the nature of the African export economy betray a different story. The economic growth does little to change the individual economic situations of the African civilians, and provides no security of long-term development. Colonial rule was certainly foundational to the economic weaknesses for the African states, but unsustainable post-colonial strategies for economic growth proves similarly costly even in an era of optimism.

In the post-colonial era, as the international community realized the economic and political potential of growing Africa’s economies, international aid shifted focus away from the exclusively charitable aid common in the 1950s. Charity and emergency aid presented power hungry Cold War actors with little to no opportunity to found a long-term relationship with the African states. Emergency aid was short term, while charity aid was promoted largely by nongovernmental, nonpolitically aligned organizations. Likewise, for this seemingly outdated type of aid, the international community could expect only concrete short-term results, and it gave little flexibility to the African leaders to spend money in their own manner. Thus, it was in the interests of the politicians of both sides to promote a

¹ *Making the Most of Africa’s Commodities: Industrializing for Growth, Jobs and Economic*

Transformation. Rep. Ethiopia: UNECA, Economic Commission on Africa, 2013. Print. p. 25

different, long-term approach. Initially, Cold War politics defined the relationship between the international community and the newly independent African states. By investing in African countries, both sides of the Cold War attempted to shift the balance of power in their favor. The money primarily came in the form of bilateral aid designed to motivate political leaders in Africa to align politically and economically with the powerful donor country. Dressed in a shroud of optimism about long term economic potential, the standards set for the aid packages were widely accepted by politicians on both sides. However, as it would turn out, the unrestricted aid of the Cold War era fostered authoritarian regimes with selfishly motivated leaders.²

Ideologically, the West pursued a different rhetorical scope of involvement however politically motivated their investments were. Initially, Western politicians and diplomats set out to liberalize the continent and stimulate private Foreign Direct Investment in infrastructure and manufacturing, incentivized by an influx of public aid from the Western countries. It placed the burden to grow infrastructure on private sector investment, which, combined with an atmosphere of political instability, increased the risk of investing in the long-term development of Africa. Likewise, the aid African leaders received actually undermined the establishment of public institutions and the ability to sustain long-term growth.³ With little foreign influx of

infrastructural spending due to the risk involved and no accountability for leaders to promote long-term investment over short-term personal benefits, there was little public infrastructure in Africa even in the 1970s, several decades after independence.⁴

Ill-advised spending, combined with the volatile nature of the African economies, eliminated the initial optimism both domestic and international politicians had. Because of the minimal investment required to profit from the selling of raw materials, it quickly became the main source of income for the state economies. The states relied directly on the fluctuations of international market, and thus the stability required for long term spending was simply not there. When the global markets collapsed in the 1970s, compounded greatly by the international community's lax stance on earlier debt repayment, African countries were forced to abandon any long-term projects as they defaulted on their loans. With no social safety net, they could no longer provide for the people and thus turned to the international community for basic necessities to survive. The World Bank then reoriented its strategies towards a poverty focus, negating any long-term economic development plans in favor of a more socially focused approach. It stipulated that individuals would not be able to benefit from long-term development if they were unable to survive short term. While there is some merit to this approach in terms of humanitarian concerns, this strategy resulted in economic stagnation and little

² Robert Bates, *When Things Fell Apart: State Failure in Late-century Africa*. New York: Cambridge UP, 2008. Print. p. 47

³ Dambisa Moyo, *Dead Aid: Why Aid Is Not Working and How There Is a Better Way for Africa*. New York: Farrar, Straus and Giroux, 2009. Print. p. 37

⁴ *Ibid.* p. 15

potential for Africans to deal with their situations without help. Even worse, as Dambisa Moyo, author of *Dead Aid: Why Aid Is Not Working and How There Is a Better Way for Africa*, explains, this short term aid had to be paid back with interest, incapacitating the future development of many African states.⁵ Unfortunately, spurred on by the economic potential of African commodities, international creditors were more than willing to provide this ‘aid.’ The African states, predictably so, took on increasing debt to attempt to relieve poverty, but it inevitably set them up for failure.

In 1981, after several decades of failed development policies, Western countries decided to implement a change of policy. The World Bank attempted to reassess its role in defining a structural adjustment in its aid package to Africa, seeing earlier disjointed efforts fail miserably. It published the Berg Report, which standardized the neo-liberal ideology the West had attempted to convey to Africa since independence, and set it as conditional for receiving international aid. Since the aid presented to the African states, prior to the World Bank’s renewed intervention, was bilateral, it allowed for little standardizing of aid policies and created inconsistencies from country to country. Thus, by approaching the aid from a multilateral stance, the World Bank hoped that with a strict plan, it could take steps towards greater accountability and sustained long-term economic growth.

After 1989 and the collapse of the Cold War order, political motivation for international aid became increasingly

obsolete. The 1980s, “only served to increase poor countries’ aid dependence and put them deeper into debt,”⁶ thus when the Berlin Wall fell, the situation in Africa was regarded as a humanitarian concern. International governments became less involved in bankrolling brutal dictators because they no longer needed their support in the balance of Cold War politics. That is not to say that self-interested international actors did not bankroll the corrupt governments of resource rich countries, but there was an emergence of a pro-democratic movement promoted by humanitarian institutions. They believed democracy would bring accountability of leadership, decrease corruption and bring a voice to the people. This was supposed to be the foundation for sustained economic growth, but unfortunately, foreign aid continued (and continues to this day) to be the predominant source of fiscal resources for many countries.⁷ This aid has done little to promote financial independence.

Since the shift of aid became humanitarian and focused more on empowerment within Africa, it was the push of famous individuals for change that defined the international community’s response to the dire situation in the 21st century. Moyo calls it, “the rise of glamour aid,”⁸ as international stars take up the cause to create a sense of public consciousness and almost guilt-ridden morality. It incited people to donate to the African cause, creating a sense of urgency for the international community to act. Though it has certainly raised the profile of Africa’s plight, its effects are less cut and dry. It is unclear that this approach helped the long-

⁵ Ibid. p. 17

⁶ Ibid. p. 19

⁷ Ibid. p. 25

⁸ Ibid. p. 26

term trajectory of Africa's economy, though there have been some short term health benefits to the emergency and charity aid created by this newly formed glamour aid. It is perhaps easy for an international star to say that the international community needs to help starving Africans by sending in emergency relief, but it is considerably more difficult to propose a viable long term plan to make sure the Africans have the tools to alleviate their own hunger.

The 1990s entertained a clear push for democracy as an ideological goal for African countries, in order to achieve sustained economic growth. This attempted to tackle political corruption and the misappropriation of state funds. Seeing the effects of authoritarian regimes that reigned over the majority of Africa, democracy presented an optimistically Western approach to the political standards of governance in Africa. This provides, as Malawian Professor Blessings Chinsinga explains "a space where the poor and marginalized can articulate their interests, hopes and aspirations in a way that is not conceivable within the framework of an authoritarian, incompetent, predatory, and hyper extended state."⁹ However, the forced proliferation of democracy in Africa presents less than ideal circumstances for governance and ultimately economic potential. When employed incorrectly, democracy will fail to empower the individual and will simply lead to inefficient governance. Though by the end of the 1990s 48 countries had held democratic elections, voter involvement was

still clearly limited. For example, in Nigeria, the continent's most populous country, voter turnout was below 60% in 1999, whereas in Kenya, voter turnout in 1997 was lower than 35%.¹⁰ That trend continued across sub-Saharan Africa even after a decade of democratization, with very few exceptions. The problem that thus arises is the political marginalization of roughly half the population, which can lead to a tyranny of the majority as legitimized through the international norm of democratization. Kuenzi and Lambright claim there is a direct correlation between higher GDP and literacy, and voter turnout, which creates a cyclical problem of ineffective governance.¹¹ If a democracy fails to address the needs of the population, it will unlikely achieve higher GDP and will be unable to provide adequate education, which inevitably limits the legitimizing self-improvement power of the democracy.

It is hard to introduce the concept of democracy to countries that have no experience with its inner workings and the responsibilities of the people and the politicians in such a system. Initially, the democratic governments worked inefficiently as political parties attempted to define clear political stances and mobilize the constituents. With a constant rotation of political parties, and a lot of required bureaucracy to pass through, development planning is inconsistent and slow. The threat of political stagnation juxtaposed with the problems of civilian engagement, and thus

⁹ Blessings Chinsinga, *Democracy, Decentralisation, and Poverty Reduction in Malawi*. Köln: Köppe, 2007. Print p. 107

¹⁰ Idea.int Voter Turnout Data

¹¹ Michelle Kuenzi, and Gina Lambright. "Who Votes in Africa." *GSDRC: Display*. N.p., 2005. Web. 12 Dec. 2013.

limited accountability, create crippling issues with the initial implementation of democracy in Africa.

The Effectiveness of Different Aid Programs

Having laid out the historical context of international aid to Africa, this paper will now look to analyze the relative advantages and disadvantages to several types of aid structures attempted in Africa or theoretically proposed. Historically, the first standardized development strategy was the Washington Consensus. As the first major structural adjustment protocol for Africa, it attempted to overcome structural problems with international politics and market standards. Idealistically, it proposed several steps to help African countries, setting those steps as conditions for receiving international aid. First, it reduced the size of government, in order to reduce the corruptibility of public offices, creating unemployment and reducing the buying power of many individuals. Though the Washington Consensus did reduce the inefficient allocation of state funds, it did so only marginally; the heads of state and remaining public servants still had access to all the state's wealth.

Furthermore, the Consensus privatized state institutions in an attempt to promote African entrepreneurship and promote further international investment in the industry. Since public institutions, like state run farms and hotels were run extremely inefficiently, this privatization was supposed to spark industrialization across Africa. However, with international corporations

unwilling to take such a risky venture, and the lack of educated African entrepreneurs to promote the private sector, even the private institutions fell apart and failed to produce any tangible returns. A similar tenant of the Washington Consensus was to focus on the economic strongholds of the state, which for most countries was agriculture. However, competing on the international market in agriculture proved extremely difficult, with subpar technology and no government subsidies, ultimately producing little sustainable income. Additionally, another focus of the consensus was to decrease the value of domestic currencies in order to incite international investment. Unfortunately, however, this hurt the export economies of the Africans and damaged the already disadvantaged agricultural base. Thus, in an attempt to construct an atmosphere for business to take off, the Washington Consensus instead impaired Africa's economic potential across the board.

Thus, there was an inevitable scholarly push to create a new development strategy, even though, as William Easterly explains, the West does not have a good track record with offering economic advice.¹² Thus, the post-Washington Consensus emerged as a focus less on harsh economic standards of the market economy, but rather on the development of the people through public institutions; economic development would inevitably be quick to follow, as it seemed. As Harvard Economist Amartya Sen describes, "it involves rejecting a 'blood, sweat, and tears' view of development in favor of celebrating people's agency and

¹² William Easterly. *Reinventing Foreign Aid*. Cambridge, MA: MIT, 2008. Print. P. 9

cooperation and the expansion of human freedom and capabilities.”¹³ Blood, sweat and tears, categorically named BLAST by Sen, disrupts public support for economic development. It creates a further social and financial division between the elites and the other African civilians. Likewise, it does little to empower individuals to better themselves and takes economic development on a macro-scale to overshadow any individual potential. It even proposes necessary sacrifices to be made as the main resource for the macro growth, including cutting of social programs and public investment.¹⁴ This method presents a clear push for economic growth through the accumulation of wealth, which, through the trickle down effect, would increase the living conditions of all Africans. Realistically, however, the Washington Consensus worsened conditions in Africa. Thus, Sen presents a different approach, “getting by with a little assistance... GALA,”¹⁵ which stands in sharp contrast to BLAST. It reverses the logic of BLAST, where it attempts to jumpstart social development by expanding school education, public health care, social security, and gender equality.¹⁶ This grassroots approach empowers individuals with education, optimism and a social safety net so they can successfully pursue business ventures to benefit themselves and those around them. It places a great deal of importance on human resources, and sets a foundation for societal stability. With a stable government supported

by a stable populace, optimism would arise and international investment would flow in. However, though it empowers individuals, immediate consequences of GALA are complicated to measure, where as BLAST represented a very clear standard of GDP growth to measure. Thus, GALA presents the problem that it is hard to keep those in charge of the projects accountable and on track, as the aid money does not directly translate to any quantifiable value.

On the other hand, food aid provided immediate relief and quantifiable results, and became central to international policy to help Africa develop. Similar to emergency aid, food aid provides short-term relief from crippling circumstances for individuals. If survival is the main goal for a large portion of Africans, it prevents any individual development opportunities from taking shape. By focusing all possible money on purchasing food, individuals will not be able to invest in their own futures and are thus stuck in their current dire economic situations. Food aid thus has the potential to empower individuals to move economically beyond simply providing the bare minimum. However, relief aid, by its definition reacts to emergencies, rather than prevents it.¹⁷ Likewise, it is prone to media coverage and the political and economic self-interests of the donor country, creating an inconsistent flow of aid. Initially, excess crop in the United States spurred food aid to Africa. With little demand for this crop domestically, the U.S. shipped it overseas and portrayed it

¹³ Amartya Sen. *Development Thinking at the Beginning of the 21 St Century*. Thesis. Harvard University, 1997. N.p.: n.p., n.d. Print. p.1

¹⁴ Ibid. p. 7

¹⁵ Ibid. p. 6

¹⁶ Ibid. p. 4

¹⁷ Anup Shah, "Food Aid." *Global Issues*. N.p., 2 Aug. 2012. Web. 13 Dec. 2013.

as solely benevolent giving. Though the short-term benefit of this food aid was apparent, it disrupted local industry and created a dependency on this food aid for survival. Because this aid was not supported by overarching economic development, the individuals who could now attempt to focus on something beyond money for food had nothing to focus on. The lack of economic growth simply presented no further opportunities to improve the African's circumstances.

Civil Society Organizations, or CSO's and Non-Governmental Organizations, or NGO's, however, present an alternative form of aid, not associated with any political ideals and undeterred by the inefficient generalities proposed by the international institutions and Western countries. CSOs, present a domestic solution to the problems associated with the democratization of Africa. Chinsinga explains, "civil society is regarded as promoting a new and innovating development paradigm that would no longer be limited to the overextended state dominated by self seeking politicians."¹⁸ Vital in inciting political involvement, civil societies have the potential to educate the population and define new domestic norms regarding democracy. By uniting the people, it will be able to distinctly define the will of the people for creating a sustainable development ideology. However, such a united civil society has little historical backing and largely remains a theoretical,

somewhat unrealized, goal. NGOs, on the other hand, play a big part in the current aid to Africa. Because NGOs are not connected to governing bodies, they lack bureaucratic constraints. Likewise, they tend to operate in areas not covered by any governmental services, thus gaining a local level of knowledge. By adopting their aid policies to a variety of different circumstances and taking into account the local consequences of their aid, NGOs can apply significantly more efficient policies than comprehensive international organizations. They attempt to form a grassroots empowerment by providing local infrastructure, education, and even micro-credits to influence African entrepreneurship. However, it is not all good news. Designed to start businesses, the approach of microfinance brings a great deal of money directly to the individuals, which in turn was supposed to present a ripple effect within African society as more people gained employment through these businesses. However, roughly 50% of the small businesses failed within the first 5 years, and since the majority of the recipients had little to no business experience, this investment was highly instable and very risky. Mayoux even argues, "in some contexts, programmes may even be disempowering, reducing women to unpaid debt collectors for development agencies and increasing tensions within the family."¹⁹ Likewise, NGO operations in Africa present other problems as well. It undermines local political authority with its independent

¹⁸ Blessings Chinsinga, *Democracy, Decentralisation, and Poverty Reduction in Malawi*. p. 108

¹⁹ Linda Mayoux, "Questioning Virtuous Spirals: Micro-finance and Women's Empowerment in Africa." *Journal of International Development* 11.7 (1999): 957-84. Print. p. 957

actions and does little to promote sustainable large-scale economic development due to its local scale operations.

