

# Undergraduate Journal of International Studies



*Post Colonialism and  
the Paris Riots of 2005*  
-Ann Yuan

*Linguistic Nationalism  
in the Turkish Republic*  
-Meredith Morgan

*Race, Rhetoric, and  
Religion: Depicting  
Genocide in Rwanda  
and Sudan*  
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*The Lack of Government  
Success in Reducing East  
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*Finding Duende in the  
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and Popularity in Japan*  
-Rachel Gorman

*The Legitimacy Crisis:  
The Rule of Law and the  
European Constitution*  
-Lauren Schaefer

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of  
International Studies

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# ***Undergraduate Journal of International Studies***

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## Post Colonial Tensions and the Paris Riots of 2005

Anna Yuan

*“He knew that he, Millat, was a Paki no matter where he came from; that he smelled of curry; had no sexual identity; took other people’s jobs; or had no job and bummed off the state; or gave all the jobs to his relatives; that he could be a dentist or a shop-owner or a curry-shifter, but not a footballer or a filmmaker; that he should go back to his own country; or stay here and earn his bloody keep; that he worshiped elephants and wore turbans; that no one who looked like Millat, or spoke like Millat, or felt like Millat, was ever on the news unless they had recently been murdered. In short, he knew he had no face in this country, no voice in the country, until the week before last when suddenly people like Millat were on every channel and every radio and every newspaper and they were angry, and Millat recognized that anger, thought it recognized him, and grabbed it with both hands.”*

- Zadie Smith

### Introduction

This thesis will investigate post-colonial tensions in modern day France, specifically as an explanation for the Parisian suburb riots in fall of 2005. The riots and violent clashes lasted from October to November and began with the burning of cars and buildings in the *banlieues* (suburbs) surrounding the capital in retaliation for the deaths of two teenage boys in a police chase. The civil unrest eventually spread to the rest of France including the major cities of Toulouse, Lille, Strasbourg, Marseille, and Lyon and resulted in over 3000 arrests. As a result, the country was declared to be under a state of emergency by the French government until the beginning of 2006. The rioters involved corresponded with a specific demographic in the French population - children and grandchildren of non-European Muslim immigrants, particularly from the North African *Maghreb* region of Algeria, Tunisia, and Morocco.

The riots reflect the wider scope of the growing disconnect between the government and the disenfranchised Muslim minorities in France. In recent years, the French government has ratified a series of laws that were widely considered to be directed at the large Muslim population. In 2004, President Jacques Chirac and the French Parliament passed controversial bans on headscarves in schools and identification photos. More recently in 2005, then-Interior Minister Nicolas Sarkozy proposed to ban the

children of illegal immigrants from speaking their native language. These events, coupled with a history of economic and educational inequality, further fueled the frustrations acted out in October 2005.

This project will also delve into the effects of immigrant integration, which is a significant issue faced by all of Europe, highlighted by the fact that most methods of integration attempted by France, Germany, Spain, Austria, and Great Britain have failed.<sup>1</sup> The problems faced by ethnic minorities in multicultural states are a result of notions of national identity, state policies, and political-economic ideologies which are at odds with the immigrant reality. The concept of national identity is somewhat of a paradox in France, which does not encourage positive discrimination policies such as affirmative action. Thus, all citizens are considered French on paper no matter what their ethnic background. As a result, affirmative action does not exist because it would theoretically only emphasize the differences in a country striving for unity. While the theory is idealistic, the resulting reality is one of covert racism in businesses that refuse to hire minorities without giving reason, and even of the absurd scenario of Algerian schoolchildren reading from their history textbooks: “Our ancestors were the Gauls...”

This topic is relevant to modern societies because it is a lesson in economic marginalization and ethno-religious discrimination in a post-colonial situation. The majority of the riots took place in lower-class suburban “ghettos,” segregated from the rest of Île-de-Paris into isolated ethnic clusters. Many rioters and their supporters were educated, some even with graduate school-level degrees, and frustrated with the soaring unemployment rate for young people and the likely possibility of rejection from a job position because of an African name or face. Although the government blames the violence on juvenile delinquency, the problem stems from a complex web of interconnected issues such as poverty, discrimination, and post-colonial tensions which need to be addressed both by the government and the French population in order to reconcile the collective memory of the country’s past ethnic oppression.

In the following section, I will give a history of the relationship between the colonizer and the colonized as well as explain the relevant theories, including post-colonial

1. Sandro Contenta “France’s Riots are Europe’s Problem,” *Toronto Star*, November 8, 2005, Sec. A, p. 10.

concepts of dependence, hybridity, identity, and racialization. The condition of the colonized will be examined using historical analyses drawn from colonial and post-colonial literature of different countries. I will also include philosophies held by the government of France regarding assimilation in comparison to other methods of immigrant integration prevalent in Europe. I will utilize the case study of the 2005 riots to examine the political, economic, and social subordination of African Arabs by the French government as a form of neocolonization. Literature will be drawn from historical documents, newspapers and other types of mass media at international and local levels, and studies of post-colonialism. I will also employ personal observations from my experience studying abroad in Paris and my background in human rights and social movements.

## Literature Review

### *A History of Empire*

Although the will of one nation to conquer another land and its people has existed for thousands of years, it was not until the 16th century that the concept of overseas imperialism became widely popular among the European powers. Initiated by the Portuguese with the advent of new sailing technologies, soon all the nations of Europe joined in the exploration and occupation of new lands.<sup>2</sup> European economies were driven by the popular theory of mercantilism, which encouraged the accumulation of many overseas markets.<sup>3</sup> Many of the conflicts and wars fought between the European powers during this period were due to competition to extract wealth from the overseas colonies. Both the natural resources and inhabitants of the colonies were often subjugated and exploited for European financial benefit.<sup>4</sup>

Colonizing nations not only controlled the resources, industry, and finances of the conquered territory, they generally imposed socio-cultural, religious, and linguistic structures on the native population as well.<sup>5</sup> European imperialism in the 17th and 18th century was often based on the ethnocentric belief that the morals, values, and lifestyle of the colonizer were superior to those of the colonized.<sup>6</sup> This form of social Darwinism further propelled the philosophy of the “white man’s burden,” an initiative to help justify the policy as a noble enterprise in which Europeans were morally obligated to rule over and convert the cultures they viewed as “primitive” or “savage” by Western standards.<sup>7</sup>

The first instance of decolonization occurred in the late 18th century when the United States gained independence from the British. Gradually over the next century, the popularity of mercantilist economics diminished considerably and imperial powers relinquished their holds on a number of foreign territories. However, European colonialism did not weaken, but merely changed directions and rationale. The era of New Imperialism began, re-establishing European domination with a different motto: “empire for empire’s sake.” Initiated in the 1800’s, this period of high colonialism culminated during the Industrial Revolution in the middle of the 19th century and led to the “Scramble for Africa.”<sup>8</sup>

Post-industrial European nations found that capital was more profitably invested in the African continent, where cheap labor, limited competition, and abundant raw materials reaped higher rewards.<sup>9</sup> Rivalry to gain African land became so intense that representatives from fourteen European nations and the United States gathered during the Berlin Conference of 1884 - 1885 to literally divide and distribute the entire continent of Africa, paying no regard to native boundary lines or divisions between conflicting ethnic groups.<sup>10</sup> Even after the borders were carved out, without the solicitation of any African representatives, the major imperial powers of Germany, Portugal, Britain, France, Belgium, Spain, and Italy continued to dispute territory; the intense rivalries in Europe eventually contributed to the instigation of the First World War.<sup>11</sup> European powers not only took a keen interest in the economic benefits the continent had to offer, but also claimed African territories as part of their respective states, set up governmental rule, and undertook a civilizing mission to “enlighten” the indigenous people they considered primitive.<sup>12</sup> This involved the elimination of centuries-old ruling powers, ignoring deeply embedded social hierarchies, and completely restructuring previous educational and economic systems.

### *Collapse of Empire*

Decolonization of Asia and Africa began after World War II, when resentment reached new heights as colonized people were coerced to fight for their colonial masters without a voice in decision-making or a promise of independence.<sup>13</sup> As Europe focused on internal reconstruction from both world wars and ignored the plight of their overseas “children,” the colonies fell deeper into an economic crisis complicated by violent struggles between ethnic groups forced

<sup>2</sup> Talal Asad, *Anthropology and the Colonial Encounter* (London: Ithaca, 1973).

<sup>3</sup> Harry Landreth and David Colander, *History of Economic Thought* (Boston: Houghton Mifflin, 2002).

<sup>4</sup> Francis Barker and Peter Hulme, *Colonial Discourse, Postcolonial Theory* (New York: Manchester University Press, 1994).

<sup>5</sup> Barker and Hulme.

<sup>6</sup> Martin S. Staum, *Labeling People: French Scholars on Society, Race and Empire, 1815-1848* (Montreal; Ithaca: McGill-Queen’s University Press, 2003).

<sup>7</sup> Emmanuel C. Eze, ed., *Postcolonial African Philosophy: A Critical Reader* (USA: Blackwell Publishers, 1997).

<sup>8</sup> Kevin Shillington, *History of Africa* (USA: Palgrave Macmillan, 1995).

<sup>9</sup> Muriel E. Chamberlain, *The Scramble for Africa* (Hong Kong: Longman Group Ltd, 1974).

<sup>10</sup> Peter Muller and H.J. de Blij, *Geography: Realms, Regions and Concepts*, 11th ed. (USA: John Wiley & Sons, Inc., 2003).

<sup>11</sup> Chamberlain.

<sup>12</sup> Patricia M. E. Lorcin, *Imperial Identities: Stereotyping, Prejudice and Race in Colonial Algeria* (London: St. Martin’s, 1995).

<sup>13</sup> Shillington.

to live within ill-conceived European boundaries.<sup>14</sup> Global powers began to slowly relinquish control of their overseas colonies, usually following brutal revolutions for independence and large-scale, violent protest.<sup>15</sup>

### *Post-Colonial Era*

The effects of decolonization proved to be beneficial to the colonizers, who were intently focused on domestic economic growth and therefore became disinterested in their colonies. Relieved of the burden of overseas obligation, European countries and the United States abruptly cut off funding and aid to their former colonies in order to concentrate on internal investment.<sup>16</sup> In the process of granting freedom, treaties were usually drafted to ensure economic domination by the former colonizer, such as in the case of the Bell Trade Act, which allowed American monopoly in the economy of the Philippines following independence.<sup>17</sup>

However, the post-colonial era often resulted in unfortunate consequences for the former colonies who struggled with political instability, economic ruin, and insurmountable debt dependence. The African continent, drained of its natural resources by its colonizers, suffered from famine, drought, and economic devastation. Caught between opposing political ideologies during the Cold War, the impoverished countries in Africa were given massive loans from rivaling Communist and Capitalist powers; these factions used the debt dependence to manipulate politics in Africa as well as devalue their currency. The borrowed money usually ended up in the hands of corrupt dictators, who further drove the masses into poverty, hunger, and disease.<sup>18</sup>

Tensions due to racial inequalities ran rampant as African nationalist groups participated in attacks on white settlers to avenge the era of oppression. Further violence ensued as ethnic groups disputed over arbitrary boundary lines drawn by European colonizers during conquest. These fiercely disputed territories continue to cause conflict between present-day Chad and Libya, Ethiopia and Somalia, and Nigeria and Cameroon.<sup>19</sup>

### *Theorizing Post-Colonialism*

Although most official governmental ties have been severed between former empire and colony, the relationships built by years of control, oppression, and affiliation continue to exist.<sup>20</sup> The reliance on the former colonial power

begets other issues of hybridity, identity, and racialization, in which politics of economic and social subordination can combine to provoke ethnic violence. The hostilities and violent conflicts that often resulted from the legacy of imperialism have left both the colonizer and the colonized struggling for reconciliation. Post-colonialist theory involves different philosophies and literature concerning the political and cultural independence of populations formerly controlled by colonial empires.<sup>21</sup>

In their mission to civilize the colonies, imperial powers took control of the operation of all factions of society, including the upkeep of economy, funding for education and health care, and peacekeeping.<sup>22</sup> European and American countries freely rewrote the history of the colonies and imposed Western ideologies, transforming the previous leadership roles of tribal councils and kinship organizations into the Western ideas of nation-state and national sovereignty.<sup>23</sup>

When self-government was finally granted, the dependence on the Western notion of “nation” persisted, as well as the reliance on the colonizer for the operation of the state. Torn between the desire to reclaim their own cultures and the economic, financial, and social *dependence* on the European ruling nations, citizens of former colonies formed a hybrid culture based on the impact of the culture of the colonizers on the culture of the colonized.<sup>24</sup> Hybrid cultures incorporate beliefs from different established cultures and can result in conflict when opposing traditions clash. This sense of dual cultures blurs the boundaries of tradition and challenges the notion of identity. Cultural hybrids borrow aspects of multiple cultures and create a new, independent social dynamic played out in pop culture, religion, and education. The collective memory of the colonized is also adjusted to accommodate for two historical accounts—their own and the one of the colonizing “mother country.”

The effects of cultural *hybridity* and reliance on the former empire influence mass migrations to the colonial centers such as London or Paris. It is in these metropolises that immigrants from former colonies hope to find economic success and accommodation from their ex-“big brother.” Instead, post-colonial tensions and novel forms of subordination give rise to issues with *identity* as immigrants struggle with displacement and a sense of belonging neither to the guest nor to the host community.<sup>25</sup> Conflicts with identity

<sup>14</sup> Frantz Fanon, *The Wretched of the Earth* (London: Penguin Book, 2001).

<sup>15</sup> Charles Robert Ageron, *Modern Algeria: A History from 1830 to the Present* (London: Hurst & Company, 1991).

<sup>16</sup> Alan G. Hargreaves, *Post-colonial Cultures in France* (London; New York: Routledge, 1997).

<sup>17</sup> Henry W. Brands, *Bound to Empire: The United States and the Philippines* (Oxford University Press, 1992).

<sup>18</sup> Shillington.

<sup>19</sup> Muller and de Blij.

<sup>20</sup> Henry Schwarz, *A Companion to Postcolonial Studies* (Malden: Blackwell Publishers, 2000).

<sup>21</sup> Eze.

<sup>22</sup> Barker and Hulme.

<sup>23</sup> Asad.

<sup>24</sup> Frederick Cooper, *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley: University of California Press, 1997).

<sup>25</sup> Albert Memmi, *Decolonization and the Decolonized* (Minneapolis: University of Minnesota Press, 2006).

are often demonstrated in clothing and language, which indicate their status of “otherness.” Using cultural barriers such as language and economic disadvantage as fuel for discrimination, ethnicity begins to be classified in genetic terms according to a notion of “race” instead of “culture.” This type of colonial mentality rejects ethnicity as a social construction, and instead creates “superior” and “inferior” groups of people. Immigrant populations are then *racialized* and stereotyped, resulting in a new form of economic and social oppression.<sup>26</sup> This precarious combination of political subordination and cultural discrimination can implode into modes of ethnic violence in any post-colonial situation.<sup>27</sup>

In the next section, I will focus on the circumstances concerning France and its history of colonization in North Africa. I will use Algeria as the primary example because Algerians represent the vast majority of immigrants to the French metropolises compared to immigrants from other North African countries. After giving an account of conquest, subordination, and revolution, I will describe the movement of migration to France and the implications of immigrant integration in Europe. By comparing and contrasting French policies with those of other European countries encountering similar circumstances, I hope to give a clear depiction of the causes and effects of the conflict in present-day France.

## Results

The vast territories of the French Empire spanned from Canada and the United States to South Asia and the Middle East. Algeria was considered the most profitable region for the French Empire because the land was especially rich in natural resources.<sup>28</sup> The French invaded Algeria in 1830 as a response to a supposed insult from the *Dey*, the ruler of Algiers, and ruled until 1962 under a variety of governmental systems.<sup>29</sup> Colonists transformed Algeria into a full-fledged department of the French Republic, restructuring its educational and political systems with governmental policies and reform programs. French governmental bureaucracy was established, and native Algerian children were sent to colonial schools to learn the language and history of the French mother country.<sup>30</sup>

As one of France’s longest-held overseas territories, Algeria became a destination for thousands of European settlers

known as *Pieds-Noirs* (black feet) who moved in to farm the coastal plain. The *Pieds-Noirs* also occupied significant parts of Algeria’s cities, although indigenous Muslims remained a majority of the population throughout its history. These settlers benefited from the French government’s confiscation of native land and the application of modern cultivation techniques that increased agricultural efficiency.<sup>31</sup> Algeria’s social fabric suffered during the occupation; literacy plummeted while land confiscation uprooted much of the indigenous population. Whereas the *Pied-Noirs* were offered full benefits of French citizenship in Algeria, the vast majority of Muslim Algerians, including veterans of the French army who served in World War I, received neither French citizenship nor the right to vote.<sup>32</sup>

Gradually, growing frustration among the Muslim population due to its lack of political and economic franchise fueled calls for greater autonomy, and eventually independence, from France. Tensions between the two population groups converged in 1954, when the first violent events of the Algerian War of Independence began.<sup>33</sup> The conflict, which featured guerilla warfare and modern-day terrorist techniques, concluded in 1962 when Algeria gained autonomous self-government.<sup>34</sup>

The Évian Accords were signed on March 18, 1962 in Évian-les-Bains, France as an official treaty to end the Algerian War and to formalize the idea of cooperative exchange between the two countries.<sup>35</sup> French president Charles de Gaulle wanted to maintain French interests in the area, including industrial and commercial dominance and control over Saharan oil reserves. In addition, the European French community in Algeria was guaranteed religious freedom and property rights as well as French citizenship with the option to choose between French and Algerian citizenship after three years.<sup>36</sup> In exchange, Algeria received access to technical aid and financial assistance from the French government. Algerians were permitted to continue freely circulating between their country and France for work, although they would not have equal political rights to French citizens.<sup>37</sup> These terms ensured that the newly-formed country of Algeria remained dependent on France financially and economically after independence, encouraging a post-colonial relationship between the two countries in which the colonized country continued to be subordinate.<sup>38</sup>

<sup>27</sup> Tahar B. Jelloun, *French Hospitality: Racism and North African Immigrants* (New York: Columbia University Press, 1999).

<sup>28</sup> Arjun Appadurai, *Modernity At Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996).

<sup>29</sup> Ageron.

<sup>29</sup> Alan G. Hargreaves, *French and Algerian Identities from Colonial Times to the Present: A Century of Interaction* (Lewiston: E. Mellen Press, 1993).

<sup>30</sup> Ageron.

<sup>31</sup> Hargreaves, Alan G., *French and Algerian Identities*.

<sup>32</sup> Affan Seljuq, “Cultural Conflicts: North African Immigrants in France,” *The International Journal of Peace Studies* 2 (1997).

<sup>33</sup> Hargreaves, Alan G., *French and Algerian Identities*.

<sup>34</sup> Ageron.

<sup>35</sup> Alan G. Hargreaves, *Memory, Empire, and Postcolonialism: Legacies of French Colonialism* (Lanham: Lexington Books, 2005).

<sup>36</sup> Hargreaves., *French and Algerian Identities*.

<sup>37</sup> Paul Silverstein, *Algeria in France: Transpolitics, Race, and Nation* (Bloomington: Indiana University Press, 2004).

<sup>38</sup> Tyler E. Stovall and Georges Van den Abbeele, *French Civilization and its Discontents: Nationalism, Colonialism, Race*, (Lanham: Lexington Books, 2003).

### *Immigration to France*

Following the end of French rule, more than 1 million people from the Maghreb countries of Northern Africa, including Tunisia, Algeria, and Morocco immigrated to France in the 1960s and early 1970s in hopes of finding opportunity and escape from the economic devastation and poverty of the former colonies.<sup>39</sup> After a century-long dependence on the French mother country for financial assistance and operations of the educational and healthcare systems combined with strong economic incentives, migration towards the metropolises was natural. The large-scale emigration from Islamic countries sparked controversy in the traditionally Catholic, Caucasian country of France. The struggle to incorporate the influx of Muslim immigrants while maintaining the established concept of “Frenchness” became the focal point of a turbulent relationship between France and over three million French of Algerian descent.<sup>40</sup> In the late 1970s, due to the end of high economic growth in France, immigration policies were considerably tightened. The Pasqua laws were enacted in 1993, further restricting access to French citizenships. These anti-immigration laws created by former Interior Minister Charles Pasqua asserted that new immigrants were allowed only through family reunion schemes or as political asylum seekers.<sup>41</sup> Illegal immigration thus developed as a means to enter the country without government permission.

As of 2006, the French National Institute of Statistics estimated that 4.9 million foreign-born immigrants live in France, making up 8% of the country’s population.<sup>42</sup> However, French-born children of immigrant parents are legally considered “French” and not immigrants. As a result, the number of people from Muslim backgrounds is generally thought to be around 6 million, which ultimately represents one tenth of the country’s population.<sup>43</sup>

### *Muslim Integration in Europe*

The Muslim population is one of the largest religious minorities in the European continent. As a result of post-colonial tensions, scarce economic opportunities, and racial inequalities, some European Muslims, particularly immigrants and children of immigrants from North Africa, feel alienated and discriminated by their government. In light of recent terrorist acts such as the March 2004 Madrid bomb-

ings and the July 2005 London subway attacks, integrating Muslim populations has become a priority for European nations.<sup>44</sup> Many integration policies have been attempted, but none have proven successful.<sup>45</sup> While the European Union is a constructive arena for members to discuss obstacles and trade ideas, integration of Muslims has been mainly left to individual nations. However, the EU has endeavored to develop a framework for cooperative practices for integration into European social, cultural, and political life by publishing a handbook and adopting eleven universal basic principles emphasizing respect and tolerance. The principles also highlight key elements to successful integration, such as employment, education, protection, and inclusion in politics, but are not always put into practice by individual countries.<sup>46</sup>

Great Britain’s approach to integration underscores multiculturalism and diversity in order to ensure maintenance of ethnic identity. Most of Britain’s Muslim immigrants come from areas in South Asia such as Pakistan, India, and Bangladesh. The British government emphasizes their policy of integration as a middle ground between segregation and assimilation. Multiculturalism seems to allow for a celebration of difference, respect for pluralism, and acknowledgement of identity politics.<sup>47</sup> By embracing the diversity of their immigrant populations, Britain has transformed into a nation whose national dish is no longer fish and chips, but curry and chicken tikka.<sup>48</sup> The British government has developed programs to encourage participation in politics and to bestow awards to members of the Muslim community who have made outstanding contributions to English society.<sup>49</sup> However, critics such as Kenan Malik comment that Britain’s emphasis on multiculturalism may call attention to differences and create deeper divides. He believes that the policy of multiculturalism as a political ideology has helped create a tribal Britain with no political or moral centre, where the very notion of creating common values has generally been abandoned.<sup>50</sup> Therefore, “many young British Muslims identify more with Islam than Britain primarily because there no longer seems to be any unique definition of being British. ‘Britishness’ has come to be defined simply as a toleration of difference. The politics of ideology have given way to the politics of identity, creating a more fragmented Britain, and one where many groups assert their

<sup>39</sup> Jelloun.

<sup>40</sup> Paul Gallis et al., “Muslims in Europe: Integration Policies in Selected Countries,” *CRS Report for Congress*. Washington D.C.: Congressional Research Service: The Library of Congress 45 (2005).

<sup>41</sup> Hafid Gafaiti, *Cultures transnationales de France: des Beurs aux --?* (Paris: L’Harmattan, 2001).

<sup>42</sup> Dominic Thomas, *Black France: Colonialism, Immigration, and Transnationalism* (Bloomington: Indiana University Press, 2006).

<sup>43</sup> Gallis, et al.

<sup>44</sup> Gallis, et al.

<sup>45</sup> Money, Jeannette, *Fences and Neighbors: The Political Geography of Immigration Control* (Ithaca: Cornell University Press, 1999).

<sup>46</sup> Gallis, et al.

<sup>47</sup> Kenan Malik, “Multiculturalism Has Fanned the Flames of Islamic Extremism,” *The Times*, July 16, 2005.

<sup>48</sup> Claudia Roden “Food in London: The Post Colonial City” (paper presented at The London Consortium of *London: Post-Colonial City*. London, March 1-13, 1999).

<sup>49</sup> Gallis, et al.

<sup>50</sup> Malik.

<sup>51</sup> Malik.

identity through a sense of victimhood and grievance.”<sup>51</sup>

Germany and Spain have made little effort for immigrant integration until recently. Only lately have Germany and Austria begun to allow Muslim immigrants, primarily from Turkey, to become genuine citizens instead of temporary guest workers. Before Germany’s citizenship and immigration laws enacted in 2000, acquiring citizenship was based exclusively on ethnic background with no consideration for skills of professionals, scientists, and specialized workers.<sup>52</sup> Spain, like France, receives most of its Muslim immigrants from North Africa. The administration of Prime Minister Zapatero opted to integrate Muslims by legalizing thousands of illegal immigrants, predominantly Moroccan, and offering work contracts. This resulted in new waves of illegal immigration that have led to violence on both sides of the border. Another challenge to Muslim integration is the absence of many mosques in the predominantly Catholic country.<sup>53</sup> However, both Germany and Spain have recently begun to offer classes on Islamic culture, language, and religion in their educational systems to increase cultural awareness, which contrasts with France’s hard line on secularism.<sup>54</sup>

#### *Muslim Integration in France*

Notoriously one of the most centralized governments in Europe, the French government’s approach to integration is the polar opposite of Britain’s principles of diversity. The Chirac administration rejects multiculturalism and adheres to strict assimilation.<sup>55</sup> Immigrants to France must completely adapt to the French language and cultural norms.<sup>56</sup> A conceptual remnant of the French Revolution, equality of rights for all citizens was of utmost precedence in the political and social fabric of France. Therefore, the government does not provide any special consideration for different religious, ethnic, or political groups. Because all citizens are considered “French,” there is no form of affirmative action for minorities or quota systems because equality of rights implies equal opportunity for all.<sup>57</sup> The government does not ask for any indication of race or ethnicity for schools or businesses and prohibits the identification of its citizens on the basis of national origin, race, or religion.<sup>58</sup>

Although in theory the notion of equality is positive, the bleak reality exposes the flaws of the system. The idealistic desire for complete integration can display notions of hypocrisy, as Algerian schoolchildren are required to recite

the first line of most French history textbooks: “Our ancestors were the Gauls...,” a blue-eyed, blonde-haired people obviously not representative of the modern diaspora. The French nationalist “Republican ideal” is not mirrored in reality, to the point where disenfranchised Arab minorities cannot recognize themselves in their own country.<sup>59</sup> The policies of assimilation do not allow room for expression of the hybrid culture formed by years of colonial rule, which must be masked by a fully integrated French façade. The disregard for the plight of ethnic minorities has left many French Muslims impoverished and unemployed. During my experience studying abroad in Paris, I noticed that French Arabs lived in Muslim ghettos separated from the rest of the Caucasian French population. These “projects” on the borders of central Paris featured streets covered in trash, barred windows in stores, and scarce public transportation. Inhabitants of the La Forestière estate 16 kilometers from Paris are completely isolated from the capital as they have no railway station or subway stop to link them to the main economic centers of the capital.<sup>60</sup> Promises of hundreds of millions of euros in investment in the banlieues (suburbs) and efforts to crack down on the endemic gang violence in public housing districts have been abandoned as families of second or third-generation immigrants are forced to live in rotting, neglected establishments where families of ten or more can be cramped in three dilapidated rooms.<sup>61</sup>

Gang violence runs rampant in these neglected ghettos as they are lacking in police stations and patrol forces. Of the 27,000 police in Paris and its surrounding areas, 17,000 policemen are assigned to protect the wealthier two million inner-city Parisians while only 10,000 are allocated to serve the six million inhabitants of the *banlieues*.<sup>62</sup> There is not one police station in the whole area of Clichy-sous-Bois, home to over 28,000 people.<sup>63</sup> Overstretched and poorly funded, the policemen assigned to the banlieues are young and poorly trained. The government casually overlooks the growing police racism toward French Arabs, which breeds distrust of authority among teenagers in the suburbs.

Children and grandchildren of immigrants also suffer from work-related racism. Although statistics on ethnic background and religion are not demanded by employers in France in accordance with the strict policies of French assimilation, it is common practice for workers to submit an

<sup>52</sup> Omer Taspinar, “Europe’s Muslim Street,” *Foreign Policy* 135 (2003): 76-77.

<sup>53</sup> Lisa Abend and Geoff Pingree, “Morocco’s Biggest European Export: People,” *Christian Science Monitor*, September 29, 2005.

<sup>54</sup> Gallis, et al.

<sup>55</sup> Adrian Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain* (Palgrave Macmillan in association with the Centre for Research in Ethnic Relations, University of Warwick, xxviii (2001).

<sup>56</sup> Jean Loup Amselle, *Affirmative exclusion: cultural pluralism and the rule of custom in France* (Ithaca: Cornell University Press, 2003).

<sup>57</sup> Thomas.

<sup>58</sup> Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Scholarly Publishing Office, University of Michigan Library, 2002).

<sup>59</sup> Peter Fysh, *The Politics of Racism in France* (New York: Palgrave Macmillan, 2003).

<sup>60</sup> John Lichfield, “Liberte, Egalite, Fraternite; the cry for redress among France’s poor is constant-- and familiar,” *The Hamilton Spectator*, October 28, 2006, Discover section.

<sup>61</sup> Mathieu Kassovitz, *La Haine*. 96 min. Norstar Entertainment: Malofilm, 1995. Videocassette.

<sup>62</sup> Lichfield.

<sup>63</sup> Lichfield.

identification photo with their job applications, which serves as a visual indication of race.<sup>64</sup> As there is no governmental check for racial equality, employers can hire or refuse to hire based on any impulse, whether it be racial discrimination or religious bias based on pictures and names alone. Many North African immigrants and their children find themselves unemployed simply because a prejudiced employer noticed the name on the application sounded African.<sup>65</sup> In fact, random tests show that an applicant with a North African-sounding name has five times less of a chance of securing an interview than one with a traditionally “French” name.<sup>66</sup> French businesses also tend to hire graduates of the country’s elite universities or *Grandes Écoles*, which usually do not enroll even the brightest of black or Arab students from the *banlieues*.<sup>67</sup> Even with graduate-level degrees from other local academic institutions or foreign universities, Arabs living in the suburbs are nevertheless still denied employment by French businesses. The root of the problem can perhaps be traced back to the conditions in the primary and secondary schools in suburban Paris, which are mostly underfunded and short of teaching staff.<sup>68</sup> Because the union laws in France allow older teachers to transfer out of the underprivileged suburban schools, the teachers forced to remain are usually as young and inexperienced as the policemen in the area. However, the French government’s strict policy against positive discrimination bans any study based on racial, religious, or ethnic origin, making it nearly impossible to officially measure and analyze the degrees of discrimination in both the workforce and the educational system.<sup>69</sup>

Another controversial national policy is the strict separation of church and state. The French notion of “laïcité” implies that religious freedom and public order must be balanced by protecting freedoms but at the same time ensuring they do not disrupt public life.<sup>70</sup> It was not until 1980 that the French government even officially recognized Islam as a religion. One continuing controversy in French secularism has been the 2004 ban on *les foulards*, or Muslim headscarves, worn by schoolgirls. The headscarves were banned along with large Christian crosses and Jewish skullcaps as a distraction to learning and impediment to educational assimilation.<sup>71</sup> Officials also banned headscarves in identification card photos, citing that they did not allow for full

physical identification. Many Muslim communities were enraged because they felt that their religious beliefs were being trampled on by the ban that was so obviously directed at their demographic group more than other major religions. It was, in fact, their ethnic and religious identity that was threatened by the legislation banning clothing and symbols distinctive to their culture.

More recently, French leaders, fearful of losing their traditional national identity and anxious over their struggling economy, targeted the immigrant population once again by proposing tough new legislation against illegal immigrants.<sup>72</sup> Far-right leaders such as Jean-Marie Le Pen have even proposed banning immigration all together so that foreigners who come to France, either legally or illegally, can never achieve French nationality.<sup>73</sup> While other European countries like Germany, Spain, and Italy have announced mass amnesties for illegal immigrants, France has ruled out such a move and is focusing instead on its policy of deportation to stem explosive growth in immigrant populations.<sup>74</sup> At the forefront of the controversy is Interior Minister and President Nicolas Sarkozy, who is responsible for accelerating the deportation of 20,000 illegal immigrants in 2005 and 25,000 in 2006, mostly back to the African continent. Most illegal immigrants to France arrive on tourist visas, obtained by citizens of former French colonies in the Middle East and Africa where cultural and linguistic ties with France remain.<sup>75</sup> Immigrant families work in low-end jobs cleaning houses, settling into the ghettos in the outskirts of Paris, and enrolling their children in French public schools. However, the *chasse à l'enfant* (child-hunt) instigated by Sarkozy for his deportation initiative has frequently resulted in the traumatic experience of children being snatched from schools during the midst of a lesson and thrust on a plane back to Africa. Those illegal immigrant families who have children enrolled in French public schools can avoid deportation only if they agree to abandon their native culture altogether.<sup>76</sup> The amnesty is only granted on a case-by-case basis to families with children born and educated in France who would only be allowed to speak French and not their parents’ mother tongue. As a result, the native identity is prohibited and the French identity enforced in all levels of French society. Thus, the colonial “civilizing mission” is transformed into a post-colonial

<sup>64</sup> David Aaronovitch, “C’est l’économie, stupide – the real reason why the cars of Paris burn,” *Times Online*, November 8, 2005, [http://www.timesonline.co.uk/tol/comment/columnists/david\\_aaronovitch/article587744.ece](http://www.timesonline.co.uk/tol/comment/columnists/david_aaronovitch/article587744.ece).