Strategies Moving Forward

This paper has thus far explored the historical context of aid and the merits of different approaches to aid. Even so, something must be done in order to stop the destructive nature of the current status quo. China's approach to raw material investment, with little to no strings attached, has certain merits. It allows African countries to take some advantage of the relative value of their resources, while in turn receiving the expertise to build infrastructure for future development. Though not enough is done to regulate Chinese investment and control the equitability of the value of the offered infrastructural projects, rather than simply throwing money at the government, it presents an active plan for developing economic growth. In exchange for access to raw materials, China has invested significantly in public infrastructure and construction projects. With this increase in Foreign Direct Investment, FDI, the infrastructural capacity of the African states increases dramatically. Likewise, "it will create more jobs, assist in the transfer of new technology, help stimulate the formation of [Africa's] capital markets, improve management expertise, and aid indigenous firms to open up to the international markets."

²⁰ Therefore it is vital to increase FDI from China, and perhaps other sources, in other sectors of the economy and decrease the

investment risk for other countries to promote healthy competition.

The first, and perhaps the most important step in reducing the risk of investing in Africa beyond its resource sectors requires establishing some resemblance of political stability. Democracy is not always the right answer, even though many Western economists promote the democratic process as the panacea. If an authoritarian regime can provide limited economic growth and an unwavering foundation with stability of leadership, then that may be the better option. The embellishment of funds is a small price to pay for the consistency of economic policies, and even international pressures have the potential to decrease this corruption. However, if the political scene is excessively corrupt to the point where economic policies have no potential for macroeconomic growth, democracy must present a change away from this self-destructive governance. Because of the instability associated with newly commenced democracies, this change cannot be taken lightly and requires a great deal of international oversight even years after the first elections.

In order to achieve the potential for good governance in both authoritarian and democratic systems, we must look back at the institutional capacity of the country. Education systems, for example, must be improved drastically in order to produce political and economic experts with knowledge of the historical context of economic development and the influence of aid on that development. A focus on the

²⁰ Dambiso Moyo, *Dead Aid*, p. 101-2, annotation added

infrastructure of Africa, akin to Chinese attempts, presents an investment with the greatest long term potential for return but also the most risky, with low initial returns. Investment in infrastructure in exchange for raw resources disadvantages many African nations who have few resources, but if done correctly, it can present the countries with those resources more stability and potential for economic progress even as their resource wells dry up. Thus the struggle lies in the ability to convince investors to put money in infrastructure of resource- poor countries and the ability to regulate infrastructural investment in the other countries.

This is where the reintroduction of aid, though a concept this paper has thoroughly problematized, has the most influence in defining the economic potential of Africa. If African nations have a relatively small export economy, they should be able to petition international organizations or large scale NGO's with a full scale plan to increase infrastructure, build competitive manufacturing, and thus increase the domestic buying power of the citizens. This could be as simple as subsidizing niche markets for a decrease in risk to entrepreneurs to build up an export economy around those manufactured goods. The problem associated with international corporations investing the money in those markets is that the profits often do not stay in Africa. Thus, aid from international organizations, appropriated by state governments, must reach the hands of capable and educated African elites. If the African corporations are allowed to flourish, it will create a large private sector and increase salaried employment. This presents

the people with increased buying potential, which in turn invigorates local markets. In these aid projects, the international community must maintain a strict overview of the overall consequences, analyzing and adjusting what does not work. The problems with previous projections lay in its lack of adjustment to specific circumstances for different countries and the lack of analysis of its ultimate successes or even downfalls. Because many African countries need the aid as a portion of the GDP and national income, they will have no choice but to remain accountable to the original plan and develop the economy accordingly.

This brings the paper to its final point: accountability on the international level. While it is easy for an international organization to pull money away from the African states, it is dangerous and certainly difficult to truly regulate international involvement in Africa beyond those organizations. With trade so vital to Africa's policies, the market ideology of self-interest and decreased government regulation is centralized. Take Chinese investment as an example. Even if all international organizations pull their aid from Africa, China will still invest heavily in the extraction of resources from Africa, giving the governments little incentives to adhere to the conditions of the other aid. Thus, if the international community were to put conditions on all foreign investment, it would increase domestic accountability. However, this strategy would stifle any existing trade and decrease the likeliness of future Foreign Direct Investment. Thus, by promoting competition between different states, perhaps inciting U.S., European, Japanese, and even

BRIC countries investment, the markets will naturally foster an environment of more equal exchange and less unfair economic policies promoted by selfish traders, given the fact that the Africans now have leverage. It would not stifle any trade, but rather incite further international investment by presenting the resource incentives to multiple parties. Supporting competition by subsidizing fair investment with adequate development plans will fade the power of the unfair investment strategies and sustain international accountability.

Though a historical analysis would perhaps be cautionary, it befits ourselves to remain optimistic about the potential of the upcoming generation of scholars, economists, and politicians both internationally and within Africa. Unfortunately, things will

likely get worse before the international community attempts a complete overhaul of the current way of looking at developmental aid. However, if it focuses on international and domestic accountability, political stability, domestic infrastructure, the growth of domestic buying power, and a stricter overview of the consequences of all of these policies, then the international community has the opportunity to present an alternative to the perpetual underdevelopment of Africa. The ultimate goal of the international aid is for the country to no longer need it, and by putting the pieces together the current generation has adequate knowledge of past achievements and failures to implement this policy and create true African independence.

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WHY SAARC REMAINS DORMANT: A FOCUS ON THE HINDRANCES IN INDO- PAK TRADE RELATIONS.

Ishneet Kaur

Abstract: Even after the formation of the SAARC trading bloc, regional integration among the South Asian countries remains minimal. This paper examines the reasons for the same- i.e. how changes in the world production systems, the emergence of global value chains and how the sectional interest groups influence trade patterns between the member nations while focusing upon the two largest economies- India and Pakistan. The implications of both of these external and the internal factors go a long way in understanding the low level of trade flows.

I. INTRODUCTION

According to the classical trade theories, trade between countries take place on the basis of absolute or comparative advantages in production process, which in turn is determined by the difference in factor endowments, resource endowments, and differences in productivities of the used resources along with technological differences. The gains from trade consist of

two parts: one depending on the possibility of exchange and other on the possibility of specialization in production. To tap these gains, the countries transfer their factors of production from the production of those goods that they import to the production of goods that they end up exporting. This redistribution of the factors within the countries leads to production of distinct commodities and their exchange to obtain other products.¹ Following this argument, the unnaturally low level of trade between the South Asian economies seems very logical as they have very similar resource endowments and not many significant differences among other determinants. These theories then imply that trade should occur only between capital-rich developed countries like the U.S. and labor rich developing countries like India. Why then do we see a huge amount of trade occurring between similar resource- rich countries of U.S. and Canada? The U.S.-Canada bilateral relationship is one of the closest and most extensive in the world, which amounts to an equivalent of \$1.6 billion worth of goods and services flowing across the border each day. Does this huge amount of trade take place in spite of similarities in endowments, or is it because of these very similarities? And does that entail a potential of trade flows between countries in South Asia as well?

Alternate trade theories like the Linder's Hypothesis provide some explanations. It is a conjecture of trade flows between countries of similar endowments and identical preferences by stressing that the trade between such countries is obvious, as

¹ Soderstein, B.O., Reed, G. *International Economics*. (London, 1994).

the demand structures are also very similar. Even the Gravity Model relates the bilateral trade directly to the economic sizes of the countries involved and inversely with the distance that separates them. Other factors like a common language, historic ties, a shared border, whether they were a part of the same territory, and participation in Free Trade Agreements also play an important role. The line of argument taken up in these theories opposes the one taken by previously mentioned trade theories and implies a contradictory result of greater trade flows between similarly endowed SAARC countries.

Since its formation in 1985, the South Asian Association for Regional Cooperation (SAARC) has sought to accelerate economic and social development among its member countries: India, Pakistan, Bangladesh, Bhutan, Nepal, Maldives, Sri Lanka, and its newest addition: Afghanistan. However, even after taking the route to liberalization and globalization, SAARC has remained highly ineffective in promoting intraregional trade among its members. Trade potential wherein member states have a comparative advantage in distinct sectors also exists in South Asia. But, a country with a relatively high comparative advantage in some products can increase its exports (for those products) only if they figure significantly in the import baskets of other member countries in the region. This is the concept of trade complementarity. It has been seen that India's exports have maximum complementarity with the imports of members, particularly Sri Lanka and Pakistan (and this has been growing over the years). However, India's import complementarity

with other members' exports has been low. The presence of large Sensitive Lists is largely quoted as an impediment to the growth of intraregional trade flows. In some cases even when India had a comparative advantage in production, the items were retained in the Sensitive List to give a redundant advantage to the local interest groups.

SAARC as a trading bloc assumes importance not only to build and encourage trade and holistic development of the region, but also to have a greater collective impact on the international institutions like the WTO or the Bretton Woods whose main agenda has been to maintain the hegemony of the few developed countries, and have consequently given in to undemocratic and unfair practices. The unfortunate state of integration among the SAARC countries is an impediment to the growth of the region and constitutes an untapped potential. The objective of this paper is to analyze the less appreciated problems faced by SAARC in promoting intraregional trade and investment. It examines the reasons that explain the low level of intraregional trade flows which are not accommodated for in a pure economic theoretic approach. This involves the political considerations – either how political relations between the countries or the power asymmetry of global production and trading arrangements seen in global value chains or the political pressure put by domestic pressure groups define trade patterns. Each of these is looked into one by one in the following sections: Section 2 shows how restrictions put up in an ad-hoc manner create difficulties in development of stable and dependable trade movement across the India-

Pakistan border. Section 3 discusses the growing importance of global value chains and the infeasibility of trade between member states therein. Section 4 states how the sectional interest groups try to influence the trade ties among countries by forming lobbies to hinder movement of goods and to maintain their market share. This paper primarily looks into Indo-Pak trade relations, but similar cases involving other countries are also mentioned.

II. TRADE AGREEMENTS AND ESCAPE ROUTES

In 1995, the seven South Asian countries –Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka – initiated a multilateral framework for region-wide integration under the South Asian Preferential Trade Agreement (SAPTA). Following SAPTA, the South Asian Free Trade Agreement (SAFTA) commenced in 2006, envisaging a duty-free area by 2016 for all Member Countries. However, the success achieved under the treaty has been quite limited; with the intraregional trade of a meagre 2% of GDP (as estimated for the year 2006) and the cost of trading across borders one of the highest in the world, South Asia is the least integrated region in the world.² It becomes important then to analyze how and why the intraregional trade remains so unnaturally low even after entering such agreements. This is carried out by studying the trade patterns between the two largest economies in the region: India and Pakistan.

² Saradgi, I., Sahni, S.K., Srivastava, R.N. *SAARC- The Road Ahead*. (New Delhi, 2007)

³ PhD Research Bureau. *India-Pakistan Bilateral Trade: Past, Present and Future*. (New Delhi, 2013)

INDIA AND PAKISTAN - TRADE RELATIONS

Historically, the trade flows between the two countries has been highly significant. In 1948- 49, more than 70 per cent of Pakistan's trading transactions were with India, and 63 per cent of Indian exports were shipped to Pakistan.³ The end of 1949, however, witnessed a rapid downturn in Indo-Pak trade relations which has continued over the years, worsening with the tensions between the two countries.

Data suggests that formal trade between the two countries due to tariff barriers and quota problems is not significant; further, the significance is diminishing year after year. The reason for diminishing India-Pakistan bilateral trade may be attributed to informal trade between the two countries which is generally carried out by (1) re-routing trade through a third country (such as the United Arab Emirates, specifically Dubai) and (2) illegal trade through land borders. The informal trade between India and Pakistan is estimated at \$2 billion to \$3 billion per year, and this trade could obviously be undertaken bilaterally at significantly lower cost.⁴ Pakistan had promised to grant India 'most favoured nation' (MFN) status by the beginning of 2013, a status that India had granted Pakistan in 1996. Essentially this meant that as of 2013, restrictions on imports from India would have to be eliminated, and that the same tariff rates would apply to Indian imports as are imposed by Pakistan on imports from other

⁴ Khan, M. *India-Pakistan Trade Relations- A New Beginning*. (New America Foundation 2013).

countries and that the positive list of items that could be imported from India would be replaced by a small negative or sensitive list of items that could not be imported. This is seen as a positive step towards regional and economic integration. However, with the recent untoward incidents at the Line of Control, the proceeds to granting MFN status were put on hold and the informal trade is also expected to rise. The informal exports from India to Pakistan constitute mainly readymade garments, cosmetics and jewelry, spices, livestock, drugs and pharmaceuticals, machinery (mainly textiles), chemicals, tires, and informal imports from Pakistan to India includes mainly cloth, tobacco products, dry fruits, and leather products (mainly footwear).

TRADE POTENTIAL – FORGOING GAINS

Trade flows between the two countries hold immense potential. The gains from trade are studied on an aggregated as well as a disaggregated sector level.

Actual-to-potential trade ratio

The ratio of actually realized to potential trade computed on the basis of gravity model. The computed potential trade ratios greater than unity imply that the observed trade between countries exceeds the predictions of the gravity model, whereas computed ratios less than unity imply that the observed trade falls below the model's predictions. The absolutely lowest APT ratios of the two countries are for their trade with each other. The APT ratio for India's exports to Pakistan is only 0.02, while that for

Pakistan's exports to India is lower still: 0.01. Notwithstanding the widespread improvements for the period 1996-2005, the APT ratio for India-Pakistan trade remains the lowest, climbing to no higher than 0.05. Expressed inversely in potential-to-actual trade terms, the potential of formal trade between India and Pakistan is roughly 20 times greater than recorded trade.⁵

Sectoral Gains

The distributional patterns of trade create some sectoral gains and losses. Trade is carried out only when there is a net gain to be reaped for the society as a whole, i.e. the gains from trade outweigh its losses. However, the calculation of gains and losses are based on the awareness and/or influence of the sections that tend to gain from trade vs. those who tend to lose. The sectoral conflicts that arise become an important determinant of whether trade is carried out then. The political power play of the sections is further studied in section IV. Looking at the sectoral gains and losses arising from Indo-Pak trade, the findings are as follows: First, Pakistan will stand to gain from access to advanced technology and machinery from India. Second, it is likely that the pharmaceutical and automobile industries will lose out to more competitive Indian industries. Third, the agricultural sector could benefit if it is allowed to compete on a level playing field; at present, India's heavily subsidized agriculture makes

Pakistani products uncompetitive. Fourth, certain sectors like textiles, electric fans, and tires will gain from trade with India

⁵ Ibid.

because of its large market as well as Pakistan's geographical proximity to certain regions of India, as compared to some of the Indian states producing these products. Finally, there will be efficiency gains for the major industry clusters in Gujranwala, and Sialkot, as they will be able to achieve economies of scale with a large Indian market and land routes through India to other South Asian countries where Pakistani goods already have a competitive edge. Similarly, India stands to gain in sectors like tea, auto parts, light engineering, tires and transport equipment, pharmaceuticals and information technology.⁶ Enhanced trade is also expected to expedite India's trade with central Asian countries, through the use of the land route via Pakistan.