<sup>65</sup> Elaine Ganley, “Immigrant Youths Carry List of Grievances to French Lawmakers Ahead of Riot Anniversary,” *Associated Press Worldstream*, October 26, 2006.

<sup>66</sup> Emma Charlton, “Jobs, Race, Integration: France Yet to Break Down Barriers,” *Agence France Presse*, October 25, 2006.

<sup>67</sup> Lichfield.

<sup>68</sup> Paul Silverstein and Chantal Tetreault, “Urban Violence in France,” *Middle East Report Online*, November 2005.

<sup>69</sup> Charlton.

<sup>70</sup> John R. Bowen, “Muslims and Citizens: France’s Headscarf Controversy,” *Boston Review* February/March (2004): 31-35.

<sup>71</sup> John R. Bowen, *Why the French Don’t Like Headscarves: Islam, the State, and Public Space* (Princeton: Princeton University Press, 2006).

<sup>72</sup> Molly Moore, “With End of French School Year Comes Threat of Deportation,” *Washington Post*, June 15, 2006, Section A, p. 14.

<sup>73</sup> “Far-right Le Pen Says ‘Zero Immigration’ will be Key Theme of Presidential Bid,” *Associated Press Worldstream*, September 26, 2006.

<sup>74</sup> Katrin Bennhold, “Expulsion of Illegals Stepped Up by France,” *The International Herald Tribune*, September 2, 2006, News section, p. 2.

<sup>75</sup> Moore.

<sup>76</sup> Angélique Chrisafis, “Sarkozy Forced to Review Plans to Deport Children of Illegal Immigrants,” *The Guardian* 2, June 7, p. 17.

“integrating mission.”<sup>77</sup> By imposing linguistic as well as socio-cultural and religious structures on Muslim minorities, the French government’s philosophy on monoculturalism is reminiscent of ethnocentric colonialist attitudes. The “superiority” of the Caucasian, French culture is still embedded deeply into the collective memory of France. This form of discreet racism is demonstrated in economic and social subordination, played out in common encounters such as language. The French vernacular typically utilizes two ways of addressing someone directly: “vous,” used as the plural form or as a formal address of respect, or “tu,” used to address an equal or peer. During my stay in Paris, I noticed that some Caucasian Parisians addressed African Arabs in shops or on the streets in neither the “vous” or “tu” manner, but the cruder form “toi,” signifying that they were conversing with an inferior. This type of subtle racism that pervades all of French society is typical of colonialist mentality. The resentment that arose as a result of the subordinated North Africans as colonized peoples reemerges in the present-day under similar circumstances, forcing the oppressed to act, often violently and explicitly.

#### *Paris Riots of October and November 2005*

It is under these conditions of impoverishment and ethno-religious discrimination that the civil unrest began in the suburbs of Paris in October 2005. Resentment among French Arabs culminated when policemen chased two teenagers, Zyed Benna, 17, and Bouna Traoré, 15, through the working-class commune of Clichy-sous-Bois (where unemployment is four times the national average) in the eastern Paris suburbs on October 27, 2005.<sup>78</sup> The teenagers, heading home to end their Ramadan fast after a football game at the local stadium, heard police sirens. After fleeing to avoid customary police harassment and brutality, the boys hid in an electric station where they were fatally electrocuted.<sup>79</sup>

These accidental deaths combined with overwhelming suspicion that the police officers “chased” the teenagers into a high-voltage area seemed to represent just one more abuse of authority by the French government against the underprivileged Muslim population. Youths from surrounding housing projects gathered in mass demonstration to protest the deaths, which ranged from peaceful marches calling for redress to throwing rocks at police, vandalizing buildings,

and setting cars on fire. Police responded by firing tear gas and detaining many youths involved in the clashes.<sup>80</sup> Rioters, bystanders, police officers, and journalists were all injured due to the violence. Interior Minister Nicolas Sarkozy appeared on national television, promising “zero tolerance” for the *racaille* (scum) and assuring that he would clean the suburbs “with a power hose.”<sup>81</sup> The evening following the national address, a tear gas grenade was launched into the mosque of the Cité des Bousquets, on what for Muslims is the holiest night of the holy month of Ramadan. Police denied responsibility but acknowledged that it was the same type used by French riot police.<sup>82</sup>

A day later, the riots had spread to Saint-Seine-Denis in northeast Paris and subsequently to Hauts-de-Seine in the west. By the following week, the riots had consumed the whole of France, expanding to Dijon in the east, Rouen in the north-west, Lille to the north, and Toulouse to the south and eventually encompassing every major urban area in the country. Other countries in Europe were also affected by similar acts of vandalism, including Belgium, Denmark, Germany, Greece, Spain, Switzerland, and the Netherlands.<sup>83</sup> Violence, arson, and attacks on police worsened in France, as attacks were made on power stations, causing blackouts in entire towns. A daycare centre in Cambrai and a tourist agency in Fontenay-sous-Bois were also attacked, while eighteen buses were damaged by arson at a depot in Saint-Etienne.<sup>84</sup> The mosque in Saint-Chamond was hit by three firebombs, Catholic churches were burned, vehicles were rammed into police stations in Romans-sur-Isère, and a junior high school in Grenoble was set on fire.<sup>85</sup> The French government claimed that the country was returning to “an almost normal situation” when only 163 vehicles went up in flames on the 20th night of unrest.<sup>86</sup>

On November 9th, the French parliament declared a nationwide state of emergency. Ironically, the legislation was enacted in 1955 to curb unrest in Algeria during the war of independence.<sup>87</sup> This law was aimed at curbing riots by urban youths, allowing local authorities to impose curfews. The situation eventually ended in late November, resulting in 3,200 arrests in 274 towns across France, 126 police and firefighters injured, over 10,000 vehicles burned, and 200 million euros worth of damage.<sup>88</sup>

<sup>77</sup> Daniel Nicheanian, “Liberté, Egalité, Fraternité” *Campus Progress*, August 7, 2006.

<sup>78</sup> Paul Silverstein, “Immigrant Racialization and the New Savage Slot: Race, Migration, and Immigration in the New Europe,” *Annual Review of Anthropology* 34 (2005).

<sup>79</sup> Fouad Ajami, “The Boys of Nowhere,” *US News and World Report*, November 21, 2005.

<sup>80</sup> Silverstein, “Urban Violence in France.”

<sup>81</sup> Lichfield.

<sup>82</sup> Lichfield.

<sup>83</sup> “French Violence ‘Back to Normal,’” *BBC News*, November 17, 2005.

<sup>84</sup> Jocelyn Gecker, “French Government in Crisis Mode,” *Associated Press*, November 2, 2005.

<sup>85</sup> Ajami.

<sup>86</sup> Bouteldja.

<sup>87</sup> “French Violence ‘Back to Normal.’”

<sup>88</sup> “French Violence ‘Back to Normal.’”

<sup>89</sup> Lichfield.

French officials claimed that the violence was due to juvenile delinquency, activities of drug barons, and even polygamy in North and sub-Saharan African immigrant families.<sup>89</sup> Since the riots, the French government has promised financial investment in the poorer communes, an end to job discrimination against youths of African origin, and a mass crackdown on gang violence and police brutality.<sup>90</sup> However, the only real legislation passed has been to step up deportation of illegal immigrants, yet another disheartening blow to the already dismal morale of the banlieues.<sup>91</sup> The French government still fails to see the riots for what they really are—a revolt against oppression and inequality. In their actions, the French Arab population declared loudly: “*You, France, you the government, you people in authority, you say that we have a chance but then you give us none. We’re going to smash up or burn the things that seem to represent something positive, but are really a lie. We are going to burn the buses that are supposed to take us to jobs we don’t have.*”<sup>92</sup>

After in-depth analysis of the circumstances, it is no surprise that the events of the 2005 riots unfolded as they did. Unlike many incidents of ethnic violence, there was only one death that resulted from the destruction. Instead, the rioters directed their hostilities at objects symbolizing the specific causes of their discontent. Cars and buses were burned to protest the absence of public transportation in the poorer districts in Paris. Vehicles, which represent a link between home and work, outer and inner city, societal margin and center, served as the main icon of disconnect between the Muslim minorities and the French government. Schools were vandalized as a nod to the disparity in educational standards which disadvantages North African immigrants from the onset of childhood. Churches were attacked as an indication of the religious discrimination encountered by Muslims. Rioters crashed cars into police stations to voice their discontent with the frequent police discrimination and brutality in low-income neighborhoods. Attacks on power stations referenced the deaths of the two teenagers in a police chase. By choosing these targets, the rioters, mostly young French Arabs, were able to finally voice their concerns to the government. The rioters, disenfranchised to the point of violence, were simply asking the government for an opportunity to be truly French, a right that had been pledged to them by the government in the first place.

The vandalism and violence of the 2005 riots originate in the colonialist mentality and are results of the long history of conquest and subordination of North Africans by the French government. It is, in fact, the legacy of colonialism that is the source of many modern-day conflicts between the former colonizers and the colonized. For hundreds of years, the French ruled over Africa, profiting from the

natural resources and cheap labor found on the continent. Ethnic hierarchies first became issues when colonization developed into a civilizing mission to enlighten the cultures that Europeans considered primitive. Europeans regarded themselves as a more advanced “race,” and therefore were morally obligated to rule over Africa by imposing Western morals, values, and lifestyles on the indigenous people.

When France left its colonies in northern Africa because of brutal wars for independence, the relationship between the colonizer and the colonized did not cease but continued to develop in complexity. The former colonies continued to be reliant on France for financial support, which caused the migration to the French metropolises in search of economic opportunity. Instead of welcoming the people they once proudly held custody over, France has attempted a “recolonialization by assimilation” into mainstream French culture. Immigrant identities and cultural backgrounds are ignored because there is, according to the government, only one way of being French.

Because their own cultures and identities are not represented in mainstream French culture, African Arabs once again found themselves dependent on a “foreign” government for protection, education, and employment. The disadvantaged condition of Muslim immigrants in France gives the impression of a new form of colonialism, where French Africans are once again in a subordinate position economically and socially, as secondary citizens to French Caucasians. The colonial ideas of “inferiority” and “superiority” are still prevalent in French society, which causes racism in the labor market and educational system. The actions of the rioters in 2005 were an assertion of power, a venting of anger, and a plea for notice from the government that claims them as their own but neglects their basic needs. This specific case study calls attention to issues of economic marginalization, spatial segregation, and anti-immigrant racism in post-colonial situations worldwide.<sup>93</sup>

## Conclusion

The plight of immigrants in France has been highly controversial and has resulted in escalating degrees of resentment on all sides of the issue. The French approach to immigrant integration and the methods of other European countries such as Great Britain, Germany, and Spain have been, for the most part, unsuccessful. The French government’s policy of assimilation has more harmed than helped the Muslim minorities in France, most of which are immigrants or children of immigrants from northern Africa. Although the government considers every citizen “French,” the declaration of “equality for all” is merely a façade. French Arabs experience racism in both the workplace and

<sup>89</sup> Martin Arnold, “French Minister Says Polygamy to Blame for Riots,” *Financial Times*, November 21, 2005, p. 18.

<sup>90</sup> Lisa Bryant, “Riot-torn French Towns Wait for Change,” *US Fed News*, January 11, 2006.

<sup>91</sup> Angela Doland, “France Cracks Down on Illegal Immigrants,” *Associated Press Online*, August 31, 2006.

<sup>92</sup> Lichfield.

<sup>93</sup> Susan J. Terrio, “Who Are the Rioters in France?” *Anthropology News* 1 (2006).

the educational system, resulting in soaring unemployment rates along with poor economic conditions. African Muslim immigrants and their children live in ghettos in the suburbs of Paris, cut off from economic and educational centers because the government neglects to connect the underprivileged areas to wealthier parts of the city with railways or subways. The impoverished *banlieues* feature dilapidated housing and soaring crime rates. Gang violence runs rampant because the police force is under-funded and the number of law-enforcement officials is disproportionately low when compared with the rest of Paris. The poor training of the police officers and general distrust of authority are two of the key factors that contributed to the deaths of two Muslim teenagers, instigating the riots in 2005. The riots, which began in the suburbs of Paris and eventually spread to every major city in France, were a mass protest by Muslim immigrants and their progeny against the disadvantaged conditions enforced by the French government. Rioters burned cars, buses, and buildings and also destroyed schools and police stations. These acts of vandalism were focused on symbols that represented the government's neglect of French Arabs—the transportation, education, and protection they failed to provide their citizens.

The present-day situation in France can be traced back through a long, tumultuous relationship of subordination and exploitation of North Africans by the French government. The French colonizer freely benefited from African resources while subjugating the people to political and social rule for hundreds of years. After obtaining self-government, mass migration to the metropolises surged as economic ties remained. The overwhelming influx of foreign African Muslims threatened the very fabric of traditional French society, which held firm to its policies of monoculturalism. By defining French identity in one-dimensional terms, French Arabs are denied the advantages of other French citizens in terms of representation, economic prosperity, and educational opportunities. The colonizer-colonized relationship still exists in issues of subordination and inequality in the workplace, schools, and mainstream society.<sup>94</sup> The riots in 2005 were a means by which the rioters physically and publicly engaged themselves in French politics in an attempt to change their disadvantaged situation.

Past attempts at reconciling the French Muslim minorities with the government have obviously failed. Even after the major violence of the 2005 riots ended, around 60 cars per night still burned in the suburbs of France, signaling that resentment remained high among disenfranchised minorities. As recently as April 2007, several large groups of youth were arrested at Gare du Nord, a major Paris train station in a predominantly African Arab neighborhood, for shattering windows, looting shops, and throwing trashcans at police officers.<sup>95</sup> Economic and political policies must

change if the French government truly wants to unite its fragmented society. The much-debated elections in spring of 2007 revealed a country eager to choose a new leader who would resolve her economic and social problems. However, Nicolas Sarkozy, the elected president, was the biggest critic of the 2005 riots and notorious for his adversarial attitudes towards French Arabs during his term as Interior Minister.<sup>96</sup>

Nonetheless, the new French leader must strive to truly enact past promises made to the neglected French African and Arab communities such as expanding the public transportation system to accommodate the *banlieues*, increasing and improving the quality of the police force, raising the competence of school systems in the communes to the caliber of wealthier areas, and imposing a genuine crackdown on gang violence. Also, France needs to lean away from the method of assimilation, which has so clearly failed to address the concerns of minorities. Instead, the government should place checks on employers and universities in a concentrated effort to rebuke racism. Positive discrimination methods such as affirmative action should be explored in order to examine both the benefits and repercussions of highlighting ethnic background in French society. The ban on conducting studies investigating race, religion, or culture must be lifted so that sociologists can gauge social disparities accurately. Furthermore, the actions of the government which can be assumed to be attacking French Muslims, such as the headscarf ban and the expulsion of illegal immigrants, must be stopped. Instead, the government should focus on boosting the visibility of minorities in politics, culture, and economics in order to promote representation of African Arabs in mainstream society. The top-down approach must be replaced by addressing issues from the bottom-up in order to empower immigrants and their offspring to make decisions at the local level for themselves.<sup>97</sup>

The colonialist mentality has persisted well after independence in the French metropolises in terms of dependence, hybridity, identity politics, and racialization. The current French attitude toward its Arab communities retains remnants of colonialist tendencies, where the relationship continued to be one of subordination and domination in socio-economic spheres. While immigrants and children of immigrants still depend on the French government for economy, education, and protection, the authorities still fail to deliver on their obligation to their people. Without any institutional ways to assert power and alter public policy, the only choice of the oppressed was to physically attack the symbols of inequality. Thus, the rioters in 2005 burned the very things that represented broken promises, discrimination, and neglect by the French government. They were, in fact, demanding the rights promised to them by the national motto of France: *liberté, égalité, fraternité* (liberty, equality, brotherhood).

<sup>94</sup> Tony Chafer, *Promoting the Colonial Idea: Propaganda and Visions of Empire in France* (New York: Palgrave, 2002).

<sup>95</sup> Collin Sick, "Clashes Erupt at Paris' Gare du Nord," *Info Shop News*, March 27, 2007.

<sup>96</sup> Elaine Sciolino, "Tensions over French Identity Shape Voter Drives," *New York Times*, March 30, 2007.

<sup>97</sup> Elzbieta M. Godziak, "The Week Paris was Burning," *Anthropology News* 1 (2006).

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# Linguistic Nationalism and the Turkish Republic

Meredith Morgan

*“Language... becomes something to love, to fight for, to die for; something to safeguard, to develop, to enrich, to bring to others who are less fortunate.”*

*-Joshua Fishman.*

## Introduction

This paper will consist of two main sections, one of which will explore various theories of linguistic nationalism and the second of which will be a representative case study of language reform and the creation of the Turkish Republic in the 1920s. Nationalist movements dating back to 16th century Europe have manipulated language in order to foster positive sentiment toward their causes. Often, language is one of a nation's most distinguishing features. Mutual intelligibility provides not only a common ground but a sense of solidarity. The alteration of that fundamental part of national identity has lasting repercussions on the society as a whole.

Instances of the use of linguistic reform as a vehicle for nationalist sentiment range from the French Revolution in the 1790s to the revitalization of Iranian conservatism in the 21st century. In each occurrence, one faction took ownership of the national language and exploited it as a means to unify the population and to change the way that the population viewed both itself and the nationalist movement in question. An alteration as apparently simple as the alphabet in which the language is written can create ripples in areas as remote as foreign policy. Linguistic reform is a powerful tool, the effects of which are often underestimated.

On a theoretical level, this project will also address the complex issue of how language creates and affects the perception of reality. Theories on this subject include the Sapir-Whorf hypothesis, which in its extreme version claims that language determines thought itself to the extent that speakers of different languages cannot ever fully perceive an event in the same way. I will argue that the resilience of some aspects of national identity even in the face of comprehensive language reform indicate that the hypothesis is not absolutely applicable. A qualified version of the theory is the more accurate description of the interaction between language and thought.

The Turkish Republic provides a relevant case study because of the institutional language reforms implemented by the government of Mustafa Kemal<sup>1</sup> after the fall of the Ottoman Empire. The secularization and democratization of Turkish society was mirrored by similar changes in the Turkish language. Kemal and his Turkish Language Association (TDK) removed all Arabic and Persian loanwords and changed the written language from the Arabic alphabet to the Latin. This supposed purification of the language, involving the retrieval of obscure terms from medieval Turkic, was touted as a nationalist development and set the precedent for the Westernization of Turkey that is still taking place today. The final section of this paper will look at the current state of Turkish relations with Europe and the Middle East and will analyze the connection between the reforms of the 1920s and modern Turkish politics.

Several sources are invaluable to the various sections of this paper. Nationalism, an anthology edited by John Hutchinson and Anthony D. Smith, provided a starting point for my summary of various theories of nationalism. From the excerpts in this book, I expanded my research to the authors' original works, especially those of Benedict Anderson, Ernest Gellner, and Eric Hobsbawm. To link nationalism and language, I relied heavily on Benjamin Lee Whorf's *Language, Thought, and Reality*, as well as an analysis of his work written by I.M. Schlesinger and published in *The Influence of Language on Culture and Thought*. Within the case study, my main source for Ottoman and Turkish history was *A History of the Modern Middle East*, by William L. Cleveland. Several authors have written complex analyses of the Turkish language reforms, each of which focuses on the subject from a different angle. Uriel Heyd wrote the oldest analysis that I consulted; his work provided the foundation for the more in-depth studies that followed. Yılmaz Bingöl's masters and doctoral theses were extremely helpful for the political aspects of the reforms, while Geoffrey Lewis included many linguistic facts and theories that were relevant to my research. My other major source for the case study was Ilker Aytürk's doctoral thesis, which compared Turkish and Israeli linguistic reforms and provided a comprehensive study of Mustafa Kemal's role in the reform movement.

<sup>1</sup> Mustafa Kemal later adopted the surname "Atatürk," meaning "father of Turks," but this name change did not occur until the mid-1930s, after the period discussed in this paper. Therefore, he will be referenced by his original name throughout this project.

In the following section, I will highlight several theories of linguistic nationalism. I will also provide historical examples to contextualize the theories. The next section will deal with the abstract side of linguistic theory, including the Sapir-Whorf hypothesis. Then I will proceed to the case study, first providing an overview of Turkish independence and the reforms that took place. I will include analysis of the linguistic reforms and their effects on nationalism in this case. Finally, the conclusion will discuss the implications of the reforms on Turkey's modern situation in the realm of international relations.

### Nation and State

The definition of "state" can be fairly easily determined, based on the political usage of the term. In world politics, a state is an entity with defined boundaries and an established government that is recognized as such by other states. Alfred Cobban calls the state "a juristic and territorial concept," in which "communal ties, and all aspects of social life that [are] not narrowly and directly governmental play no part."<sup>2</sup> This term describes the somewhat arbitrary structural aspects of a group of people; the ruler, the type of government, and the political rituals of the group are components of the state.

The concept of "nation," on the other hand, is subject to much more debate and tends to be applied much more loosely than its structural counterpart. Theorists have defined "nation" in any number of ways, a few of which will be discussed here. The unifying thread in most, if not all, of these theories is that "nation" refers to the cultural and ethnic aspects of a group. If "state" is the political and structural skeleton of a population body, then "nation" is the cultural connective tissue. The nature of this uniting factor in a population is without a concrete definition, as each theory presents a different perspective on which commonality takes priority in the construction of a nation.

Ernest Renan, writing in mid-19th century France, was the first to treat the nation as a self-defined entity. Previous philosophers had generally described the nation in objective terms like "race" or "ethnic group," but for Renan, the defining factor was "the desire of nations to be together."<sup>3</sup> The creation of this sentiment was what transformed a group of people into a nation, regardless of any common trait that could be observed from the outside. Renan calls this aspect the "moral conscience" of the nation. He also emphasizes the importance of a common history and of the memory of sacrifices and accomplishments made together by the group, asserting that nations share these qualities and that

they have the collective desire to do so in the future. This view of history will become relevant to later philosophies of nationalism through attempts at revision made by various nationalist groups.

Another influential theorist on the subject of nation, Max Weber, looks at the different character of various nations. His descriptions of these different entities suggest that not every nation defines itself as such based on the same kind of solidarity. Weber mentions religion, common descent, and ethnicity as potential foundations for nationalist sentiment. Regardless of the recipe for nation, however, Weber also draws the connection between nation and state, defining "nation" as "a community which normally tends to produce a state of its own."<sup>4</sup> This statement, while problematic, initiates the relationship between nation and state, which will be further discussed in the next section. Another component of nationalism introduced in Weber's essay is the idea that a certain subgroup of society, namely intellectuals, creates and defines a set of cultural values that compose the character of the nation. This concept, like Renan's view of history, will again be relevant in the later discussion of techniques of nationalism.

Max Weber makes the important distinction that "'nation' is ... not identical with the 'people of a state.'"<sup>5</sup> Nevertheless, the intersection between the two is a popular topic of discussion among political philosophers and nationalists. The reason for this fascination, one could argue, is that most power is wielded through the state, but the emotional nature of nationalism makes it a powerful tool. Thus, political figures use nationalism to their own ends, as a way to establish, legitimize, and change the state.

### Nationalism

Not only is the concept of nation nebulous in itself, it falls victim to a chicken-or-egg paradox: which came first, the nation or nationalism? Ernest Gellner claims, "Nationalism is not the awakening of nations to self-consciousness: it invents nations where they do not exist."<sup>6</sup> If this definition is accurate, it follows that those who control nationalism also shape the nation itself. The idea of a nation, the ideological entity, existing congruently with a state, that is, a political entity with defined boundaries, is a relatively modern development. The confluence of the two has corresponding implications for the political power wielded by those who determine the character of a given nationalism.

Eric Hobsbawm argues that nation has a component of invention which is instigated and perpetuated by the state.

<sup>2</sup> Alfred Cobban, *The Nation-State and Self-Determinism* (London: Collins, 1969), 31.

<sup>3</sup> Ernest Renan, *Qu'est-ce qu'une nation*. trans. Ida Mae Snyder (Paris: Calmann-Lévy, 1882), 26.

<sup>4</sup> Max Weber, "The Nation," From Max Weber: *Essays in Sociology*, trans. and ed. H.H. Gerth and C. Wright-Mills (London: Routledge & Kegan Paul, 1948), 179.

<sup>5</sup> Weber, 172.

<sup>6</sup> Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983), quoted in Benedict Anderson, *Imagined Communities* (London; New York: Verso, 1991), 6.

Three certain tendencies of modern states have enabled and shaped the formation of their corresponding nations: secular education, public ceremonies, and public monuments. Even the idea of a national language is formulated, usually after the birth of a state. Over time, these practices become customs and a common reliance on them is established. Through this indoctrination into a fabricated culture, manufactured by the elite and transmitted downwards through the classes, the population of a state is transformed into a nation. Hobsbawm basically argues that “though modern nations ... generally claim to be the opposite of novel,” the practical aspects of nationalism are fairly recent inventions.<sup>7</sup> This theory supplements Renan’s assertion that a common history is a major component of nationalist sentiment; Hobsbawm suggests that the history, while an influential unifying tactic, may be invented.

To continue the notion of history as a tool for developing nationalist sentiment, we turn to Elie Kedourie, who treats the issue of revisionist history in light of nationalist movements. According to Kedourie, “Nationalists make use of the past to subvert the present.”<sup>8</sup> He discusses the ways in which any historical event can be twisted to appear supportive of a nationalist agenda. Any prominent figure, in retrospect, is reimagined to have been working to advance a particular nation. Going back into ancient history, “Moses was not a man inspired by God ... , he was really a national leader rising against colonial oppression. Muhammad may have been the seal of the Prophets, but even more important, he was the founder of the Arab nation.”<sup>9</sup> In this way, even religion can be subordinated to the goals of nationalism. By constructing a common history, with common heroes, nationalists of all stripes justify the existence of their nation-states. They trace the emergence of these nations by assigning meaning to potentially irrelevant historical occurrences in an attempt to inspire pride and faith in the nation that can produce such events.

Also in relation to Hobsbawm’s theory of invented nations is the idea that nationalism is a modern phenomenon. Ernest Gellner describes the conditions in which nationalism can thrive, and they correspond to some degree with the practices of the state that produce nationalist sentiment, as presented by Hobsbawm. The most essential criterion, says Gellner, is literacy, which goes hand in hand with the state education system. One hallmark of a nation is literacy as a social norm, which means that clerks, or literate people, are not a subset of the population, in contrast with ancient Christian and Islamic societies. Gellner also emphasizes the importance of the literary

language being closely related to the vernacular, whether that occurs through the transformation of the vernacular into a written language or vice versa.<sup>10</sup> The elimination of that linguistic boundary facilitates the spread of literacy throughout the classes. Through literacy and education, nationalist thought can be transmitted. Education is a characteristic of modernization, which generally leads to the urbanization of peasants and facilitates the spread of ideas. Thus, nationalism requires a degree of modernization to flourish in a society.

### The Effect of Language on Identity

We will now step away from nationalism to focus on an issue that has been cursorily mentioned a few times thus far: language. The connection between these two areas will be elaborated upon in the next section, but in order to make a convincing link, some linguistic theories must be explained first. The relevant school of thought in the discipline of linguistics, called relativism, relies strongly on the work of Benjamin Lee Whorf and also on that of his mentor, Edward Sapir. In fact, this academic attitude is often called Whorfian theory. The central component of Whorf’s work is a hypothesis dealing with the way in which language and thought interact. I. M. Schlesinger outlines this theory in three parts:

“Thesis 1: All thinking goes on in language.

Thesis 2: Language may distort thinking.

Thesis 3: Languages differ in the thoughts they afford to us.”<sup>11</sup>

Each of these statements can be and has been extensively analyzed and debated, resulting in a divisive split among professional linguists. To some, Whorf’s views are narrow-minded and impractical; to others, they describe an inescapable bias of which any student of linguistics should be aware.

The first part of Whorf’s hypothesis is perhaps the most uncertain, as generalizations about the nature of thought can rarely be made with any credibility. Does language serve as merely a communicative device through which thoughts are expressed, or do thoughts in fact require language in order to exist? Philosophers as ancient as Aristotle and Plato have considered this issue; the former provided the foundation for Enlightenment philosophers, who attributed the creation of language to the prior existence of reason. An equally distinguished group of theorists, including not only Plato but also Leibnitz, Saussure, and Wittgenstein, supports the other side of the debate. Rather than a mechanism for the presentation of thought, Sapir, Whorf’s mentor, calls language “a prepared road or groove” for thought to follow.<sup>12</sup>

<sup>7</sup> Eric Hobsbawm, *The Invention of Tradition*, ed. Eric Hobsbawm and Terence Ranger (Cambridge: Cambridge University Press, 1983), 14.

<sup>8</sup> Elie Kedourie, *Nationalism* (London: Hutchinson, 1960), 75.

<sup>9</sup> Kedourie, 74-75.

<sup>10</sup> Gellner, 158-59.

<sup>11</sup> I.M. Schlesinger, “The Wax and Wane of Whorfian Views,” in *The Influence of Language on Culture and Thought*, ed. Robert L. Cooper and Bernard Spolsky (Berlin, New York: Mouton de Gruyter, 1991), 8.

<sup>12</sup> Kedourie, 75.

In other words, the framework of language outlines the path that thought can take.

The second part of the hypothesis follows logically from the first. If language essentially defines the way one thinks, then it contains an inherent bias, or distortion. Thought is not free to exist on its own terms; it is constrained to the predetermined tenets of language. From this point, we reach the third thesis: different languages, by virtue of their disparate structures, create different perspectives. The language a person speaks makes his/her view of the world incongruent with that of a person speaking another language. Wittgenstein sums up this opinion succinctly: “The limits of my language mean the limits of my world.”<sup>13</sup> Linguistic systems, therefore, develop and influence thoughts about time, space, culture, and all imaginable aspects of life. Whorf expands on the connection between language and culture by arguing “that, since grammar is more resistant to change than culture, the influence from language to culture is predominant.”<sup>14</sup>

The repercussions of this claim are dramatic, especially when taken to the extreme. In what Schlesinger calls radical determinism, “speakers of different languages live in different mental worlds, and any attempt at mutual comprehension is doomed to failure.”<sup>15</sup> This point of view is generally discredited among linguists because of its impracticality and also because of flaws in Whorf’s methodology. He has been accused of overemphasizing the differences between languages and disregarding the plentiful similarities worldwide. Also, Whorf has no way of entering the mind of a speaker of a different language to know whether or not the worldview actually differs. His entire premise is based on the assumption that language is necessary for thought, a claim that history’s most venerated philosophers have debated with no consensus.

The holes that appear in Whorf’s hypothesis when it is stretched to its most drastic implication do not destroy the entire structure, however. As Schlesinger points out, the theory “states merely that there exist parallels between language on the one hand, and culture and cognition, on the other ... [and] that there exist influences of language on culture and cognition. Such existential proposals are not empirically refutable.”<sup>16</sup> This statement suggests a kind of middle ground with regard to linguistic relativity. The tools supplied by a language do equip speakers to deal a certain way with the world around them, so to some degree, their interpretations will be based on the terms that they learn in their language. While a widely-held opinion is that any thought can be expressed in any language, the

important distinction is the relative availability of the terms. A language can be twisted, grammatically and lexically, into saying anything a speaker wants, but a construction that requires considerably more effort is less likely to be created. The continuation of this postulation is that the thought expressed by the more difficult construction is less likely to occur to a speaker of that language relative to a speaker of another language in which that idea can be more readily voiced.

### Language and Nationalism

As the previous discussion of language has indicated, a person’s native language influences his/her perspective on the world and thus his/her personal identity. Theories of linguistic nationalism depend on the translation of this relationship from the individual to the community. National identity involves any number of factors on which members of the nation agree. The aforementioned theories of nationalism all provide the foundation for many types of national solidarity, religion and history being among the most commonly discussed. Another way in which nationalism is manifested and produced is through language. The power of language over culture, or at least the interdependence of the two, leads to the exploitation of language as a common trait because it implies a common culture as well.

According to Benedict Anderson, the nation is “imagined as a community, because ... the nation is always conceived as a deep, horizontal comradeship.”<sup>17</sup> This concept depends on a body of shared characteristics, often including language. A community does not rely on geographical proximity so much as mental commonality; any trait perceived to be ubiquitous within a group can be the foundation for a communal atmosphere. Thus, a common language is ripe fodder for the development of solidarity among its speakers.

### Techniques of Linguistic Nationalism

Historically, nationalist movements have interacted with and employed language in a variety of ways. In Europe, the printing press revolutionized language not only in a religious context but also in an embryonic national context. The concept of nation was not fully formed at the time, but Anderson claims that “print-languages laid the bases for national consciousness.”<sup>18</sup> The advent of publishing and the popularization of literacy enabled the growth of nationalism in three specific ways. First, print media standardized languages with many dialects that were unintelligible to each other in direct conversation. German speakers from the Baltic Sea area could read the same text as German speakers from what is now Austria, though they probably could not have held a conversation with them. In this way,

<sup>13</sup> Kedourie, 75.

<sup>14</sup> Benjamin Lee Whorf, *Language, Thought, and Reality* (Cambridge: MIT Press, 1956), 156.

<sup>15</sup> Whorf, 18.

<sup>16</sup> Whorf, 31.