Intra-industry trade

Intra-Industry Trade (IIT) within the region is the trade that occurs when a country simultaneously imports and exports similar types of products within the same industry or sector. There are two types of IIT: horizontal and vertical IIT. Horizontal IIT refers to the simultaneous exports and imports of goods classified in the same sector and at the same stage of processing. This is usually based on product differentiation (and is limited in this region). Vertical IIT refers to the simultaneous exports and imports of goods classified in the same sector but which are at different stages of processing. This is normally based on the "fragmentation" of the production process into different stages, each performed at different locations by taking advantage of the local conditions. Two sectors - textiles and clothing and

automobiles have a high potential for intra-industry and intraregional trade and integration.

A very small proportion of such gains are actually realized as countries put up various kinds of restrictions to movement of goods across borders. The most notorious of these restrictions, the non-tariff barriers, serve as easy getaways in cases where formal restrictions are unviable.

NON-TARIFF BARRIERS (NTBs)

All barriers to trade in goods apart from border tariffs are generally lumped together in the category of NTBs. Specific to the case of India-Pakistan trade relations; the non-tariff restrictions are put up at each stage to discourage the movement of goods across borders. There are also allegations that some NTBs are levied by India only against goods from Pakistan in an ad hoc manner. These NTBs include lack of border infrastructure and traffic planning, inadequate port storage facilities, and inefficiencies that persist in the absence of cross-border transport agreements, visa difficulties as well as technical barriers to trade in terms of sanitary, phyto-sanitary (plant and plant product safety) measures. It has also been the experience of Pakistani exporters that the effectiveness of Indian non-tariff barriers (NTBs) varies based on the need for products from Pakistan. If there is a genuine consumption demand exclusively for Pakistani products from the Indian side, the difficulties of exporting go down automatically, but as the consumption demand falls off, the NTBs reappear. This issue needs to be addressed by developing a

⁶ Ibid.

system of consistent treatment over a longer time period.

Despite the establishment of the Integrated Check Post created to increase trade by land between the two countries in April 2012, the Pakistani exporters remain only cautiously optimistic. They argue that many hidden nuisances are still present, for example, that truck scanners that replace the physical inspection of goods at the post are not operational.⁷

Moreover, Indian regulations passed in May 2012 prohibit the trucking of goods in vehicles with more than 10 wheels, as well as those with over 40 tons capacity. Put simply, it appears that while there are widely heralded attempts being made to dismantle “official” trade hurdles, other barriers are being added to maintain the status quo, specifically in those sectors where Indian interests are most threatened by Pakistani exporters, such as cement and textiles. When India granted MFN to Pakistan in 1996, within six months Pakistan captured 30 percent of the Indian yarn market. Fearful for its business, local industry in India started lobbying for protection and the Indian government reverted to using NTBs to check the surge of Pakistani products. In the case of yarn, for example, a new requirement meant that the containers had to be checked by sniffer dogs. However, the dogs were not directly available at the port and it would sometimes take weeks to get them there to inspect the shipment. Such delays just added to costs, rendering the products less competitive. As a result, over time these exports of yarn completely stopped. Another

key NTB on textiles, which are Pakistan’s major export, is how Indian customs authorities calculate the import duty. For example, duty on fabrics is charged either by weight or value, whichever way the rate is higher. As Pakistan’s fabric is typically of slightly lower quality and therefore has less value than Indian fabric but has much more weight, the effective duty is larger, making exports to India in many cases infeasible.

The field-level or lower bureaucracy on both sides of the border has been highlighted as a major NTB. It is seen that the mind-set of field-operating customs officers and other government officials is excessively bureaucratic and negative about trade between the two countries, resulting in undue delays. Even the clearance of goods listed in the positive lists requires payment of bribes at the border. Such hindrances and ad hoc behavior are a result of political tensions between the two countries and the suspicion that the governments and bureaucracy in both countries have for each other. The lack of proper infrastructure is also a binding constraint. With the border lacking appropriate storage facilities and capacity to load and unload cargo, an increase in truck traffic would come at a very large potential cost and risk to traders on both sides.

The experience of SAFTA and SAPTA makes it clear that increasing trade takes more than signed agreements. Even though the political tensions between the two countries is widely stated as a reason for the low level of formal Indo-Pak trade but how these political difficulties and suspicions translate into bureaucratic hurdles are not

⁷ Ibid.

looked into. Deeper integration in trade and investment requires governments to reduce not only restrictive tariffs and duties, but also to minimize import restraints, protracted customs requirements, and complicated and often redundant documentation, hamper the flow of goods. Studies have also shown that poor trade facilitation, poor connectivity, and high trading and transport costs restrict trade.

Another aspect of the trade flow is dependent on how the production is organized. The recent phenomenon of the production process being spread across the globe goes a long way in defining the global trade patterns and becomes an important determinant.

III. GLOBAL VALUE CHAINS

The cross-border production chains in which the raw material extracted in one country may be exported to a second country for processing, then exported again to a manufacturing plant in a third country, which may then export it to a fourth for final consumption are referred to as Global Value Chains (GVCs). According to the UNCTAD 2013⁸ Report GVCs become all the more important in today's world due to the following reasons:

- Global investment and trade are inextricably intertwined through the international production networks of firms investing in productive assets worldwide and trading inputs and outputs in cross-border value chains of various degrees of complexity. Such value chains (intra-firm or inter-

firm, regional or global in nature, and commonly referred to as Global Value Chains or GVCs) shaped by transnational corporations (TNCs) account for some 80% of global trade.

- The new data shows that some 28% of gross global exports consist of value added that is first imported by countries only to be incorporated in products or services that are then exported again.

GVC links in developing countries can play an important role in economic growth. Domestic value added created from GVC trade can be very significant relative to the size of local economies. In developing countries, for example, value added trade contributes some 28% to countries' GDP on average, as compared with 18% for developed countries. Furthermore, there appears to be a positive correlation between participation in GVCs and GDP per capita growth rates. Economies with the fastest growing GVC participation have GDP per capita growth rates some 2 percentage points above the average.

GVCs make extensive use of services. While the share of services in gross exports worldwide is only around 20%, almost half (46%) of value added inputs to exports is contributed by service-sector activities, as most manufacturing exports require services for their production. In fact, a significant part of the international production networks of TNCs are geared towards providing services inputs, as indicated by the fact that more than 60% of global FDI stock is in services

⁸ UNCTAD, *Global Value Chains and Development-Investment and Value Added Trade in the Global Economy* (2013)

activities (26% in manufacturing sector and 7% in the primary sector).

Furthermore, GVCs have different structures depending on three main factors: (1) the geography and nature of linkages between tasks in the chain; (2) the distribution of power among lead firms (TNCs) and other actors in the chain; and (3) the role of government institutions and policies in structuring business relationships and industrial location. The first factor, the geographical structure, is determined by the extent of fragmentation of production processes and by their delocalization. While the extent of fragmentation is generally specific to the sector, the choice of where to delocalize production processes depends not only on production and trade costs but also on the potential size of the domestic/regional market, as well as on the proximity to high-income markets. The extent to which local markets are integrated with regional/international markets both in regard to trade policies and infrastructure development is also important. The second factor, the distribution of power among the various firms of GVCs, is reflected in the different organizational structures of GVCs. Their structures can be classified in terms of the relational linkage between the buyers (lead firm) and their suppliers of manufactures. One extreme is the case of vertical integration where some of the manufacturing stages are directly owned by the lead firm while certain parts and components may be bought from contract suppliers. The other extreme is the case of a

contractual relationship at arm's length, wherein buyers do not necessarily know or own their suppliers.⁹ Numerous types of ownership structures can be found anywhere within the wide spectrum of the buyer-supplier relationship, from that of a captive to that of a relational nature. The third factor is related to government intervention. Governments play an important role in facilitating the integration of domestic firms into GVCs. Governments have often resorted to trade policies to increase the competitiveness of their enterprises, especially by seeking preferential market access. Indeed, by lowering trade costs trade policies can help to integrate domestic firms into GVCs. However, trade policies although still important are not sufficient in the GVCs business model. The removal of behind-the-border trade-related barriers is also necessary. Moreover, policies aimed at improving the overall business environment are essential to facilitating the integration of domestic firms into markets that are increasingly dominated by GVCs.

In recent years, the South Asian countries have been showing the greatest growth in GVC participation. This means that GVC has been growing in importance and forms a large determinant in the trade flows of countries in this region. Looking at the patterns of the stage wherein the SAARC countries enter the GVC becomes necessary for our analysis.

For South Asia the upstream links (foreign value added, i.e. the use of foreign inputs in exports) remain very low whereas

⁹ Gereffi, G., Humphrey, J., Sturgeon, T. *The Governance of Global Value Chains*. (Review of International Political Economy, 2005).

downstream links (exports that are incorporated in other products and re-exported) are quite significant in GVC participation. This emerges as the consequence because India has a major service led GVC participation which does not use any imports (low upstream links) and countries like Bangladesh and Pakistan produce electronics and automobiles components that are exported to be assimilated in other countries (high downstream links). The working of the GVC then makes it difficult for trade flows between the member nations. Also as the big firms of U.S. and Europe operate most of these GVCs, it reiterates the amount of extra-regional trade flows from the South Asian region to these countries. The growing precedence of the GVC in defining trade flows explains the low level of trade between the member countries for it is the economic power of controllers of GVC which creates trajectories and path dependencies where the countries get locked in and to create an alternative regional trade paradigm becomes difficult.

IV. POLITICS AT PLAY

Trade flows between countries always create to some winners and losers, since it is imperative that some sectors lose out to imports and other sectors gain as they export their goods and hence get a larger market share. The sectional groups have an influence on the trade relations as they lobby for protection of their interests and pressurize the government to hinder beneficial trade flows. This happens because consumers are unaware of the margin of lower costs of the imported goods, but the producers are well

aware of the threat that they face. Even if the consumers are aware, lobbying for interests has other costs of its own and these are large enough for them not to undertake the strenuous activity. The influential domestic producers, on the other hand are fewer in number and because imports have the potential to wipe them off entirely, they have more incentive to form lobbies. The other considerations include whether the sector being harmed has a large employment base and if it is, then the flooding of markets with imports will have the potential to decrease the domestic employment as the domestic producers would shrink in size. The employment losses would lead to a loss in aggregate income and a consequent loss in consumption demand which would lead to a vicious cycle: from low income to low consumption demand translating into shrinkage of production that again feeds to further fall in income. The overall effect on the economy is an important of consideration of the willingness to trade.

It has been argued that one of the reasons for SAFTA being ineffective is the large Sensitive (sometimes called negative) Lists maintained by member countries. Such items are not offered concessional tariffs. Statistics point out that 53 percent of the total intra- regional import trade was excluded from the Tariff Liberalization Programme (TLP) under SAFTA. India restricted up to 52 per cent of its total imports by value from SAFTA members under the Sensitive List category. The rationale for any negative or sensitive list in a preferential or free trade agreement is to provide protection to sectors considered unfit for competition (infant industry argument, socio-economic

arguments to protect small-scale producers, agricultural products for food security reasons). However, it has been observed that often during the process of stakeholder consultation, sectors with strong domestic lobbies seeking protection get included in the list. Sensitive Lists, particularly in the case of India have come to be dominated largely by such sectors. Latex, smoked sheets and technically specified rubber are some of the items that India maintains in the sensitive lists even though it has a Revealed Comparative Advantage over all the member states. A similar case happened when Sri Lanka wanted to export its tea into India. As primary products are difficult to differentiate, price becomes the only major determinant of demand. Also as the demand is inelastic, the only way to maintain the market share by the domestic tea producers was to lobby for protection that resulted in various restrictions on tea trading. According to the Tariff Liberalization Programme under SAFTA, member countries are required to review the list for reduction every four years or earlier, as established by the SAFTA Ministerial Council (SMC), but there is no formal or binding commitment. Hence, the reduction of sensitive lists becomes a voluntary decision by each member country, which is in turn decided upon by the degree of influence of such interest group lobbies.¹⁰

V. CONCLUSION

Some common reasons given for the low trade among the SAARC countries include the similar Relative Comparative

Advantage (RCA) and similar resource endowment, poor infrastructure, political differences between the member states, political instability within some member states, and apprehension of India bending the rules in its favor. Notwithstanding these factors, this paper argues that there is a greater ground reality to the pitiful level of intraregional trade following from the micro-politics of bureaucracy or pressure groups as well as the hierarchical structure of global trade in the world today. Whether the trade takes place and its magnitude depends on the interaction of internal and external factors. The study of trade between India and Pakistan show the shortfall of actual to potential trade due to various barriers as a consequence of ad-hoc non-trade barriers that tend to be demand determined. Even though the political tensions and suspicions between the two countries is widely stated as a reason for the low level of formal trade but how these translate into bureaucratic hurdles are not looked into. The paper also shows that the growing importance of Global Value Chains in defining the world trade patterns provide explanations for specifically the high level of extra regional trade flows from member countries to the U.S. and Europe to which the transnational corporations operating these chains belong as well as the reasons for the low potential for intraregional trade in the presence of GVCs. The other aspect of the political economy of trade is the role of the sectoral conflict of interests in the domestic economy, which is exemplified by the interest group lobbies. The trade flows have

¹⁰ Taneja, N., Ray, S., Kaushal, N., Chowdhury, D. *Enhancing Intra-SAARC Trade: Pruning India's Sensitive Lists under SAFTA*. (New Delhi, 2011).

been seen to depend on the political influence of these lobbies, which in turn depends on the wealth of the owners of major firms in the sector and the employment that the sector provides etc. The interplay of the two factors so discussed then becomes necessary for the

analysis of trade patterns among the South Asian countries.