<sup>17</sup> Benedict Anderson, *Imagined Communities* (London, New York: Verso, 1991), 7.

<sup>18</sup> Anderson, 44.

speakers of particular languages became aware of entirely new sets of people with whom they shared a commonality: a mother tongue. Second, the new fixedness of language through print bestowed on it an antiquity that could be used to support claims of heritage and tradition. The written word had a permanence unfamiliar to participants in oral culture, which enhanced both its legitimacy and its significance. Third, and least relevant, print language allowed for the political elevation of the spoken dialects most similar to the written version.<sup>19</sup>

Anderson goes on to state that “the lexicographic revolution in Europe...created, and gradually spread, the conviction that languages...were...the personal property of quite specific groups...and moreover that these groups, imagined as communities, were entitled to their autonomous place in a fraternity of equals.”<sup>20</sup> Linguistic solidarity thus inspired the notion of political representation for self-determined communities, or nations. In this way, the link is made between language and state, insofar as it exists as the political trappings of nation. Political administration and manipulation of language policy are evidence of the ways in which the state has acknowledged and attempted to control the power that language holds over the national community.

The earliest phenomenon that can be characterized as state-instituted language planning is the idea of a national language. This development is reasonably new; only upon the combination of diverse populations does such a symbol become necessary or significant. Instances like the unification of Germany, which did not take place until 1848, show the political perspective that a common language for the state is both necessary and desired. While plenty of modern states exist without a defined national language, factions pushing for the delineation of linguistic homogeneity are still thriving. This kind of effort to place one language higher in a hierarchy than others “implicitly promotes those who can most closely identify themselves as belonging to the language base...to a position of moral superiority.”<sup>21</sup> Even in the United States, one response to the dilemma of Hispanic immigration is a movement to establish English as the national language. In the past year, English has been named the “official” language of the country, though this title hardly holds more than symbolic significance. Certain groups within the American population fear that their culture is being threatened by an influx of Spanish-speaking immigrants, and their reaction has been to take a firmer grip on the language that characterizes what they perceive as “their culture,” thus exhibiting the ongoing connection made between linguistic and cultural aspects of a population.

## Case Study

### The Rise of the Turkish Republic

The Turkish Republic initiated sweeping changes to the political and social structures it had inherited from the Ottoman Empire, among which were the language reforms on which this paper will focus. In order to establish a frame of reference for the analysis of these linguistic changes as a nationalist technique, a basic description of the timeline will be necessary. A number of factors, ranging from international pressure to the influence of individuals, affected the implementation of these reforms. Most of these motivations will be explicated in later sections.

The first political occurrence representative of an impending ideological shift in the Ottoman Empire was the Young Turk revolution of 1908. The Young Turks began in 1889 as a group of progressive university students and young military cadets whose liberal beliefs led them to oppose the monarchy of Sultan Abdulhamid II.<sup>22</sup> Their devotion to the idea of a constitutional monarchy precipitated the formation of an official political party, the Committee for Union and Progress (CUP). Among the leaders of this party were nationalist writers, artists, and journalists. By 1908, the party gained enough influence to be able to require the Sultan to adopt a constitution. After this turning point, the CUP was the most powerful organization in Ottoman politics.<sup>23</sup> The ideology of liberalism, secularism, and constitutionalism appealed to Western observers, which naturally enhanced the party's power. Ottoman citizens supported the new platform as an alternative to the corruption and declining effectiveness of the Sultan's government. Between 1908 and 1913, influential positions in the government were almost entirely occupied by CUP intellectuals, thus creating a governing elite that would provide the basis for most political reforms of the late Ottoman era and the early years of the Republic of Turkey.

The demise of the Ottoman Empire, which held all of modern Turkey as well as parts of Europe and Central Asia, began with the unfortunate decision to side with Germany in World War I. After the resounding defeat, Istanbul was occupied by French and British troops from 1918 until 1923.<sup>24</sup> For the latter half of the occupation, the Ottoman Parliament was dissolved and the Sultan's actions were dictated entirely by Allied forces. The presence of these Western nations in Anatolia was one manifestation of the division of the Middle East between colonial powers.

The Allied commanders and the Sultan, while generally having completely different perceptions of the balance of

<sup>20</sup> Anderson, 84.

<sup>21</sup> Michael J. Shapiro, “A Political Approach to Language Purism,” in *The Politics of Language Purism*, ed. Björn H. Jernudd and Michael J. Shapiro (New York, Berlin: Mouton de Gruyter, 1989), 23.

<sup>22</sup> Hasan Kayali, *Arabs and Young Turks* (Berkeley: University of California Press, 1997), 41.

<sup>23</sup> Kayali, 53.

<sup>24</sup> William L. Cleveland, *A History of the Modern Middle East*, 3rd ed. (Boulder: Westview Press, 2004), 177.

power in the Ottoman territory, found common ground on one point: both grossly underestimated the popular appeal and resultant influence of the Turkish National Movement.<sup>25</sup> The Sultan, in a quickly backfiring effort to fragment the base of the nationalist movement, appointed a very important nationalist figure as Inspector General of the Ottoman army. Mustafa Kemal, a war hero and leader of the Turkish National Movement, used this position to further the goals of his organization.

Kemal's first significant opportunity arose when the Allies ordered the dissolution of the Ottoman Parliament in 1920. He gathered his associates, largely CUP intellectuals and army officers who had left Istanbul before the crackdown by the occupying forces, and established the Grand National Assembly in Ankara.<sup>26</sup> Kemal maintained popular support, especially from Muslims, for this defiant move by claiming to be organizing resistance on behalf of the Sultan. The new assembly, composed entirely of nationalists, ostensibly existed only to rescue the Sultan from the illegitimate Western forces occupying the empire. The assembly elected Kemal its first president and named another nationalist leader, İsmet İnönü, as Chief of General Staff.

The establishment of a coherent structure for the nationalist movement facilitated its development into a significant resistance effort. Arms trade began between the Grand National Assembly and sources in the Soviet Union, France, and Italy. In just a few months, the National Army had been created. This new military capability heralded the true beginning of the Turkish War of Independence, in which the nationalist resistance movement faced off against Greece, Armenia, Georgia, and eventually the Western forces occupying the region. Over the years 1921 and 1922, Greek, French, and British troops were expelled from all areas of Anatolia. Kemal's National Assembly abolished the sultanate in late 1922 and Turkish troops reentered Istanbul within the year. On October 29, 1923, Mustafa Kemal and his new Republican People's Party proclaimed the creation of the Republic of Turkey.<sup>27</sup>

Thus, over the course of only five years, the Ottoman Empire plummeted from its already declining status into nonexistence, giving rise to a new state with leaders whose ideologies would permanently redefine, or perhaps create afresh, the Turkish nation. The differences between Turkey and the Ottoman Empire are innumerable, but several are relevant to a discussion of Turkish nationalism. First, the former empire spanned an area from Central Europe to

Central Asia, encompassing a multitude of ethnic groups and religions. The new republic, in contrast, held only the territory of Anatolia, with a population comprised mainly of Turk and Arab Muslims and a significant Greek and Armenian Christian minority.<sup>28</sup> Also, the structure of government underwent an obvious transformation with the new regime. Despite the existence of a parliament, the Ottoman Empire was still an autocratic system with the Sultan as primary authority. The republic, as evidenced by the name, instituted representative government and, after a few years, a multi-party system. Another important policy shift involved religion; while the empire clearly placed Islam at the top of the hierarchy and had an elite class consisting mainly of Muslims, Kemal's government adopted a strictly secular approach. These basic political and demographic changes with the birth of the Turkish Republic had a major impact on nationalist ideology and on the policies of the new government.

### **Kemalism**

Mustafa Kemal emerged during the fall of the Ottoman Empire as the driving force behind the liberalization of Turkish society and the democratization of government. As an officer in the Ottoman army, Kemal witnessed the constant defeat of the Ottomans at the hands of more technologically advanced European armies.<sup>29</sup> This exposure to Western development convinced Kemal "that there was something terribly wrong in the social fabric of Ottoman society."<sup>30</sup> This discontent with the empire led him to the CUP, with whom he would lead the eventual War for Independence. Unlike some members of the party, however, Kemal did not believe that the injection of Western practices into Ottoman society would correct the flaws that he saw. Instead, he advocated the demolition of the entire structure in order to rebuild the society from scratch.

Upon the creation of the Turkish Republic, Kemal got his wish. As the first president of the republic, Kemal had nearly an unlimited opportunity for social reform. His party was staunchly loyal and most of the Turkish population idolized their new charismatic leader. From the very beginning of the new state, Kemal modeled its policies and institutions after their Western counterparts. One such reform, which arguably increased the distance between Turkey and the Middle East more than any other, was the law of secularism. Islam, to Kemal, "had failed the Turks...in their struggle with the West" and therefore could not be incorporated into a state meant to function as a peer to those Western countries.<sup>31</sup> Modernity required secularism, and

<sup>25</sup> Kayalı, 211.

<sup>26</sup> Feroz Ahmad, "The Historical Background of Turkey's Foreign Policy," in *The Future of Turkish Foreign Policy*, ed. Lenore Martin and Dimitris Keridis (Cambridge: MIT Press, 2004), 16.

<sup>27</sup> Cleveland, 178-9.

<sup>28</sup> Cleveland, 139.

<sup>29</sup> Cleveland, 176.

<sup>30</sup> Ilker Aytürk, *Language and Nationalism: A Comparative Study of Language Revival and Reform in Hebrew and Turkish* (Ann Arbor: ProQuest, 2004), 99.

<sup>31</sup> Aytürk, 100.

to that end Kemal introduced reforms such as the banning of headscarves in public. Another example of Western-oriented policy is the 1934 law requiring all Turks to adopt surnames. Kemal himself took the name Atatürk, meaning “father of Turks.”

Mustafa Kemal’s personal investment in reform was not limited to political and social changes. His pet project, in fact, deviated considerably from the usual domain of a political leader. Since long before the creation of the republic, Kemal advocated for the reform of the Turkish language. In fact, a reference to the adoption of the Latin alphabet for the Ottoman language can be found in a letter written by Kemal in 1914.<sup>32</sup> This step in the transformation of Turkish finally came to pass in 1928. Kemal’s dedication to language reform continued throughout his presidency, manifested in numerous laws regulating the language and in the establishment of the Turkish Language Society (Türk Dil Kurumu, or TDK). This institution remained Kemal’s special interest and furthered his goals for the Turkish language.

### Why Language?

Several possible explanations exist for the basis of Kemal’s involvement in the language reform project. The major impetus behind his focus on the issue, however, was most likely the desire to resist the prevalent theories of European superiority and necessary dominance. Many variations on this theme run throughout colonialist philosophy; one succinct and well-known summation of the concept is the “white man’s burden,” which refers to the obligation of Western nations to civilize those they perceive as inferior, namely dark-skinned, non-industrialized populations. Any number of justifications for white superiority were formulated and disseminated, but the specific one to which Mustafa Kemal was reacting with the Turkish language reforms was the theory of comparative philology. This popular concept, expressed most succinctly by Friedrich Max Müller, involved three tiers of language development. Isolating languages, which contain mostly free-floating units of meaning that function as separate words, belonged to the most uncivilized groups; agglutinative languages, in which words are formed by joining units of meaning, to nomads and agrarian societies; and inflectional languages, in which words are modified to express qualities like gender and number, to those nations fit for modernity.<sup>33</sup> Unsurprisingly, most Indo-European languages and all of those spoken in Europe are inflectional, while Turkic languages are agglutinative. This theory made a significant contribution to the continuing dominance of European states over populations in Central Asia and elsewhere.

Reactions to this Eurocentric idea began to emerge even before the collapse of the Ottoman Empire. Ottoman scholars writing about comparative philology were mainly Western-educated and prone to a pro-Western bias, which may explain why they did not tend to deny the truth of the theory altogether. Instead, in 1869, a Polish-born Muslim convert who took the name Mustafa Celaladdin pioneered the idea that Turks were, in fact, a branch of the Aryan family tree and the Turkish language was actually a long-lost cousin of most European languages. Through this tactic, Celaladdin hoped to elevate Turks and their languages to a level worthy of European respect. Unfortunately, he was not a trained linguist or philologist and his research methods were so blatantly unscientific that, however well-intentioned were his attempt to bolster Turkish nationalism, the theory did not make much of an impression until later scholars reinforced the evidence.<sup>34</sup> The first to do so was Şemseddin Sami, who took a similar approach to the subject by accepting the superiority of inflectional languages and attempting to prove that Turkish could fall into that category. His article on the subject, published in 1881, used acceptable scientific techniques and provided the evidence necessary for the idea to take flight among Turkish nationalists.<sup>35</sup>

These Ottoman theorists established a precedent of pseudo-scientific philology as a method for defending Turkish identity. Mustafa Kemal, as one of the most influential Turkish nationalists, subscribed wholeheartedly to these approaches to Turkish identity: “The Türk Tarih Kurumu (Turkish History Society) and Türk Dil Kurumu (Turkish Language Society), founded in 1930 and 1932, respectively, owed their existence to Atatürk’s [Kemal’s] desire to establish centers of Turkish historical and linguistic research, which would combat the condescending views of Western scholars on the scientific platform.”<sup>36</sup> Within only a few years of his rise to power, Kemal began reinforcing Turkish national identity through attention to common language and history. His unusual dedication to this theoretical side of nationalism, combined with the power he held in the government and with his immense popular support, definitely contributed to the intense focus on linguistic reform in the early years of the republic.

Another reason for Turkish nationalists to focus on language as a mechanism for creating national identity was the elitist nature of Ottoman Turkish. According to Uriel Heyd, “this language was as unintelligible to the Turkish peasant...as medieval Latin was to the layman in Europe.”<sup>37</sup> At the end of the 19th century, many among the Ottoman intelligentsia made a conscious effort to separate their

<sup>32</sup> Yılmaz Bingöl, *Turkish Language Reform: The Turkish Language Society and Evolution of Language Policy in Turkey* (Masters Thesis, Bloomington: Indiana University, 1997), 10.

<sup>33</sup> Aytürk, 9.

<sup>34</sup> Aytürk, 45.

<sup>35</sup> Aytürk, 47.

<sup>36</sup> Aytürk, 103.

<sup>37</sup> Uriel Heyd, *Language Reform in Modern Turkey* (Jerusalem: Israel Oriental Society, 1954), 9.

writings and speech from those of the mostly illiterate common people, believing that the common language was incapable of expressing complex thoughts. The Young Turks' political revolution, only two or three decades later, altered the imperial class system to a populist one that would level the ground between traditional elites and working-class commoners. In similar fashion, the language reforms placed value on the language of the common people, breaking down the linguistic barriers between the classes.<sup>38</sup> This step served to enhance the sense of solidarity among all Turks; the fewer ways in which social classes were separated from one another, the more like one nation they could be.

Part of the reason for the vast difference between the elite and popular Turkish languages was that Ottoman Turkish had a vocabulary that could largely be credited to Arabic and Persian, as well as some complex grammatical structures that derived from those languages. The connection between the language of the Ottoman elite and the other two languages came about through the medrese, Islamic schools through which most upper-class Ottoman men were educated. Arabic, the predominant language in Islamic religious practices, thus gained entry into the Ottoman language but was only intelligible to those with an Islamic education. The Persian presence in Ottoman Turkish can also be traced to religion as well as to military and administrative sources; many Ottoman terms for religious items are clearly derived from Persian, indicating that Islam probably reached the Turks through Persian-speaking peoples.<sup>39</sup> The extent of the borrowed vocabulary and grammar was so great that most literature, legal documents, and government statements could hardly be understood by the uneducated majority of the population. Thus, an initiative to emancipate Turkish from Arabic and Persian became part of the nationalist movement; Namık Kemal, a pioneer of the language reform idea, wrote as early as 1866 that Ottoman Turkish had "fallen...under the domination of another language."<sup>40</sup> From such rhetoric proceeded the notion that to be an independent nation, Turkey required a language that could exist without borrowing its very core from unrelated languages.

### Linguistic Activism During the Ottoman Era

The idea that Ottoman Turkish left something to be desired as a representation of Turkish identity emerged long before the foundation of the republic. Ottoman scholars and writers began calling for the reconciliation of written Ottoman and spoken Turkish as early as the 1860s. The movement gained strength with İbrahim Şinasi, who founded the second non-official Ottoman newspaper in

1861. He was able to "see the necessity of making the language of his paper accessible to as many people as possible," and the newspaper's use of common Turkish words instead of their Ottoman counterparts reflected this approach.<sup>41</sup>

In the late 1860s, two important proponents of Turkish nationalism gave voice to their opinions about the proper language for their cause. Namık Kemal and Ziya Pasha are often cited as the initiators of the movement for the simplification of the Ottoman language. Ziya Pasha, in 1868, called for more intelligible language in legal and governmental documents, "so that even the uneducated might be able to understand it and defend their rights against Sultan Abdul Aziz's oppressive bureaucracy."<sup>42</sup> Nationalism, however, was not the only inspiration for these ideas; these intellectuals had a "keenness to make the public aware of new Western concepts" and found Ottoman Turkish "incapable of expressing modern ideas."<sup>43</sup> This motivation connects to nationalist sentiment through the desire to elevate Turkey (then the Ottoman Empire) to the same level of modernity as Western Europe.

Despite the best efforts of journalists and intellectuals like those mentioned above, language reform did not see much success until the early 20th century, namely during the period of the Young Turk revolution in 1908-09. The new rulers of the empire naturally wanted to publicize their populist, Western ideals in opposition to the sultan, and to do so they needed a way to communicate with the nation as a whole. The Young Turks relied on the press to disseminate their message and thus brought the simplification of newspaper language back into fashion.

In 1908, as the revolution began, the first Turkish nationalist organization came into being. The Türk Derneği, or Turkish Association, was composed of sixty-three members of the nationalist movement, and high on its agenda was the issue of language reform. As far as the nature of the reforms, however, three competing schools of thought emerged from the assembly. One group, called Simplifiers, advocated the removal of Arabic and Persian terms, which would be replaced with native words. Another, the Turkicizers, considered those loanwords in common usage to count as Turkish and proposed that Turkish grammar rules be applied to them. The third faction, Purifiers, favored the idea of using words and grammatical constructions from other Turkic languages in place of those originally from Arabic or Persian.<sup>44</sup> The ideological divide among these reformers persisted throughout the institutional reform process, but

<sup>38</sup> This process of facilitating class unity has also been central to nationalist movements elsewhere, particularly in Russia and Denmark.

<sup>39</sup> Geoffrey Lewis, *The Turkish Language Reform: A Catastrophic Success* (Oxford: Oxford University Press, 1999), 5-9.

<sup>40</sup> Lewis, 13.

<sup>41</sup> Lewis, 12.

<sup>42</sup> Heyd, 10.

<sup>43</sup> Yılmaz Bingöl, "Revisiting Turkish Language Policy in Light of the Actors' Norms and Identity Models" (Ph.D. Thesis, Bloomington: Indiana University, 2002), 46.

<sup>44</sup> Lewis, 19.

in later years the battle was fought mainly between Simplifiers and Purifiers.

One major point of contention was which dialect of Turkish should be chosen as the standard vernacular. Şemseddin Sâmî, the author of the first Turkish dictionary, led the call for unification with eastern Turkic languages. He considered dialects like Kirgiz, Uzbek, and Tatar to be untapped resources for the true Turkish language. His very vocal opponents included some of the most influential nationalists of the time, however. Ziya Gökalp, widely considered to be the father of Turkish nationalism, and Ömer Seyfeddin were among the most recognized names. These two believed that Istanbul Turkish should be promoted as the common dialect, instead of what they considered to be the rural and primitive languages of Central Asia.<sup>45</sup> This view of the other Turkic languages made them unsuitable for the purpose of modernizing Turkish. The faction led by Gökalp and Seyfeddin expanded and became known as the Young Pens (Genç Kalemler) or, in a broader sense, the New Language Movement (Yeni Lisân Hareketi).<sup>46</sup> This group served as the launching pad for the institutional reforms of Mustafa Kemal's government.

### The Institutionalization of Language Reform

The position of the Young Pens was eagerly adopted by the nationalist reformers as they officially took the helm of the new republic in 1923. The division between radical purists and more moderate simplifiers persisted, but the government reached agreement on the following four points:

- 1) the Ottoman language was not sufficient for the needs of the modern world;
- 2) this language should be simplified and brought closer to the language spoken by the common people;
- 3) among the three languages that constituted Ottoman language, Turkish should be given preference; and
- 4) the language should be standardized with Istanbul vernacular as norm.<sup>47</sup>

The approach to these goals, however, was not agreed upon until over a decade after the republic was formed. Debates raged about whether words should be borrowed from Eastern Turkic languages, which Arabic and Persian loanwords should be allowed to remain, and how the eventual reformed language should be standardized.

The political and social reforms instituted by the new government showed a definite direction in which the leaders intended Turkish identity to progress. Mustafa Kemal and

his associates clearly wished to reorient Turkish society towards the West, as has already been discussed. Popular opinion largely supported this goal, but Islam was still a powerful force with which to contend. Rather than opposing the religion entirely, which would have been a dangerous move for a very new government of a society with strong historical ties to Islam, Kemal used subtler methods to secularize Turkish popular thought. The first language reforms reflect this attempt to distance Turks from Islam. In 1924, Kemal abolished the Caliphate, removing an influential authority in the Muslim community, and dissolved the medrese, thus laying the groundwork for the linguistic changes. As early as February of 1928, the Kemalist government passed a law requiring that the Friday sermon in all mosques be delivered in Turkish instead of the traditional Arabic.<sup>48</sup>

### Alphabet Reform

The next step away from Islam and the Middle East came just months after the sermon law, in the shape of alphabet reform. In June of 1928, as the theological faculty at the University of Istanbul published their recommendation that all religious services be conducted in Turkish, a committee was formed to compile a new script for written Turkish.<sup>49</sup> The Language Commission (Dil Heyeti) recommended the Romanization of Turkish because the Arabo-Persian script was ill-suited for the representation of Turkish pronunciation. While spoken Turkish had at least eight distinct vowel sounds, the traditional script had only three, leading to extensive confusion as to which word was actually intended by the spelling.<sup>50</sup> Mustafa Kemal's determined support for the action led the government to pass Law 1353 only six weeks after the Commission's recommendation, thereby officially changing to the Latin alphabet. Diverging from the Commission's prescribed implementation of the script, however, Kemal required that the change be completed in three months instead of ten years. To the astonishment of numerous skeptics, Kemal traveled around the country personally teaching the new alphabet to schoolchildren, and the transition was undoubtedly a success.

The new alphabet met with some opposition from conservative religious factions, for whom the Quran was only sacred in its original form, but the practical benefits of the reform, as explained above, convinced the majority of the population. Kemal made no pretense about his motivations; he wrote that "the picturesque involutions and intricacies of Arabic script afforded a psychological background to the Oriental mentality which stood as the real enemy of the Republic."<sup>51</sup> Another justification that strengthened his

<sup>45</sup> Bingöl, *Revisiting Turkish Language Policy*, 51.

<sup>46</sup> Bingöl, *Revisiting Turkish Language Policy*, 50.

<sup>47</sup> Bingöl, *Revisiting Turkish Language Policy*, 55.

<sup>48</sup> Lewis, 42.

<sup>49</sup> Heyd, 22.

<sup>50</sup> Lewis, 27.

<sup>51</sup> H.E. Wortham, *Mustafa Kemal of Turkey* (New York: William Edwin Rudge, 1930), 188-9, quoted in Yılmaz Çolak, "Language Policy and Official Ideology in Early Republican Turkey," *Middle Eastern Studies*. Vol. 40 Issue 6. (November 2004), 74.

cause was the fact that Turkic languages in Central Asia were adopting Latin script at the behest of the Soviet Union. The newly rediscovered sense of brotherhood between the Turks of Anatolia and those of Central Asia provided the reinforcement necessary for a fluid transition.<sup>52</sup> Western nations also recognized the alphabet reform as a move towards liberalization and modernity; The Times of London ran an editorial in 1928 praising the transformation of “a strange and isolated people” into a nation “closer to the West.”<sup>53</sup>

### *The Turkish Language Society*

As the country adjusted to its new way of writing, language reform slowed for a few years. By 1932, however, the momentum had picked up. This year was a significant one for the language reform movement; it saw the first Muslim call to prayer performed in Turkish instead of Arabic. Also, Mustafa Kemal created the Turkish Language Society (Türk Dil Kurumu, TDK) as a companion to the Turkish Historical Society (Türk Tarih Kurumu), formed the year before.<sup>54</sup> The first director of the TDK, Samih Rifat, was a staunch language purist, and although he died in the same year as the society’s creation, his position set the tone for the first years of the TDK.<sup>55</sup> Though moderate simplifiers, following the theories of Ziya Gökalp, had been the respected majority among those involved in language reform, the choice of Rifat as director of the TDK sparked a resurgence of the purist position. Through this selection, Mustafa Kemal indicated his support for the more radical reformers, who eagerly accepted the implicit charge to lead.

The main goals of the TDK, as determined by the First Turkish Language Congress in September 1932, were as follows:

- a) the collection and publication of the Turkish word-material present in the popular language and in old texts;
- b) the definition of the principles of word-formation in Turkish, and the creation of words from Turkish roots in conformity therewith;
- c) the suggestion and propagation of such genuine Turkish words as might replace words of foreign origin frequently used in Turkish.<sup>56</sup>

To further these ends, agents of the TDK enthusiastically began traveling the country, collecting words from other dialects, old tales, and every kind of Turkish vernacular. Hundreds of thousands of words poured in and were added to the thousands more being acquired by scholars from

medieval and ancient Turkish texts. Even greater numbers of words were created from Turkish roots or “proven” to be Turkish through pseudo-linguistic etymology. One Turkish lawyer wrote and lectured about how “Aphrodite” clearly originated from the Turkish word “avrat,” meaning “woman,” when in fact there is no credible link between the two.<sup>57</sup> These terms were compiled into a thesaurus of sorts, called the Tarama Dergisi, which listed 7,000 Ottoman words and over 30,000 possible Turkish replacements.<sup>58</sup>

This flood of synonyms caused more confusion than the purists had anticipated and hindered the usage of the Turkish words. No one knew which replacement to use or understood all of the words chosen by others. In the words of Uriel Heyd, “linguistic anarchy” threatened to overwhelm the reform movement.<sup>59</sup> Before the tide of purism was turned, however, radical political steps were taken to accompany the drastic linguistic measures. Religious attire was banned, mosques were closed, religious instruction was removed from school curricula, and the national day of rest was changed from Friday to Sunday.<sup>60</sup> These blatantly anti-Islamic policies linked naturally with the anti-Arabic language reforms.

As the chaos resulting from the abundance of replacement terms and synonyms became more evident, the trend towards radical purism began to fade. Speaking Turkish was nearly as much of a challenge as speaking several different languages within the same conversation; each word choice was guided only by the speaker’s preference, with no guarantee that the listener would even have encountered the selected word. To combat this problem, the TDK released the Pocket Glossary (Kılavuz), a collection of terms which the society felt were the most used or most appropriate substitutes for the old Arabic and Persian words. This publication changed the goal of the language reform; rather than creating a “pure” Turkish language, the TDK wanted to diminish the gap between written Turkish and the spoken vernacular.<sup>61</sup>

Mustafa Kemal viewed this shift in philosophy as something of a failure. Though he was renowned for his eloquence in Ottoman Turkish, the new language caused the same difficulties for him as for the rest of the population; his speeches show that he essentially surrendered to the logistics of the language and reverted to older words instead of complex neologisms. “One can only imagine his mortification after all the effort he had invested in the language reform,” but a new rallying cry soon saved the lagging language reform movement.<sup>62</sup>

<sup>52</sup> Yılmaz Çolak, “Language Policy and Official Ideology in Early Republican Turkey,” *Middle Eastern Studies*. Vol. 40 Issue 6. (November 2004), 72.

<sup>53</sup> Lewis, 38.

<sup>54</sup> Lewis, 46.

<sup>55</sup> Aytürk, 111.

<sup>56</sup> Heyd, 26.

<sup>57</sup> Lewis, 48.

<sup>58</sup> Heyd, 30.

<sup>59</sup> Heyd, 32.

<sup>60</sup> Heyd, 30.

<sup>61</sup> Heyd, 33.

### *The Sun Language Theory*

In 1935, almost simultaneously with the publication of the Pocket Glossary, a new linguistic theory found its way into Mustafa Kemal's hands. Dr. Hermann Kvergič, apparently a scholar living in Vienna and writing in French, had formulated a hypothesis that explained how Turkish was in fact the original language, the *Ursprache*, and that every other language in the world was actually based on it. This postulate relied on the assumption that ancient civilization had flourished in Central Asia, complete with its own primitive language, and that these people had then migrated throughout the world. Thus, every other language had developed from the roots brought from Central Asia by these prehistoric Turks. Mustafa Kemal adopted this theory wholeheartedly, even going so far as to write anonymous editorials "proving" the Turkish origins of many foreign words, which the leading newspaper published and which were traced to Kemal posthumously.<sup>63</sup>

The scientific basis of this theory was shaky at best and preposterous at worst. Some opponents argued that the Sun-Language Theory was nothing more than a convenient justification for the failure of language purification. The search for Turkish equivalents of common loanwords did subside considerably after the belief that those loanwords were Turkish in origin, and therefore acceptably pure, came into fashion.<sup>64</sup> Others opined that the hypothesis legitimized the increasingly popular pastime of creative etymology. Geoffrey Lewis states, after citing several examples of words purported to be traceable to Turkish, "These instances of the application of the theory...demonstrate the unscholarliness of the officers of the Language Society...who unblushingly delivered themselves of such drivel in public."<sup>65</sup> Nevertheless, the theory retained popularity, largely due to the involvement of Mustafa Kemal, who was later found to be instrumental in the actual formulation of the Sun-Language idea.

The nationalist implications of the Sun-Language Theory are clear; by proposing that Turks and the proto-Turkish language predate all other cultures and civilizations, the theory establishes a degree of superiority for the Turkish nation. Such an explanation may seem somewhat over the top, but for a society with an inferiority complex regarding the Westernized world, it provided exactly the support the Kemalists sought for requesting an equal footing with Europe. Shortly after this rather definitive proposal changed the tone of the language movement, Kemal's government directed its attention away from internal reform and towards the impending crisis in Europe that would become World War II. Thus, the fervor of language reform fell by the wayside for a time.

For the remainder of his time in power, Mustafa Kemal focused on the development of a new Turkish technical vocabulary, borrowing and naturalizing terms from European languages to replace the direct Arabic loanwords formerly used in mathematics and natural sciences. Though his attention to language policy never ceased, the radical attitude prevalent in the early years of the republic did not return until after Kemal's death. His successor, İsmet İnönü, reissued the call for purism in the Turkish language simultaneously with the passage of the most extreme secularist reforms yet. By 1941, the law prohibited the use of the Arabic call to prayer and increased the penalties for wearing headscarves and using the Arabic alphabet.<sup>66</sup> As Uriel Heyd states, "the course of the modern linguistic movement has been closely connected with the cultural and religious development of contemporary Turkey," indicating a relationship, arguably causal, between language reform and broader social and political policy.<sup>67</sup>

### **Implications for Modern Policy**

Over the decades between Mustafa Kemal's death and the current time, political attitudes in Turkey have experienced both extreme and moderate trends, as would be expected of any society. The 1940s saw a resurgence of Kemalist ideals in the form of secularism and language purism, and the 1950s experienced a renaissance of religious conservatism in response. The back-and-forth pattern that has emerged between Kemalism and Islamism reinforces Turkey's location on the border – both geographically and symbolically – between West and East. The Western intentions of the first administration have largely prevailed in the political sphere, as evidenced by Turkey's bid to join the European Community as early as the 1963, but recent years have seen the election of the first Islamist party since the birth of the republic.<sup>68</sup> Unexpectedly, however, the current Islamist administration and the Kemalist traditions hardly seem to clash in terms of policy outcomes.

Despite an election platform firmly opposing European integration, Recep Tayyip Erdoğan and his 'post-Islamist' Justice and Development Party (JDP) have made very clear their support for membership in the European Union since the administration change in 2002. While the Kemalist advocacy of such a measure is understandable due to the perception of "membership as 'an anchor' securing Turkish secularism against the 'pre-modern' manifestations of Islam in politics," the JDP's agreement on this issue is more difficult to explain.<sup>69</sup> One plausible hypothesis is that the attitude of Turkish Islamists, who can hardly bring themselves to accept that label and much prefer 'post-Islamist,' has been strongly influenced by the secular and nationalist

<sup>62</sup> Lewis, 56.

<sup>63</sup> Lewis, 58.

<sup>64</sup> Bingöl, Revisiting Turkish Language Policy, 81.

<sup>65</sup> Lewis, 63.

<sup>66</sup> Heyd, 37.

<sup>67</sup> Heyd, 22.

<sup>68</sup> Atila Eralp, "Turkey and the European Union." *The Future of Turkish Foreign Policy*. ed. Lenore Martin and Dimitris Keridis (Cambridge: MIT Press, 2004), 69.

policies of the past century. As an ideological minority, post-Islamists consider membership in the EU to be an assurance of the prevalence of democracy and pluralism in Turkish society; these ideals shared by Mustafa Kemal at the founding of the republic are now supported by the social faction most dangerous to Kemal's original cause.