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RECONSIDERING RANA PLAZA

*Understanding the obstacles to
the development of economic
and labor policy in Bangladesh &
Recommendations for moving
forward*

Nina Gershonowitz and Gabriela
Markolovic

Introduction

After a war of independence against Pakistan, Bangladesh gained nation-status in 1971. Since its creation, the country has struggled with rampant poverty and over crowdedness and is still unable to free itself from its third-world struggles. These issues were brought to the international community's attention when news spread about the Rana Plaza collapse in April of 2013. One of the worst accidents to ever occur in the garment industry, 1,100 people were killed and more than 2,000 were injured as a result of faulty infrastructure. This was truly an *international* disaster because a variety of stakeholders such as the Bengali government, workers, factory owners, trade unions, consumers, international buyers, multinational corporations, and other governments all felt the effects of Rana Plaza.

This tragedy and its aftermath must be analyzed and addressed because there was a significant loss of human life. Moreover, this issue cannot be ignored because other lives in Bangladesh are at stake. We cannot stand by idly as our fellow human beings experience a violation of their human rights.

Thus, on behalf of those who perished in the factory fire, we dedicate this research paper to the future of labor policy in Bangladesh. We have organized our paper into four sections: Corruption, Suppression of Freedom of Association, Inadequate Infrastructure, and the Economic dilemma. In each section we will analyze how each of these themes were responsible for contributing to the Rana Plaza Collapse. After demonstrating how these obstacles persist in this Southeast Asian country, we will provide recommendations and solutions to instituting reform and implementing change to better the lives of workers in Bangladesh.

Section I: Corruption

1.1 How did corruption contribute to the Rana Plaza collapse?

After the tragedy, investigators attempted to uncover what factors had led to the collapse of the building. According to the Guardian, "Emdadul Islam, chief engineer of the state-run Capital Development Authority (CDA), said the owner of the building had not received the proper building consent, obtaining a permit for a five-story building from the local municipality, which did not have the authority to grant it. Another three

stories had been added illegally to the complex, he said”.¹

This then begs the question; why resort to illegal means to build an unsafe building? From the owner’s perspective, if he builds a larger building, then he can hire more employees, and then they can produce more, which will make his profit greater. Additionally, perhaps it was cheaper to obtain illegal certification to build more floors. Nevertheless, fraudulence was committed on two levels: the municipality issuing documentation that was outside the scope of its capacity, and the employer obtaining an invalid certificate. Furthermore, “the building was constructed on illegally occupied land in collusion with the politically powerful and run in defiance of regulations and building codes with the help of corrupt officials”.¹ This is extremely problematic because there was a violation of human rights, and accountability of the government decreased. If people are willing to look the other way if a building violates a code, then they are putting other lives in jeopardy. Additionally, if this behavior is socially acceptable, then that indicates a culture of violating rules and regulations. How can citizens turn to their elected leaders if the politicians are the ones contributing to the problem?

How pervasive is this culture of corruption? According to the Financial Times, “to get a factory up and running, factory

owners can pay as much as \$25,000 in bribes for 14 different categories of permits from 17 public agencies across 11 ministries. When there are greater risks, such as not having an emergency exit, the amount of the bribe often gets bigger, but the factory stays open”.² This demonstrates that factory owners do not have an incentive to abide by safety measures because it is more costly to them and, as mentioned previously, no one is overseeing or punishing them for violations. Why does the government tolerate this? Perhaps it is due to the fact that “factory owners and exporters...make up at least 10% of parliament.”³ This is clearly an issue because a percentage of legislators will inherently be biased against laborers. Thus, law and enforcement of basic human rights will be violated since the ones with the power are incentivized by profit and keeping labor costs low.

Additionally, another report concluded that the Bangladesh Garment Manufacturers and Exporter Association “is considered to be one of the most influential trade bodies in the country, with links to all of the major political parties”.⁴ This association represents Ready Made Garments (RMG) and thus takes care of an industry that is the backbone of the country’s economy. This institution is extremely powerful and can undoubtedly manipulate civil servants into creating legislation in their favor. The

¹ “Rana Plaza: One Year On From The Bangladesh Factory Disaster,” The Guardian, accessed October 15, 2014

¹ “Corruption Rampant a year after Bangladesh Factory Collapse,” Financial Times, accessed October 15, 2014.

² Ibid.

³ Ibid.

⁴ Ibid.

garment factories' owners want to turn a profit, which in turns translates into lower labor costs, and as a result, exploitation of Bengali workers.

I.ii Recommendations for combating corruption

On Transparency International rankings, Bangladesh has appeared at the top globally for corruption⁵ and the World Bank estimates that 2-3% of GDP growth is lost to corruption each year and that per capita income could even be doubled if this corruption was controlled.⁶ As demonstrated, corruption is a serious obstacle that must be addressed in order to ensure the promotion of workers' rights as human rights. In Bangladesh, the Anti-Corruption Commission has made huge progress over the past decade to increase transparency. However, in order for their efforts to succeed, we recommend repealing the last amendment of Anti-Corruption Commission Act, which requires the commission to seek government permission to perform investigations even if the file charges are against politicians or public servants.⁷ This is of the utmost importance because as stated earlier, corruption is pervasive in the government. This third party needs to be free of the pressure and influence from civil servants. We believe that the Anti-Corruption Commission will continue to be ineffective until this is repealed.

⁵ M. Shamsul Haque, "Anti-Corruption Mechanisms in Bangladesh," *International Covenant on Civil and Political Rights* 9 (2010): 48.

⁶ "Bangladesh and the Corruption Function," accessed October 15, 2014

In addition to reforming this amendment, we recommend increasing the wages of civil servants in Bangladesh to combat corruption. A study conducted by the World Bank revealed that in developing countries "there is an inverse relationship between the level of public sector wages and the incidence of corruption."⁸ The Bangladeshi government must therefore increase the wages within the public sector so that these officials will be less tempted with bribes from the garment factory sector. We do acknowledge that this may be problematic because, as stated earlier, 10% of Parliament members are factory owners in the garment sector. However, if the other 90% of members receive higher wages, then they will probably be less likely to be pressured by corporate power. Regrettably, we cannot say exactly how much wages should be increased by because there is little transparency about salaries in the public sector, and the amounts of bribes in Bangladesh. Research has uncovered that "salaries in the private sector remain four to six times above the public sector for mid-to-senior level officials in the private sector"⁹ in Bangladesh. Therefore, raising the wage of civil servants could make the job more respectable, and thereby hopefully discourage officials from colluding with profit-driven factory owners.

Our third and final recommendation for combating corruption in Bangladesh is adoption of the New Zealand model of the

⁷ "Bangladesh Country Profile," *United Nations*, accessed October 15, 2014

⁸ "Six Strategies to Fight Corruption," *The World Bank*, accessed October 15, 2014

⁹ "Draft For Consultation," *The World Bank*, accessed October 15, 2014

Fiscal Responsibility Act as a means to increase transparency. We are electing to adopt New Zealand's model because this country is consistently top-ranked for transparency under the International Corruption Perception Index.¹⁰ The goals of the Fiscal Responsibility Act of 1994 is twofold, calling for both responsible fiscal management and reporting requirements. Under this legislation, “governments must publish a Budget Policy Statement (BPS) before the annual Budget and a Fiscal Strategy Report (FSR) at the time of the Budget. These publications must demonstrate the consistency of the Government’s short-term fiscal intentions and long-term fiscal objectives with the principles of responsible fiscal management”.¹¹ Additionally, “the Treasury is required to prepare regular economic and fiscal forecasts”.¹² If Bangladesh followed this outline, transparency would undoubtedly increase in terms of finances within the government. This will help battle corruption because the information will be more available and accessible, which in turn will allow citizens to participate knowledgeably in politics and demand accountability. Another important piece to this New Zealand model is that “all reports required under the Act are referred to a parliamentary select committee that comprises [of] representatives from the Government and opposition parties”.¹³ Establishing this committee in Bangladesh will have a powerful effect because it will disperse the power of the garment factory owners and their ties to political parties. This

committee will force opposing political parties to come together to work for a common cause: transparency in government finance.

Section II: Suppression of Freedom of Association

II.i How did the suppression of Freedom of Association contribute to the Rana Plaza collapse?

As a member of the International Labor Organization, Bangladesh has adopted conventions 87 and 98, which guarantee freedom of association and collective bargaining. Even though this should help facilitate union organization, the environment in Bangladesh overall is still extremely hostile to unions. For example, according to Lance Compa, Professor of Labor Relations at Cornell University, “factory managers routinely fire and blacklist workers thought to be union sympathizers” and “in April 2012, apparel union organizer Aminul Islam was found tortured and killed after meeting with workers near a garment manufacturing center outside Dhaka”.¹⁴ Despite the existence of the Bangladesh Labor Act of 2006, and the supposed commitment to conventions 87 and 98, the anti-union sentiment was pervasive in the country through the Rana Plaza collapse.

If sentiments were different, there is a possibility that the disaster could have been prevented. If workers were not afraid to unionize, then perhaps they could have assembled collectively and have amassed

¹⁰ “Six Strategies to Fight Corruption.”

¹¹ “The Fiscal Responsibility Act of 1994”

¹² Ibid.

¹³ Ibid.

¹⁴ “After Bangladesh, Unions can Save Lives,” *The Washington Post*, accessed October 15, 2014

bargaining power to demand rights that should not even be negotiable. Furthermore, if the workers in Rana Plaza had been represented by a trade union, then members could have conducted more routine inspections and demanded the factory be shut down until the infrastructure met the proper requirements for safety.

While this argument is framed in the hypothetical, clearly the prevalent anti-union environment contributed to the Rana Plaza collapse because workers' terms and conditions were held at the whim of the employer. American and European powers threatened to cease economic relations if Bangladesh didn't amend its 2006 labor legislation. Afraid of losing business with some of their main trading partners, the country adopted some changes. One of these permitted the creation of a union if 30% of workers voted for it. This is still inadequate because if less than 30% of workers in a given industry want to be represented by a union then they will be denied protection. Additionally, it will undoubtedly be hard to get 30% of a workforce to vote for union representation because Bengalis are afraid of the threat of job loss, and the threat of losing their lives.

In addition to the barrier of freedom of association that this law presents, it also makes striking difficult, which is a significant leverage tool used in collective bargaining. The government can stop a strike if they deem it a "serious hardship to the community" and workers cannot strike in the first three years at a factory established by foreigners.¹⁵

In other words, Bangladesh is not facilitating a political environment conducive to striking. When is a strike considered a "serious hardship" to the community? Employees who would be on strike are citizens and thus part of the Bengali community. Is the government taking into account that *the employees* are facing "serious hardship" at the workplace; namely, unsafe working conditions, long hours, and insufficient wages? Additionally, it seems that factories established by foreigners will easily be able to exploit workers because they are not allowed to strike at its inception.

Another issue with the new labor law adopted after the Rana Plaza collapse is that, "unions would need government approval before they could receive technical, health, safety or financial support from other countries".¹⁶ In a position as a developing country, Bangladesh has limited resources, indicating that these unions may need to reach out to developed nations for support. Under this law, the government can swiftly cease any progress a union would want to make. One might wonder, why would the government want to stop this, especially after all of the bad publicity it has been receiving regarding Rana Plaza? Any assistance these unions could receive would simply be additional labor costs, which in turn could lead to factories packing up and moving to another country where labor is cheaper. The government cannot afford to lose contracting negotiations with these foreign countries because it is one of their main sources of income. In conclusion, it would not be so far-

¹⁵ "Under Pressure, Bangladesh Adopts New Labor Law," *The New York Times*, accessed October 15, 2014

¹⁶ "Under Pressure, Bangladesh Adopts New Labor Law."

fetches if the government simply refused to give approvals to these unions when seeking international assistance.

II.ii Recommendations for combating the suppression of Freedom of Association

In order for unionization to gain more momentum to help protect workers' rights, significant changes will have to be made to the aura of Bangladeshi perceptions of the labor movement. Firstly, we recommend that if a blacklist is found, the employers must be jailed. If there is a significant rumor about one existing, then trade unions should be allowed to obtain a warrant to look through company records to find its existence. While this may seem radical, the threat of going through a company's files will probably be strong enough to dissuade employers from utilizing this anti-union tactic.

We wrote that the amended Bangladesh Labor Act was insufficient for facilitating a union friendly environment. Thus, we propose abolishing the 30% requirement, and instead make freedom of association a constitutional right—an idea stemming from the Israeli model. If freedom of association is a constitutional right then anyone who seeks union protection and representation is not only entitled to it, but also guaranteed it.

Next, we recommend the abolition of the stipulation that states that workers cannot strike within the first three years of the creation of a factory created by a foreign country. Striking is one of the key leverage tactics for labor when engaged in collective bargaining. We will however permit the government to stop a strike if they see fit to

counterbalance the suggestion. Although a critic may say that these foreign factories will just pay off the government to stop a strike, if Bangladesh seriously works on fixing corruption (based on the suggestions in Section I), then this will hopefully not be an issue.

Finally, we also recommend mending the existing labor law by erasing the article that states that unions need government approval before seeking outside help. We firmly believe that if a trade union desires economic or technical assistance, it should be free to ask whichever country they deem necessary. Furthermore, we insist that the International Labor Organization form a committee devoted to providing aid to the various unions in Bangladesh. The ILO has incredible research and resources that can at the very least help with technical assistance. We hypothesize that the economic situation for unions in Bangladesh will improve because if more citizens feel comfortable joining taking part in them, then the unions will have a larger budget from members' dues.

We acknowledge that it is hard to change a culture, and history has proven that pro-union rhetoric is often met with opposition. However, it is simply unacceptable that the government and factory owners are suppressing workers' basic human rights of freedom of association and collective bargaining. Both jobs and lives should not be threatened for wanting to join a labor movement.

Section III: Inadequate Infrastructure

III.i How did inadequate infrastructure contribute to the Rana Plaza disaster?

Bangladesh has one of the least developed infrastructures in the world. The World Economic Forum's Global Competitiveness Report ranked the country at 126 out of 133 countries in terms of investment and development of infrastructure, making it the lowest ranking of its neighboring South Asian countries.¹⁷ At both the micro and macro level, faulty infrastructure has led to deterred economic growth, and disaster. Bangladesh building law, according to the Ethical Trading Initiative, mandates that any new structure, for any purpose, must obtain an occupancy certificate from a government agency before it can be used. Since 2008, only 6 certificates have been issued, although an estimated 4,000 to 5,000 new buildings are built every year.¹⁸

These occupancy certificates certify a building's compliance with laws and building codes, essentially determining whether the new structure is suitable for occupancy. Companies neglect these regulations, disregarding government authority, and cave into high demand from associated multinational corporations. In an effort to meet strict deadlines and quotas, factories look toward unlicensed, unsafe subcontracting factories that are constructed illegally because of this high-pressure and high-stake environment.¹⁹ The Rana Plaza factory fell victim to this pressure, and

violated dozens of building codes and laws in an effort to expand factory space. As mentioned earlier, the original building design planned for four floors. On the day of the collapse, there were eight floors with a ninth under construction. The building itself was more than double its planned weight and was supported by poor quality iron rods and cheap cement. It was bound to collapse, and without proper enforcement of existing regulation, building owners will continue to cut corners and perpetuate this cycle of disaster.