Undoubtedly a number of social reforms were influential in shaping the nature of Islamism in Turkey, but the language reform and its direct impact on the practice of religion must have played a noticeable role. The notion of Turkishness is inherent even in Muslim prayers and sermons by virtue of the Turkish language being used in place of Arabic. Thus, nationalist sentiment is present even in the most traditional aspect of Turkish society, which is reflected by the conservative JDP's stance on issues like European integration. As Philip Robins argues, the nature of Islamism in Turkey, affected as it has been by the infiltration of nationalist principles into the deepest levels of social consciousness, results in a "more consistent and emphatic ... Turkish foreign policy."<sup>70</sup> In this context, Turkey does not merely straddle the divide between East and West, or traditional and modern, it synthesizes the two extremes.

### Conclusion

From the very nascence of the Turkish Republic, Mustafa Kemal Atatürk initialized a process of reform that would eventually encompass most aspects of Turkish society. In addition to the changes necessary to make a republic from a former empire, Atatürk took steps to alter the form of the Turkish language. First, he created the Turkish Language Society (TDK), composed of both professional linguists and laypeople, to guide the language reforms. Within a few short years, the Turkish language looked radically different from its Ottoman version. The TDK adopted the Latin alphabet to replace the traditional Arabo-Persian script, removed complex grammatical structures adopted from Arabic and Persian, and finally attempted to purge all loanwords taken from those two languages and replace them with etymologically correct Turkish neologisms. The success of this final step is debatable, since many of the new terms did not catch on as their creators expected. Nevertheless, Mustafa Kemal and his TDK certainly achieved their goal of a modern Turkish language independent from its former links with Arabic and Persian.

The democratization of an imperial system, the secularization of a strictly Islamic political and legal code, and the Europeanization of a language with strong historical links to other Eastern languages all played a role in the reorientation of Turkey. Each change represented a conscious effort to move Turkey towards the West, leaving behind Islamic tradition and archaic empires. While the changes in government were important for Turkish political life, the linguistic reforms infiltrated every corner of Turkish individual and national

consciousness. Linguistic theories justified political decisions; the Sun Theory gave the Turkish language credit for being the foundation of all other languages, both Eastern and Western, thus freeing Turks from any hereditary obligation to the older and supposedly wiser civilizations around the Persian Gulf. The newly rediscovered brotherhood between Turkish and the Turkic languages of Central Asia provided new allies, all of whom were experiencing a process of rebirth. On a deeper level, however, the language reforms changed Turkish society from within. The belief that Turkey could stand alone as a nation, that the values and words of the common people were worth elevation to national principle, that Islamic heritage and secular politics could be reconciled – all of these were at least enhanced, if not created, by the new language.

Along with the changes in language came changes in ideology. The president's pet project mobilized different factions of society and sparked a new debate about Turkish national identity. While an argument raged about the extent to which the language should be "purified," generally meaning how far it should be separated from other Middle Eastern languages, very little opposition was posed to the notion of linguistic reform, reflecting a general shift in Turkish social attitude. Unlike some revolutionary movements that spark, flame, and die within a few decades, the liberalization of Turkey easily made the jump from tinder to solid wood, the embers of which continue to smolder in Turkey's 21st-century policies. The tension between Turkey and the European Union has its roots in the Westernization policies of the early republic; Turkey continues the attempt to distance itself from the traditional Islamic Middle East by officially becoming part of Europe, but this step is meeting resistance from sources outside the apparent unity of domestic Turkish factions. The process that began in the early 1920s with internal upheaval is still felt today in Turkey's battle for recognition of its somewhat recently adopted identity.

While the true source of any nationalist movement is always debatable and is likely to be a conglomeration of many elements, the concept of language as a unifying factor is undoubtedly applicable to the new Turkish nationalism that resulted in the Republic of Turkey. The question of 'what if' – what if the Turkish Language Society had never existed, what if Turkish still relied on Arabic for its alphabet and vocabulary, what if language had not been used as a tool for reconstructing Turkish identity – can obviously never have a concrete and proven answer. Evidence suggests, however, that if any of these rhetorical questions were realities, modern Turkey would not face the challenges and opportunities that result from straddling the East-West divide in ideology as well as geography. Through the alteration of the language, Turkish consciousness and expression acquired a new direction, in which the nation has been proceeding ever since.

<sup>69</sup> Philip Robins, "Turkish Foreign Policy Since 2002: Between a 'Post-Islamist' Government and a Kemalist State," *International Affairs*. Vol. 83 Issue 2. (March, 2007), 293.

<sup>70</sup> Robins, 292.

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## Race, Religion, and Rhetoric: The Challenges of Depicting Genocide in Rwanda and Sudan

Rebecca Burns

Genocide analysis is, by nature, rife with racial implications. These implications can either be the unconscious result of an author's biases or the deliberate attempt of an individual or organization to advance its own agenda. The UN Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as acts committed "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group."<sup>1</sup> In addition to a number of recurring debates in international law about when it is appropriate to use this term, "genocide" has acquired a number of specific connotations in public usage. This is particularly evident in the cases of Rwanda and Sudan, the sites of conflicts that have widely invoked use of the word "genocide." These conflicts are generally portrayed as struggles between two racially distinct groups, the historical and biological truth of which is dubious. Such oversimplification of these situations is potentially dangerous, both because it can be used to serve any number of political interests and because it impedes a meaningful solution. However, without such simplicity, conflicts may fail to grasp international attention. Therefore, there is a constant tension in genocide analysis between the need to portray the conflict in simple enough terms to move public opinion and the need to accurately depict all aspects of the conflict so as to avoid potentially harmful implications.

This paper will examine the general trends in portrayals of the conflicts in Rwanda and Sudan. Coverage of Rwanda during its genocide often reduced the situation to inter-tribal fighting. This depiction not only failed to mobilize international action but implied that the killings were motivated solely by racial hatred rather than placing them within a more complex historical and political context. Furthermore, the frequent insertion of the word "tribal" into discussion implied that the two ethnic groups involved bore simplistic, senseless grudges against each other. Although there was a shift in the type of analysis produced after the end of the genocide, much of this analysis still failed to adequately address the political nature of the genocide and thus perpetuated some of the same implications. Invoking the failures in Rwanda, the United States in particular has turned its attention to the Darfur region of Sudan. However, this

attention may stem from more than an increased political will to stop another genocide. Both in Darfur and in an earlier conflict in South Sudan, outside political and religious groups, particularly in the US, were accused of simplifying and capitalizing on the situation for their own gain. Nevertheless, the increased advocacy for Darfur that has accompanied the involvement of such groups is constructive so long as the advocacy has no goal other than an end to genocide and the end that is brokered addresses the complex nature of the conflict.

There are two general models of explanation for the origins of ethnic conflict in Rwanda: that of "ancient tribal hatreds," and that of "colonial manipulation." The tribal hatred model, which portrays a backward people whose ancient feuds suddenly erupt into genocide, is essentially discredited in academia. However, it remains prevalent in popular conception and tends to work its way into media coverage. When asked about the violence in Rwanda, CNN's Gary Streiker reported that "what's behind the story is probably the worst tribal hostility in all of Africa, hostility that goes back centuries long before European colonization."<sup>2</sup> When Georges Nzongola-Ntalaja, an associate professor of African studies at Howard University, was interviewed on NPR, he blamed politics as well as ethnic hatred for conflict in Rwanda, asserting that "most of [the tribal violence] has been exacerbated by politicians hungry for power."<sup>3</sup> The interviewer, Daniel Zwerdling, responded, "Of course ... there is ancient ethnic hatred and something that surprises me is that you're blaming modern, contemporary African politicians."<sup>4</sup> While the idea of "ancient ethnic hatreds" may make for a simpler explanation or a sexier news story, it suggests a culture that is intrinsically violent, irrational, and unchanging.

The effect of this kind of analysis is to render genocide inevitable, the typical behavior of a primitive people. The words "ancient" and "tribal" work to reinforce this implication. This portrayal was used frequently while the Rwandan genocide was ongoing, with the result that the severity of the situation was minimized and therefore largely ignored. After the end of the genocide, when the international

<sup>1</sup> The United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide," Office of the High Commissioner for Human Rights, [http://www.unhchr.ch/html/menu3/b/p\\_genoci.htm](http://www.unhchr.ch/html/menu3/b/p_genoci.htm).

<sup>2</sup> Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002), 253.

<sup>3</sup> Power, 356.

<sup>4</sup> Power, 356.

community began to admit to the magnitude of the killings, more serious analyses were undertaken.

Sometimes, however, the “tribal hatreds” model can work its way into formal analyses in subtler forms. In his essay, “Obedience in Rwanda: A Critical Question,” Barrie Collins criticizes historians who advance what he calls the “killer culture” theory. This theory suggests that Rwandan society was predisposed to genocide because of a “culture of obedience” that had existed for centuries. Proponents of this theory are generally individuals or groups who reject the “tribal hatreds” model as racist, but, Collins suggests, propagate some of this theory’s implications nonetheless. He notes, “It appears that as long as the term culture is used, the charge of racism is unwarranted ... For these authors, this socially constructed ‘killer culture’ has nothing to do with the imperialist discourse of ancient tribal bloodlust.”<sup>5</sup> This “imperialist discourse” is clearly present in discussion of “ancient tribal hatreds,” but Collins asserts that it is also insinuated in the “killer culture” theory. Although proponents usually reject the idea of spontaneity and stress that the “killer culture” was manipulated by extremists, there is still the suggestion that such violence was culturally embedded. Noted historian Gerald Prunier claimed that “the main colouration of the impeding violence was deeply Rwandese, deeply embedded in the ambiguous folds in the national culture.”<sup>6</sup> Such assertions, Collins insists, amount to a claim that Rwandan society, and, particularly Rwandan Hutus are still fundamentally different and dysfunctional.<sup>7</sup> This claim is both unfair to Rwandans and potentially dangerous in that it blindsides the international community to the possibility of genocide in other societies.

The other model, that of colonialist manipulation, is undoubtedly more historically accurate. However, just as the tribal hatreds model suggests cultural simplicity, the colonial manipulation model, when used as a sole explanation, suggests mental simplicity. While the categories of Tutsi and Hutu were used for control by the colonial government of Rwanda, Rwandans did not merely embrace these identities wholeheartedly and unquestioningly. They had an active part in shaping these identities and often did so with understanding of the advantages that could be won by embracing a particular identity. In her article, “The Ideology of Genocide,” Allison Des Forges asserts that although the Europeans brought a new form of racial classification to Rwanda, the Tutsi had an active role in manipulating these prejudices to their benefit. According to Des Forges, the population that is now referred to as the Tutsi was a sort of

aristocracy before the colonization of Rwanda, but it was by no means a racially distinct group. Rather, it was comprised of individuals of a number of different lineages who considered themselves superior based on ownership and on agricultural and pastoral knowledge. Hutus were also an extremely heterogeneous group, and the distinction between the two remained fluid.<sup>8</sup>

Europeans imposed the idea of two homogeneous groups and ascribed racial and intellectual characteristics to support their conception of the Tutsis being closer to Europeans and therefore superior.<sup>9</sup> Although this was an almost entirely European concept, the Tutsi quickly realized the advantages to it. Des Forges explains that “not only did [the Tutsi] use European backing to extend their control over the Hutu - whose faults they exaggerated to the gullible Europeans - they also joined with the Europeans to create the ideological justification for this exploitation.”<sup>10</sup> The role of the Tutsi in preserving their superiority is important not so much in implicating the Tutsi, as any advantaged group would naturally want to preserve its advantage, but in demonstrating that Rwandans were not simply a witless, helpless population preyed upon by colonists. The Europeans undoubtedly created the division that would lead to genocide, but considering the decades of largely autonomous interaction between these groups is also crucial to understanding the genocide.

This interaction is particularly important when considering the actual perpetration of the genocide. Post-independence politics are often simplified or largely glossed over, perhaps out of an underlying fear that illuminating the crimes of the older generations of Tutsis could be construed as “blaming the victim.” The alternative, however, may be worse. One common narrative of the events of 1994 is that of a “descent into madness,” directed by a few demonic figures but otherwise inexplicable. In her review of five books on the Rwandan genocide by noted groups and authors, Villia Jefremovas concluded that “because [the authors] have all justifiably tried not to ‘blame the victim,’ ... they have emphasized only certain elements of the historical record. This had the effect of rendering the twists and turns which led up to the genocide incomprehensible.”<sup>11</sup> Although interpretation of the genocide as the fault of the Tutsis must obviously be avoided, an interpretation of the genocide as inexplicable is perhaps equally undesirable. This interpretation both reinforces the tribal hatreds model and transforms the entire Hutu population into a hateful, illogical group of killers.

<sup>5</sup> Barrie Collins, *Obedience in Rwanda: A Critical Question* (Sheffield: Sheffield Hallam University Press, 1998), 7.

<sup>6</sup> Collins, 6.

<sup>7</sup> Collins, 6.

<sup>8</sup> Allison Des Forges, “The Ideology of Genocide,” *Issue: A Journal of Opinion* 23, no. 2 (1995): 44.

<sup>9</sup> Des Forges, 44.

<sup>10</sup> Des Forges, 44.

<sup>11</sup> Villia Jefremovas, “Traacherous Waters: The Politics of History and the Politics of Genocide in Rwanda and Burundi,” *Africa: Journal of the International African Institute* 70 (2000): 301.

In addition to being racist, such thinking has had problematic effects in post-genocide Rwandan politics. The Rwandan Patriotic Front, an army composed mainly of Tutsi who had left the country during previous conflicts, killed thousands of civilians when it returned to Rwanda and established control over the country.<sup>12</sup> Although many of these civilians were killed in the course of combat, hundreds were killed after combat in what was a clear violation of international law.<sup>13</sup> This is downplayed to an overwhelming extent in analyses that portray the RPF as the liberators of the Tutsi people. In such analyses, the actions of the RPF are wholly justifiable because they are changing the status quo and saving Rwanda from either the instinctually murderous Hutus or the culture of confusion and disorder. Hundreds of thousands of Hutus fled in response to rumors of RPF atrocities and took refuge in camps in Tanzania and Zaire. There was an assumption, however, that these refugees were less deserving of aid than Tutsi survivors of the genocide. When vast numbers of Hutus refused to return home, the assumption became that they were avoiding justice. The United Nations High Commission for Refugees instituted an “aggressive returns policy” in which it invaded and closed forty camps in what was then Eastern Zaire.<sup>14</sup> Although the situation was desperate, and it was impossible to tell how many of the refugees were actually guilty, it seems incredible that the UN would sanction refugees as military targets. The widespread acceptance of the absolute guilt, even dementia, of the Hutus as a group made this decision possible and has left it largely unquestioned.

Such assumptions also gave the new RPF government almost unlimited license. The first open elections were not held until 2003, nearly ten years after the genocide ended, and former RPF commander Paul Kagame retained political control after these elections. A report by the International Crisis Group in 2001 expressed concern that views of the RPF as “liberators” had led to “an implicit international consensus which gives the RPF almost unlimited time to achieve its proclaimed goals.”<sup>15</sup> The focus on the RPF’s policies of ethnic reconciliation often overshadow the fact that political opponents and large numbers of Hutu remain exiled, and that internal criticism is not tolerated. The unmitigated acceptance and wide financing of the RPF’s policies by the international community<sup>16</sup> demonstrate the continued misunderstanding of the nature of the Rwandan genocide. There seems to be an assumption that Rwanda is simply too dysfunctional for open democracy, that ethnic hatreds run too deep. An article in *The Economist* argued

that “For Tutsis, democracy means death.”<sup>17</sup> Simplifications of the genocide perpetuate the idea of Rwandan society, particularly Rwandan Hutus, as deeply flawed and therefore dependent on the RPF. Analyses of the Rwandan genocide must instead clearly denounce the killers while explaining their crimes in a historical background. Genocide, while shocking and unconscionable, must also be portrayed as predictable, or at least explicable. Otherwise, societies that have been the site of genocides will be labeled as intrinsically different, and the assumption that genocide will not occur in other societies will persist.

This unwillingness to accept the existence of genocide is a historical trend. Thorough post-genocide analyses should contribute to an understanding of the factors that can lead to genocide and the warning signs that it is about to occur. However, thorough analyses during a genocide can soften the sense of urgency. The audience of the nightly news is not generally compelled by lengthy historical background and political context, even if this is necessary to understanding the situation. Therefore, along with all the problems caused by oversimplification of Rwanda, one must also consider the fact that if a genocide is portrayed in overly complex terms while it is occurring, it will be dismissed as civil warfare and ignored by the international community. It is already extraordinarily difficult to muster the political will to use the word “genocide” because of its legal and moral implications. Power argues that even when faced with clear indicators that genocide is taking place, “officials spin themselves about the nature of the violence ... They render the bloodshed two-sided and inevitable.”<sup>18</sup> During the early months of Rwanda, this tendency manifested itself in what Power calls “a two-month dance to avoid the g-word.”<sup>19</sup> Americans officials, particularly, used such phrases as “acts of genocide,” but refused to respond when asked how many acts of genocide it would take to make a genocide.<sup>20</sup> Thus, the urgency of Rwanda was largely lost, obscured by irresponsible stereotypes and deliberately inefficient bureaucracy.

It is almost tempting, therefore, to argue that coverage during a genocide should have the purpose of urging action and coverage after a genocide should offer more complete analysis. However, it is extremely unlikely that such a policy would ever produce meaningful solutions. This is somewhat evident in Sudan, where the religious and racial divisions between opposing groups have been simplified, amplified, and, many would say, exploited for political reasons. This began long before the rebel insurgency that prompted the

<sup>12</sup> Des Forges, 44-47.

<sup>13</sup> Des Forges, 47-47.

<sup>14</sup> Collins, 17-20.

<sup>15</sup> The International Crisis Group, “‘Consensual Democracy’ in Post Genocide Rwanda: Evaluation the March 2001 Elections,” <http://www.crisisgroup.org/home/index.cfm?id=1647&l=1>.

<sup>16</sup> The International Crisis Group, <http://www.crisisgroup.org/home/index.cfm?id=1647&l=1>.

<sup>17</sup> “Spreading Poison in the Great Lakes: the Hutu-Tutsi Divide,” *Economist* 346 (1998): 46.

<sup>18</sup> Samantha Power, xviii.

<sup>19</sup> Power, 359.

<sup>20</sup> Power, 364.

Darfur genocide in 2003. South Sudan was the site of a devastating civil war, which some would call genocide, that ended only in 2005.

Religious groups, particularly evangelicals, were extremely active in pressuring their governments to broker a peace deal, but also received criticism for over-stating the role of religion in the war. The war is generally classified as a power struggle between the Arab, Muslim north and the indigenous African, Christian and animist south. In a Minority Rights Group International report, however, researcher Peter Verney questions this dichotomy, asserting that “this simplistic perception disguises the complexities of a war fought by multi-ethnic groups where religious differences colour struggles over access to land or political power.”<sup>21</sup> The emphasis of religious conflict is in some ways another form of the tribal hatreds model; it suggests that the people of Sudan define themselves entirely by their religious affiliation and that this affiliation necessarily draws them into inevitable conflict. Neither this nor the colonial manipulation model provides a complete explanation for the war. British colonialism united very different regions in Sudan and left them to function as one country upon independence. It also attempted to turn South Sudan, which had previously had little political or cultural unity, into one administrative region.<sup>22</sup> However, like the Rwandans, the Sudanese were not passive receivers of their new identities; they reshaped or emphasized them to their own advantage. To suggest that the war became inevitable when the British invaded, or even when Muslims began proselytizing in northern Sudan, is to understate both the role that post-independence politics have played and the intelligence of the Sudanese. In this sense, analyses of the civil war in Sudan bear resemblance to those of the genocide in Rwanda.

In another sense, however, it seems that the implications made in analyses of Sudan are intentional rather than an unconscious result of the author’s bias. Sudan marks a departure from Rwanda in that it has captivated the attention of groups and individuals outside of the human rights community. Years before the conflict in Darfur began, reports of slave raids against Christian villages in the south caused a stir among Christian groups in the United States and Europe. In a process called “slave redemption,” groups such as Christian Solidarity International, a British-based non-profit organization, use donations to “buy back” the freedom of slaves through local middlemen. This process is controversial both because there is no proof that the individuals being “freed” were actually slaves and because the price of freedom could simply be used to conduct more

raids.<sup>23</sup> However, some reputable organizations do give credence to this process.

More outlandish is the participation of such individuals as Rev. Franklin Graham, son of famed TV evangelist Billy Graham. During a visit to Lui in South Sudan, Graham brought a TV crew with him, apparently to document what he saw in order to enlist the help of other American Christians:

“This country has declared a Jihad (Islamic holy war) on its own people. It’s wrong. It’s wicked. And it’s evil. For me as an outsider, the freedom of worship seems the main issue. Instead of being converted to Islam, these people have decided to fight. It is David against Goliath. As soon as I get back I’m going to share what I’ve seen here. Khartoum should be hit with the full force of American military strikes. Why not? These people are just as evil as Saddam Hussein”<sup>24</sup>

Ramadan Yasin, a relief worker in Southern Blue Nile Province, feared such aggressive evangelism, explaining that “Our area was in harmony, now people are hating Islam. We don’t want people to disturb the peace.”<sup>25</sup> A report by Anti-Slavery International to the UN Commission of Human Rights expressed similar concerns: “Unless accurately reported, the issue [of slave raids] can become a tool for indiscriminate and wholly undeserved prejudice against Arabs and Muslims.”<sup>26</sup>

Nevertheless, the Christian right is sometimes credited with helping to end the war in South Sudan. In his book, “Freeing God’s Children: The Unlikely Alliance for Global Human Rights,” Allen Hertzke, an author on religion in US foreign policy, describes the “unheralded story” of the joint effort between evangelicals and Jewish groups that pressured the current Bush administration to take an active role in negotiating the north-south peace accords. The peace deal was negotiated between the government and the major rebel group in the south, thus capitulating to the external idea of a north-south war and failing to include many of the rebel groups not aligned with the major group in the south.<sup>27</sup> Despite such simplifications, if the peace deal is successful, the Christian groups who advocated for it will deserve praise. If, however, the peace deal fails and religious and ethnic conflict increases, this will suggest the destructive potential of advocacy from groups with a limited or slanted understanding of the conflict.

Although the groups targeted in Darfur are Muslim rather than Christian, the influence of the Christian right on the

<sup>21</sup> Peter Verney et al., *Sudan: Conflict and Minorities* (London: Minority Rights Group, 1995), 5.

<sup>22</sup> Verney, 11.

<sup>23</sup> Human Rights Watch, “Slavery and Slave Redemption in Sudan,” <http://www.hrw.org/background/africa/sudanupdate.htm>.

<sup>24</sup> Matthias Muindi, “Christian Right May Inflamm War, Observers Fear,” *AfricaNews*, May 2001 <http://lists.peacelink.it/afrinews/msg00247.html>.

<sup>25</sup> Muindi, <http://lists.peacelink.it/afrinews/msg00247.html>.

<sup>26</sup> Peter Verney, “Slavery in Sudan,” *Sudan Update and Anti-Slavery International* (London: 1997).

<sup>27</sup> Howard LaFranchi, “Evangelized Foreign Policy?” *Christian Science Monitor*, March 2, 2006.

issue has been considerable. The Christian Science Monitor cited increased calls for stronger intervention in Darfur as “the most recent evidence of evangelical influence in US foreign policy” and attributed this new political will largely to Michael Gerson, a Bush policy adviser and speechwriter who helped coin the “axis of evil” phrase and who himself is a member of an evangelical Episcopal Church.<sup>28</sup>

While such powerful and well-connected groups are able to bring attention to Darfur, there is also the danger that they will focus on the aspects of the conflict that interest them rather than on a holistic solution. For some evangelical groups, Darfur represents an opportunity to expand their mission work from South Sudan. William Chancey, director of the Persecution Project, described in an interview with Mission Network News the “opportunities” that Darfur provided for ministry, noting that “if [the humanitarian mission] is effective, it can’t help but have an impact on evangelism.”<sup>29</sup> Such attitudes touch on an intersection of evangelism and humanitarianism that many secular humanitarian groups would most likely find problematic and that, certainly, call into question how much involvement is prompted by ulterior motives. However, this case is the exception rather than the rule; the humanitarian response of the faith community has generally been earnest and magnanimous.

More serious than the influence of evangelical groups is the concern that condemnation of atrocities in Darfur fit into a larger anti-Arab campaign. Israel has been somewhat vocal in denouncing these atrocities, but certain journalists have done so as part of a larger denunciation of “Arab goals.” A journalist for the Jerusalem Post wrote that Darfur “is the consequence of a deep, far-reaching version of ethnocentric Arab nationalism,” adding that “it is in this context that the deep unwillingness to accept the legitimacy of Israel has to be understood.”<sup>30</sup> This is an extreme example, but the government of Sudan, particularly, tries to frame criticism of its Darfur policies along the lines of anti-Arabism. Although this is in most cases a shameful attempt to divert pressure and lobby against actual action, it is still of concern whether the charge of anti-Arabism is sometimes true, and whether certain countries or populations perceive it to be true.

The African-Arab division in Darfur is essentially invented. This invention has been a back-and-forth process between internal and external factors: the labels of “African” and “Muslim” were constructed externally but adopted internally because of their political advantages, which in turn has led to more widespread external use and more

acceptance of the terms internally. Sudan researcher Alex de Waal explains that,

“First to embrace an externally-constructed ethnic label were some of Darfur’s Arab Bedouins, who lived in Libya and served in Gaddafi’s ‘Islamic brigade’. They found that the label ‘Arab’ was a useful political tool, buying them identity and solidarity in Libya and also in Khartoum. In response, educated young men from Darfur’s non-Arab groups - principally Fur, Masalit and Zaghawa - found the label ‘African’ in use by the Southerners and especially the SPLA leader, John Garang, who sought to build a non-Arab majority coalition across Sudan. Political Arabism is therefore fairly recent in Darfur, and political Africanism an elite construction of just a few years’ vintage.”<sup>31</sup>

However, the African-Arab dichotomy is prevalent in the news and could well be a factor in the frequency with which Darfur is covered compared to conflicts in the eastern Congo and northern Uganda that are similar in scale. Mahmood Mamdani, a professor in the Institute of African Studies at Columbia University, asks, “Does the label [of Darfur as] ‘worst humanitarian crisis’ tell us more about Darfur or about those labeling and the politics of labeling?”<sup>32</sup>

The role of the United States in Darfur is particularly precarious because of its “war on terror” and perceived anti-Arabism. Its support for Israel and the Bush administration’s close relationship with the Christian right have made Darfur a more politically salient topic, and the level of public pressure to take action in Darfur has far exceeded that which existed during Rwanda, when one Congresswoman claims to have received far more calls from her constituents about endangered Rwandan gorillas than about Rwandan victims of genocide.<sup>33</sup> However, some political scientists have suggested that the Bush administration’s policy on Darfur, which has been far more rigorous than any other government’s, is influenced more by the political convenience of the Arab-African dichotomy than by the efforts of the American public.

The use of the word “genocide” by the US is particularly controversial. Although a score of human rights and humanitarian groups have also used the term, it has been notoriously absent from the rhetoric of most major governments. The UN published a report in January of 2005 explicitly stating that genocide had not occurred, although it acknowledged that crimes against humanity that could be equal in scale to genocide had occurred.<sup>34</sup> Four months before this report, however, Colin Powell issued a statement that “genocide has been committed in Darfur, and the

<sup>28</sup> La Franchi.

<sup>29</sup> “Christians Need to Remember Sudan Crisis Continues,” *Mission Network News*, October 25, 2005.

<sup>30</sup> Shlomo Avineri, “Exposing Arab Goals for What They Really Are,” *The Jerusalem Post*, August 3, 2004.

<sup>31</sup> Alex De Waal, “Darfur,” *Z Net News*, February 11, 2005.

<sup>32</sup> Mahmood Mamdani, “Naming the Crisis in Darfur,” *Z Net News*, November 18, 2004.

<sup>33</sup> Power, 375.

<sup>34</sup> “UN ‘Rules Out’ Genocide in Darfur,” *BBC News*, January 31, 2005.

<sup>35</sup> Colin Powell, “United States Department of State. Testimony before Senate Foreign Relations Committee: Sudan,” September 9, 2004.

government of Sudan and the Jingaweit bear responsibility.”<sup>35</sup> The Bush administration was under fairly intense political pressure at this point; Congress had issued a resolution declaring that the killings in Darfur were genocide in July of the same year, and a growing interfaith and student movement was demanding a genocide pronouncement. However, Sudan researcher Alex de Waal insisted after Colin Powell’s genocide determination that “the fact that the group labeled as genocidaires in this conflict are ‘Arab’ is no accident . . . It has special saliency in the shadow of the US’ global war on terror.”<sup>36</sup> The lack of action in the wake of the genocide pronouncement was also disturbing, both because it decreased the significance of the term and because it suggested that the motives behind the pronouncement were indeed insincere. More than a year after Powell’s pronouncement, the Guardian’s Jonathan Steele insisted that “Washington’s lack of follow-through showed that . . . the genocide finding was a sop to the Christian right and anti-Islamist neocons.”<sup>37</sup>

It is not inherently problematic that special interest groups influence action more than do ordinary citizens; this is an extremely common trend in politics. However, Steele’s statement brings into light a larger problem with such influence. Policy that is enacted solely for the saving of political face is unlikely to effect meaningful change. Similarly, a shallow understanding of the Darfur crisis, even if it is politically expedient, will not solve what is truly a complex problem. While it may be acceptable for the general public to care about Darfur simply because unspeakable atrocities are being committed there, it is vital that the leaders of the international community seek a more nuanced understanding.

This said, the involvement of specific constituencies not traditionally involved in human rights should be welcomed, although cautiously. A simplistic understanding of the issue, when accompanied by sincere concern, can be the impetus for leaders to seek a more complex solution. Genocide is an emotional issue, and it is natural to relate to one aspect of the Darfur tragedy and become engaged because of this connection. The Jewish community often cites the Holocaust as its reason for taking action on Darfur, and parents often say that they feel compelled when they think of their own children in such a situation. Associations such as these, while they do not contribute to a deep understanding of the issue, empower people to take action in a way that is most meaningful to them. Such action only becomes detrimental when it detracts from a complete solution or enforces negative stereotypes, either about specific groups involved in the situation or larger groups with whom they may be associated. If action on Darfur becomes characterized by a significant part of the international community as aggression against Muslims or Arabs, any chance for peace in Sudan will likely be lost. Similarly, if Darfur becomes character-

ized as an example of the evils of Muslims or Arabs, chances for peace in other parts of the world could be seriously damaged. Islamic fundamentalists could use Darfur as the newest example of Western aggression to gain recruits, and anti-Islamists could use Darfur to justify discrimination and oppression. Thus, if Darfur is handled incorrectly, it could have much wider implications. It is imperative that portrayals of Darfur, while conveying the urgency of the situation, remember these caveats.

However, when comparing the example of Darfur to that of Rwanda, the former generally seems to benefit from the involvement of groups like evangelicals and neoconservatives. Urgency was something that was simply lost in portrayals of Rwanda during the genocide, obscured by rhetoric of ancient hostility and tribal hatreds. In Darfur, such stereotypes have actually functioned to promote a sense of urgency. Specific groups have been captivated by either the Christian-Muslim portrayal of the north-south war or the Arab-African depiction of the Darfur genocide. Although this is extremely unfortunate when considering the number of nearby conflicts that are largely ignored, it is not inherently negative for the people of Darfur. Such involvement becomes more precarious when groups utilize the situation in Darfur to promote broader stereotypes, particularly about Arabs and Muslims.

Ideally, depictions of genocide should be given as accurately and completely as possible, walking a thin line between clearly placing blame and allowing this blame to suggest something about the biological or cultural nature of the perpetrators. However, post-genocide works on Rwanda illustrate that the involvement of academics does not necessarily result in clearer or less biased analysis; racial and cultural implications are still made, and these implications can have lasting effects. Therefore, it would be unwise to discredit the vast array of groups not traditionally connected with academia or human rights advocacy who have aligned themselves behind the Darfur cause. It will ultimately take a broad-based coalition to muster the political will to stop genocide, and many groups have seemingly become involved not because of some specific aspect of the victims’ or killers’ identities, but because of the horrific nature of the atrocities. In addition to speaking to the politicized nature of the Darfur crisis, the wide involvement speaks to a deep desire to believe that the phrase “never again” is more than an empty promise. Although Darfur presents an extremely difficult political challenge, especially for the United States, it also presents a historic opportunity to stop an ongoing genocide and let the would-be victims tell their own story rather than relying on reconstructions that perpetuate misunderstanding.

<sup>37</sup> Jonathan Steele, “US Neocons, Christian Right, and Sudan Conflicts,” *The Guardian*, October 8, 2005.

<sup>36</sup> De Waal, “Naming the Crisis in Darfur.”

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# The Lack of Government Success in Reducing East German Unemployment: Analysis and Explanations

Tamara Polyakova

## Introduction

Germany is one of the world's highly developed industrial nations and the third largest economy after the United States and Japan.<sup>1</sup> One of the founding members of what today has become the European Union (EU), it is currently the Union's most important market.<sup>2</sup> With an export volume equaling one third of its gross domestic product (GDP), Germany is the biggest exporter of goods worldwide.<sup>3</sup> In 2004, industry accounted for 84 percent of its national exports, making Germany one of the world's largest and most technologically advanced producers of iron, steel, coal, cement, chemicals, machinery, vehicles, and electronics.<sup>4</sup> Successful fiscal and monetary policies ensure a stable and low inflation rate, which has been key to attracting foreign investment.<sup>5</sup> Overall, it is hard to overestimate Germany's role in the world trade and economy.

For the last two decades, however, the unusually high and persistent unemployment levels have been a major obstacle to Germany's superior economic performance.<sup>6</sup> Unemployment is not uniform; in fact, there exists a clear distinction between eastern and western Germany. Since the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR) reunited on October 3, 1990, unemployment in the east has been about twice as high as in the western part of Germany – an average of about 8 percent in the west compared to 18 to 20 percent in the new Bundesländer.<sup>7,8</sup> High levels of unemployment have caused a number of negative consequences for unified Germany – from political and economic to social. The rise and strengthening of both right- and left-wing political parties, the impoverishment of the population, and the persistent economic gap between eastern and western Germany are just a few of such consequences.

Unemployment has slowed down the economic performance, affected national elections, and conditioned the persistence of the rift between capitalist west and formerly socialist east.<sup>9</sup> Why has eastern German unemployment remained persistently high? Why are there no visible results of the eastern and western labor markets' integration with respect to unemployment, even almost twenty years after unification? And most importantly, why has the government of Germany not solved the problem of high unemployment through policies such as job creation, job training, implementation of an earlier retirement age, or others? This paper will suggest answers to these questions through the following structure. First, I will describe the expectations of eastern Germany's post-unification economic transformation and outline the general process of transition from planned to market economy, experienced in different degrees of intensity by all former members of the socialist bloc. I will then contrast the labor markets of the GDR and the FRG and describe the structure of unemployment in eastern Germany. The next section will focus on the effects of unemployment on the nation's economy, politics, and society, and compare East German labor market transformation to that of other socialist economies. Finally, I will outline some of the causes that could have contributed with different intensity to the condition of East German unemployment and conclude with a suggestion as to why the government of the unified Germany has not been successful in reducing unemployment in eastern Germany.

## Unified Labor Market: Expectations and Reality

The expectations of economic returns from German unification were high.<sup>10</sup> Both the FRG and the GDR had played an important role in their respective economic environments – West Germany's economic system was considered one of the most respected in Europe and the

<sup>1</sup> "Total GDP 2005," World Development Indicators Database, World Bank, July 1, 2006, <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf>.

<sup>2</sup> Thomas Straubhaar, "Germany as an Economic Hub," in *Facts About Germany*, <http://www.tatsachen-ueber-deutschland.de/index.php?L=1>.

<sup>3</sup> Straubhaar, [www.tatsachen-ueber-deutschland.de](http://www.tatsachen-ueber-deutschland.de).

<sup>4</sup> "Germany," in *The World Factbook*, <https://www.cia.gov/cia/publications/factbook/geos/gm.html>.

<sup>5</sup> Straubhaar, [www.tatsachen-ueber-deutschland.de](http://www.tatsachen-ueber-deutschland.de).

<sup>6</sup> Thomas Lange and J.R. Shackleton, "The Labor Market in Post-Unification Eastern Germany," in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 95.

<sup>7</sup> Bundesland (plural Bundesländer), German federal units.

<sup>8</sup> *Statistisches Jahrbuch* (Statistisches Bundesamt Deutschland, 2006), 91.

<sup>9</sup> See, for example Hermann Kurthen and Michael Minkenberg, "Germany in Transition: Immigration, Racism and the Extreme Right," *Nations and Nationalism* 1 (1995).

<sup>10</sup> See, for example, Jerald Schiff et al., *Labor Market Performance in Transition* (International Monetary Fund: Washington, D.C., 2006).

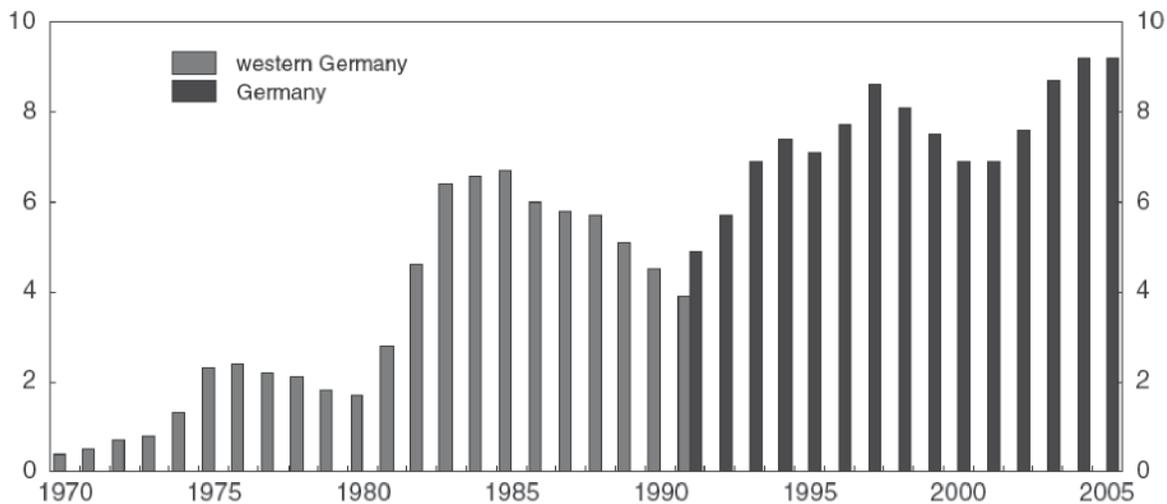
world, and East Germany was the main supplier of advanced industrial equipment to the COMECON<sup>11</sup> markets.<sup>12</sup> A bright economic future seemed to be waiting ahead, which led the Chancellor of the unified Germany, Helmut Kohl, to proclaim in a speech to the Bundestag in 1990: “Only the unification will give us the chance to turn Mecklenburg-Vorpommern, Sachsen-Anhalt, Thüringen, Brandenburg and Sachsen<sup>13</sup> into blooming landscapes, where it is worthwhile to live and work.”<sup>14</sup>

An initial rise of unemployment had been predicted, but then the quick, market-driven reallocation of resources was expected to lead to a rapid decline in unemployment and a sharp surge in productivity.<sup>15</sup> The following three-stage development of unemployment in transition has been suggested by the International Monetary Fund economists: (1) initial period of declining employment due to job destruction in the public sector; (2) further falling of employment, compensated by a rise in productivity signifying the expansion of the private sector; and (3) the

rise of employment due to job creation in the public sector.<sup>16</sup> Overall, therefore, East German citizens were prepared for some economic stagnation, but they expected it to be temporary and soon overcome by fast economic growth.

However, the actual effect of the German unification has been very different from the one that was expected. Employment diminished dramatically – from 1989 to 1991 the workforce declined by almost three million people,<sup>17</sup> partially due to the emergence of previously hidden unemployment, but most significantly due to early retirement and discouragement resulting from the inability to find work.<sup>18</sup> Unemployment, on the other hand, rose to 43 percent by some accounts – a value almost unprecedented in developed nations.<sup>19</sup> Furthermore, the output declined dramatically – production of goods dropped to 46 percent of its pre-unification level,<sup>20</sup> and industrial sector jobs were cut by half.<sup>21</sup> These labor market developments, coupled with a sharp rise in consumer prices,<sup>22</sup> caused strong public dissatisfaction with the effects of unification.<sup>23</sup>

Figure 1: The Development of Unemployment in West and the United Germany (Unemployment as Percent of Labour Force)



Source: “Germany,” *OECD Economic Survey*, Volume 2006/8, May 2006, 29.

<sup>11</sup> Council for Mutual Economic Assistance, established in January 1949 to facilitate and coordinate the economic development of the eastern European countries belonging to the socialist bloc. Comecon’s members were the Soviet Union, Bulgaria, Czechoslovakia, Hungary, Poland, Romania, Albania, German Democratic Republic, Mongolian People’s Republic, Yugoslavia, Cuba, and Vietnam. For more information, see, for example, “COMECON,” *Encyclopædia Britannica Online*, <http://www.britannica.com/eb/article-9054503/Comecon>. <sup>12</sup> “Germany,” *Encyclopædia Britannica Online*, <http://search.eb.com/eb/article-233610>.

<sup>13</sup> East German federal units, the new Bundesländer.

<sup>14</sup> “Blühende Landschaften oder Zukunft Ost heißt Urwald,” MDR, May 4, 2004, <http://www.mdr.de/artour/archiv/1326250.html>.

<sup>15</sup> Schiff et al., 1.

<sup>16</sup> Schiff et al., 30-31.

<sup>17</sup> Conny Wunsch, “Labour Market Policy in Germany: Institutions, Instruments and Reforms since Unification,” Discussion paper no. 2005-06 (St. Gallen: University of St. Gallen, 2005) 6.

<sup>18</sup> Jürgen von Hagen, “East Germany,” in *Going Global. Transition from Plan to Market in the World Economy*, ed. Padma Desai (Cambridge: MIT Press, 1997), 194, 197.

<sup>19</sup> K.H. Domejay, “Privatization in the New Bundesländer: A Critical Assessment of the Treuhand,” in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 54.

<sup>20</sup> Wunsch, 6.

<sup>21</sup> Lange and Shackleton, “The Labor Market,” 89.

<sup>22</sup> von Hagen, 190.

<sup>23</sup> von Hagen, 186.

To understand why these labor market shocks occurred, we need to understand the differences between employment structures in the two countries. In the GDR, just as in any member of the socialist bloc, employment was guaranteed in the nation's constitution.<sup>24</sup> Unemployment was therefore nonexistent, which created a certain stability for the population – it was almost impossible to be fired, and even if that happened, a new job would have been found by the system. Of course, this approach created great inefficiencies in the market, such as reduced competitiveness.<sup>25</sup> By contrast, the labor market of western Germany was much like a western labor market of today – competition and productivity were oriented and judged by market criteria rather than social demands. West Germany's unemployment rate before unification fluctuated between 4 and 6 percent (see Figure 1) – a value that can be considered a market's natural unemployment rate.<sup>26</sup>

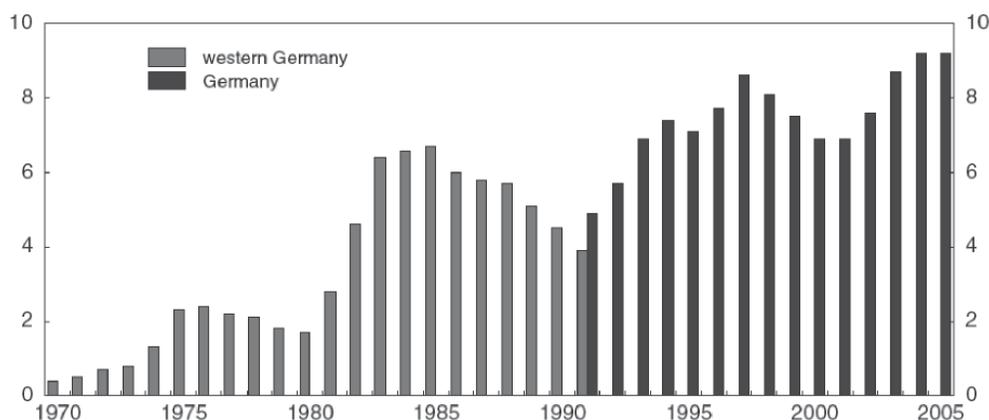
Due to these distinct differences between the structure of east and west labor markets, there was a significant personnel problem in the east. In the GDR, there were skilled workers and technicians, but few entrepreneurs,

managers, and lawyers – professions that are highly demanded in a market economy.<sup>27</sup> Furthermore, the socialist management structure disintegrated speedily after the unification; no industrial plans were created by the government, and no one in the east was able to fill these management positions.<sup>28</sup> The absence of such important institutions as social insurance, employment exchanges, and trade unions all pointed to the necessity of wholesale adoption of the Federal Republic model.<sup>29</sup> This was the determining factor for the decision to transform the East German territory politically, economically, and socially in conformity with the West German standard.<sup>30</sup>

### The Key Characteristics of German Unemployment

Regional differentiation of unemployment is evident – only one western Bundesland (Bremen) has a higher level of unemployment than the average national. Within the regions, there also exists some differentiation: in the former FRG, unemployment is higher in the north than in the south; in the GDR, unemployment is higher in the rural areas and lower in the urban zones and in territories that border on western Germany.

Figure 2: Unemployment Rates, 2004, by Bundesländer



Source: "Germany 2005," *Statistisches Bundesamt Deutschland*, May 2005, <http://www.destatis.de/download/e/veroe/germany.pdf>, (accessed on April 23, 2007).

<sup>24</sup> Lange and Shackleton, "The Labor Market," 90.

<sup>25</sup> Heinz Fassmann, "Are The Two Things That Belong Together Coming Together? Labor Markets and Jobs in the New and Old Länder," in *Germany Ten Years After Unification*, ed. Alois Mayr and Wolfgang Taubmann (Leipzig: Institut für Landeskunde, 2000), 148.

<sup>26</sup> A natural unemployment rate is not caused by the economic recessions, but rather consists of workers in transit between two jobs or in training. For more information, see, for example, Campbell R. McConnell and Stanley L. Brue, *Macroeconomics: Principles, Problems, and Policies* (Boston: McGraw-Hill, 2005), 137.

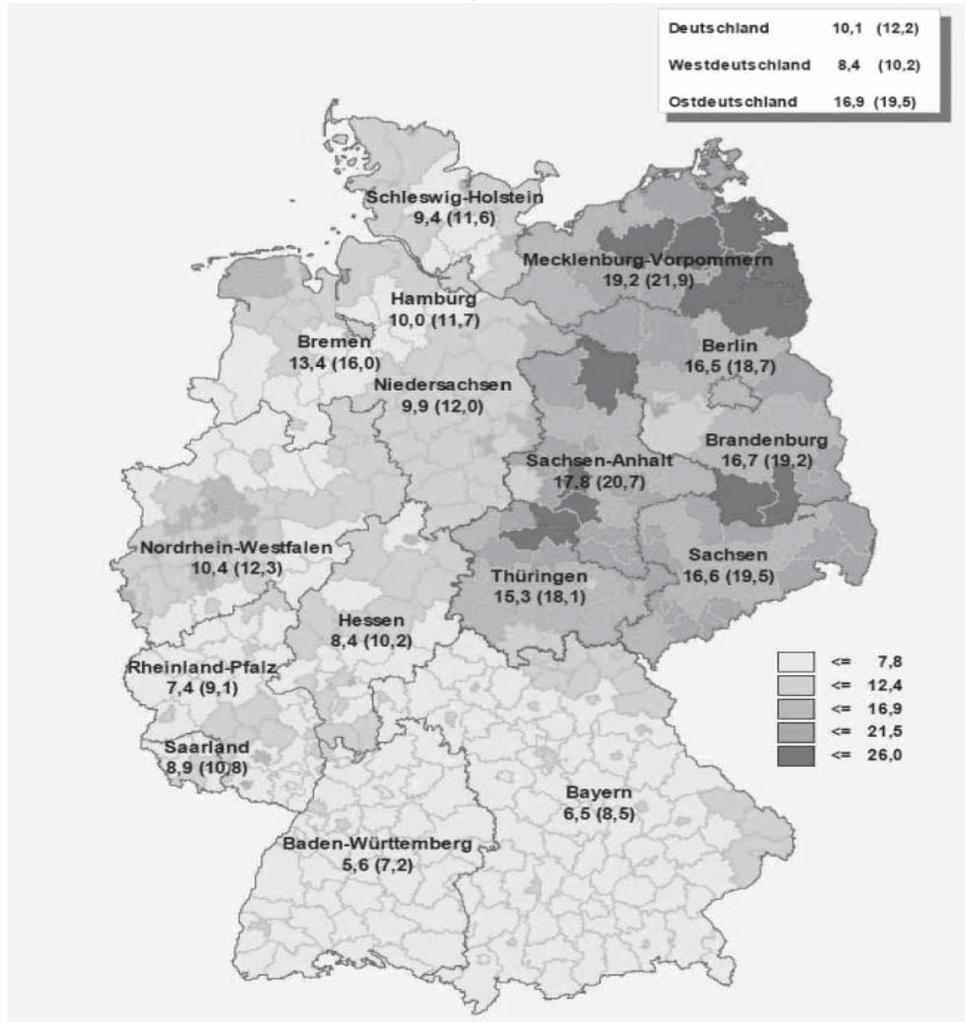
<sup>27</sup> Martin Geiling, "Germany's Changing Political Landscape," in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 35.

<sup>28</sup> Geiling, 35.

<sup>29</sup> Lange and Shackleton, "The Labor Market," 91.

<sup>30</sup> Domeday, 45.

Figure 3: Unemployment in March 2007, by Länder and Regions



Source: "The Labor Market in February 2007," *Bundesagentur für Arbeit*, February 2007, <http://www.pub.arbeitsamt.de/hst/services/statistik/000000/html/start/monat/Arbeitsmarktbericht-engl/2007/0207.pdf>, (accessed April 23, 2007).

The long-term unemployment pattern follows the general unemployment pattern – it is higher in the north and in areas further from urban centers.<sup>31</sup> It has been pointed out that the German labor market is exhibiting clear tendencies toward being “sealed”; those on the inside of the employment system are increasingly protecting themselves from outsiders, rendering job searches for recent graduates or women returning from maternity leave fruitless.<sup>32</sup>

The group that has arguably suffered the most from the persistent unemployment in East Germany is women. Traditionally, labor force participation rates of East German women were much higher than those of their West German

counterparts – in 1991, 78 percent compared to 58 percent in the West.<sup>33</sup> East German women also enjoyed a higher level of education (see Table 1) and thus could potentially take on higher level jobs than women in West Germany. After the unification, women of East Germany were faced with discrimination in obtaining and retaining employment; it was more difficult for a woman to find a job, and when firing decisions were made, women were the first ones to go.<sup>34</sup> A large number of East German women who in 1989 occupied senior social and professional positions were forced to accept lower levels of responsibility and pay.<sup>35</sup> Despite the higher level of education of East German women, their employment levels have converged with those in West Germany (see Figure 4).

<sup>31</sup> Fassmann, 152.

<sup>32</sup> Fassmann, 152.

<sup>33</sup> Wunsch, 8.

<sup>34</sup> Anneliese, Braun, “Women in the New Germany,” in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 105.

<sup>35</sup> Braun, 106.

Table 1: Qualification Structures of Employed in Germany (in percent)

Qualification level	Western Germany 1989-90		Eastern Germany 1991	
	Women	Men	Women	Men
No skills*	27.2	17.2	8.6	7.2
Intermediate Skills	60.1	58.7	51.2	57.3
In 'high level' professions**	12.7	24.1	40.2	35.5

\* Including partly-skilled workers  
\*\* As a result of attending trade schools, technical schools or college/university education

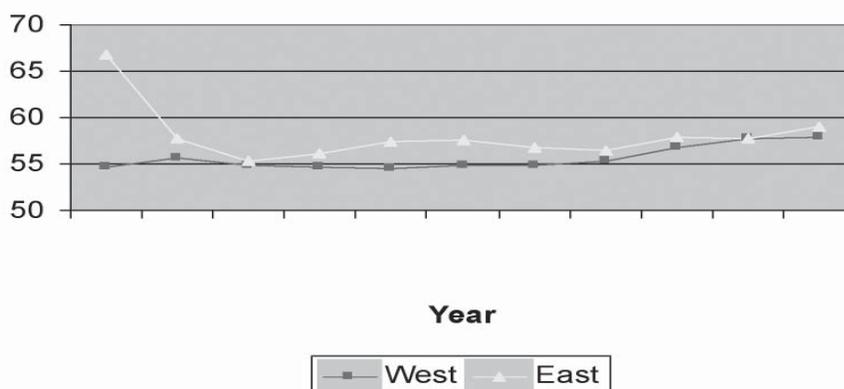
Source: Anneliese Braun, "Women in the New Germany," in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 110.

### Significance and Implications of High Unemployment

High unemployment arguably has had a strong effect on German national politics. Discouraged by employment insecurity, many east Germans have turned to the Party of Democratic Socialism (PDS, now Die Linke), the restructured successor of the Socialist Unity Party (SED), which was the sole political party of East Germany before the unification.<sup>36</sup> There exists a significant difference in the voting patterns of eastern and western Germany, with much stronger support for the populist PDS in the east. Such political differentiation between east and west Germany can potentially transform national politics into a battle of two camps: the market-oriented western and the socialist eastern, arguably reducing the effectiveness of the German political system.

A dangerous trend that could have been caused by high unemployment in the east is the rise of right-wing extremism.<sup>37</sup> The younger generations are unable to gain employment and become increasingly xenophobic, thinking that it is the foreigners who are taking their jobs.<sup>38,39</sup> The high unemployment and xenophobic population tendencies have led some analysts to compare post-unification eastern Germany with the weak democracy of the Weimar Republic.<sup>40</sup> It is argued that an increase in employment possibilities can solve the problem of xenophobia because "violence in eastern Germany is bound to subside eventually as economic conditions improve and youth gain employment and a sense of self-worth."<sup>41</sup>

Figure 4: Female Unemployment in East and West Germany, 1991-2001



Source: "10 Jahre Erwerbsleben in Deutschland," *Statistisches Bundesamt Deutschland*, 2002, [http://www.destatis.de/download/d/veroe/d\\_erwerbssl.pdf](http://www.destatis.de/download/d/veroe/d_erwerbssl.pdf).

<sup>36</sup> Geiling, 38-40.

<sup>37</sup> Geiling, 42.

<sup>38</sup> Partially this view is supported by the fact that there exists very little unemployment of foreigners in East Germany (see Fassmann, 148). However, this can be explained by the fact that very few foreigners were invited to East Germany to work (especially when compared with West German national policies of invitation of guest workers); therefore, there is no unemployment of foreigners because of lack of foreigners.

<sup>39</sup> Thomas Lange and J.R. Shackleton, "Germany in Transition: An Introduction," in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 5.

<sup>40</sup> See, for example, Jan Herman Brinks, *Children of a New Fatherland: Germany's Post-War Right Wing Policies* (New York: I.B. Tauris, 2000).

<sup>41</sup> Geiling, 42.

Unemployment has negative economic consequences – the potential contribution of the unemployed to the growth of the economy is lost, and unemployment expands the ranks of people who collect welfare.<sup>42</sup> High long-term unemployment has potentially important policy implications, as this group may find their job skills eroding, increasing the long-run equilibrium unemployment rate, and they may find themselves ineligible for unemployment insurance and fall into poverty.<sup>43</sup>

Unemployment, especially long-term unemployment, may have negative social and psychological consequences; it may affect self-esteem, dignity, and social status of the jobless. Chronic unemployment gives the people a feeling that they are unneeded and not a part of the society. Because it is such a new phenomenon in the formerly socialist countries, the shocks of unemployment have been even stronger there.<sup>44</sup> Overall, high unemployment has a negative effect on the economy and the society of a nation, and all necessary policies should be implemented to reduce it to its natural level.<sup>45</sup>

The assessment of unemployment in eastern Germany in the context of the European Union's labor market difficulties is beyond the scope of this paper. As a result of Germany's importance in the economy of the EU, however, any domestic policies are bound to resonate internationally. The stagnation of German economy has certain effects on European economic growth. Therefore, reduction in the unemployment of eastern Germany is a task important not only for the domestic but also for the regional and international economies.

### **Unemployment and the Transition from Planned Economy**

The pattern of unemployment exhibited in eastern Germany is not unlike that seen in other transition economies of Eastern Europe. All of these transforming countries experienced an initial sharp contraction in output; deep recession and fundamental structural changes both had a profound effect on the labor market.<sup>46</sup> In the initial years of transition, employment declined sharply as job shedding in government and state-owned enterprises more than offset job

creation in the private sector.<sup>47</sup> It has been pointed out that in the short run, privatization of the formerly state-owned enterprises raises unemployment, reduces demand and thus contributes to the economic recession.<sup>48</sup> The most prevalent view on the source of this unemployment surge is that it has been caused by the transformation strategy – the shift from agriculture and manufacturing to services.<sup>49</sup> In the process of this transition, the authorities did not account for possible market failures, leaving it to the forces of supply and demand to furnish goods such as employment to the population.<sup>50</sup> This shift, designed to promote greater efficiency, has nonetheless decreased the power of the economy by creating high unemployment in all formerly socialist countries of the Eastern Europe.

Another similarity that existed between all the transition economies was the lack of accurate information about their economic state. In the bringing together of the two Germanys, accurate statistical data from both the GDR and the FRG was very important, because often it was the only indication of the correspondence between the two. Based on this data, the economists planned the union, deciding on such issues as the conversion rate between the two currencies and the taxation levels for the new states. However, the economic growth of the GDR is very difficult to determine statistically, due to a bias in the data. The official reporting was constantly revalued because of frequent changes in the statistical definitions, continual plan revisions, overvaluation of new products, omission of important comparative information, and the conscious veiling of inflationary tendencies.<sup>51</sup>

Detailed statistics on economic developments at the sector level were published increasingly infrequently since the middle of the 1970s.<sup>52</sup> These statistical adjustments were used to conceal the arising fundamental weaknesses of the GDR's development from the outside world.<sup>53</sup> In the end, these methods proved effective, and by 1989 no one could be sure about the level of the GDR's development. The two countries were in reality much more different economically than was assumed during the Unification, which arguably caused many unexpected difficulties during the merge.

<sup>42</sup> Jan Adam, *Social Costs of Transformation to a Market Economy in Post-Socialist Countries* (New York: St. Martin's Press, Inc., 1999), 97.

<sup>43</sup> Schiff et al., 9.

<sup>44</sup> Adam, 97.

<sup>45</sup> For the definition of the natural unemployment level, see footnote 27.

<sup>46</sup> Schiff et al., 3.

<sup>47</sup> Schiff et al., 8.

<sup>48</sup> Adam, 17.

<sup>49</sup> Adam, 14.

<sup>50</sup> Adam, 17.

<sup>51</sup> Manfred Melzer, et al. "The GDR Before 1989," in *German Unification – an Example for Korea?* Ed. Heiner Flassbeck and Gustav Horn (A. Aldershot: Dartmouth, 1996), 9-10.

<sup>52</sup> Wolfgang Scheremet and Manfred Melzer, "The Turning Point," in *German Unification – an Example for Korea?* Ed. Heiner Flassbeck and Gustav Horn (A. Aldershot: Dartmouth, 1996), 37.

<sup>53</sup> Heiner Flassbeck and Gustav A. Horn, "Introduction," in *German Unification – an Example for Korea?* Ed. Heiner Flassbeck and Gustav Horn (A. Aldershot: Dartmouth, 1996), 1.

### The Causes of High and Persistent Unemployment in Eastern Germany

There exist seven possible reasons that have been cited as having caused or contributed to the high unemployment in eastern Germany and lack of convergence of the eastern and western German labor markets. They are as follows: the bad state of the GDR's infrastructure and economy, the failure of the unification policies, the collapse of eastern Germany's traditional markets, the Europe-wide recession, the frictional and structural unemployment resulting from the restructuring of the economy, the convergence of wages, and the inefficiencies of the German social insurance system. Some of the causes listed above could not have had a decisive effect on the labor market; however, they could have influenced it and worsened the existing situation. All of these causes are assessed in greater detail below.

The bad state of the East German economy and infrastructure, not obvious at first due to the lack of statistical data described above, has been seen by some economic analysts as the decisive reason for the high unemployment in eastern Germany after unification, unemployment being the price that had to be paid in order to develop the former GDR into an internationally competitive region.<sup>54</sup> In 1989, the eastern German economy was characterized by a capital stock – machines and production technologies – that were largely obsolete by Western standards: almost 55 per cent of the GDR's industry equipment was older than 10 years and more than 21 percent older than 20 years.<sup>55</sup> In the late 1980s, economic growth in the GDR was low, productivity was falling, and trade declined.<sup>56</sup> In the first year following unification, east German regions accounted for 20 percent of Germany's population but only 8 percent of its GDP.<sup>57</sup> The economy was severely distorted – wages were completely incompatible with productivity.<sup>58</sup> Overall, the efficiency of the economy was so low that it would take East Germany a long time to catch up with its western counterpart.

Unification policies are another cause often blamed for high east German unemployment. Monetary, economic and social unification had to be implemented swiftly in order to prevent migration from east to west, which had become a significant problem – 2.3 percent of East

Germany's population migrated to West Germany in 1989 alone.<sup>59</sup> Furthermore, it was believed that a faster transition progress would allow employment to rise more rapidly.<sup>60</sup>

On the other hand, the swift transition, with the slogan “one German deserves as much as another” embodied in it, have been interpreted as a means to avoid the cost of acknowledging the complexity of the unification process.<sup>61</sup> The privatization of state-owned enterprises implied in the transition to a market economy needs to be elaborated in depth. The process was organized by Treuhandanstalt, a trust fund holding ownership of formerly state-owned East German companies and authorized to sell them to the public, restructure them, or liquidate them.<sup>62</sup> The work of the Treuhandanstalt was characterized by a significant transfer of power.<sup>63</sup> West Germans dominated the supervisory board of the trust fund, which secured a transfer of ‘know-how’ to the east, at the expense, however, of eastern entrepreneurs’ self-determination.<sup>64</sup> The initial aim of privatization in the former GDR was “to transform public ownership into private ownership to be held, as far as possible, by East German citizens.”<sup>65</sup> However, this goal has not been met: 75 percent of the privatized firms went to West German entrepreneurs, 6 percent to foreigners, and only 19 percent to East German entrepreneurs.<sup>66</sup> It had been planned that the privatization and dismantling of the Treuhandanstalt was to take place in 1994, so because of time constraints, not much industrial restructuring of east German enterprises was undertaken.<sup>67</sup> Instead, the Treuhandanstalt approach to privatization focused on selling downsized firms to investors without taking into account employment targets. On average, the new ownership of east German firms reduced employment by 20 to 30 percent.<sup>68</sup> As put by an economic analyst,

the productive potential, the preservation of a qualified labor force, research and development facilities and training resources, the creation of new products, marketing and reconstruction of competitive firms before selling them to the private sector at decent prices were never at the heart of Treuhandanstalt activities.<sup>69</sup>

Although it is argued by some that Treuhandanstalt did indeed successfully accomplish rapid privatization

<sup>54</sup> Thomas Lange and Geoff Pugh, “The Treuhand: A Positive Account,” in *The Political Economy of German Unification*, ed. Thomas Lange and J.R. Shackleton (Oxford: Berghahn Books, 1998), 62.

<sup>55</sup> Wunsch, 5.

<sup>56</sup> von Hagen, 177-8.

<sup>57</sup> Lange and Shackleton, “The Labor Market,” 93.

<sup>58</sup> Lange and Pugh, 60.

<sup>59</sup> von Hagen, 174.

<sup>60</sup> Schiff et al., 36-7.

<sup>61</sup> Geiling, 34.

<sup>62</sup> von Hagen, 186.

<sup>64</sup> Lange and Pugh, 70.

<sup>65</sup> Domeday, 49.

<sup>66</sup> von Hagen, 187.

<sup>67</sup> Lange and Pugh, 69.

<sup>68</sup> Domeday, 53.

that facilitated the GDR's transition from socialism to capitalism,<sup>70</sup> the process of privatization has also often been dubbed "the sell-off" of East German economy.<sup>71</sup> There were also many advocates of alternatives to privatization, such as distribution of property vouchers to previous owners, issues of free stock market shares to workers in previously state-owned commercial properties, and the transformation of state-owned small and medium-sized enterprises into cooperative holdings, which could arguably diminish the negative effects of the transition on the labor market.<sup>72</sup>

The monetary unification, that is, the introduction of the Deutschmark (DM) in East Germany, was also a significant aspect of the unification policies, the effects of which on unemployment are often debated. The economic unification, implemented on July 1, 1990, introduced the Deutschmark in the GDR, eliminated all trade, capital and labour movement barriers between Eastern and Western Germany, and harmonized their legal, tax, and social insurance systems.<sup>73</sup> The actual monetary union provided for the conversion of the GDR Mark in the following manner: all stocks in the Ost Marks<sup>74</sup> of cash, assets, and liabilities were converted at the ratio Ost Mark 2 : DM 1, with the main exception that for each private person, a certain amount of Ost Marks was converted into DM at the ratio of 1 : 1. The size of the amount depended on the age of the person. Overall, almost 65 billion Marks were thus converted at the ratio 1 : 1.<sup>75</sup> In addition to the conversion of financial assets and liabilities, it was also necessary to convert flow values, such as wages and pensions. In the case of pensions, the aim was to increase the living standards of pensioners, so the pensions were also converted at the ratio of 1 : 1 and increased by a supplement. In the case of wage conversion, the situation was more difficult. The aim was not only to meet social criteria but also to ensure the cost-competitiveness of East German industry in order to promote the recovery of East German economy and to keep the migration from the East to the West to a minimum. However, it was important not to set the real wages too high, because that would cause the shutdown of many firms, higher unemployment, greater disparity between the rich and the poor, and an increasing flow of migration to the West. Based on these observations, the conversion rate for the wages was also set at the ratio of 1 : 1.<sup>76</sup>

The result of this conversion was the overvaluation of the Ost Mark by four or five times that eventually exposed the bankruptcy of the East German economy,<sup>77</sup> making the collapse of the export sector of the East German economy all but inevitable.<sup>78</sup> Such strong overvaluation made West German or foreign goods preferable to the lower quality but higher priced East German goods, decreasing aggregate demand and stagnating production. Firms were then forced to reduce output and fire workers, sharply increasing unemployment in the new Bundesländer. A contrasting example taken from another transition economy is that of the Czech Republic. Because of the starkly devaluated national currency, the foreign demand for Czech products was high and stimulated the economy. In the short term, this measure helped to keep unemployment low.<sup>79</sup> Perhaps a monetary policy that would devalue the Ost Mark would have helped eastern Germany's economy and labor market.