Infrastructural inefficiencies exist on a grand scale in the country. In the Global Competitiveness Report, Bangladesh placed 128th in the rankings for competitiveness of electric supply.²⁰ Power stations in the country cannot meet the rising demand for electricity from increasing industrialization while gas reserves are projected to run short over the next ten years. Over 60% of people do not have access to electricity at all.²¹ Frequent blackouts disrupt work and decrease profits. Transport facilities in the country are subpar: traffic bottlenecks drive up business costs and traveling just the 150 miles from the main port in Bangladesh to its capital city can take over 24 hours. Experts argue that such shortcomings in infrastructure contribute to Bangladesh's low overall business environment ratings (BMI) of 30.9 out of 100.²²

The issue of poor infrastructure has not gone completely unnoticed by the

¹⁷ "Infrastructure – The Way To Bangladesh's Heart," *BMI Research*, accessed October, 15, 2014

¹⁸ "Rana Plaza Engineering Disaster," *Stony Brook*, October, 15, 2014

¹⁹ *Ibid.*

²⁰ "Infrastructure - The Way to Bangladesh's Heart."

²¹ "Spending in Bangladesh: The Most Bucks for the Biggest Bang," *The Economist*, accessed October, 15, 2014

²² "Infrastructure: The Way to Bangladesh's Heart."

Bengali government, nor by the international community. In 2011, the government made plans to increase the budgetary spending for infrastructure and health and education services by 28%.²³ Despite increased funding, the country has relied on its trading partners, China and India, to provide financial assistance to the country for development. “China has used its massive currency reserves to meet many of Bangladesh’s infrastructure needs. In addition to a road link between Chittagong and Kunming in the southern Chinese province of Yunnan, China has provided financing for seven bridges in Bangladesh. The country has also financed the construction of two new terminals at the port of Chittagong”.²⁴ In addition, India loaned one billion dollars to Bangladesh to improve railroads and ports in the beginning of 2010. As long as Bangladesh is able to keep a positive relationship with these two countries, their BMI is estimated to grow with their real gross fixed capital formation at 7.1% on average per year between 2010 and 2019.²⁵

Unfortunately, international assistance at this rate may not be enough without the cooperation of the Bangladeshi government and subsequent budgetary increases towards infrastructure spending. In order to bring its roads, water supplies, and power grids up to the standards required to meet the needs of its growing population, Bangladesh will need to spend between

seventy four billion and one hundred billion dollars between 2011 and 2020 (about 10% of its GDP).²⁶ We will discuss solutions to address this pressing issue at both the micro and macro level.

III.ii Why is it important to address these issues?

As mentioned, inadequate infrastructure leads to disaster and deterred economic development. In the energy sector alone, frequent blackouts account for a loss of one billion dollars per year, causing a decrease of half a percentage point in the annual GDP.²⁷ The frequent occurrences of building collapses and fires halt economic growth through factory shutdowns and turnover in disillusioned employees. These high costs are just base reasons for infrastructure development.

The World Bank issued a policy report indicating the implications of adequate infrastructure.

“Growth is positively affected by the stock of infrastructure assets, and income inequality declines with higher infrastructure quantity and quality. A variety of specification tests suggests that these results do capture the causal impact of the exogenous component of infrastructure quantity and quality on growth and inequality. These two results combined suggest that infrastructure development can be highly effective to combat poverty”.²⁸

²³ "Bangladesh Plans 28% More Spending on Infrastructure, Education," *Bloomberg*, accessed October 15, 2014.

²⁴ "Infrastructure - The Way to Bangladesh's Heart."

²⁵ *Ibid.*

²⁶ "Bangladesh Needs \$100b in 10 Years for Infrastructure: WB," *The Daily Star*, accessed October 15, 2014.

²⁷ "Power Sector in Bangladesh," *Bangladesh Infrastructure*, accessed October 15, 2014.

²⁸ "The Effects of Infrastructure Development on Growth and Income Distribution: Policy Research

Therefore, the more Bangladesh invests in infrastructure, the more it can successfully prime itself for foreign investment, which will hopefully lead to combatting poverty and reducing income inequality. Reduced business costs allow for higher profit margins for businesses and eventually higher wages for workers, which can in turn allow for higher quality of life.

To better understand the effects of improved infrastructure, it is essential to understand the composition of the labor force of the country. "Of the total employed person, as high as 47.56% was engaged in agriculture sector followed by service sector (35.35%) and industry sector (17.52%). In the industry sector 12.44% was in the manufacturing sector and the rest in other industries".²⁹ The agriculture industry still retains the highest percentage of workers in the country. Imperfections in agriculture labor markets has strained income and employment of rural residents, and it is argued that these labor market issues are both directly and indirectly tied to inadequate infrastructure in Bangladesh.³⁰ Higher transportation costs lead to inefficient business modes and ultimately reduced wages and unemployment. Farmers are limited in where they can transport their food, declining potential demand and perpetuating cycles of sunk costs. The growth and sustainment of the agricultural industry now depends on the improvement of infrastructure.

Ultimately the infrastructure issue is important to address because it is delaying economic growth in the country, and is perpetuating poverty. Solving the crisis of poor infrastructure will lead to lower income inequality, and reduced tragedies like the Rana Plaza collapse.

III.iii. Recommendations for Improving Infrastructure Development

We propose that the Bangladeshi government allow for the use of results-based financing to combat inefficiencies in the development of their infrastructure.³¹ Construction contracts in Bangladesh are typically input based. Payment is made to these companies when the inputs of the project are delivered, rather than delivering payment when the project is finished. The project leader will only need to pay the construction company when they deliver the desired and agreed outcome. By shifting to this approach, the risk burden shifts from the donor to the construction company. We borrow this approach from the Global Partnership on Output-based Aid, a multi-donor trust fund that concentrates on development in countries around the world.³² This solution will work because it would encourage foreign investment in Bangladesh: "Corruption and rent seeking is at such an extent that FDI is not happening".³³ International donors fear that the money they

Working Papers," *World Bank Group*, accessed October 15, 2014/

²⁹ "Report on Labour Force Survey," *Bangladesh Bureau of Statistics*, accessed October 15, 2014/

³⁰ "Developmental Impact of Rural Infrastructure in Bangladesh," *International Food Policy Research Institute*, accessed October 15, 2014

³¹ "Tackling Poor Infrastructure Is Vital for Developing Countries," *The Guardian*, accessed October 15, 2014

³² "Tackling Poor Infrastructure Is Vital for Developing Countries."

³³ "Infrastructure - The Way to Bangladesh's Heart."

are sending is not being properly used and therefore, limit loans to the country. With results-based financing, the companies will not be required to pay the agreed amount until they see that their project has been carried out effectively. This will encourage more investment, and help Bangladesh fund the one hundred billion dollars needed to improve its infrastructure (including electricity, transportation, etc.).

This method will not only help solve the issue of international investment, but also the domestic crisis of occupancy certificates and the neglect of building laws. The current permit application is broken into four stages:

- a) Land use certificate
- b) Large and specialized project permit.
- c) Building permit
- d) Occupancy certificate.³⁴

During the third part of the process, applicants submit floor plans, indicating specific materials to be used in the construction process. We recommend that these be carefully documented by the Department of Inspection for Factories & Establishment (DIFE) so that when companies apply for their occupancy certificates, the types of materials used must be completely in line with their submitted applications. Then, if the building is in line and receives its occupancy certificate, the project financier will pay the construction company for its services. This increased regulation will hinder companies from cutting costs in their construction contracts. If they indicate they will use quality cement

in their approved application, they will not receive the occupancy certificate until inspectors verify that the indicated cement has been used. The construction company will be paid for their services, no matter how long it takes for the building to meet these requirements.

This will type of results-based financing will rely on the increased regulation and inspection from DIFE, which is a problem in and of itself. We discussed that only 6 occupancy certificates have been issued at this point and such blatant disregard of laws remains a problem. As mentioned in our discussion on corruption, links between factory owners and government officials are high, and until they adopt our proposed amendment to the anti-corruption bill, this may remain a domestic problem. Permission to inspect DIFE and the Ministry of Labour in general is essential to counter fraud. Until the laws are enforced and people are punished for ignoring the building application process, our solution may not be nearly as effective.

Section IV: The Economic Dilemma

IV.i How did the Bengali government's dependency on RMG contribute to the Rana Plaza collapse?

Ready Made Garments is the second largest source of Bangladesh's foreign currency after remittances, and accounts for approximately 76% of the country's export earnings. The company itself sees a turnover of almost \$9 billion dollars annually and is responsible for employing almost 3.5 million

³⁴ "Permit and Inspections." *Bangladesh National Building Code*, accessed October 15, 2014

workers in the country (80% women).³⁵ Accounting for nearly 10% of the country's GDP, there is no doubt that Ready Made Garments has been a huge contributor to the discussed economic growth of Bangladesh in recent years. The dependence of the Bengali economy on the garment industry, or Ready Made Garments in particular, has increased tremendously as Bangladesh has become the second largest exporter of apparel after China.³⁶ It is essential to examine the relationship between Ready Made Garments and the government more carefully to uncover the inconsistency of economic growth and labor regulation in the country.

The Rana Plaza building collapse was not an isolated incident of compliance failure of labor law in the country. Basic health and safety protections as well as decent wages were traded for economic competitiveness in the industry. It is clear the government is turning a blind eye to the injustices of Ready Made Garments, and it is only in light of the calamity at Rana Plaza that they are bringing "attention" to these issues. The government is under direct pressure by Ready Made Garments to allow it to continue its operations. When a business accounts for over two-thirds of a country's exports and has almost singlehandedly transformed its economy, it becomes difficult for a government to propose regulations on its main lucrative prospect. The growth of the garment industry has generated millions of jobs, encouraged female participation in the

workforce, and has financed housing and education for some of the poorest people on the earth.³⁷ It is evident that the government fears increased costs for the industry and the loss of competitiveness that may come with these aforementioned increases. Foreign investors seek out the low production costs of Ready Made Garments and the price that will come with factory renovations and higher wages will potentially increase the cost of production and subsequently cause the loss of foreign investment and lay-offs. At the end of 2013, Bengali workers saw an increase in wages from 3,000 taka (approximately \$38 USD) a month (one of the lowest in the world) to 5,300 taka (approximately \$68 USD). This raise led to much controversy from garment factory owners despite the fact that it still does not allow workers to meet their basic needs. Critics claimed factory closures would follow, leading to increased unemployment in the country.³⁸ These are the (often exaggerated) fears of policy makers that are impeding the development of labor regulation and ultimately the protection of human rights in the country. Public policy solutions that must be developed will have to take into consideration the intense economic relationship between the government and Ready Made Garments. Until the government can overcome its dependency on this market, they will remain a slave to Ready Made Garments and will continue to be conspirators to their injustices.

³⁵ "Wealth and Deprivation: Ready-made Garments Industry in Bangladesh," *Academia.edu*, accessed October 15, 2014

³⁶ "Under Pressure, Bangladesh Adopts New Labor Law."

³⁷ "Bangladesh Factory Deaths: Deep-Rooted Corruption Behind a Human Tragedy," *The Huffington Post*, accessed October 15, 2014

³⁸ "Bangladesh Takes Step to Increase Lowest Pay," *The New York Times*, accessed October 15, 2014

There is some validity to the fears of the government. Who will pay for the lofty price tag that comes with renovating factories to meet the health and safety standards presented by the Accords? The Accord on Fire and Building Safety and the Alliance for Bangladesh Worker Safety has already accounted for the inspection of approximately 700 factories and 2,500 more will be inspected by the end of 2014. This first set of inspections has caused the shutdown of dozens of factories due to their poor safety standards. Already, the return on investments has plunged while the annual growth of garments exports dropped to 6.7% in the first quarter of 2014. The total cost of renovations is estimated to be approximately 3 billion dollars.³⁹ Current payment plans include committees of multinational corporations working together to provide low interest loans for specific factories in Bangladesh to self-regulate and pay for individual renovations. Critics argue that this sort of self-regulation by the perpetrators of labor violations is what caused this predicament in the first place and seek different solutions. Even now, the UN-backed scheme to raise 40 million dollars to compensate victims of the disaster has only raised 15 million dollars and only about half of the 28 brands linked the Rana Plaza factory complex have paid into the fund.⁴⁰ This serves to be another issue to consider in creating policy to fund regulation.

To determine solutions to the issue of supply chain regulation, we must first better

understand where exactly production is being done or subcontracted to in the country. Factories in the country are divided into three tiers. Tier 1 factories usually work hand in hand with companies like GAP or H&M in processing orders. Tier 2 factories often have similar contracts or are subcontracted by Tier 1 factories when there is need for increased production. "These larger and more efficient factories have been constructed outside downtown Dhaka in single-purpose structures designed specifically for garment manufacturing, and employ up to 5,000 workers at a time. Both Tier 1 and Tier 2 factories have systems in place in case of emergencies and generally comply with laws regarding working age and hours".⁴¹ Tier 3 factories are where the human rights violations mainly occur. Grossly underpaid workers spend hours in foul smelling factories that often shake with the force of the generators laid on the floors. These factories account for 80% of Bangladeshi firms but control only 20% of production capacity. The majority of operating firms in the country, therefore, operate at inefficient levels. The Tier 1 and 2 factories, specially designed for the purpose of mass, safe garment production, are therefore in control of 80% of production capacity despite their smaller numbers. This exemplifies the benefits that lie in improved infrastructure: higher outputs by smaller numbers. The Tier 3 factories in existence are not only dangerous, but also inefficient.

As previously mentioned, the Accord on Fire and Building Safety was established

³⁹ "Boots on the Ground," *The Economist*, accessed October, 15, 2014

⁴⁰ "Compensation Fund for Bangladesh's Rana Plaza Victims Barely One-third Full," *The Guardian*, accessed October 15, 2014,

⁴¹ "Bangladesh: A Labor Paradox," *World Policy Institute*, accessed October 15, 2014

after the Rana Plaza incident in order to bring together key stakeholders in the Bangladesh factories to prevent another disaster and subsequently improve labor conditions. “The agreement was designed by Bangladeshi and international unions together with other labour groups, and signed by over 50 international brands and retailers, who agree upon a 5 year commitment to invest in safer factories...The programme includes independent inspections by trained fire safety experts, public reporting, mandatory repairs and renovations financed by brands, a central role for workers and unions in both oversight and implementation, supplier contracts with sufficient financing and adequate pricing, and a binding contract to make these commitments enforceable”.⁴² The companies themselves are responsible for determining how they will pay for any costs, whether it is through negotiation with the supplier, loans, or just upfront payment.

While the Accords allow for increased transparency and the inspection of more than 2,000 factories, none of these factories have been labeled as Tier 3. The Accords are ultimately ineffective because they only cover one-third of the factories in the country, and still failed to assure the payment and economic support of the signed companies in light of a 3 billion dollar price tag.