Monetary transfers to the east were conceived as a part of the unification process that would help rebuild the GDR's outdated infrastructure. These government transfers are still flowing at an astounding annual rate of €83 billion (about 4 percent of total German GDP and 22 percent of eastern Germany's consumption).<sup>80</sup> This financing is often directed toward defunct firms that carry out only low-value activities or produce solely for the local market and in a way these transfers only hinder the efficiency-oriented restructuring of the economy. It is these transfers that are blamed for the inability of the east German economy to become self-sustaining and produce jobs.<sup>81</sup>

The collapse of the traditional east German trade patterns and a following decrease in aggregate demand have also contributed to the rise in unemployment.<sup>82</sup> Most of the GDR goods were produced for the sheltered COMECON markets – trade with members of the socialist bloc was largely uncompetitive. Due to the overvaluation of prices of east German goods after the unification and the collapse of the COMECON market, new buyers for east German products were hard to find, which reduced demand, output, and employment.<sup>83</sup> Although the collapse of trade patterns alone could not have caused the drastic unemployment surge, it could potentially have had a significant contribution to it.

<sup>69</sup> Domeday, 53-54.

<sup>70</sup> Lange and Pugh, 71. <sup>71</sup> Geiling, 33.

<sup>72</sup> Domeday, 48.

<sup>73</sup> Wunsch, 5.

<sup>74</sup> Currency of the GDR, "East Mark."

<sup>75</sup> Volker Meinhardt, et al., "Institutional Reforms," in *German Unification – an Example for Korea?* Ed. Heiner Flassbeck and Gustav Horn (A. Aldershot: Dartmouth, 1996), 68.

<sup>76</sup> Meinhardt, et al., 72.

<sup>77</sup> Lange and Shackleton, "Germany in Transition," 5.

<sup>78</sup> Meinhardt, et al., 73.

<sup>79</sup> Markus Scheuer and Robert J. Gitter, "The Rise in Czech Unemployment," *Monthly Labor Review*, May 2001.

<sup>80</sup> "Getting back together is so hard," *The Economist*, September 18, 2004.

<sup>81</sup> Meinhardt, et al., 73.

<sup>82</sup> Lange and Shackleton, "The Labor Market," 93.

<sup>83</sup> Wunsch, 6.

Another explanation for high east German unemployment could be the world-wide recession of the late 1980s-early 1990s. Indeed, this recession is considered the most protracted since the end of the Second World War and has severely affected the aggregate demand for any outputs, including those of eastern Germany.<sup>84</sup> The resulting shocks to the national system of labor demand and supply can be seen as causes of the rise in unemployment.<sup>85</sup>

It had been predicted that the sectoral restructuring that is implicit in a transition from plan to market would also temporarily reduce employment.<sup>86</sup> The decline in agriculture and the increase in the service industries implied a necessary reeducation of the work force, which would create temporary structural unemployment.<sup>87</sup> Another path of restructuring should have reflected eastern Germany's comparative advantages, such as the high level of education. However, this specialization never occurred, which no doubt also decreased the potential of the transitioning economy.<sup>88</sup> Although this structural unemployment should have subsided after seventeen years of transition, initially it could also have contributed to the poor performance of the east German labor market.

Aggressive wage policies implemented in the east after the unification have also been seen as a cause of unusually high unemployment.<sup>89</sup> A certain correlation between wages and worker productivity has been long noticed by economists – as productivity increases, wages must increase as well.<sup>90</sup>

In the following table we can clearly see that the convergence of east and west German wages was not followed at the same pace by the convergence of their productivity. Thus, west German goods became relatively easier to produce and took the same time to produce as east German goods, causing the aggregate demand in the east to fall. East German workers were thus “priced out of the market” into unemployment.<sup>91</sup>

Finally, the last cause of high east German unemployment named by economists is the entire German economic system. Germany's economic arrangement is described as the “social market economy” (*Soziale Marktwirtschaft*), which involves a highly regulated labor market buttressed by generous welfare provisions. This model is said to encourage long-term commitment and trust between firms and workers, leading to high levels of investment in human capital and associated productivity gains.<sup>92</sup> Recently, however, questions have been raised as to whether Germany will be able to support its welfare system on the scale to which its people have become accustomed. Germany has Europe's oldest students and youngest pensioners; Germans work shorter hours and have longer holidays than British, Japanese, or American workers. Labor market regulations protect the workers, making it costly for employers to hire or fire labor.<sup>93</sup> All these factors present a significant cost to the economy, providing excellent working conditions at the expense of the overall efficiency of the economy. The graph below demonstrates the level of replacement rates for the workers of OECD member states.

Table 2: Selected Economic Indicators for Germany (in percent), 1991-2004

Year	GDP Growth		Unemployment Rates		Productivity	Gross Wages
	West	East	West	East	East/West	East/West
1991	5.0	-19.2	6.2	10.2	32.9	57.5
1992	1.7	6.2	6.4	14.4	35.5	67.7
1993	-2.6	8.7	8.0	15.4	39.0	74.2
1994	1.4	8.1	9.0	15.7	41.4	77.1
1995	1.4	3.5	9.1	14.8	42.5	79.1
1996	0.6	1.6	9.9	16.6	43.4	79.5
1997	1.5	0.5	10.8	19.1	44.6	79.8
1998	2.3	0.2	10.3	19.2	66.9	80.1
1999	2.1	1.8	9.6	18.7	67.7	80.9
2000	3.1	1.3	8.4	18.5	68.5	81.3
2001	1.1	-0.5	8.0	18.8	69.1	81.2
2002	0.2	-0.2	8.5	19.2	69.9	81.2
2003	-0.1	-0.2	9.3	20.1	NA	81.2
2004	1.7	1.2	9.4	20.1	NA	NA

Source: Conny Wunsch, “Labour Market Policy in Germany: Institutions, Instruments and Reforms since Unification,” Discussion paper no. 2005-06 (St. Gallen: University of St. Gallen, 2005).

<sup>84</sup> Garther Dale, “More Shock Than Therapy: Why There Has Been No “Miracle” in Eastern Germany,” *Socialism and Democracy Online* 42, [http://www.sdonline.org/32/shock\\_therapy.htm](http://www.sdonline.org/32/shock_therapy.htm).

<sup>85</sup> Gerd Hansen, “The German Labor Market and the Unification Shock,” *Economic Modeling* 17 (2000), 339-440.

<sup>86</sup> Schiff et al., 1.

<sup>87</sup> Lange and Shackleton, “The Labor Market,” 90.

<sup>88</sup> von Hagen, 192.

<sup>89</sup> See, for example, von Hagen.

<sup>90</sup> Stephen Golub, “Does Trade with Low-Wage Countries Hurt American Workers?” *Business Review*, Federal Reserve Bank of Philadelphia, March/April, 1998.

<sup>91</sup> von Hagen, 195.

<sup>92</sup> Lange and Shackleton, “Germany in Transition,” 2-3. <sup>93</sup> Lange and Shackleton, “Germany in Transition,” 2-3.

Replacement rate is the percent of the original income an unemployed person receives. As can be seen from the graph, the German workers lose only a little less than 70 percent of their income while receiving unemployment benefits. Such high benefits reduce a worker's incentive to accept a job and keep him or her unemployed longer.<sup>94</sup>

The policies of benefit reduction recently undertaken by the German government address precisely this problem. In 2005, Germany's chancellor, Gerhard Schroeder, has implemented a program entitled Agenda 2010, whose main goal is to combat the constantly rising long-term unemployment.<sup>95</sup> Hartz IV, a part of this program, consists of a set of measures that, among other things, seeks to curb unemployment benefits for people who remain out of work for extended periods. Specifically, the plan calls for merging Germany's welfare and long-term unemployment benefits.<sup>96</sup>

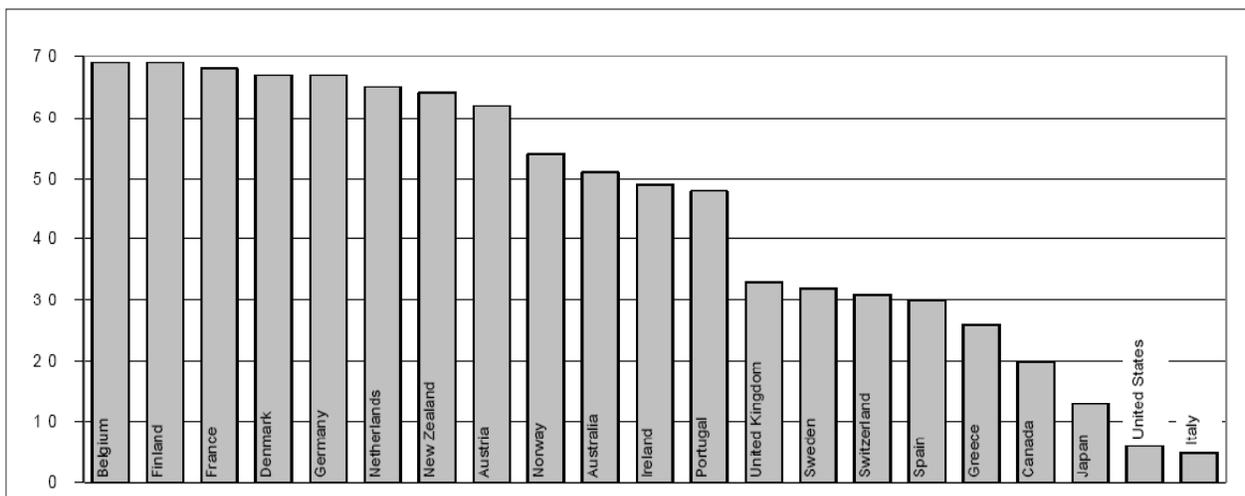
Currently, out-of-work Germans are well protected. People who lose their jobs get unemployment benefits of 60% of their previous earnings (or 67% if they have children) for up to 32 months. After that, payments drop to between 53% and 57% but have no time limit. By this stage, payments are known as *Arbeitslosenhilfe*, or unemployment aid. This generous financial support, as well as family and housing benefits, cause many workers with few skills—making up over half the unemployed – to eschew badly paid jobs.

To change this, Hartz IV will shorten the period of unemployment benefit to 12 months (or 18 months for those over 55) and do away with the second phase of unemployment aid. Instead, the long-term unemployed will receive a flat-rate benefit, means-tested and paid only to those who seek work seriously.<sup>97</sup> Hartz IV allows unemployed persons to continue receiving benefits equivalent to just under 60% of what they earned while working even after the period during which they are officially entitled to them has expired. Benefits for individuals with substantial savings or other assets, as well as for those who refuse to accept job offers, will be reduced to encourage people remaining out of work and dependent on unemployment insurance to accept the offered jobs.<sup>98</sup>

After two years, it is still unclear if this policy has been successful in reducing unemployment. It has, however, already raised much criticism. As put by a prominent Polish-American economist,

the reduction [in unemployment benefits] is felt by the unemployed, and rightly so, as a punishment for something for which they are not responsible. Only extreme individualists can argue that the core of the unemployed are responsible for their own plight. It is sad enough that some people are exposed to unemployment, but the authorities add to their plight by giving them low benefits which throw a great proportion of the unemployed into the rank of paupers.<sup>99</sup>

Figure 5: Average Replacement Rates for 21 OECD Countries in 2002



Source: Conny Wunsch, "Labour Market Policy in Germany: Institutions, Instruments and Reforms since Unification," Discussion paper no. 2005-06 (St. Gallen: University of St. Gallen, 2005).

<sup>94</sup> Schiff et al., 38.

<sup>95</sup> "German chancellor defends his reform policy," *BBC Worldwide Monitoring*, September 8, 2004.

<sup>96</sup> Jo Kawakami and Mikio Sugeno, "Schroeder firmly committed to Agenda 2010 reform program," *The Nikkei Weekly*, October 25, 2004.

<sup>97</sup> "It's those people, all over again," *The Economist*, August 12, 2004.

<sup>98</sup> Kawakami and Sugeno.

<sup>99</sup> Adam, 99.

Although in eastern Germany the situation is not as extreme as in some other Eastern European transition economies, reducing benefits without increasing the effectiveness of job search can lead to dramatic social consequences.

The economic progress of the former GDR since the German reunification has been remarkable - growth in the east measured 2.8% in 2006 or just above the west's rate and, in the second quarter of 2007, is predicted to rise to 4.5% while that in the "old states" will be only 2.8%.<sup>100</sup> Despite this fact, unemployment levels have not diminished since the early 1990s - paradoxically, economic growth has few or no noticeable long-term effects on the labor market.

### Conclusion

Twenty years after the reunification of Germany, the problem of labor market convergence between east and west still persists. The high unemployment rates in eastern Germany have a strong negative effect on the politics, economy and society of the united Germany. However, it seems that hardly any measures have been undertaken by the German government to ameliorate the problem, and even those that were implemented failed to decrease the level of east German unemployment. In this paper, I have attempted to explain this apparently paradoxical situation.

A key to the solution of a problem lies in its causes. I have therefore looked at the possible causes of high unemployment in eastern Germany and outlined seven of them in the paper: the bad state of GDR's infrastructure and economy, the failure of the unification policies, the collapse of eastern Germany's traditional markets, the Europe-wide recession, the frictional and structural unemployment resulting from the restructuring of the economy, the convergence of wages, and the inefficiencies of the German social insurance system. Some of these causes, such as the world-wide recession of the early 1990s, could not alone have caused the drastic difference in unemployment levels between Germany's east and west regions. Others, such as the inefficiency of the German economic system, are forcefully debated by economists and politicians of the world. Some of the outlined causes have nothing in common, such as the deficiencies of eastern German infrastructure and the social market economy of the united Germany. Others, on the other hand, have a clear connection, such as the unification policies and the stagnation of the transitioning economy. Overall, however, it is unclear what index of importance to assign to each of these reasons. Is the main cause of high unemployment the much too rapid privatization or is it the inefficiency of the German social protection system? Can unemployment be explained by the natural transition from planned economy and opening of the economy to the world markets, or is the pressure from labor unions for wage convergence to blame for the persistent problem?

The answers to these questions are still unclear, as indicated by the ongoing debate between German and world economists and social scientists.

Any policies undertaken by the German government to reduce the unemployment are therefore bound to attack the symptoms and not the causes of the problem. This is illustrated by Schroeder's Hartz IV, the main focus of which is the reduction of unemployment benefits - this policy forces people to take jobs that they prefer to avoid and does not actually facilitate the creation of jobs or reform the labor market. Without the knowledge of the true causes of the east German unemployment, no measures can be undertaken to directly counter the problem. The high levels of East German unemployment could not have been the effect of a single cause, such as the failure of privatization in the early 1990s. Therefore, much more comparative research should be directed toward the solution of this problem, contrasting the case of Germany with the cases of other economies in transition, as well as with Germany's geographical neighbors. Only through detailed investigation of the problem can the accurate solution be found, and later implemented in government policies.

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<sup>100</sup> David Gow, "Germany no Longer the Sick Man of Europe," *The Guardian*, April 4, 2007.

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## Finding *Duende* in the Land of the Rising Sun: Flamenco's Emergence and Popularity in Japan

Annie Gorman

### Introduction

Flamenco's popularity in Japan might be surprising on a number of fronts due to the fact that Japan is both geographically and culturally distant from Spain. However, Japan has the largest flamenco following outside of Spain.<sup>1</sup> This art form, born in Andalusia, a region of southern Spain, is charged with emotion and stresses the expression of individuality. While many of its characteristics do not seem typically Japanese, it has gained widespread appeal in Japan for various reasons. Some of these reasons imply that interest spurs from a sort of "stranger fetishism" where Japanese people are interested in "consuming" the cultural and exotic "other." I will argue, however, that Japanese interest in flamenco is more dynamic than that - it involves the success, even within Spain, of Japanese dancers, the emergence of flamenco studios within Japan, and most importantly, the fusion of Japanese and Spanish art forms. This fusion creates another new art form rather than merely absorbing flamenco into a foreign culture. This paper will use flamenco in Japan as one case study of what happens to an art form when it crosses national boundaries - by encountering the international, it can become national. Then, as in the case of flamenco, the art form can undergo a dynamic transformation in Japan, which in turn reconfigures its existence in Spain.

The dynamic inter-relation created by flamenco's emergence in Japan affects both nation-states. It can serve to create and reinforce flamenco as a national symbol of Spain. The status of national symbol can also further interest for Japanese people because it is a way to experience one component of Spanish culture. While in the West Japan is seen as a beacon of work ethic and productivity, Japanese people are also consumers and much of this consumption is of Western products and trends. These manifestations of the West within Japan are at once confusing and comforting to Westerners, as they seem unfitting of Japanese culture but are already familiar for Western tourists.<sup>2</sup> Flamenco is another prime example of the presence of the West within Japan. While consumption of Western products is viewed by those scholars who term Japan "imitator" as a passive

reception of outside cultural forms, I will argue that flamenco in Japan undergoes adaptation rather than mere absorption - a process of "Japanization."<sup>3</sup>

Regardless of what happens to an art form as it crosses boundaries, its emergence in a new location opens a dialogue between two or more entities that may not have had much previous interaction. This new interaction results in greater diversity within an area while decreasing diversity across areas. The same becomes true of the art form itself—when art forms from various locations can be found within one location as a result of globalization, their distinctiveness in the original location is lost. Thus, a debate arises among scholars over what occurs both within the culture and to the art form itself when it leaves its place of origin. Flamenco in Japan is a specific examination of what the globalization of cultural products means for the culture as well as the art form.

My analysis will examine flamenco within Japan both historically and theoretically in order to better understand what has happened to flamenco during its emergence and success in Japan. I will first develop the theoretical framework for this specific case study in several areas - art forms as national symbols, the "Japanization" of flamenco, and the globalization of cultural products. Then, I will give a brief historical overview of flamenco's emergence on the international stage, followed by a specific examination of its emergence on the Japanese stage. Finally, I will examine flamenco within Japan more deeply in order to assert that flamenco's popularity in Japan is not a mere consumption of the exotic "other" because flamenco is seen as representative of Spain, but rather a "Japanization" where it becomes something new. Thus, the globalization of cultural products, at least in the case of flamenco in Japan, allows all of us to experience a new and valuable art form.

### Contextualizing Flamenco: Literature and Theory

While often regarded as a national symbol of Spain, flamenco can only be seen as national when examined in an

<sup>1</sup> Kyoko Shikaze, "Flamenco in Japan: fifteen thousand kilometers around the corner," June 2004, <http://www.flamenco-world.com/magazine/about/japon/japon15062004-1.htm>.

<sup>2</sup> Joseph Tobin, *Re-Made in Japan: Everyday Life and Consumer Taste in a changing Society* (New Haven: Yale University Press, 1992), 1.

<sup>3</sup> Rie Karatsu, "Cultural Absorption of Ballroom Dancing in Japan," *The Journal of Popular Culture* 36 (2003): 416.

<sup>4</sup> Ernest Gellner, *Nations and Nationalism* (Oxford: Blackwell, 1983).

international context. Furthermore, the international has to be established or encountered in order to establish the nation, a theory supported by Ernest Gellner's concept of nation and nationalism. Culture, a component of the nation, only becomes important to nationalism in the presence of the cultural "other." We can see the manifestation of this when cultures interact with outside cultures as Gellner suggests: "In stable self-contained communities culture is often quite invisible, but when mobility and context-free communication come to be of the essence of social life, the culture in which one has been taught to communicate becomes the core of one's identity."<sup>4</sup> Because "identity is always constituted in interaction," national identity links itself with the notion of the "other" and the two cannot be separated.<sup>5</sup> Thus, flamenco becomes national only when it becomes international—when it is used to promote the country through tourism, when it is competing on the international stage, when flamenco studios appear in other nation-states, and so on. Subsequently, flamenco's very status as a Spanish national symbol serves to reinforce international interest of nation-states such as Japan, perhaps due to an interest in experiencing or consuming the exotic "other."

### Creating Nationalism and National Symbols

There is extensive literature on nationalism and a wide variety of theories within this literature, thus I have chosen only a very limited selection of nationalist theory that I will apply to my case study of flamenco in Japan. Specifically, I will examine those theories that support the idea that the nation is only established in the presence of other nations. Cultural forms follow this same pattern - it is when they cross boundaries that they become symbolic of the nation. I will then develop how these theories apply to the flamenco case which will aid my subsequent examination of how flamenco, which to the foreigner is symbolic of Spain. Japanese interest is most likely, at least in part, due to an interest in the cultural "other," but it also goes beyond a mere absorption of the "other."

When we speak of national identity, culture, although often intangible and difficult to define, is a central component to both its creation and maintenance. Cultural forms are often not viewed by the nation-states' citizens as symbolic of their national identity, but rather may only serve to define that nation-state for outsiders. Cultural forms that remain completely within the nation-state do not serve as symbols of the nation; it is only when cultural forms contact the "other" and are experienced by it that they become a part of national identity. However, they may continue to go unrecognized by

the citizen until he or she leaves the nation-state. Interaction with others establishes identity in any context, and thus, establishes identity for nations: "the history of each nation is marked by the presence of significant others that have influenced the development of its identity by means of their 'threatening' presence."<sup>6</sup> Generally, the "significant other" is a cultural and political other.<sup>7</sup> Thus, it was not until flamenco reached the international stage that it became explicitly symbolic of Spain. In terms of my analysis, national identity is constructed through contact with the outside.

Flamenco emerged on the international stage through a process stimulated both by exterior interest as well as interior promotion. This process resulted from several factors, including the European tourists' interest in Spanish culture as well as the desire of the Spanish government and Spanish artists to perpetuate an image of Spain that differentiated the country from the rest of Europe. On an international level, the Spanish "folk" culture of the Andalusian gitano (Roma) was disseminated as the national culture through flamenco. Flamenco became the visual representation of Spain presented to foreigners through performances both inside and outside of Spain. Due to the mindset of many Europeans during the 19th century that "Africa begins at the Pyrenees," a phrase coined by Victor Hugo, European Romantics could explore their interest in Orientalism by traveling to Andalusia.<sup>8</sup> Flamenco came to be seen by European intellectuals as the ultimate representation of the España de la Pandereta (Spain of the Tambourine), a generalized and overused image of Spain that has dominated foreigners' perceptions of Spanish culture and society.<sup>9</sup> Although flamenco varies greatly in each region where it is practiced, it became a national symbol of Spain as a result of increased international interest.

### The "Japanization" of Flamenco

The crucial element to my analysis of flamenco in Japan is to examine whether or not flamenco has indeed experienced a "Japanization" or is an example of Ahmed's theory of stranger fetishism due to the fact that, to foreigners, it is a national symbol of Spain. Consequently, the question becomes whether flamenco is merely absorbed into Japanese culture or adapted by it. For my paper, I will define cultural absorption as the taking and using of cultural products, in the vein of Ahmed's stranger fetishism, whereas cultural adaptation is the taking and changing of cultural products, a process of Karatsu's "Japanization" where the cultural product of outside cultures becomes a part of Japanese culture. I argue that flamenco, in fact, is

<sup>5</sup> Anna Triandafyllidou, "National identity and the 'other,'" *Ethnic and Racial Studies* 21 (1998): 599.

<sup>6</sup> Triandafyllidou, 600.

<sup>7</sup> Kjetil Tronvoll, "Borders of Violence—Boundaries of Identity: Demarcating the Eritrean Nation-State," *Ethnic and Racial Studies* 22 (1999): 1055.

<sup>8</sup> Loren Chuse, *The Cantaoaras: Music, Gender, and Identity in Flamenco Song* (New York: Routledge, 2003), 258.

<sup>9</sup> Chuse, 257.

adapted by the Japanese, most notably through the fusion of styles, and thus undergoes a “Japanization.”

Japan has long been interested in cultural aspects of the “other.” Scholars have charged that Japan is an “imitator” or “assimilator” of other cultures. Joseph Tobin collects a series of articles in his book *Re-Made in Japan: Everyday Life and Consumer Taste in a Changing Society* on the prevalence of cultural absorption in Japanese society. He states in the introduction that the identification of Japanese culture as “imitator” is even used amongst the Japanese.<sup>10</sup> According to Tobin, there are two ways to interpret Japanese cultural absorption - it is either a result of the Japanese as victims of Western domination or a sort of “cultural plagiarism.”<sup>11</sup> By utilizing the term plagiarism, Tobin negatively connotes a direct copying of other cultures. However, more than a direct copying he also describes what I have termed cultural adaptation: “[an] ongoing creative synthesis of the exotic with the familiar, the foreign with the domestic, the modern with the traditional, the Western with the Japanese.”<sup>12</sup> In this regard, the absorption and/or adaptation of other cultures are central components of Japanese culture.

Other scholars further the idea of cultural adaptation, saying that the Japanese interest in cultural products is not just a passive absorption, the “cultural plagiarism” of Tobin, but rather is an active adaptation of these products, which transforms them into something Japanese. Rie Karatsu argues, in his case study of Japanese ballroom dancing, that the Japanese do not simply imitate other cultures, but rather incorporate them into their culture while also adapting them, thus creating something new. Elements of outside culture undergo a “sequence of cultural absorption” as they are assimilated into Japanese culture.<sup>13</sup> He terms this process Japanization: “the process in which practices originating outside the country are transformed and molded into a particular vernacular form.”<sup>14</sup> This is a cultural “Japanization” rather than the “Japanization” of economic theorists used to describe the Japanese economic model that has spread to Western nations such as Great Britain.<sup>15</sup> Karatsu claims that Japanese adaptation of other cultural forms is a dynamic and adaptive process rather than merely imitation.

The concept of “stranger fetishism” is a more specific theory of cultural absorption. Sara Ahmed defines stranger fetishism as “fetishism [involving] the displacement of social relations of labour through the transfer of objects into figures.”<sup>16</sup> Stranger fetishism pursues and acknowledges the difference of the other while trying to keep the other in its place - the “other” becomes a figure that represents the exotic and remains distant from the local. The people that pursue the exotic other do so through two methods: consuming and becoming. Anu Laukkanen, in her case study of Oriental dance in Finland, tries to determine whether Finns’ interest in Oriental dance is a result of stranger fetishism. Laukkanen states that whenever we eat or dress like people from another culture, we can be “consuming strangers,” perhaps attempting to become like these strangers.<sup>17</sup> The question is to what extent the local culture is trying to consume or become the exotic culture by practicing its dance forms.

Cultural absorption or adaptation of the other is not a one-way movement, and subsequently, impacts the other culture as much as it impacts the local culture. Savigliano, an Argentine herself, asserts that Argentines make an “epic tale out of the tango’s popularity in Japan” in order to “be reassured that [they] occupy a special place in the globe and deserve recognition.”<sup>18</sup> She continues: “The tango is our symbol of national identity. Japan’s acceptance and valorization of the tango legitimizes our existence as a nation, culture and people.”<sup>19</sup> Thus, when dance becomes a symbol of national identity, it can also be a source of pride for a nation to see its own cultural product succeed in the global market.

### Globalization of Cultural Products

As the globalization of culture becomes more prevalent, so does the quantity of literature on the topic. Globalization rather abstractly refers to the current state of “complex connectivity” in our world.<sup>20</sup> The globalization of culture occurs through the emergence of cultural products particular to one nation into the international market: “the integration—the networking—of cultural practices and experiences across the world.”<sup>21</sup> This global culture can be viewed as either an emergence of “the world as a single place”<sup>22</sup> or homogenized culture devoid of diversity and value.<sup>23</sup> While some view this process negatively and others see its benefits, cultural globalization both exists and cannot be avoided.

<sup>10</sup> Tobin, 3.

<sup>11</sup> Tobin, 3.

<sup>12</sup> Tobin, 3-4.

<sup>13</sup> Karatsu, 416.

<sup>14</sup> Karatsu, 416.

<sup>15</sup> Stephen J. Wood, “Japanization and/or Toyotaim?” *Work, Employment & Society* 5 (1991): 567.

<sup>16</sup> Sara Ahmed, *Strange Encounters: Embodied Others in Post-Colonialism* (London: Routledge, 2000), 5-6.

<sup>17</sup> Anu Laukkanen, “Stranger Fetishism and Cultural Responsibility in Transnational Dance Forms,” *Gender and Power in the New Europe*, the 5th European Feminist Research Conference (August 20-24, 2003).

<sup>18</sup> Marta Savigliano, *Tango and the Political Economy of Passion* (Boulder: Westview Press, 1995), 170.

<sup>19</sup> Savigliano, 170.

<sup>20</sup> John Tomlinson, *Globalization and Culture* (Chicago: University of Chicago Press, 1999), 32.

<sup>21</sup> Tomlinson, 32.

<sup>22</sup> Kathryn Robinson, *Choosing Contraception: Cultural Change and the Indonesian Family Planning Programme* (Sydney: Oceania Publications, 1989).

<sup>23</sup> C. Rowan, “For the duration only: motherhood and nation in the First World War” in *Formations of Nations and People*, ed. Formations Editorial Collective, (London: Routledge and Kegan Paul, 1984), 152-70.

<sup>24</sup> Ulf Hannerz, “Culture between center and periphery: Toward a Macroanthropology” *Ethnos* 54 (1989): 200-216.

The transnational movement of cultural products, such as dance, is a component of the broader debate on globalization and its implications to society. According to Kellner, “Marxists, world-systems theorist, functionalists, Weberians, and other contemporary theorists are converging on the position that globalization is a distinguishing trend of the present moment.”<sup>24</sup> Neo-Marxist theories such as Foucault’s theory of panopticism, state that all social activities are controlled and directed from the top, including globalization which is another example of social domination by those in power because it stifles cultural distinctness.<sup>25</sup> Kellner, however, favors a more comprehensive view of globalization: “one should avoid both technological and economic determinism and all one-sided optics of globalization in favor of a view that theorizes globalization as a highly complex, contradictory, and thus ambiguous set of institutions and social relations, as well as one involving flows of goods, services, ideas, technologies, cultural forms, and people.”<sup>26</sup> In today’s world, where international exchanges are inevitable, more scholars are examining what globalization means for a culture rather than how to avoid it or why it is occurring.

A tendency to view the globalization of culture in a positive light also exists, both in a cultural as well as an economic sense. In his discussion on Japanese jazz musicians, Timothy J. Craig asserts that ethnicity cannot determine the authenticity of music and that it only “serves to reinforce ideologies of ethnic difference.”<sup>27</sup> According to Craig, in regards to the search for “authentic” jazz, “One historical crime—robbing black artists of their rightful profits and credit for creating this music—does not justify another: denying the significance of non-black artists in shaping jazz.”<sup>28</sup> Thus, in Craig’s analysis, he asserts that crossing ethnic boundaries does not diminish the value of music, specifically because as an art form, it is not dependent on remaining “authentic.”

Bryan Caplan and Tyler Cowen also describe globalization positively but in an economic sense, stating, “We will suggest that market competition across cultures is desirable and favors relevant notions of diversity.”<sup>29</sup> They argue that trade and globalization can “support and extend cultural distinctiveness” because while distinctiveness across cultures will decrease, distinctiveness within cultures will increase.<sup>30</sup> Whereas a tribe closed off to all other cultures may have highly distinct forms of music, dance, art, etc., they will never be aware of any other cultural forms and thus, diversity will be low. They conclude their argument with the far-

reaching statement, “No great culture has arisen in isolation; all owe their existence to the international economy.”<sup>31</sup>

## Historical Background

### *Flamenco on the International Stage*

Flamenco owes its status as a national symbol of Spain largely to the international market—although culture is rooted in place, it can gain strength when it leaves that place. Flamenco as a symbol of Spanish national identity depends on how outside groups view Spain. Yuko Aoyama, geography professor and student of flamenco dance, stresses the fact that culture and its expressive forms—dance, art and craft, music, cuisine, apparel and language—distinguish one geographic region from another and that “traditionally, culture and cultural products have been intimately connected to geographical location.”<sup>32</sup> With economic globalization, where businesses’ ability to market products all over the globe increases, this is no longer the case—a person does not have to travel to Spain to experience a flamenco performance. In the following section, I will discuss first the emergence of flamenco into the international market as a whole and subsequently, its emergence in Japan.

International interest in flamenco on a wide scale developed in the 1840s, partly in response to European Romanticism, which stressed the importance of strong emotion as well as folk art; flamenco was a source of both, making it appealing to the Romantics. The Romantic interest in flamenco also influenced its aesthetic and even some of the ways that the artists began to present their performances; for example, artists began to emphasize flamenco as “folk art.” According to both Mitchell and Chuse, the “myth of exotic Spain” in which flamenco plays an important role, was a slow process: “it represents the cumulative efforts of many generations of European tourists and intellectuals in collusion with key elements of Spanish society.”<sup>33</sup> Thus, I reinforce once more the interplay between the international stage and the nation itself in creating national symbols. On an international level, flamenco is symbolic of “Spanishness.” Due to the progression over time of increased international interest in flamenco dance, the events which occurred throughout this process are numerous and varied. I will cover only a few of the factors: the development of Romanticism and its interest in Orientalism; the flamenco dancer La Argentina; and the development of tourist flamenco during the Franco dictatorship.

<sup>24</sup> Douglas Kellner, “Theorizing Globalization,” *Sociological Theory* 20 (2002): 285.

<sup>25</sup> Michel Foucault, *Surveiller et punir. Naissance de la prison* (Paris: Gallimard, 1975), 244.

<sup>26</sup> Kellner, 286.

<sup>27</sup> Timothy J. Craig, *Japan Pop! Inside the World of Japanese Pop Culture* (Armonk: M.E. Sharpe, Inc., 2000), 54.

<sup>28</sup> Craig, 54.

<sup>29</sup> Bryan Caplan and Tyler Cowen, “Do We Underestimate the Benefits of Cultural Competition?” *The American Economic Review* 94 (2004): 402-407.

<sup>30</sup> Caplan and Cowen, 402-403.

<sup>31</sup> Caplan and Cowen, 406.

<sup>32</sup> Yuko Aoyama, “Flamenco Fever: When Local Culture Goes Global,” (Clark University: Active Learning and Research, 2000) <http://www.clarku.edu/activelearning/departments/geography/aoyamaD.cfm>.

<sup>33</sup> Chuse, 257.

Spain was seen, especially among French Romantics, as the “gateway to the Orient,” resulting in increased European travel to Spain as well as a growth of literature on Spain during the 19th century.<sup>34</sup> This time period saw more than eight hundred travel narratives written about Spain, most of them focusing on Andalusia, the birthplace of flamenco. European Romantics were able to experience the exotic that they were seeking without having to leave the continent; “Andalusia was a place where one could see the Middle East without leaving the West.”<sup>35</sup> Spain, as well as most of Europe, viewed itself as separate from the rest of the continent and sought “a non-Western approach to social behavior and artistic creation that, though long gone, still continues to influence southern Spain today.”<sup>36</sup> In terms of flamenco, novellas such as *Carmen* (1845) depicted the stereotypical Andalusian woman as an exotic, primitive race.<sup>37</sup> The Orientalism of the French Romantics as well as self-orientalism resulted in international interest in flamenco dance—seeking out the exotic is something that continues to be a distinguishing factor of international interest in flamenco although perhaps not necessarily the only factor of Japanese interest in flamenco.

La Argentina, one of the most renowned flamenco dancers during the 19th century and called “the greatest Spanish concert artist the world has ever seen,” played a key role in stimulating international interest in flamenco through her performances abroad.<sup>38</sup> She transformed flamenco into a modern art while simultaneously drawing upon Roma and Spanish peasant culture, reinforcing the exotic aspects sought by European Romantics. She, like other artists such as Picasso, found inspiration in the primitive: “Folk culture...which might be molded and reconstructed became one of the most significant tools...to express the modernism of the moment.”<sup>39</sup> Thus, with her combination of primitive and modern, as well as national and European, flamenco appealed more and more to the international masses. La Argentina made flamenco public, modern, and exotic yet accessible, and thus, flamenco was seen and adored on an international level.

Franco’s dictatorship (1940—1975) utilized a watered-down version of flamenco as a tourist commodity, which, like other regional cultural expressions, was a means to achieve his goal of a mystically unified Spain.<sup>40</sup> This theatrical

version was exported during the 1950s and 1960s to encourage tourism, and it continues to be the only sort of flamenco that many “outsiders” know and experience. Spanish dance companies such as that led by José Greco toured Europe and the United States during this time; the New York World’s Fair in 1963 included a flamenco performance in the Spanish Pavilion, for example. This time period also saw the development of more public venues for flamenco including the *peñas* and *tablaos*. *Peñas* (private flamenco settings) were the focus of local flamenco activity and were utilized by those aficionados and scholars attempting to rescue flamenco from Franco’s *Nacionalflamenquismo* and to rediscover its legitimacy.<sup>41</sup> So although Franco’s version smothered much of flamenco’s originality and vibrancy, it also spurred retaliation by flamenco artists and enthusiasts to maintain and reinvent flamenco as an art form. *Tablaos*, which began as tourist venues under Franco’s generic version of flamenco, transformed themselves from an “instrument of the regime” into a “lucrative venue for performing professionals.”<sup>42</sup> *Tablaos* continue to be the site where most foreigners view flamenco as well as the best site for performers to earn a living. The increased number of touring flamenco companies coupled with more public venues resulted in an increased amount of literature devoted to flamenco from international scholars and aficionados.<sup>43</sup> By the end of Franco’s regime in 1975, flamenco had earned its place on the international stage as a national symbol of Spain, a mesmerizing source of entertainment, and a subject worthy of scholarly literature.

#### *Japanese Interest in Flamenco*

Although most people are shocked to hear the words flamenco and Japan in the same sentence, Japan’s flamenco following is greater than any other nation outside of Spain.<sup>44</sup> While most of the interest remained within the artists’ circle at first, recently, it has gained a more widespread appeal. Although Spain and Japan are both geographically and culturally distant, flamenco is becoming a part of Japanese culture: “The fifteen thousand kilometers that separate the land of the rising sun from Andalusian soil are no barrier at all to the thousands of Japanese who’ve fallen in love with the flamenco arts.”<sup>45</sup> This love of flamenco is a result of flamenco artists’ performances in Japan as well as characteristics of the dancing style—the discipline and body awareness it requires as well as the display of emotions it permits—which appeal to Japanese people in general and specifically, to women.

<sup>34</sup> Ninotchka Devorah Bennahum, *Antonia Mercé “La Argentina”: Flamenco and the Spanish Avante Garde* (Hanover: University Press of New England, 2000), 12.

<sup>35</sup> Chuse, 258.

<sup>36</sup> Bennahum, 13.

<sup>37</sup> Chuse, 258.

<sup>38</sup> Bennahum, 77.

<sup>39</sup> Bennahum, 16.

<sup>40</sup> William Washabaugh, *Flamenco: Passion, Politics and Popular Culture* (Oxford: Berg, 1996), 103.

<sup>41</sup> Chuse, 269.

<sup>42</sup> Chuse, 270.

<sup>43</sup> Chuse, 46.

<sup>44</sup> Shikaze, flamenco-world.com.

<sup>45</sup> Shikaze, flamenco-world.com.

Flamenco was first brought to Japan in the 1920s by Americans who had previously experienced the art form. They were soon followed by Spanish flamenco artists. Japan gained prestige as a flamenco venue as a result of La Argentina's performance there in 1929. After her performance in Japan and the end of World War II, other flamenco artists traveled to Japan, such as bailaoras (dancers) Manolo Vargas and Roberto Ximénez, and cantaor (singer) Rafael Romero.

After the success of performances on Japanese soil, Japan began to open its own performance venues. While these often began as an addition to already existing Spanish restaurants, Japanese people flocked to these venues to watch the show rather than to eat the food. This phenomenon spurred the creation of tablaos (venues for tourist-orientated flamenco shows) such as Tokyo's El Flamenco, which opened in 1967.<sup>46</sup> Flamenco was now fully exposed to the Japanese public eye as well as an excellent source of revenue for Spanish artists.

The mere interest in flamenco of the Japanese may be astonishing, but the numerous dance studios created for Japanese women who train to become both professional and non-professional dancers is perhaps even more perplexing from a Western perspective which stereotypically sees Japanese culture as reserved. The increase in the number of dance studios and widespread appeal of flamenco did not occur until the 1980s in reaction to two events: the development of Paseo-Flamenco in 1984, a magazine specifically devoted to flamenco which now sells fifteen thousand copies monthly, and the performance in 1986 of Carmen by the Antonio Gades Company.<sup>47</sup> The performance was such as success and so many people were exposed to flamenco through the magazine that student enrollment in flamenco studios soared.

Japanese women in particular latch on to flamenco as an art form and means of expression. The reasons for a woman to study a dance form of an outside culture are varied and hard to measure—it can be a means to access another culture, a form of exercise, an expression of sexuality. Although the dance component of flamenco was last to develop, after the singer and guitarist, and flamenco within Spain was traditionally a male domain, for the foreigner, flamenco generally pertains to women. For many foreigners who have only a very limited knowledge of flamenco, the male flamenco dancer is never considered when visualizing flamenco. In the traditionally male-dominated culture of Spain, flamenco became a means for women to express their sexuality as well as a method of further male subversion. The public performances of flamenco relied on women, and specifically, on an

idealized version of the gitana. Ferias (flamenco festivals) were several days of the year when women can leave the seclusion of their domestic lives, “comporting themselves in such a manner as to challenge a man's power and to control passions gone wild...a woman's performance is a catharsis that plays out, momentarily at least, the contradictions of social life.”<sup>48</sup> These festivals would be transformed into the tablaos of modern flamenco and so the public expression of flamenco is what reached the tourist. Thus, foreigners view flamenco as the embodiment of female passion which makes it difficult to understand the popularity of flamenco with Japanese women, who are not generally encouraged to show emotions in public. However, the ability to show passion through flamenco can also serve to make it easier to understand the interest of Japanese women—flamenco provides a stage where women are given an acceptable form to break social rules.

### The Japanization of Flamenco

#### *Spanish Flamenco Artists in Japan*

La Argentina is generally regarded to be the first flamenco artist to travel to Japan, followed by Carlos Montoya in 1932. Since the time that these artists first exposed the art of flamenco to Japan, numerous artists have traveled from Spain to Japan to perform especially during the 1950s and 60s. Spanish artists continue to perform in Japan today, including at an annual festival in the city of Tateyama.<sup>49</sup> The 2005 International Exposition of Aichi (a region of Japan) featured an entire pavilion dedicated to Spain in which flamenco was a central component. The exposition featured flamenco performances that ranged from el flamenco puro (pure/authentic flamenco) to the most modern conceptions of flamenco.<sup>50</sup> The festival included more traditional bailaoras (dancers) such as Rocío Molina, Carlos Rodríguez, Rafaela Carrasco, Carmen Cortés, and Merche Esmeralda, and guitarists El Güito y Gerardo Núñez as well as the Spanish musical group Ojos de Brujo whose style is a unique blend of traditional flamenco music with other traditional and modern sounds. Due to flamenco's overwhelming success in Spain's pavilion at the 2005 Expo Aichi, the Administrator of Culture in Spain, Rosa Torres, hopes to plan an exposition in Japan specifically devoted to flamenco in 2007.<sup>51</sup> From the first performance of flamenco in Japan to today, Spanish flamenco artists are hugely successful within Japan. According to Maruja Palacios, a teacher in Madrid, “There are more tablaos [in Japan] than here, so there is more work, even for Spanish artists.”<sup>52</sup>

<sup>46</sup> Shikaze, flamenco-world.com.

<sup>47</sup> Shikaze, flamenco-world.com.

<sup>48</sup> William Washabaugh, “Flamenco Music and Documentary,” *Ethnomusicology* 41 (1997): 52.

<sup>49</sup> Alicia Rodríguez Mediavilla, “Flamenco in Japan: from La Argentina to the present,” <http://www.esflamenco.com/scripts/news/ennews.asp?frmIdPagina=315>.

<sup>50</sup> Expo 2005 Aichi: Spanish Pavilion: Sharing the Art of Life. Sociedad Estatal para Exposiciones Internacional, <http://www.expoaichi2005.com>.

<sup>51</sup> “La Junta quiere crear un festival de flamenco en Japón en 2007,” April 12, 2007, <http://www.elpais.com>.

<sup>52</sup> Mediavilla, esflamenco.com.

### *Japanese Flamenco Artists*

Performances by Spanish artists left a mesmerized Japanese audience, resulting in an emergence of Japanese flamenco artists. While Japanese flamenco artists generally have more success within Japan, there are several artists who are respected and successful within Spain such as: Yoko Komatsubara, Keiko Suzuki, Pepe Shimada, Eiko Takahashi, Enrique Sakai, La Gitana Japonesa, and Ami.<sup>53</sup> These artists all left Japan to study in Spain and most returned to Japan after their studies in renowned flamenco studios such as Madrid's Amor de Dios. Yoko Komatsubara, formerly a student of classical ballet and theater, began studying flamenco in the 1960s, making her one of the first of the Japanese to disseminate flamenco within Japan. After her studies with renowned Spanish flamenco artists and work with a Spanish dance company, she returned to Tokyo where she opened her own tablao.<sup>54</sup> Most of these artists, due to their studies in Spain, utilize either a traditional flamenco style or draw upon the more modern flamenco trends currently employed by other Spanish artists, such as fusion with other modern dance or modern music styles.

### *Japanese/Spanish Flamenco Fusion*

There exists, in addition to Spanish artists within Japan and Japanese artists imitating Spanish artists, a new musical trend which fuses flamenco music and Japanese musical traditions. International and Japanese artists alike combine flamenco and traditional Japanese music to create something new—not quite Spanish, not quite Japanese. Pedro Diciervo, an Argentine flamenco guitarist, is one such artist who combines the music of Japan with flamenco. Originally from Argentina, during his time in Japan he performed a concert that included the Koto (a type of zither used as one of the main chamber instruments of Japanese traditional style), resulting in the fusion of two distinct cultures.<sup>55</sup>

The performance by the Japanese flamenco company Mami and Hiro of Sonezaki Shinzu goes beyond the mere fusion of Japanese musical styles with flamenco. Through the language of flamenco this piece of work portrays a play from the classical Japanese theater that is sometimes called the Japanese Romeo and Juliet through the language of flamenco. The work is a fusion of Japanese and flamenco elements in the choreography and music, including flamenco singing in Japanese. For Mayumi Kagita and Hiroki Sato, the directors of Sonezaki Shinzu, flamenco is perfect for the story of the two lovers, Tobukeh and Ohatsu. As they stated in an interview, “flamenco turns out to be indispensable to narrate their story.”<sup>56</sup> This sort of fusion creates something that does not pertain specifically to Spanish or Japanese culture but rather brings together the two and creates a new art

form. The fusion of the two art forms led to the work's success not only in Japan but also in Spain. Sonezaki enjoyed success in the 2004 Festival de Jerez, an annual flamenco festival held in Spain. By portraying a classic work of Japanese theater through flamenco, Sonezaki is no longer solely Japanese. Although the struggle for love is universal theme and an archetype of literature and art, the fusion of cultural forms also fuses a wider audience, making the work perhaps even more universal.

The mixing of styles so common to modern flamenco interpretations is not entirely new to the Japanese interpretation of flamenco. Since the 1980s, when flamenco first gained widespread appeal in Japan, Japanese flamenco artists have created something new through a fusion of flamenco and Japanese cultural products. Yasuko Nagamine delighted in the mixing of styles throughout her career—in 1982, she combined Kabuki (a form of traditional Japanese theater) with flamenco. Her mixing of styles was not restricted to Japan—several of her performances combined flamenco with African styles, modern dance, and even rock-and-roll. In a New York Times article on Nagamine, Jack Anderson describes one of her most surprising and controversial works, Mandara, which included fifty-eight Japanese Buddhist monks intoning traditional chants, the solemnity of traditional Japanese no theater, the emotional fervor of modern Western dance, and flamenco elements.<sup>57</sup> Nagamine said that the goal was “to reflect the wisdom of Buddhism in dance form.” Thus, with her training as a flamenco dancer, flamenco was the natural choice for the medium. Nagamine said that she realized that although she can dance flamenco, she can never be Spanish, but flamenco emphasizes originality and thus, the blending of styles makes her flamenco original. Nagamine says, “My originality as a flamenco dancer lies in the fact that I am Japanese.” The blending of cultural art forms is present across many cultures, but the repetition of this blending within Japan perhaps represents Japan's ability to take products of outside cultures, such as flamenco, and make these cultural products their own through a process of “Japanization.”

### **Japanese Women and Flamenco**

With an estimated 500 flamenco academies within Japan and approximately 50,000 students, mostly women, flamenco in Japan goes far beyond professional dancers. Numerous reasons can explain flamenco's success among Japanese women—the ability to express emotions that are generally suppressed in Japanese society, the discipline and body awareness required by the dance, the similarity in syllable usage between the Japanese and Spanish language which makes it possible for Japanese people to understand

<sup>53</sup> Mediavilla, esflamenco.com.

<sup>54</sup> Mediavilla, esflamenco.com.

<sup>55</sup> According to the personal web page of Pedro Diciervo, <http://www.pedrodiciervo.com>.

<sup>56</sup> Mediavilla, esflamenco.com.

<sup>57</sup> Jack Anderson “Japanese Dancer Mixes Flamenco and Buddhism,” *New York Times*, October 2, 1984.

and pronounce the lyrics, and among its many influences, those from the Far East give the meter some Oriental characteristics.<sup>58</sup> However, there are several difficulties to understanding why a group of people decides to study an outside cultural form; in the case of Japanese women and flamenco, each woman will have her own personal reasons for taking classes. Additionally, there is a danger in generalizing to the whole. It is useful to give several personal reflections from Japanese women and flamenco instructors on why flamenco is so attractive to Japanese women. While individual perspectives may not be true of every Japanese woman, they serve to provide some insight into the reasons behind the interest without merely re-stating generalized Western perspectives on Japanese culture.

Kae Waki was first exposed to flamenco through a performance of a flamenco student at a friend's wedding reception; after feeling mesmerized by this performance, she began taking lessons. Waki couples flamenco with the tango, saying that both are popular among Japanese because of the discipline required: "The rhythm, the footwork, coordination of hand movement, and the guitar – it is simply the right fit for Japanese people despite the fact that flamenco did not originate in Japan."<sup>59</sup> Waki also stresses the importance for Japanese women of expressing passions through flamenco, the stereotypical image outsiders have of flamenco. While Japanese are not generally encouraged to show their emotions and passions in public, flamenco offers an outlet for such an expression of emotions. The stage for emotions offered by flamenco is one reason that Waki and other women are attracted to the dance. Waki says flamenco has helped her understand how to express her emotions through dance.

Japanese students are also present in the dance studios within Spain; Madrid's famous flamenco school, Amor de Dios, sees numerous Japanese students within its walls. Just as most of Japan's professional flamenco artists spent time in Spain, non-professional students travel to Spain to learn guitar, dance, and even flamenco song. A professional Japanese bailaora says, "When there is a famous teacher of flamenco in Seville, 80-90% of her students will be Japanese. The Japanese love passion when they see it. It comes from the daily life here and is not artificial."<sup>60</sup> Some Spanish flamenco instructors even view foreigners as the ones who truly value flamenco. As instructor Maruja Palacios says, "Here, flamenco is not valued, whereas outside of Spain it is very highly valued. They truly come to dance, not to let some time pass, or to do some exercise."<sup>61</sup> This may be more true of those Japanese students who are passionate enough about flamenco to choose to leave behind

their jobs and lives in Japan.

The seriousness that Japanese students bring to the dance is perhaps the element of flamenco most typical of Japanese culture. Japanese work ethic reaches so deep that approximately 10,000 Japanese die of overwork, called *karoshi*, every year. A *karoshi* day and support groups now exist to try to help Japanese manage the stress of the common long work days and high-pressure work environments. Flamenco provides an outlet for emotion while also requiring a strong work ethic, perhaps the perfect combination to avoid *karoshi*.

While the expression of emotions flamenco requires is attractive to Japanese, it is also the most difficult aspect for any foreigner to achieve fully. Akemi Sugimoto is a 40-year-old student of Amor de Dios who now teaches flamenco in Japan, but consistently returns to Amor de Dios to learn more from teachers such as El Güito, Ciro, Merche Esmeralda, Manolete, and Antonio Reyes.<sup>62</sup> Akemi has only a limited knowledge of the Spanish language; counting the meter from one to twelve is about all she knows: "The meter is the only thing that I understand, I don't get a word of the rest of the things they tell me, but I watch and I do it."<sup>63</sup> Akemi says she comes to Madrid to "feel" flamenco—to try to emulate the emotion and passion flamenco requires, the *desahogo* (release of inner emotions) that is the most difficult for foreigners to grasp. It is only within Spain that Akemi believes she can truly experience this release of emotions in order to emulate it herself. Thus, Japanese professional and non-professional dancers such as Akemi travel to Spain, Spanish dancers travel to Japan to perform, new flamenco studios continue to emerge, artists continue to fuse Japanese and Spanish styles and as a result of all of this, the dialogue between Japan and Spain grows alongside the evolution of flamenco.

## Conclusion

This paper traced the development of Japanese interest in flamenco in a historical sense—beginning with international interest as a whole, mostly within the European context, and then moving to specific factors which brought flamenco to Japan. Ideological movements as well as specific events such as world tours of flamenco during the beginning of the 19th century played an important role in developing an international flamenco following. Japan developed an especially large flamenco following and Spanish flamenco artists continue to have success in Japan. In addition, many Japanese artists study and perform in both Spain and Japan, often resulting in a fusion of Japanese and Spanish art styles. Flamenco's emergence in Japan was a process which resulted from many factors: Spanish flamenco performances which

<sup>58</sup> Mediavilla, esflamenco.com.

<sup>59</sup> Kae Waki, "Popularity of Flamenco: Japanese Women Simply Love Flamenco," <http://www.mynippon.com/dreamland/fukulove7htm>.

<sup>60</sup> Mediavilla, esflamenco.com.

<sup>61</sup> Mediavilla, esflamenco.com.

<sup>62</sup> Mediavilla, esflamenco.com.

reached Japan early and often; the opening of flamenco venues within Japan; and Japanese flamenco dancers who began to study in Spain and return to Japan to open their own studios, thus providing a place for the larger population, especially women, to learn flamenco. In a cultural sense, it may be difficult to see why flamenco is so popular in Japan. However, there are numerous sources of Japanese interest, some of them implying more of a “stranger fetishism” while others suggest that flamenco actually fits with Japanese culture: the expression of emotions generally suppressed by Japanese people; the similarities in Japanese and Spanish languages; Oriental characteristics of the meter; and the discipline and body awareness which flamenco requires.

It is clear that the “other” is important in creating and maintaining the idea of nation, and that the two are inextricably linked, but what exactly this link means remains unclear. The “other’s” role can vary from merely theoretical to, as is the case with Japanese interest in flamenco, quite tangible. The question persists as to whether flamenco in Japan remains symbolic of Spain or has been transformed into something Japanese. Does Japanese interest in flamenco result from a seeking out of the cultural “other” in a sort of “stranger fetishism”? Or, is Japanese interest in flamenco more dynamic—a desire to transform the “other” into something Japanese? I would argue for the latter, mostly due to the dynamic transformation flamenco undergoes in its fusion with Japanese art forms. While flamenco symbolizes Spain to the foreigner, it is also an important part of Japanese flamenco artists’ and flamenco enthusiasts’ own identity who stress that flamenco does, in fact, have its place in Japan.

The exportation of cultural products is inherently paradoxical—while the international market is necessary for flamenco to become symbolic of Spain, it also changes flamenco and, to some, de-authenticates flamenco puro. While it may be said that globalization causes cultural products to lose their value, it also serves to create value. Japan has long been accused of merely imitating other cultures but perhaps this reinforces the value of the cultural product, in this case flamenco, both within Japan as well as within Spain. As I discussed, many Spanish flamenco teachers are both astonished and motivated by Japanese women’s interest and dedication to flamenco. Furthermore, I would stress that flamenco in Japan has undergone a cultural adaptation, a “Japanization” of the art rather than a mere cultural absorption. Due to the fusion of flamenco with Japanese styles, flamenco in Japan is not “stranger fetishism” where interest is solely based on the idea of flamenco as a representation of the exotic. Rather, it is dynamically drawn into Japanese culture through the fusion of styles.

The Japanization of flamenco is one example of flamenco’s changing face. It will not and cannot remain exactly as it

was during its birth with the gitanos in Andalusia. Art is inherently dynamic and fluid—it constantly draws upon past forms to create modern forms, thus creating a dialogue with past and present in order to become something new and even more valuable. Interaction with other cultures through globalization only furthers this dialogue. It is nothing new either—just as Picasso looked to Africa to create his art, flamenco can look outwards to create new forms. Art forms such as dance should not be constrained to remain exactly as they began in order to retain their value and interest. Rather, it is just the opposite—flamenco will only become more valuable both inside and outside of Spain if it is allowed to evolve while constantly drawing upon its Andalusian roots.

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# The Legitimacy Crisis: The Rule of Law and the European Constitution

Lauren Schaefer

This project will explore the degree of conformity of the European Constitutional Treaty to different conceptions of the rule of law. The European Constitutional Treaty has proven an extremely divisive issue in Europe, so much so that it received a resounding rejection from The Netherlands and France in 2005. Though many explanations have been explored as to why the Constitution failed to receive a popular vote of confidence, the role of one of the most basic political principles, the rule of law, has been largely ignored.

The European Constitution was highly anticipated as a clarification and unification of the many previous treaties of the European Community. It was the result of years of work and a great deal of compromise meant to solidify the growing union and give it a detailed direction for the future. Its failure to achieve ratification prompted predictions of “the end of Europe” and even though this declaration may be excessively pessimistic, the European Union is at least a stalled and confused mammoth superpower. As the European Union limps forward, it is important to decipher where the constitution fell short so that Europe can address its deficiencies and offer a stronger system, on which so many people and the global order depend.

The rule of law, unlike any other political principle in the world today, has received near unanimous support from the global community. Even states that do not support democracy or capitalism generally agree that governments and their people should be subject to clear, consistent, and predictable laws. As it is a staple of liberal government, it has concerned many theorists that they perceive a universal decline in the rule of law in recent years.

I begin with a brief definition of the rule of law and an explanation of its role in political systems and relationship with other political principles. A description of three models of the rule of law will follow: Fuller’s “natural law model,” Raz’s “positive model” and Hayek’s “free market model.” I then sketch out the basic points of the European Constitutional Treaty and place it within a larger political context. The heart of the paper will be an evaluation of ways in which the European Constitution conforms to these three models of the rule of law, and the ways in which it does not. I will conclude by deciphering what the results indicate for the rule of law as a modern political principle and the future of the European project.

## The Natural Law, Free-Market and Positive Models

The rule of law is the single political principle in the world which nearly everyone supports and on which no one can agree. Despite receiving near universal acclaim, few seem to really know what the rule of law is. Furthermore, there are about as many different, and often completely contradictory, conceptions of the rule of law as there are people who have ever given the thought to the theory and put pen to paper. To give a “true” definition of the rule of law would be impossible, as there is not really an accepted standard. What the rule of law has meant in history, and very generally means, is simply that man will be ruled by laws, not the whims of other men and that this is best achieved through clear, predictable and stable laws. Beyond this very skeletal guideline, the spectrum of economic, legal and moral notions of this concept constantly compete for preeminence in a political system.

An in-depth discussion of every conception of rule of law theory has filled the pages of many books. The three following models are among the most popular and analyzed of rule of law theories. To quantitatively or definitively determine whether the EU conforms ultimately to the rule of law as a general political principle would be, in my mind, an impossibility. However, it is quite feasible to determine the compliance of one document to a few similar theories of the rule of law, and so this is what I will attempt in this paper.

### *“The Natural Law Model”*

All three models that will be utilized in constitutional analysis within this paper are what can be considered “moralized versions” of the rule of law, though they differ in the scope and relationship of the rule of law and morality.<sup>1</sup> It is in reference to this model, the natural law model, that the other two theories of the rule of law will be elaborated. According to Lon Fuller, author of the “natural law model,” the presence of the rule of law does not automatically confer the presence of morality. Instead of morality and the rule of law occupying the same sphere, Fuller postulates that only in certain instances do law and morality overlap.

However, at the point where law does confer with morality there exists a spectrum of morality that begins at a morality of duty and finishes at a point that Fuller calls the morality of aspiration. The morality of duty starts at

<sup>1</sup> Michael Newman, *The Rule of Law: Politicizing Ethics* (Cornwall: Ashgate, 2002).

the bottom of the scale and serves to define “the basic rules without which an ordered society is impossible, or without which an ordered society directed toward certain goals must fail its mark.” At the other end, the morality of aspiration is the point of maximum excellence, “the fullest realization of human powers.” To further clarify his point, Fuller defers to an analogy proposed by Adam Smith in his *Theory of Moral Sentiments*. Smith compares the morality of duty to the basic rules of grammar and composition. Just as the rules of grammar provide “what is requisite to preserve language as an instrument of communication, the rules of a morality of duty “prescribe what is necessary for social living.”<sup>2</sup> To complete the analogy, Smith compares the morality of aspiration to the attainment of eloquent writing. “The principles of good writing are loose, vague and indeterminate and present us with a rather general idea of the perfection we ought to aim at, rather than afford us any certain and infallible directions of acquiring it.”<sup>3</sup> Therefore, it may be quite clear in purpose and simple in application to proscribe rules that can ensure comprehensible writing, but much more difficult to create rules that through mere compliance result in excellence. This is the relationship which Fuller explores in his theories of duty and aspiration within the law. There must be laws that create order and allow humans to explore their potential, but laws alone cannot lead human beings to “the fullest realization of human powers.”

The crux of Fuller’s “natural model” is that there is an internal morality of the law present when rules are put into place that create order in society and allow man to be governed by laws and not by other men, thereby fulfilling the morality of duty. The content of the laws (beyond the eight principles discussed below) and their degree of “fairness” is irrelevant in this case. This content is defined as the “external morality” of law, which Fuller implies should be considered a different morality from simply the fact that there should be laws in a coherent and comprehensible system. It is difficult, if not impossible, to create a set of requirements that will always produce fair and good laws. Instead, Fuller focuses on simply the requirements of laws in a procedural sense and their relationship with people generally which he explains has a morality all its own and protects against tyranny, regardless of its content.<sup>4</sup>

In order to attain internal morality, laws must comply with eight specific principles.<sup>5</sup> The first principle which Fuller proposes is “generality of the law”. This is very simply that there must be rules, that there must be conditions that govern human conduct. This does not mean that there must be a law for every conceivable situation, just that there be

a system of laws by which society can be guided. Another key component of generality is that everyone be subject to the laws, especially those that make them. Additionally, no laws should be made to favor or discriminate against any particular group.<sup>6</sup>

As a logical extension of the principle that there should be laws, Fuller next states that laws must be known or knowable. In order to not break laws, one must know what they are. This principle he terms “promulgation”. As an absolute Fuller recognizes that educating every citizen about every law is an impractical endeavor and subject to the marginal utility principle. This principle originates in economic theory and applied here basically means that sometimes increasing the amount of something does not always consistently increase its usefulness. In other words, it may be very useful to know fifty laws, but knowing one hundred laws will not necessarily be twice as helpful as knowing the first fifty for a variety of reasons, such as the likelihood that at some point a person will no longer be able to retain that much information, or that the laws will not be relevant to his daily life. What is more important than simple memorization of all laws by all people, which Fuller describes as “absurd,” is that everyone have access to the laws, that they be published for public consumption. The reasons for publication are threefold, first that everyone is entitled to the information should they want it, second that the laws may be available for criticism, and third that “in many activities men observe the law, not because they know it directly, but because they follow the pattern set by others whom they know to be better informed than themselves.”

The next principle is very straightforward, with very few exceptions. This is that “laws should not be retroactive,” that one should only be subject to the laws in existence at the time of an act. Laws should never punish people for acts committed before those laws were in place. Sometimes Fuller acknowledges, the internal workings of law suffer “various kinds of shipwreck” and that though the “proper movement of law in time is forward, we sometimes have to stop and turn about to pick up the pieces.”<sup>7</sup>

Laws must also be clear according to Fuller, and as brief and specific as is appropriate.<sup>8</sup> Here he means that language must be clear enough that judges will rule similarly based on the same laws and that people will interpret them similarly. The need for clear laws becomes obvious, for if the same law is interpreted to have thousands of meanings, it will not be applied in way that fulfills the generality principle. Legislatures use such terms as “good faith” and “due care”

<sup>2</sup> Lon Fuller, *Morality of Law* (USA: Yale University Press, 1965), 32.

<sup>3</sup> Fuller, 6.

<sup>4</sup> Neumann, 7

<sup>5</sup> Jonathan Rose, “The Rule of Law in the Western World: An Overview,” *Journal of Social Philosophy* 35, no. 4 (2004): 457-470.

<sup>6</sup> Fuller, 48.

<sup>7</sup> Fuller, 53.

<sup>8</sup> Rose, 457-470.

frequently, and though these terms may seem ambiguous, Fuller claims that sometimes the best way to achieve clarity is to incorporate into law common sense terms “that have grown up in ordinary life outside the legislative halls.”<sup>9</sup> However, in order for the legislator to avoid fatal conflict with the generality principle, it is important for her to not use this as an excuse for making unclear laws in the hopes that the courts will make sense of the language.

The next two principles will now be addressed briefly, as extended discussion of them goes beyond what is necessary for this project and into the depths of jurisprudential analysis. Laws must also be consistent according to Fuller, they must not contradict one another for the quite obvious reason that one cannot follow two rules if they require opposite actions. This is much more complicated than it may appear, for it is incredibly difficult to always identify in an entire body of laws if a contradiction exists or for that matter how to even define a contradiction. The last two principles are that laws should remain constant through time and that there should be congruence between the official act and declared rule.<sup>10</sup> Laws that change on a daily basis would be nearly impossible to follow because they could not be made known in time, and the potential for conflict between them would be substantial. It is therefore very important that laws not be changed too frequently. Finally, the most logistically complicated of all the principles is that the declared law must be consistent in its enforcement. Difficulties in the enactment of this principle arises when lower courts find many interpretations of the same statute, or when police officers do not consistently arrest people for the same offense, or for a declared offense.