IV.ii Recommendations for improving regulation and monitorization

One monitorization plan proposed by activist Rubana Huq, managing director of the Mohammadi Group, a leading garment manufacturing company in Bangladesh, suggests:

“...The estimated 250 Tier 1 factories in Bangladesh each take public responsibility for 20 subcontracting firms. Tier 1 factories would patronize, monitor, and report on their sub-contractors, submitting a list of names and addresses to industry regulators and their own international buyers. When a Tier 1 plant first begins a relationship with an international brand under this new scheme, they would fully disclose the sub-contractors they intend to use.”⁴³

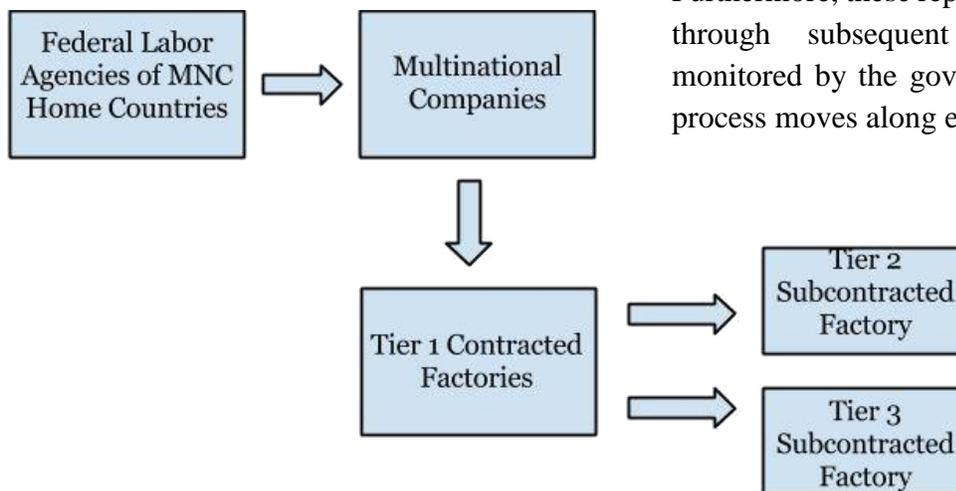
This plan would keep not only the Tier 2 and 3 factories under pressure to protect human rights, but also make transparent to larger MNCs working with Tier 1 factories the conditions that they are funding. This will allow international consumers to put continued pressures on these large corporations to help fund and invest in renovation and improvement plans for these factories abroad. This cannot be accomplished without a comprehensive list of participating factories. The government must ultimately work with global brands, local factory management, academic institutions and the BGMEA (Bangladesh Garment Manufacturers & Exporters Association) to compile and publish a list, summarizing employee and economic data that should be consistently updated. Without knowledge of all participants in the garment

⁴² "Frequently Asked Questions (FAQ) about the Bangladesh Safety Accord," *Clean Clothes Campaign*, accessed October 15, 2014

⁴³ "Bangladesh: A Labor Paradox."

industry, effective solutions cannot be properly implemented.⁴⁴

We recommend that this plan must be combined with the regulatory agencies of the Accords. When multinational companies inspect Tier 1 factories, they must be given annual reports on the findings of violations in the subcontracted Tier 2 and Tier 3 factories. Failure to provide these reports would result in termination of contracts with these Tier 1 factories. Oversight of this process would be done by the MNCs home country's Department of Labor or similar agency. Although this may seem harsh, soft laws are not enough to pressure these companies into taking responsibility for the human rights violations of their subcontractors.⁴⁵ We created an original chart to visualize the regulatory process.



After they receive these reports, MNCs should work together with these Tier 1 factories to create action plans to remedy any violations of labor laws, building codes,

etc. Tier 1 factories should then write a follow-up report, indicating where they have spent the loans given to them by the MNCs, which specific locations have made changes, and any indicators of progress in these subcontracted factories.

Therefore, we recommend continued inspections set up by the Accords combined with the self monitorization plan put forth by the Mohammadi group to create a pyramid scheme of regulation. The mandatory reporting process will ensure that companies carry out these inspections and make this information transparent, increasing pressure on MNCs to create more efficient funding schemes. We based this model on the European Union's Employment strategy, which identifies and defines objectives to be achieved vis-à-vis annual reports. Furthermore, these reports detail benchmarks through subsequent follow-up reports, monitored by the government to ensure the process moves along effectively.⁴⁶

⁴⁴ Labowitz, Sara, and Dorothee Baumann-Pauly, "Business as Usual Is Not an Option," *New England Journal of Medicine* 227.12 (1942): 456.

⁴⁵ Ter Haar, Beryl, and Maarten Keune, "One Step Forward or More Window-Dressing? A Legal Analysis of Recent CSR Initiatives in the Garment

Industry in Bangladesh," *International Journal of Comparative Labor Law and Industrial Relations* 30.1 (2014): 10.

⁴⁶ "Open Method of Coordination," *Eur-Lex*, accessed October 15, 2014

Conclusion

Corruption, suppression of freedom of association, poor infrastructure, and coordination of economic responsibility all contributed to the collapse of Rana Plaza, and to the lack of progress in the realms of economic and labor development in Bangladesh. We have discussed where these problems exist and why they have continued to exist in the country. In analyzing these issues, we have been able to put forth solutions that may help in combatting these hindrances to growth in the country in light of the disaster.

Like many other third-world countries, Bangladesh faces serious corruption issues. This socially acceptable behavior hinders economic and labor policy in the country. Rana Plaza underscored the prevalence of corruption in Bangladesh because 10% of parliament members are involved with the Ready Made Garment industry. Thus, people in charge of creating and enforcing legislation are driven by profits, as opposed to a commitment to human rights. Therefore, we suggest three solutions to help Bangladesh combat corruption. The first is to repeal the amendment of the Anti-Corruption Commission legislation that states that this third-party body needs to ask the government permission to investigate corruption. This is necessary because members in the government are committing crimes. Our second suggestion is to allocate more money in the budget to increase the pay of civil servants. We hope that this in turn will cause officials to be less inclined to take bribes and make government jobs more respectable. Lastly, we recommend that the country adopt New Zealand's Fiscal Responsibility Act

because it will help with transparency in the country. If financial records are more readily available and accessible, citizens will be compelled to participate and hold the government accountable.

This corruption and greed has influenced employers to suppress the rights of freedom of association and collective bargaining, ultimately fostering a very hostile anti-union environment. Citizens are afraid to come together and take collective action because organizers have been killed in the past, and employers are known to blacklist people who are involved in any sort of union activity. After threats by American and European countries, Bangladesh felt obligated to reform its labor act. The revisions taken definitely made strides for the labor movement, but were not enough to persuade Bengalis that it was safe to join a union. Thus, we provided solutions to help Bangladesh promote freedom of association: freedom of association as a constitutional right, getting rid of the 30% requirement in order to unionize, getting rid of the stipulation that workers can't strike for the first three years after a foreign factory is built, jailing employers with blacklists, and getting rid of the clause in the legislation that makes it a requirement for unions to ask government's permission to seek outside technical and economic assistance. In conclusion, we believe it is imperative that the right of freedom of association is not suppressed because unions are can help protect citizens from inadequate wages and working conditions.

Additionally, Bangladesh is plagued by inadequate infrastructure. Unpaved roads, unreliable electricity, and poor regulation of

the building application process have ultimately led to increased business costs and disaster. We believe a switch to results-based financing, or paying construction workers for their finished work rather than their inputs, will help solve the infrastructure crisis in the country. It will encourage foreign investments in the country beyond their main loaners, China and India, and will help ensure money put into these projects are not lost to corruption. Additionally, we recommend that DIFE only allow grant occupancy certificates if building inspection proves to match the plans of the building permit application. In essence, construction companies will be paid for their finished work only after getting this certificate will the. We acknowledged that this process couldn't be carried out effectively without investigations into corruption in DIFE and the Ministry of Labour. We must be able to ensure that factory owners will not get away with starting business without occupancy certificates, and our proposed solutions against corruption must also be taken into account.

We also discussed the intense relationship between Ready-Made Garments and the Bangladeshi government, citing that two-thirds of the country's exports stem from this industry. We explored the types of factories in the country and where violations mainly occur. Although the Accords were successful in inspecting some factories, they only were able to inspect Tier 1 factories. Most of the violations occur in Tier 2 and 3 factories subcontracted by Tier 1 factories. Therefore, we recommend that Bangladesh adopt a plan of tiered regulation: Tier 1

factory representatives should inspect Tier 2 and 3 factories annually. The Tier 1 factories would then be responsible for publishing a report indicating which factories were subcontracted. Ultimately, Tier 1 factories that lie, or fail to publish this report to any MNCs working with them will have their contract terminated. MNCs will be held responsible for making sure they are receiving these reports and any follow-up reports indicating changes, or improvements. If they are not received, the government agency of the respective home countries of these MNCs will oversee whether the MNC continues to do business with the overseas subcontractors.

Eleanor Roosevelt once explained, "Where, after all, do universal human rights begin? In small places, close to home...the factory, farm or office where he works...unless these rights have meaning there, they have little meaning anywhere".⁴⁷ This quote exemplifies why we need change now. A business that cannot ensure the health and safety of its workers does not deserve to stay in business. Human life cannot be weighed in profit, and until all of the stakeholders realize this, change will not take place. It is impossible to pinpoint all the blame on the corrupt Bangladeshi government, or the powerful Multinational Corporations, etc. The Rana Plaza tragedy was truly an *international* disaster and therefore justice can only prevail with the participation and collaboration of the global community.

⁴⁷ "Eleanor Roosevelt Labor Quotes," accessed October 15, 2014,

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UNDERSTANDING GUANTÁNAMO BAY: INTERNATIONAL LAW & THE PRECARIOUS LIVES OF "UNLAWFUL ENEMY COMBATANTS"

Christopher Hanna

Since the inception of the United States' decade-and-a-half-old "Global War on Terrorism," human rights organizations have made a number of inquiries into what Amnesty International calls the "Gulag of our times"¹ and what Yale Law School's Muneer I. Ahmad refers to as a "project of dehumanization, in the literal sense"²—the United States military's Guantánamo Bay detention camp. Beginning in 2002, foreign detainees in U.S. military custody at Guantánamo Bay were subject to, among other things, severe beatings, waterboarding, forced periods of nudity, exposure to extreme weather, sleep deprivation, and sexual abuse.³ President Barack Obama summarized the George W. Bush-era interrogation tactics succinctly, "We tortured

some folks."⁴ The Guantánamo Bay torture program and the War in Terror in general have roughly coincided with the emergence of a streamlined international legal mechanism for prosecuting persons responsible for serious international crimes, including torture. The United States used its power on the international stage to undermine this mechanism in order to shield Americans involved in torture at Guantánamo Bay from prosecution, revealing inequitable power dynamics in human rights and international law practice.

To the hundreds of men who have been incarcerated there, the Guantánamo Bay detention camp is a site of both stunning violence and puzzling legal ambiguity. Muneer Ahmad recounts the harrowing story of Guantánamo detainee Omar Khadr, who was sixteen when American soldiers used him as a human mop, "lifting him off the ground, pouring solvent on him, and using his body to clean the floor on which he had urinated because he had not been permitted a bathroom break. In those other rooms, interrogators threatened him with rendition to other countries, where, he was told, he would be raped by older men. Mohamedou Ould Slahi, another prisoner whose extreme isolation, sexual humiliation, and mock rendition were personally sanctioned by U.S. Defense Secretary Donald Rumsfeld, frames his interrogation experiences as a matter of

¹ Khan, Irene. "Amnesty International Report 2005 Speech by Irene Khan at Foreign Press Association." Amnesty International. May 25, 2005. Accessed November 30, 2015.

² Ahmad, Muneer. "Resisting Guantanamo: Rights at the brink of dehumanization." *Northwestern University Law Review* 103 (2009): 1684-1762.

³ "Getting Away with Torture: The Bush

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⁴ Lewis, Paul. "Obama Admits CIA 'tortured Some Folks' but Stands by Brennan over Spying." *The Guardian*. August 1, 2014. Accessed November 30, 2015.

justice and speaks of his now-defunct “feeling, or rather a hope, that these people would not go unpunished for their crimes.”⁵ Slahi, like the hundreds of other men detained at the Guantánamo Bay detention camp, knows that the chances of justice being realized through current legal frameworks are slim. When fellow prisoner Feroz Ali Abassi lodged complaints of abuse against detention officials and requested rights under international law as a prisoner of war, he received a particularly telling response from a U.S. military official: “I do not care about international law. I do not want to hear the words international law again. We are not concerned about international law.” Indeed, the U.S. government branded the detainees at Guantánamo Bay as “unlawful enemy combatants,” stripping them of their access to both domestic and international forms of legal redress.⁶ According to Muneer Ahmad, this placed Guantánamo detainees in a law-free zone where they were both literally and figuratively “lost at sea.”

“Grave breaches” of the Geneva Conventions, including the torture or abuse of combatants, warrant the application of universal jurisdiction in the realm of international law by the United Nations Security Council (UNSC).⁷ This process — similar to the one that established the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY)

— allows the UNSC to initiate the prosecution of alleged war crimes by the International Criminal Court (ICC). According to Human Rights Watch, documented abuses of prisoners at the Guantánamo Bay detention camp constitute grave violations of Geneva Conventions statutes governing the treatment of wartime prisoners; military personnel and key Bush Administration officials thus were and remain legally exposed to international criminal sanction. In what amounted to a prolonged campaign to institutionalize the international legal impunity of Americans involved in human rights violations such as torture, the U.S. government responded to the looming threat of criminal sanction by vigorously contesting the legitimacy of the universal jurisdiction principle evoked by the international community in the aftermath of the Rwandan and Yugoslav tragedies⁸ (Weller 2002: 697). Preferring the preservation of the non-legal or supralegal anarchy established and institutionalized in the U.S. military’s Cuban prison colony, the U.S. government dismissed universal jurisdiction as an affront to its sovereignty and a threat to the successful execution of its anti-terrorism operations (Ibid.).

Fearing international attempts to prosecute American governmental personnel who participated in or authorized torture at Guantánamo Bay and elsewhere, the Bush Administration launched an all-out campaign

⁵ Slahi, Mohamedou Ould. *Guantánamo Diary*. Edinburgh: Canongate Books, 2015.

⁶ Elsea, Jennifer and Garcia, John. 3 February 2010 “Enemy Combatant Detainees: *Habeas Corpus* Challenges in Federal Court. On line.

⁷ Roth, Kenneth. “The Case for Universal Jurisdiction.” *Foreign Affairs* 80, no. 5 (2001): 150-54.

⁸ Weller, Marc. “Undoing the Global Constitution: UN Security Council Action on the International Criminal Court.” *International Affairs* 78, no. 4 (2002): 693-712.

against the Rome Statute, which established the ICC and institutionalized the universal jurisdiction principle. Despite refusing to ratify the treaty, the U.S. government participated forcefully in the Rome Statute's Preparatory Commission by negotiating safeguards to protect its citizens and military personnel from prosecution in the event that the international community sought to invoke the universal jurisdiction principle against them. In a display of anti-internationalist paranoia, President George W. Bush signed into law a piece of legislation derisively referred to by some in the international community as "The Hague Invasion Act."⁹ The federal law, formally known as the American Service-Members' Protection Act, codifies the U.S. government's non-recognition of the ICC and authorizes the U.S. President to use "all means necessary" to secure the release of any U.S. citizen detained for prosecution by it. The U.S. government then provoked the ire and condemnation of the international community by using its veto power to block the extension of the United Nations Missions in East Timor and in Bosnia and Herzegovina, despite acknowledging that both were critically necessary for the maintenance of peace and security in those nations. With that, it became official U.S. policy to obstruct all U.N. peacekeeping efforts until the international community conceded to its demands regarding the ICC, including the guarantee of legal impunity for American military personnel. It complemented this widely maligned UN policy with the pursuit of an

obstructive web of bilateral agreements that precluded foreign governments from extraditing U.S. citizens to the ICC, and it threatened to withhold desperately needed foreign aid from poor states that refused to participate in this indirect subversion of international law. Evidently, no tool that the U.S. possesses due to its stature and power on the international stage — from its UNSC veto power (which only four other countries have) to its considerable foreign aid budget — was out of bounds for the Bush Administration's crusade against the ICC.

The consequences of the U.S. government's campaign against the ICC for the men incarcerated at Guantánamo Bay were severe. It is likely that the Bush Administration's tireless anti-ICC efforts gave U.S. officials the necessary confidence to authorize Guantánamo Bay personnel to regularly stage interrogations wherein detainees "were beaten, thrown into walls, forced into small boxes, and waterboarded. Indeed, the Bush Administration's anti-ICC efforts constituted a bold and largely successful attempt to deflect legal scrutiny from practices at Guantánamo Bay and thwart the successful emergence of an international legal order whereby such practices could be prosecuted as international crimes. Global Policy Forum describes the Bush Administration as having bolstered torture at Guantánamo Bay by consistently opposing and vigorously undermining "an international court that could hold US military and political leaders to a uniform global standard of justice."¹⁰ As a result, what

⁹ Johnson, Tia. "American Service Members' Protection Act: Protecting Whom?" *Virginia Journal of International Law* 43 (2002): 405-484.

¹⁰ "US Opposition to the International Criminal Court." *Global Policy Forum*. 2005-2015. Accessed November 30, 2015.

John le Carré refers to as a “hell beyond Orwell, beyond Kafka” was sustained.¹¹ Stripped of all forms of legal redress and forced to undergo psychologically and physically damaging interrogations, the men at Guantánamo Bay were engulfed in tragedy and despair — there were forty-one reported suicide attempts during the camp’s first years of operations, with scores of other attempts likely having gone unreported by the press.¹² In 2006, three men who were arbitrarily sold into U.S. custody abroad and then subjected to torture at Guantánamo Bay were found dead from apparent suicides in their cells, hanging from crude nooses made from bedsheets and clothing. Yet it was just a year earlier that Dick Cheney insisted that the men incarcerated at Guantánamo Bay were not in need of additional protections or forms of legal redress, saying that they were “well fed” and “living in the tropics,” where American military personnel gave them “everything they could possibly want.”¹³

Ignatieff pushes back against various critiques of human rights doctrine, arguing that it is in fact cross-culturally compatible and universally enforceable.¹⁴ Additionally, he briefly acknowledges that Western influence played a disproportionately active role in the development of the Universal Declaration of Human Rights, a covenant whose ideals the ICC was partly designed to uphold. Yet the West’s lofty symbolic

commitment to human rights is generally not complemented by a willingness to allow the institutionalization of international legal mechanisms by which universal ideals are enforced, promulgated, and upheld. Hanqin critically notes that the United Nations Human Rights Council (UNHRC) has not passed a single resolution addressing human rights conditions in a Western state, largely due to the inordinate influence of the United States and its other permanent members.¹⁵ The UNHRC, like many international legal establishments designed to have enforceable impacts on human rights conditions internationally, has instead been reduced to the status of a predatory courtroom wherein developing, non-Western nations are “put on trial.” Similarly, the U.S. government’s discussed policy of abusively obstructing and subverting the ICC constituted a predatory attempt to preserve the status-quo, which allowed American military personnel at Guantánamo Bay to commit torture with impunity.

Noting the inequities at play in international law, Rajagopal argues that the United States is actively thwarting the materialization of a successful counter-hegemonic international legal system. This is because it prefers to sustain imperial, aggressive policies that are left unaddressed or unprosecuted within current institutional frameworks, including the UNHRC.¹⁶ Indeed,

¹¹ Nocera, Joe. "A Detainee's Diary." *The New York Times*. January 19, 2015. Accessed November 30, 2015.

¹² Khan, Mahvish Rukhsana. *My Guantánamo Diary: The Detainees and the Stories They Told Me*. PublicAffairs, 2008.

¹³ "Cheney: Iraq will Be ‘Enormous Success Story.’" *CNN*. June 24, 2005. Accessed November 30, 2015.

¹⁴ Ignatieff, Michael. "The Attack on Human Rights: From Within and Without." *Foreign Affairs* 80, no. 6 (2001): 102-116.

¹⁵ Hanqin, Xue. *Chinese Contemporary Perspectives on International Law History, Culture and International Law*. Boston, Massachusetts: Martinus Nijhoff Publishers, 2012

¹⁶ Rajagopal, Balakrishnan. "Counter-hegemonic

this neo-imperialist impunity in the midst of unfathomable acts of aggression echoes the Guantánamo Bay torture program, which intentionally “held [prisoners] outside the realm of normal” by simultaneously denying them legal protections and subjecting them to seemingly meaningless yet unspeakably injurious acts of torture during interrogation sessions. The precarity and suffering of the men incarcerated in Guantánamo Bay were evidently compounded by the American government’s largely successful campaign to undermine one of their few glimmers of hope — a nascent international court that could use the universal jurisdiction principle to

prosecute U.S. officials and military personnel involved in torture. Although it is unlikely that those still confined at Guantánamo Bay are subjected to acts of torture, the hegemonic system that allowed for egregious rights violations to go unpunished remains intact.

¹⁶ International Law: Rethinking Human Rights and Development as a Third World Strategy." Third

World Quarterly 27, no. 5 (2006): 767-83.

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POST-ARAB SPRING ANTI-AMERICANISM: A WAKE-UP CALL TO REFRESH U.S. FOREIGN POLICY IN THE REGION?

Jihed Hadroug

1. The Alarming Rise of Mainstream and Radical Anti-Americanism in the Aftermath of the Arab Spring

It was on December 17, 2010, in the Tunisian town of Sidi Bouzid, that a slap sparked, in the most unpredictable way, one of the biggest Arab furors in modern history. Twenty-six-year-old street vendor Mohammed Bouazizi, so distraught at the fact that a policewoman confiscated his vegetable cart for operating without a license, and slapped him when he grumbled about it, set himself ablaze and tragically died, galvanizing hence his compatriots familiar with the bitterness of economic anguish, social misery and political disgrace. By then, few observers could have expected the appalling event to end up toppling the tenacious twenty-three-year-old regime of President Ben Ali, and even fewer could have foreshadowed a whole Arab upheaval to erupt and rid the region of long-reigning

autocrats like Egypt's Mubarak and Libya's Qaddafi.

The Arab uprising's longing for freedom, democracy and justice, values for which the United States is an international emblem, were met in Washington with unexpected hesitation and ambivalence. The half-heartedness with which the White House welcomed the rebellions, at least in their early stages, raised a plethora of questions in the Arab mind, and ended up tarnishing the popular image of America as the number one supporter of democratic expansion around the world. An attempt of America's foreign policy to redeem itself came later, wrapped in promises of undying economic and political support to the revolted nations, but it seems that this had failed to completely absorb the growing discontent in the region.

Much evidence of this mainstream public disappointment can be found in a recent survey conducted by the Pew Research Center which reveals that "the rise of pro-democracy movements has not led to an improvement in America's image in the region. Instead, in key Arab nations and in other predominantly Muslim countries, views of the U.S. remain negative, as they have been for nearly a decade."¹ For instance, U.S. favorability and confidence in Obama have dropped from 25% to 13% between 2009 and 2011 in Jordan. Likewise, 52% of the Egyptians surveyed disapproved of Obama's handling of the Arab Spring and found it rather ambiguous. Even more striking is the fact that not less than 60% of the persons surveyed in Lebanon and 54% of their fellow Egyptians have expressed that "they are very

¹ 'Obama's Challenge in the Muslim World: Arab Spring Fails to Improve U.S. Image', Pew Research

Center, Pew Global Attitudes Project, May 17, 2011, accessed March 15, 2013.

or somewhat worried that the U.S. could become a military threat to their country someday.”²

Such figures illustrate the growing distrust of American policies and intentions in the Arab region after the unrests. The frustration with the American response to the Arab Spring seems to have revived old disillusionments with its foreign policy in the Middle-East namely the war on Iraq and the Jerusalem plight, two major issues that have long encouraged many Arabs to confidently and proudly label themselves anti-American.

With Islamists’ electoral victories in several countries shortly after the revolts, many extremist advocates of anti-Americanism seized the opportunity to diffuse their discourse more publically under the cover of freedom of speech and in the name of defending Islam. Their message consisted mainly in depicting America as the number one enemy of the Muslim world and accusing it of standing behind its current political, economic and cultural forms of malaise. This demonization process was often propagated through religiously radical television and radio channels, social networks and public meetings. And, although the newly-elected Islamist governments usually opted for a moderate discourse and kept asserting their willingness to collaborate with the U.S. on many levels, their leniency with the anti-American currents belied their claims in the eyes of American policymakers.

In the summer of 2012, a 14-minute Islamophobe film trailer privately produced

in the United States and posted on YouTube triggered massive street demonstrations across the Arab world. The video which provocatively mocked Prophet Muhammad made thousands of people fume over both its disrespectful content and American origin. Whether the uproar was isolated or a symptom of a broader anti-American sentiment in the region was a question worth asking, especially in the light of the events that have followed.

In fact, a group of “Islamist militants armed with anti-aircraft weapons and rocket-propelled grenades stormed a lightly defended U.S. diplomatic mission in Benghazi, Libya, [...] killing the American ambassador [J. Christopher Stevens] and three members of his staff and raising questions about the radicalization of countries swept up in the Arab Spring.”³ Things were as vehement in Tunisia where a mob of “some 2,000 people, mostly religious conservatives, attacked the U.S. embassy of Tunis on September 14, 2012, destroying cars, property, burning the American flag and a nearby American school”⁴, all in response to what Secretary of State Hillary Clinton described as an “awful Internet video that we had nothing to do with.”

While investigation in Libya had led U.S. Special Operations Forces to arrest the main terrorists involved in the attack, Tunisia had prosecuted 20 persons whom the court has eventually sentenced to two-year suspended jail terms for attacking property and violating a state of emergency. In an

² Ibid.

³ Steven Lee Myers and David D. Kirk Patrik, ‘Libya Attacks Bring Challenge for U.S.’, *New York Times*, December 12, 2012, accessed June 16, 2013.

⁴ Associated Press, ‘U.S. Upset with Sentences Given after Tunisian Riots’, *Wall Street Journal*, May 29 2013, accessed June 16, 2013.

official announcement published on its website, the U.S. embassy in Tunis expressed its displeasure with the sentences being disproportionate to the severity of the acts. The embassy statement published on May 25, 2013 read:

The U.S. Embassy in Tunis has seen media reports of the verdicts for some of the individuals accused of taking part in the attack against the U.S. Embassy in Tunis, Tunisia on September 14, 2012. We are deeply troubled by reports of suspended sentences. The verdicts do not correspond appropriately to the extent and severity of the damage and violence that took place [...]. We maintain that a full investigation must be undertaken and those who organized the attack and remain at large should be brought to justice. The Government of Tunisia has a responsibility under international law to protect all diplomatic missions and personnel in Tunisia. The Government of Tunisia has publicly stated its opposition to those that use violence. Through its actions, the Government of Tunisia must also demonstrate that there is no tolerance for those that encourage and use violence to meet their objectives. The May 28 decision fails in this regard.⁵

The intensity of violence and the confidence with which certain Arab groups protested against the anti-Islam movie, came as an alarming sign for the United States that anti-Americanism is growing more abundant and is taking rougher forms in the region. While it still lives off strong religious emotions and patriotic sentiments, the new anti-American narrative appears to be

exploiting, more than ever, the popularity of conspiracy thinking in the Arab world. But whatever the technique and the cause, “the events appeared to underscore how much the ground in the Middle-East has shifted for Washington, which for decades had close ties with Arab dictators who could be counted on to crush dissent.”⁶

In their article “Conspiracy Thinking in the Middle-East”, professors Marvin Zonis and Craig M. Joseph state that “anyone even slightly acquainted with the [Arab world] will have been struck by the frequency with which conspiracies appear in narrative accounts of national, regional and international affairs.”⁷ Conspiracy thinking, being a pattern of explanatory reasoning about political and historical events in which a “conspiracy” is the main operative agent, makes a great framework for the arguments used by extremist partisans of anti-Americanism to promulgate senses of paranoia and secrecy. A recent article on “conspiracy nuts” in SPY magazine even suggested further reasons why conspiracy theories can be so attractive, it read:

Like religion [...] conspiracy-theorizing is one way of making some powerful sense of the world. Even as it terrifies, it can comfort: everything's out of your hands. You're the perpetual underdog, and all you can do is point out the connections and rail. Hardcore conspiracy-

⁵ United States, U.S. Embassy in Tunis, ‘Media Note from U.S. Embassy in Tunis’, *Tunisia.usembassy.gov*, May 29, 2013, accessed June 18, 2013.

⁶ ‘Angry Protests Spread over Anti-Islam Video’, *Al-Jazeera English*, September 14, 2012, accessed June 18, 2014.

⁷ Marvin Zonis and Craig M. Joseph, ‘Conspiracy Thinking in the Middle-East’, *Political Psychology*, 15:3 (1994), 443-459, accessed 16 June 2013.

theorizing is also a no-lose proposition, immune to self-doubt.⁸

In an episode of *The Daily Show*, American comedian and political satirist Jon Stewart received his popular “Middle-Eastern incarnation” Bassem Youssef who deplored the abundance of conspiracy thinking in the post-revolutionary Arab world stating the example of many Egyptians who actually think that “Israel, Hamas, Iran and America are actually all plotting together against Egypt!” Jon, with a usual touch of humor, responded “Wow! How did they decide what to eat at the meeting?”⁹

Such grotesque and fanciful ideas were deployed by extremists against the Egyptian host of *al-Bernameg* (“*The Show*”) being a mock news program which dared to criticize the contradictions and paradoxes of Egyptian political actors including the Islamist government. Bassem Youssef revealed that because his two-year old show reaches today some 30 million viewers¹⁰ thanks to its straightforwardness so “exotic” to the Arab audience, it is often perceived as a threat to the establishment. When invited for the second time to *The Daily Show*, the Egyptian TV star discredited those who accuse him of carrying an American agenda through the Arab media wondering: “They are saying ‘why does America support Bassem Youssef?’ [...] As if America today isn’t supporting the Muslim Brotherhood and giving them millions of dollars of military

aid”, “it’s a flexible support”¹¹, he added, referring to the double discourse of many Arab politicians whose support or hatred for the U.S. depends largely on political and economic interests rather than ideological convictions. The Comedy Central host saluted Youssef’s fight for the freedom of media saying: “Here’s why you have my undying support and friendship: you are doing what I take for granted all the time and forget sometimes. You are caving out the space for people to breathe and express themselves in a way that I think is incredibly admirable.”¹²

On April 15, 2013, *Loonwatch*, one of the popular “anti-conspiracy thinking” blogs in the Arab virtual world, issued an article entitled “A Muslim-Jewish Love Story: Bassem Youssef and Jon Stewart”, where it stated “It is heart-warming and inspiring to see the evidently deep friendship between satirists Jon Stewart and Bassem Youssef, two popular comedians in their respective nations who have a finger on the pulse, not only of their own culture but global culture.”¹³ Indeed, if only more Arabs and Americans tried to find a common ground for productive dialogue and mutual understanding, anti-Americanism would have been a thing of the past instead of its present revival. Perhaps the only hope now to reach such a noble outcome would be through a more efficient exploitation of American

⁸ Ibid.

⁹ Jon Stewart, Interview with Bassem Youssef, *The Daily Show with Jon Stewart*, Comedy Central, April 24, 2013.

¹⁰ Marx, William. ‘Bassem Youssef: Egypt’s Jon Stewart’, *Business Week*, March 29, 2012, accessed March 15, 2013.

¹¹ Jon Stewart, Interview with Bassem Youssef, *The Daily Show with Jon Stewart*, Comedy Central, April 24, 2013.

¹² Ibid.

¹³ Gari Baldi, ‘A Muslim-Jewish Love Story: Bassem Youssef and Jon Stewart’, *Loonwatch* (blog), April 26, 2013, accessed June 17, 2013.

soft power and the high potential of its public diplomacy around the world.

2. The Revival of Public Diplomacy: How to win back the Arab Hearts

If you want to win somebody's heart, you have to seduce them physically and mentally. It works almost the same way with countries. Public diplomacy is the art of seduction in international relations. It is putting forward the good looks of a culture before persuading that the inside is as beautiful as the outside. To attract is always more effective than to coerce.¹⁴ It is less costly and it comes with a longer lifespan. Contemporary Arab societies and especially Arab youth look up to the United States as a nation that has functional democracy, exemplary freedom of expression and impressive technological and scientific achievements. They are exposed to these images through American or Americanized cultural products from Hollywood and MTV to Coca Cola and NASA. Soft power is meant to exploit this common ground through different channels in order to immunize public opinion against anti-American discourses which can threaten peace in the region and the world. Analyzing public diplomacy through its successive life stages (production, consumption, and reaction) can help to provide an interesting account of where it succeeds and where it fails and why, which could be very useful to improve it.

On October 14, 2001, President George W. Bush wondered at a prime-time

press conference, "I am amazed that there is such misunderstanding of what our country is about, [and] that people would hate us. I, like most Americans, I just can't believe it, because I know how good we are."¹⁵ The president's complaint which came about a month after the 9/11 attacks and a week before the start of the War on the terror in Afghanistan captured the spirit of the moment. It was a moment of hesitation for a nation that was torn between the need to defend its security militarily and the desire to diffuse its values of "freedom, democracy and free enterprise" to the world peacefully.

The American dilemma sought the answer in one of the instruments of its foreign policy that had never really caught so much attention until then: public diplomacy. The unique potential of this diplomatic tool made it the center of attention of practitioners and scholars alike, it is highlighted in one of its earliest definitions by the Murrow Center as such:

[Public diplomacy] deals with the influence of public attitudes on the formation and execution of foreign policies. It encompasses dimensions of international relations beyond traditional diplomacy; the cultivation by governments of public opinion in other countries; the interaction of private groups and interests in one country with those of another; the reporting of foreign affairs and its impact on policy; communication between those whose job is communication, as between diplomats and foreign

¹⁴ Joseph Nye, *Soft Power: The Means to Success in World Politics*. (New York: Perseus Books Group Public Affairs, 2004), p. 02.

¹⁵ George W. Bush, 'Press conference on the State of War', *The Washington Post*, October 11, 2001, accessed January 10, 2015.

correspondents; and the processes of intercultural communications.¹⁶

The term “public diplomacy” was coined at Fletcher in 1965 by then Dean Edmund A. Gullion.¹⁷ It was adopted by practitioners in the U.S. along the 1970s to describe government’s international information, cultural relations and broadcasting activities.¹⁸ A few decades old, it was only with the terrorist attacks of 9/11 that public diplomacy triggered an intense media debate about its merits and failures and pushed for a complete revision of the way it is exercised in order to fully unlock its power. U.S. Congressman Henry Hyde, chair of the House International Relations Committee, explained this role in introducing the Freedom Promotion Act of 2002: “Public Diplomacy which consists of systematic efforts to communicate not with foreign governments but with the people themselves has a central role to play in the task of making the world safer for the just interests of the United States, its citizens, and its allies.”¹⁹

Public diplomacy hence swiftly grew to be a major foreign policy instrument engaged in a mission as heavy and complex as promoting a better image of America around the world through peaceful means only. It represented an interesting alternative from the classical military solution that more often than not had resulted in a counter-effect

by making America look even worse. And what better time to make use of the magic of public diplomacy than now? A time when sentiments of anti-Americanism are widespread in every corner of the world and particularly in the Middle-East and North Africa. These regions can become hotbeds for extremism and turn into a nightmare for their moderate populations and the world if the expansion of highly-equipped terrorist groups is not stopped any time soon.

The danger is real because, as Joseph Nye put it, “The U.S. may be more powerful than any other polity since the Roman Empire, but like Rome, America is neither invincible nor invulnerable. Rome did not succumb to the rise of another empire but to the onslaught of waves of barbarians, [and] modern high-tech terrorists are the new barbarians.”²⁰

At his Swearing-in Ceremony on February 6, 2013 in Washington, DC, Secretary of State John Kerry described the present and future challenges facing the U.S. overseas saying, “We’re in a world of unparalleled technology, unprecedented growth in the number of young people, of unleashed sectarian strife and religious extremism. And I believe [...] unless we stay vigilant, these forces threaten to unravel whole nation-states and create greater pockets of instability than we have seen in

¹⁶ ‘What is Public Diplomacy?’ *The Fletcher School, Tufts University*, accessed February 10, 2015.

¹⁷ Ibid.

¹⁸ Nicholas Cull, ‘Public Diplomacy before Gullion: The Evolution of a Phrase’, U.S.C Public Diplomacy, University of Southern California, April 18, 2006, accessed September 26, 2014.

¹⁹ Henry Hyde, ‘Hyde Introduces Reform of U.S. Public Diplomacy; Will Improve Americas Outreach

to International Mass Audiences’, in Liam Kennedy and Scott Lucas, ‘Enduring Freedom: Public Diplomacy and U.S. Foreign Policy’, *American Quarterly*, 57: 2, (June, 2005), 309-333, accessed February 2, 2015.

²⁰ Joseph Nye, *Soft Power: The Means to Success in World Politics*, (New York: Perseus Books Group Public Affairs, 2004), p. 02

recent times.”²¹ The new architect of American foreign policy was already aware his mission was going to be far from easy. In order to manage such a diverse set of problems while promoting an overall positive image of the U.S., Kerry knew that an in-depth understanding of every part of the world was a key tool to make the appropriate American interventions abroad when needed. With the recent rise of anti-American sentiments in the Arab world and the resurgence of fundamentalist movements, the region seems to be more challenging than ever in the eyes of the administrators of American foreign policy. In a speech delivered on January 16, 2013 at the Washington Institute for Near East Policy, Under Secretary for Public Diplomacy and Public Affairs Tara Sonenshine stated that American engagement in MENA will always benefit both the U.S. and the region. “A more stable, more democratic, and more prosperous Middle-East and North Africa region enhances security and prosperity for all”, she said, “It means greater economic opportunity for young people, for entrepreneurs, for the business community, for educators. And it opens opportunities to deepen personal connections and strategic alliances with all countries in the region”.²²

To further elaborate on her statement, although political, ideological and cultural differences may exist between the United States and Arab countries, their mutual

interests often help them overcome their disagreements, by opting for pragmatic win-win solutions that prevail until further notice. This can be witnessed in many diplomatic dimensions ranging from the softer economic and educational ties to the more serious shared security interests. For example, despite the fact that American and Arab takes on the Palestinian-Israeli conflict seem to be opposed enough to possibly paralyze their relationship completely, the fact that there are shared economic and geopolitical interests at stake prohibits this from happening. While the U.S. and its allies need to secure their access to Gulf oil, Arab states like Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates “are unlikely to soon abandon the security umbrella provided by U.S. military forces [for] America represents a shield for Gulf countries against Iran and Iraq.”²³

In his recent visit of the Middle-East, Secretary of State John Kerry was burdened with two urgent problems that made the top of his agenda: “a downward spiraling Syrian civil war that continues to draw neighbors into to its bloody vortex and destabilize the entire region; and [a] slow-rolling death of the two-state solution to an Israeli-Palestinian conflict that remains an open wound in Western-Arab relations.”²⁴ While sorting out the two international affairs in the near future seems unfortunately unlikely, the Kerry office can still improve its policies in the Middle-East and North Africa if it engages in

²¹ John Kerry, ‘Remarks at Swearing-in Ceremony’, Ben Franklin Room, Washington, DC, February 06, 2013.

²² Tara Sonenshine, ‘Public Diplomacy in a Challenging Middle-East’, Washington Institute for Near East Policy, Washington, DC, January 16.

²³ Brent J. Talbot and Michael B. Meyer, ‘View from the East: Arab Perceptions of United States Presence and Policy’, INSS Occasional Paper, 48 (February, 2003), accessed June 17, 2013.

²⁴ James Kitfield, ‘John Kerry in the Middle-East: the Eclipse of a Superpower?’ National Journal, May 23, 2013, accessed June 17, 2013.

some serious changes that reconcile the soft and hard forms of power at their disposal.

When it comes to international relations, the most efficient way for the U.S. to restore its credibility in the Arab world is more likely to be through the adoption a more balanced attitude regarding the Jerusalem conflict. Knowing how central the question is to the largest majority of Arabs, an American attempt to exhibit signs of an unbiased position might help revive trust in its role in the process of peacemaking. On another note, the U.S. would also benefit a lot from seeking more relevancy to the different social movements that take place in the Arab world. By always siding with the people, the U.S. can come out as a nation that stands for its principles, which is an impression of great importance in today's global information sphere, where people "can swiftly expose and interrogate contradictions of declared values and apparent policies and actions".²⁵ To disregard these two points in the current geopolitical context would be a cardinal mistake and could reduce the chances of success for any public diplomacy efforts at work.

Needless to say, it will be more difficult for American foreign policy makers to engage in an immediate radical change in the realm of international politics due to its complexity and delicateness. But improvements in the economic relations with the Arab world seem to be very feasible and promising in supporting a shift towards the

use of a softer influence in the region. Not only would more trade and financial aid convince the suspicious Arab opinion of the good intentions of the U.S., it could also bring America culturally closer to Arab societies. In this sense, "instead of potentially seeing America as a rich, far-away land that is not concerned with the welfare of the world community, increasing amounts of American aid must be earmarked for less fortunate members of the international community."²⁶

According to journalist William Lajeunesse, "of proposed U.S. assistance for 2012, almost two-thirds [was devoted] for Muslim nations and one-third [went] to Arab countries."²⁷ Though this should be seen as a sign of a healthier relationship and a boost for the most wanted entente between the American and Arab people, it seems that an important part of the Arab public opinion is not even aware of the mere existence of this American aid due to two factors: first, the lack of state media coverage surrounding it, and secondly, the widespread financial corruption in several countries where only a small amount of the allocated aid is used in improving local social conditions.

American politician Rand Paul once said "Foreign aid goes from poor people in rich countries to rich people in poor countries." This seems to have been the case for many years in the Arab region due to lack of control measures and the widespread administrative corruption.

²⁵ Liam Kennedy and Scott Lucas, 'Enduring Freedom: Public Diplomacy and U.S. Foreign Policy', *American Quarterly*, 57:2 (June, 2005): 309-333, accessed February 02, 2015

²⁶ Brent J. Talbot and Michael B. Meyer, 'View from the East: Arab Perceptions of United States Presence

and Policy', INSS Occasional Paper 48 (February, 2003), accessed June 17, 2013.

²⁷ William Lajeunesse, 'It's All Your Money: Foreign Aids to Muslim/Arab Nations', *Fox News*, May 27, 2011, accessed June 17, 2013.

A lot of foreign aid, basically, is just stolen by leaders. Mubarak got \$60 billion and 20 of that probably went directly into his pocket. They're crooks. During the rioting in Tahrir square, when they were dousing them with tear gas, it was paid for with U.S. taxpayer money and manufactured in Pennsylvania. Do you think the hundred thousand people in Tahrir Square were in love with the United States, enamored more because they were being sprayed with tear gas made in America?²⁸

Though political and economic approaches can sometimes be attributed to the realms of hard power if they come conditioned, the appeal of American culture is a channel that American soft power and public diplomacy can exploit much more to attract the people of the Middle-East and North Africa and yearn for promising outcomes. As a matter of fact, products of America whether in terms of media, food or arts have always been attractive to large portions of modern Arab societies. Because military force can only achieve short-term objectives (if it achieves them at all), the war of bombs should be replaced by the war of ideas and America has everything it takes to win. As Joseph Nye explains, the U.S. is far and away the world's number one exporter of films and television programs, it publishes more books and research works more than any other country, and it welcomes more than

28% of foreign students around the world.²⁹ With such records, the United States is without a doubt a nation with an exceptional capacity to diffuse its cultural values and political views at a universal level, and as long as it uses this power in an honest pursuit of transnational mutual understanding, peace shall prevail.

It is the complete gamut of political, economic, and cultural means of influence, that the United States will have to reconsider in its attempt to assert its position as an influential power in the Middle-East and North Africa. The current international context marked by long transitions and continuous instability makes the mission of Uncle Sam even more difficult, as it appears to exercise growing efforts to contain the ambiguities that distinguish the current atmosphere in different parts of the globe. With great power however, comes great responsibility. And the great amounts of hard and soft power in at the disposal of America naturally make it a nation that is both admired and feared. If it manages to strike a balance between attraction and coercion in its foreign policy practices, the United States can further prove to the world its honest and fair devotion to the spread of freedom, and can carry on more comfortably with its long endeavor for peace.

²⁸ Rand Paul opposes foreign aid: 'A lot of foreign aid is just stolen...they're crooks', YouTube video,

01:12, posted by "Mfprx", April 03, 2013 accessed June 17, 2013.

²⁹ Ibid., p.33

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