It is important to note seemingly paradoxical claims put forth by Fuller about the above eight principles. Fuller claims that the rule of law only exists if all eight principles are realized in a society - if you begin to lose one, the others will follow. However, he also claims that it is not necessary to fully realize each principle, and that in fact it is probably not desirable to do so. Instances in which complete compliance is impossible or undesirable are listed in the above discussions. The answer to this puzzle is that all of these principles exist on a spectrum, and that they can be realized without absolute compliance. It is important that each principle be complied with as fully as possible, but a departure in some instance from one principle usually does not mean a departure from the rule of law. It also bears repeating that though general compliance to these principles will make it more likely for law to be beneficial to its subjects, it does not ensure it. “There is no way open to us by which we can compel a man to live the life of reason. We

can only seek to exclude from his life the grosser and more obvious manifestations of chance and irrationality. We can create the conditions for a rational human existence.” In sum, Fuller’s goal in his model of the rule of law is to create the general conditions essential for man to achieve his full potential, though they are admittedly not necessarily those that will be sufficient to achieve this end.<sup>11</sup>

#### “The Free-Market Model”

What is termed “the Free Market model” here was eloquently described in Friedrich Hayek’s book *The Road to Serfdom* published in 1944. In the past sixty or so years this book has held tremendous sway over Western conceptions of the rule of law, particularly those in the United States and to a lesser extent in the United Kingdom. This rule of law system very basically holds that laws must be “general, equal and certain”. “Stripped of all technicalities this means that government in all its actions is bound by rules fixed and announced beforehand – rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances, and to plan one’s affairs on the basis of this knowledge.”<sup>12</sup> Superficially this may appear very close to Fuller’s model of the rule of law. However, upon closer inspection it becomes clear that Hayek goes beyond Fuller with a stricter definition of how these attributes must be realized.

The “generality principle” means, consistent with Fuller’s model, that there must be abstract rules not made with any individual in mind. “Equality” extends this principle to additionally narrow its scope to the creation of laws that do not make arbitrary distinctions between groups that are not approved of by a majority of a society’s population, and this Hayek contends happens only in very few circumstances such as in male-only military conscription.<sup>13</sup> “Certainty” states that individuals must be able to predict and interpret what rules will be applied to their actions and how those rules will be interpreted. It is quite dangerous, in Hayek’s opinion for judges to be given any significant amount of discretion in rulings. He equates discretion with arbitrary will in the sense that it negates generality and the ability for individuals to know to what rules they will be subject. “Known general laws, however bad, interfere less with freedom than decisions based on no previously known rule.”<sup>14</sup> Hayek’s conception of justice is very heavily centered on precedent and close adherence to legal text.

For Hayek, economic liberty realized through the free market and the rule of law are inseparable in the cause of human autonomy. The focus of Hayek’s model is a warning against the consequences of “planning” and the pursuit of

<sup>9</sup> Fuller, 64.

<sup>10</sup> Rose, 457-470.

<sup>11</sup> Fuller, 9.

<sup>12</sup> Neumann, 3.

<sup>13</sup> Brian Tamanaha, *On the Rule of Law* (United Kingdom: Cambridge University Press, 2005), 66.

<sup>14</sup> Tamanaha, 66.

social justice, which he believes will inevitably lead to the destruction of the rule of law and arbitrary, potentially tyrannical, government. There are two sides of social justice, substantive justice and distributive justice.

Substantive equality is the notion that equality requires treating differently situated people differently in order to account for the inequality of their situations, (by contrast to formal equality, which treats everyone the same, making, making no accommodation for differences in circumstances. Distributive justice is the notion that there must be a fair distribution or allocation of goods in society, with fairness determined in accordance with some standard of merit or desert.<sup>15</sup>

State-directed economic activity for the purposes of furthering either substantive or social justice is not consistent with the rule of law, because there is no universal code of ethics that exists from which legitimacy can be drawn, which would therefore make all laws governing planning necessarily arbitrary. In other words, how can a single plan capture everyone's needs and rank them without giving arbitrary preference to certain individuals or groups? "The point which is so important is the basic fact that it is impossible for any man to survey more than a limited field, to be aware of the urgency of more than a limited number of needs."<sup>16</sup> Individuals, according to Hayek, are much better at determining what is most important for their success than governments, so even the poor are better off in a market economy than in one governed by "vague" and "arbitrary" rules. In addition, by not "imposing" any single plan on a population, other viewpoints are respected, because no "plan" or viewpoint is favored over another.<sup>17</sup>

Planning is also incompatible with the rule of law because "as soon as the particular effects of the law are foreseen at the time a law is made, it ceases to be a mere instrument to be used by the people and becomes instead an instrument used by the lawgiver upon the people for his own ends."<sup>18</sup> When the state tries to direct activity to reach a certain outcome, it is essentially imposing a certain morality upon its subjects, and in doing so will eventually need to rely on judges to interpret that morality of what is "fair" case by case and according to no prospective law. In order to make things more "fair" for a certain group of people, it is necessary for those people to be treated differently than others. Which group is singled out to be favored above others is inescapably the arbitrary choice of those in power. This confers legal privileges on judges to decide the ranking of interests and on the

beneficiaries of that ranking. The absence of legal privilege is the essence of equality before the law, the opposite of arbitrary rule, and the heart of the rule of law. Therefore, the appropriate operation of the law is as a "piece of utilitarian machinery intended to help individuals in the fullest development of their individual personality," and not as a means of trying to improve the situation of any particular groups.<sup>19</sup>

Few other theorists have "expressed such unshakeable faith" in the rule of law. To Hayek the rule of law, albeit only his conception, is the "essence of justice" and the "mainstay of liberty."<sup>20</sup> While Fuller views his model of the rule of law as a starting point for freedom, Hayek perceives his model as the starting point and the finishing point, in effect the one race truly worth running for individual liberty. Democracy Hayek applauds, but one gets the feeling – with only lukewarm enthusiasm. Because justice and morality are simply achieved through universalization in his eyes, democracy serves a limited purpose, and can very easily collapse into tyranny. The process by which legislation passes can be reduced to apportioning the "spoils of government" to the "winners in the political process." This coupled with powerful special interest groups constantly threaten the generality of the rule of law. Even the Bill of Rights, Hayek deems insufficient compared to the protective power of the rule of law. "Such a clause [requiring adherence to the Rule of Law] would by itself achieve all and more that the traditional Bills of Rights were meant to secure; and it would therefore make any separate enumeration of a list of special protected fundamental rights unnecessary."<sup>21</sup>

In conclusion, the "Free-Market model" of the rule of law, as espoused by Hayek, has an inherent morality derived from its impartial relationship with individuals much like that of Fuller's model. Unlike Fuller, he is very concerned with the content of laws and claims the incompatibility of "social justice efforts" with the rule of law. The "immorality" or problematic consequences he dismisses as not important enough to outweigh the benefits of the free-market system "It cannot be denied that the rule of law produces economic inequality – all that can be claimed for it is that this inequality is not designed to effect particular people in a particular way."<sup>22</sup> Though this explanation has satisfied many followers of Hayek, it has also produced a wave of backlash from legal positivists such as Joseph Raz who refuse to abandon the pursuit of substantive equality through the law.

<sup>15</sup> Tamanaha, 67.

<sup>16</sup> F.A. Hayek, *The Road to Serfdom*, (Chicago: Chicago University Press, 1978), 85.

<sup>17</sup> Hayek, 42.

<sup>18</sup> Hayek, 85.

<sup>19</sup> Hayek, 85.

<sup>20</sup> Tamanaha, 71.

<sup>21</sup> F.A. Hayek, *Law, Legislation and Liberty*, vol. 3 (Chicago: University of Chicago Press, 1978), 110.

<sup>22</sup> Tamanaha, 68.

*“The Positive Model”*

In a direct challenge to Hayek’s model, Joseph Raz points out two main “fallacies” of the rule of law and proposes to deconstruct the fundamental assumptions underpinning the free-market model. First, Raz declares that the rule of law is frequently, as in the case of Hayek, overrated in importance. Second, the term the “rule of law” has been so overused it often holds very little of its original meaning. According to Raz, equating the “rule of law” with “the rule of good law” is at best confusing, and at worst, dangerous because it is reduced to “lacking any useful function.”<sup>23</sup>

To the predictability, clarity and stability principles laid out by our other theorists, Raz adds an independent judiciary as essential to the rule of law. This includes open and fair hearings, judicial review and courts with easy accessibility.<sup>24</sup> Although Raz agrees with most of Fuller’s model concerning stability and clarity, he is concerned that Fuller’s model and Hayek’s models could be consistent with all manner of undesirable, even evil laws. “It is humanely inconceivable that law can consist only of general rules and it is very undesirable that it should.” It is a mistake, Raz claims, for us to equate generality of the law with the advancement of equality in society.

A non-democratic legal system, based on the denial of human rights, on extensive poverty, on racial segregation, sexual inequalities, and racial persecution may, in principle, conform to the requirements of the Rule of Law better than any of the legal systems of the more enlightened Western democracies... It will be an immeasurable worse legal system, but it will excel in one respect: in its conformity to the rule of law.<sup>25</sup>

In fact, the rule of law could even be consistent with the institution of slavery, according to Raz. This may seem like an extreme and altogether unlikely scenario, but is widely accepted that the U.S. adhered to the rule of law in its period of legal slavery and racial discrimination laws.<sup>26</sup> According to many theories, laws that are general, clear and prospective are compliant with the rule of law, regardless of the morality of their content.

There exists, beneath general rules, another level of necessary particular rules. This does not create a conflict with the rule of law as long as these particular laws are “guided by open, stable, clear and general rules.” This introduces flexibility into the law that makes it far more useful than Hayek’s model. Imagine if we had to make general rules for a police officer to regulate traffic, or a license authority to

grant a license under “general conditions.”<sup>27</sup> It is necessary in each situation for the police officer or the license authority to use his expertise to determine the particular set of specific conditions.

Raz disagrees with Fuller that the rule of law has an internal moral virtue, because the benefits of the rule of law can easily go unrealized even if the principle is closely conformed to. Instead the rule of law is helpful in that it is necessary for the laws to be able to serve the purposes for which they were created. To Raz, the rule of law is a tool, much like a knife. A knife may be dull or sharp, but it will be much more effective at whatever task it is set if it is sharp. The ability to cut does not automatically mean that a knife will be used for a good purpose. Knives can be used to murder or to prepare nourishing food, but being sharp simply means that it is always desirable to use it for either purpose. “Thus the rule of law is a negative virtue in two senses: conformity to it does not cause good except through avoiding evil and the evil which is avoided is evil which could only have been caused by the law itself.”<sup>28</sup> So the rule of law is like the knife, it is not inherently good simply because it was sharp and was not used to murder anyone today.

Raz does not see conformity to the rule of law as an ultimate end. Other ideals such as democracy, social equality, and human rights are also incredibly important to society, and sometimes they might require a deviation from the rule of law. “A lesser degree of conformity is often to be preferred precisely because it helps realization of other goals.” A conflict with the rule of law should be expected according to this model. This conflict does not mean the end of the rule of law, and the weakening of the rule of law would not necessarily mean anything as drastic as a “road to serfdom” or tyranny. In fact a greater balance of values in a society may allow for greater individual freedom than any strict adherence to one principle. Raz sums his argument with a call for balance. “After all, the rule of law is meant to enable the law to promote social good, and should not be lightly used to show that it should not do so. Sacrificing too many social goals on the altar of the rule of law may make the law barren and empty.”<sup>29</sup>

### **A Constitution for Europe: Ratification and Rejection**

The European project of “ever closer union” has propelled it from economic community to political community and now to world power. It has gained such momentum over the past half century that, many would argue, a European Constitution was a structural inevitability. European law,

<sup>23</sup> Joseph Raz, “The Rule of Law and Its Virtue” *Liberty and the Rule of Law* (Texas: Texas A&M Press, 1979), 210.

<sup>24</sup> Raz, 218.

<sup>25</sup> Raz, 211.

<sup>26</sup> Tamanaha, 93.

<sup>27</sup> Raz, 216.

<sup>28</sup> Raz, 224.

<sup>29</sup> Raz, 229.

as elaborated by the seven treaties ratified in the EU's lifespan, has culminated in a messy labyrinth of bureaucratic incoherence. The European Constitution would have unified and codified the existing treaties into one European Union governed by one document. Despite the fervor that has surrounded the constitutional venture, as Professor Glyn Morgan of Harvard University pointed out at a recent symposium at Indiana University, in effect, the constitution is "a document that does little more than formalize present arrangements and propose a very limited set of institutional reforms."<sup>30</sup> In the end this argument did not resolve the deeply-rooted concerns of millions of European citizens.

In 2005 national politics, sovereignty concerns and a strong anti-neoliberal sentiment dragged ratification of the Constitution, and European integration to a screeching halt. During the summer and fall of the previous year, the 25 member states and three candidate states had signed and adopted the treaty. All that was left was to enter the treaty into force through each country's constitutional procedures, either through a popular referendum or a parliamentary vote. Though many countries did vote to put the constitution into effect, two key countries voted it down. France and the Netherlands voted in popular referendum against the Constitutional Treaty, destroying the unanimity necessary to put the constitution into force. While the EU certainly did not cease its operations, the rejection of the constitution slowed Europe to a laborious crawl. Alarmists heralded the impending demise of the European Project but many scholars and officials dismissed such pessimistic speculation. Jean Asselborn, Deputy Prime Minister of Luxembourg assured "the setbacks of 2005 have not led to an institutional stalemate, nor have they sounded the death knell for the constitutional project"<sup>31</sup> Reassured that the constitutional project would chug along, the focus shifted to what became the buzzword of post-constitutional referendum years – "legitimacy."

Nearly everyone who writes about the European Constitution addresses some sort of deficit in justification, validity or popularity. The perhaps overly-simplistic idea has emerged that if there is a means by which the "legitimacy gap" can be filled, Europe could be off and running to world dominance, Constitution in hand, in the next few years. Nearly every kind of legitimacy attainable by a government or legal document has been analyzed inside out and resolved dozens of times over. However, as future projections become increasingly gloomy, no solution has yet provided a "quick fix" to the legitimacy issue. "The rest of the world will not wait for Europe while it bickers over institutional

reform and external policy issues" says Joschka Fischer, former German foreign minister, "Europe is increasingly fading away beyond the horizon in the Atlantic."<sup>32</sup>

In the face of such prophetic calamity, Spain, the UK, the Netherlands, Germany and France have begun applying pressure to have a reformed version of the European Constitution finished by the end of 2007, though it is unclear whether the new constitution would be a slightly altered version of the 2004 constitution or an entirely new draft altogether. Germany's Angela Merkel has been a particularly active proponent of pursuing constitutionalism, by holding confidential talks with national officials and sparking a fragile optimism. Meanwhile, the official Europa statement ambiguously and tantalizingly promises that the ratification process is "continuing according to plan."<sup>33</sup>

### Is the European Constitution a Constitution?

The first question that needs to be addressed here is if it is even relevant to determine whether or not the European Constitution is a constitution in the same sense as other constitutions worldwide. At this point, one might ask, is it not important that legislation be consistent with the rule of law no matter what it is legislating? This author believes that it does matter if the European Constitution is a constitution, in the commonly used sense of the word, or simply another treaty. A constitution establishes a new form of government either where there was none, or as a reform of a previous government. All legislation, and how that legislation will be produced, its very legitimacy, is based on the legitimacy of the founding document. Therefore a Constitution must be held to a higher degree of consistency with the rule of law than other documents; its consistency will immediately affect that of every other law in the nation, even before that law is considered in isolation. If the Constitution is not consistent within itself, it is nearly impossible for the laws on which it is based to achieve consistency. Similarly, if the Constitution requires the impossible, then for laws to be "constitutional" they may also require the impossible. Promulgation as well is incredibly important for a constitution; as a sort of "contract of the people" it is essential that the people know on what general agreement they are being required to act. It is true that constitutions must necessarily be more vague than other laws, and in this sense it does require a greater departure from the rule of law, but not a complete one. Constitutions can have an intended vagueness that will allow it longevity and flexibility without entering into the realm of verbal obscurity. It is essential, even more so than for other laws that obscurity is not reached, or it will be nearly impossible to determine if future laws comply with it. Particularly pertinent though, is that often

<sup>30</sup> Glyn Morgan, "Sovereignty, Democracy and European Political Integration" (paper presented to the symposium Transitional Democracy at the Crossroads? The EU's Constitutional Crisis, Indiana University, December 2, 2006).

<sup>31</sup> Jean Asselborn, "An Unwarranted Pessimism." *Harvard International Review* 28, no. 3 (2006).

<sup>32</sup> Mahoney Honor, "Europe is Increasingly Fading Away." <http://www.euobserver.com> March 30, 2007.

<sup>33</sup> [www.europa.eu](http://www.europa.eu)

constitutions are the source and guarantors of fundamental rights and liberties. If the language of these liberties is too obscure, or if they blatantly contradict one another, or if no one knows what these rights are, there is very little further legislation can do to protect them. Plainly, degree of realization of the rule of law in the European Constitution is far more critical if the document is, in fact, a constitution.

When beginning a discussion of constitutionalism in Europe it is important to ground our discussion by remembering that the European Community was not formed out of any grand sense of shared ideals or patriotic fervor or commitment to social progress, as was the case in the founding of many other constitutional governments. The European Community was formed essentially and unromantically for the practical necessity of furthering economic interests, basically that the whole is greater, or at least more profitable, than the sum of its parts. Integrating Europe was not a revolution in ideas, per se, as occurred in the American war for independence or the French Revolution, but was instead a mechanism to increase prosperity and avoid future wars. The first documents of this institution were not a Declaration of the Rights of Man or a Declaration of Independence; they were documents legalizing a joint trading venture in coal and steel. The lofty ideals of pursuing “human dignity” and “political freedom” as espoused in the proposed Constitutional Treaty represent a great departure from the Community’s origins. Pursuing these ideals presupposes shared values, interests and goals for all of Europe.

The European Constitution diverges from many other constitutions particularly in its supremacy over other law. In legal terms, it is still a treaty in a long succession of treaties past and future, and it is the first constitution that unifies and simultaneously recognizes many states. Still, according to Merriam –Webster’s Dictionary of Law, a constitution contains “the basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it.”<sup>34</sup> The European Constitutional Treaty is certainly an attempt to do this, regardless of its efficacy. A summary of the treaty published by the official European Union website explains,

The integration of the Charter for Fundamental Rights into the text, the clear acknowledgement of the Union’s values and objectives as well as the principles underlying the relationship between the Union and the Member States, allows us to call this basic text our “constitution.”<sup>35</sup>

While it may never be referred to with the deference accorded to some Constitutions, nor is it the first or last important

document of the EU, it does represent a level of integration that would, if enacted, transform the body and purpose of the European Union. In this sense, it is the Constitution, the founding document, whose ratification would have a huge and lasting impact of a new direction in governing the Union.

### **A Basis for Legitimacy? The European Constitution and the Rule of Law**

#### *Promulgation*

As a basic principle, the EU Constitution appears to comply with the promulgation principle, which as explained earlier, means that laws must be published and accessible to the citizenry. This is essential for the rule of law because citizens are entitled to know what laws they might be punished for violating and so that legislation may be given adequate public criticism. Even more basically, there is an increased likelihood that people will follow laws if they know what they are. That enacted laws will be published is clearly guaranteed by Article I-39 in Clause 1. “European laws and framework laws shall be published in the *Official Journal of the European Union* and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.”<sup>36</sup> However, just because laws are published does not ensure that they are accessible. Imagine if only one copy of the nation’s laws were published and kept in a museum, or even if many were published, but in a language no one could read. And so the promulgation principle becomes more complicated.

While neither of the two previous problems is particularly pertinent here, there are still serious concerns about the ease of use. While the Constitution guarantees every citizen the “right” to access information, it does not ensure that citizens will be able to exercise this right. “Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State shall have, under the conditions laid down in Part III, a *right of access* to documents of the Union institutions, bodies, offices and agencies, whatever the medium.” (emphasis added)<sup>37</sup> A “right of access” does not address the fact that the Constitution is 60,000 words (in English) consisting heavily of highly technical language that even specialists have difficulty deciphering. Perhaps it would have been quite useful to have included a legal glossary at the end. According to the 2006 Progress Report towards the Lisbon Objectives, 6 million people, or 15%, of the EU population have left school prematurely and did not reach post secondary education,<sup>38</sup> which legitimates very serious concerns that the European Constitution is not comprehensible to the general population. While Fuller acknowledges the “absurdity” that every

<sup>34</sup> Miriam Webster’s Desk Dictionary of Law, 1996.

<sup>35</sup> www.europa.eu

<sup>36</sup> European Constitutional Treaty, Article I-39, Clause 1.

<sup>37</sup> European Constitutional Treaty, Article I-50, Clause 3.

<sup>38</sup> “Progress Towards the Lisbon Objectives in Education and Training.” Commission of the European Communities; Brussels, (2006):5.

citizen be able to sit down and read all laws, the accessibility issue does present the concern that only those with enough education, or money to hire a specialist, have a “right of access” to the published laws.

Michael Neumann expands on Fuller’s definition of promulgation by adding a “politically observable principle” meaning that “we must understand the rules; we cannot be expected to do so if they refer to things of which we have no knowledge.”<sup>39</sup> The limitations of accessibility due to language and complexity of the Constitution will affect people to varying degrees, but if even specialists have difficulty in its interpretation then it is not exaggeration to claim that nearly everyone will encounter obstacles in accessing the laws, making adherence to the promulgation principle suspect. The complexity and length of the document will also present problems for other principles of the rule of law, such as clarity and congruence.

Reading further into Fuller’s work we find that promulgation does not only have external, but also internal requirements. At first glance it may seem that the widely held concerns about the lack of transparency and accountability in European lawmaking are more associated with democratic legitimacy than with compliance to the rule of law. However, as Fuller explains, a high degree of transparency and accountability are necessary for achieving the spirit of the promulgation principle and the rule of law more generally. Many agencies and military tribunals argue that the internal rules and procedures of lawmaking are irrelevant as long as the final result is published. However, Fuller explains, “Every experienced attorney knows that to predict the outcome of cases it is often essential to know, not only the formal rules governing them but the internal procedures of deliberation and consultation by which these rules are in fact applied.”<sup>40</sup> In order to know if one’s actions will be interpreted as in violation of the law, one must know the logic of how the laws have been interpreted in the past.

The Constitution recognizes the call for greater transparency in its deliberations acknowledging “that Europe ... wishes to deepen the democratic and transparent nature of its public life.” It even goes further to reaffirm the commitment to this goal stating, “The institution shall maintain an open, transparent and regular dialogue with representative associations and civil society.”<sup>41</sup> It is, however, less clear on the mechanisms designed to overcome what may be the biggest threat to European legitimacy. The European Constitution may meet promulgation standards at the bare level of publication, but accessibility and internal visibility render any greater level of compliance impossible.

### *Clarity*

The clarity principle dictates that once the laws are published and physically accessible, they must be clear enough so that they can be followed by the people and interpreted by judges, lawmakers and the general populace. Even more than for the promulgation principle, the complexity and so-called “legalese” of the wording utilized in the European Constitution is extremely problematic for the clarity principle. Not only can people not follow rules if they cannot understand them, but courts cannot decipher if rules are violated. The absence of one rule of law principle can, and usually does, create a domino effect for all the principles of the rule of law; as one falls, many others collapse in its wake. For example, if laws are not clear, it is difficult to make them consistent; if laws are retroactive then they are often contradictory. The generality and congruence principles suffer because of the lack of clarity.

To determine if clarity is deficient, it must first be illustrated that clarity and specificity are not completely synonymous. There are two dominant reasons that clarity is sacrificed in law-making. Specificity for its own sake can be more damaging than “honest open-ended vagueness.” Consequently sometimes terms such as “good faith” or “undue burden” are used as commonly understood terms that, if made more specific, would render them meaningless in the application of the law. It is important to note though, that Fuller’s acceptance of an “honest open-ended vagueness” to excuse a lack of clarity is not acceptable to all theorists. Hayek condemns the use of such flexible phrases, “one could write a history of the Rule of Law... in terms of the progressive introduction of these vague formulas into legislation and jurisdiction.”<sup>42</sup> Fuller takes a more moderate (and some would say realistic) approach and elaborates the dilemma of many lawmakers, “a government wants its laws to be clear enough to be obeyed, but it also wants to preserve its freedom to deal with situations not readily foreseeable.”<sup>43</sup> Fuller’s application of the clarity principle, while always a hair’s width away from arbitrariness, is generally accepted by many rule of law theorists.

The more substantial concern is that all too often legislators write vague laws that they assume can be delegated to the courts and administrators for interpretation. This is where generality and congruence find themselves in extreme danger. When courts must interpret extremely vague laws, they will inevitably interpret them in thousands of different ways depending on the court and those who sit on it that day. If generality means that there must be laws, and they must apply equally to everyone, a law that can be interpreted in many different ways depending on the variability of the

<sup>39</sup> Neumann, 28.

<sup>40</sup> Fuller, 50.

<sup>41</sup> European Union Constitutional Treaty, Article I-47.

<sup>42</sup> Hayek, 78.

<sup>43</sup> Fuller, 212.

court inevitably creates inequality before the law. A law cannot apply equally to everyone if courts interpret the law to mean completely opposing things from day to day. In addition, the congruence principle, which states that the declared law and its enforcement should be consistent, finds itself in murky waters. If everyone is unsure of what the law says, how can it be enforced?

The European Constitution, as all legal documents, must tread carefully between the necessarily unspecific and dangerously obscure. Unfortunately, while there may be various instances of necessary vagueness, too often the language extends far beyond any such standard into the realm of nearly incomprehensible. For example, Article I-3 states, “the Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Constitution.”<sup>44</sup> This is the entire fifth clause of Article I-3 without further explanation or clarification. Roughly one could translate this as saying, “the Union should do what it needs to do as long as it is appropriately doing what the Constitution allows it,” or even more concisely “the Union can do anything that the Constitution says it can do.” This appears as either so redundant it needs no such affirmation, or if it is not redundant, the clause is so vague that it becomes almost utterly meaningless.

Consider the following statement in Article I-59, “the council may adopt a European decision determining that there is a clear risk of a serious break by a Member State of the values referred to in Article I-2.”<sup>45</sup> The most seriously troubling language here is “a clear risk of a serious break . . . of values.” First of all, it is very difficult to fairly determine if any party is ever upholding certain values, and this issue is compounded by the fact that the Member State will be judged based on its *risk* of not upholding values. So basically, legal action can be taken against a member state if it fails in the future to realize clearly defined ideals. It is very unclear how courts could possibly consistently interpret if a member state were acting in opposition to this statement. The exact meaning of Article I-59 is so elusive that it would seem inevitably arbitrary.

Raz allows that conformity to the rule of law is not always in a society’s best interest. “A lesser degree of conformity is often to be preferred precisely because it helps realization of other goals” for example, human rights.<sup>46</sup> The grandiose, if noble, vision for the European Union to ensure individual liberties is illustrated in the clause, “fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of

Union’s law.”<sup>47</sup> This clause may well dash the hopes of human rights advocates; it is a far cry from an enumerated Bill of Rights or Declaration of Human Rights. It must be allowed that a tradition of respecting the dignity of individuals without specifically enumerating certain rights is rooted in many countries’ governments. However, this clause indicates that there are specific and inviolable human rights, but does not list them in any definitive manner or require the government to observe them. Indeed all that is assured is that they will “constitute general principles of the Union’s law.” Consequently the clause neither conforms to the clarity principle of the rule of law, nor does it appear that it is specific enough to guarantee any rights at all. A simple recognition that rights exist, rather than enumerated rights, is frequently deficient when courts attempt to define whether or not a government has infringed upon the constitutionally guaranteed liberties of the individual. Consider the seemingly endless controversy surrounding the amendments in the constitution of the United States – and those rights are enumerated. The European Constitution may have several areas that only weakly comply with the rule of law, but the dearth of clarity is most severe and potentially most problematic of all.

#### *Not Requiring the Impossible*

On the surface, the “possibility principle” as it will be referred to here may seem obvious or unnecessary – surely no rational lawmaker or lawyer would require what is impossible. Yet time and again this principle loses its footing when lawmakers attempt to push the law past its capabilities and appropriate place in society. Requiring what cannot be quantified or defined, what is not practical in government administration or what is clearly beyond the reach of governmental regulation is not only frustrating and potentially tyrannical, but also extremely injurious to the credibility of law. It is commonly understood that laws that cannot be enforced weaken the entire body of law. Fuller, far more than either of the other theorists presented here, goes into significant depth explaining the common ways in which laws attempt to govern the ungovernable.

Article I-16, Clause 2 of the European Constitution requires that the Union respect and “unreservedly support” certain policies “in a spirit of loyalty and mutual solidarity.” The issue here may be more apparent than in many other cases; how can one legislate the “spirit” in which anything is done? This enters the realm of deciphering the intent behind actions. “The required intent is so little susceptible of definite proof or disproof that the trier of fact is almost inevitably driven to asking . . . ‘does he look like the kind who would stick by the rules?’”<sup>48</sup> A juror would necessarily be left to decipher intent based upon his own biases, a requirement

<sup>44</sup> Article I-3, Clause 5.

<sup>45</sup> Article I-59.

<sup>46</sup> Raz, 228.

<sup>47</sup> Article I-9, Clause 3.

<sup>48</sup> Fuller, 72.

that would be inevitably arbitrary. Fuller reminds us that “law is the enterprise of subjecting human conduct to the governance of rules.”<sup>49</sup> Key here is the word “conduct”. If we may assume that conduct is the observable action of an individual, than subjecting intent to “the governance of rules” is not the purview of the law.

Beyond requiring certain intents be present in actions, sometimes laws require achieving what has no set standard or commonly shared definition. The clause stating, “It [the Union] shall ...ensure that Europe’s cultural heritage is safeguarded and enhanced”<sup>50</sup> sounds reassuring at first glance, but after further scrutiny falls short of the scope of the law. There is no set or commonly understood standard that can measure if Europe’s cultural heritage is safe. In addition, ensuring that Europe’s cultural heritage is safeguarded and enhanced is impossible if for no other reason than that the passage of time, the forces of globalization and the evolution of cultural identity constantly shift the definition and demographic of cultural understandings. “The principle that the law should not demand the impossible of the subject may be pressed toward a quixotic extreme in which it ends by demanding the impossible of the legislator.”<sup>51</sup> The task the Union has set before itself in the European Constitution is doomed to never achieve success either because the task is beyond the Union’s control, or simply because no measure of compliance with this law exists. By requiring of the law what is not within its scope, and often what is not even possible for it to attain, the European Constitution is an outright contradiction with one of the eight principles of the rule of law.

### *Constancy*

In Fuller’s discussion of constancy of the law through time, he is occupied largely by the problem of laws changing too frequently, which leads to the confusion and exhaustion of courts and the general public. Berggren points to both the “perpetual revolution” of rules inflicted on the Chinese by Mao and the “poor institutional evolution” of Russia as prime examples of lawmaking run amuck. “History shows time and again that both inertia in constitutional change and dramatic reversals in the rule system can endanger social peace, prosperity and freedom.”<sup>52</sup> All founders must carefully balance the desired longevity with the essential flexibility required of constitutions. Unfortunately, no formula for constitutional success or compliance with the constancy principle exists. In fact, Raz goes so far as to claim that constancy or “stability” “cannot be usefully subject to complete legal regulation. It is largely a matter for wise governmental policy.”<sup>53</sup>

Despite the absence of a solid standard of constancy, there is considerable question as to the staying power of the European Constitution as a “constitutional document.” As a “constitutional treaty” it is far more treaty than constitution in both the American and European senses. Written constitutions, though there are exceptions, tend to divide powers among the bodies of government and establish overarching principles and doctrines to which all future laws must comply. In maintaining a level of abstraction, constitutions remain relevant guidelines for lawmakers over decades or even centuries. The European Constitution takes a very different approach. It is simultaneously very specific and very vague. Its 6,000 words detail how nearly every area and sub-area of government in the EU must be operated, with many contingencies for a variety of possible events. Yet this thoroughness is constructed in vague, complex wording that will surely have an army of lawyers arguing for years over minutia.

The European Constitution elaborates in nearly the same scope as those relatively temporary treaties that preceded it. This should not be surprising as it was meant to be the “treaty of all treaties” and unify all existing legislation into one coherent document. However, the fact is that however “constitutional” this document may be, it is still one treaty in a succession of treaties that have been enacted for the very reason that the previous one did not reflect the needs of the current Union and did not further integration. The longest interval between European treaties has been about twenty-two years, between the Merger Treaty and the Single European Act.<sup>54</sup> It is unclear exactly why this treaty, if enacted, would have greater permanence than those in European history. While concerns about longevity may not as blatantly conflict the rule of law as clarity or promulgation issues, there is little evidence that the European Constitution can fulfill the congruence principle.

### *Generality and Subsidiarity*

The fundamental principle of the European Union is subsidiarity which means, in most simple terms, that matters ought to be handled by the smallest or most local authority. The Europa website, the official website of the European Union, elaborates that “specifically, it is the principle whereby the Union does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level.”<sup>55</sup> Subsidiarity has been established in EU law since the ratification of the Maastricht Treaty in 1992, and the formulation that is in effect today was detailed by the

<sup>49</sup> Fuller, 74.

<sup>50</sup> Article I-81.

<sup>51</sup> Fuller, 88.

<sup>52</sup> Berggren, Nicolas. *Why Constitutions Matter* (New Jersey: Transaction Publishers, 2002).

<sup>53</sup> Raz, 215.

<sup>54</sup> [www.europa.eu](http://www.europa.eu)

<sup>55</sup> [www.europa.eu/glossary](http://www.europa.eu/glossary)

Treaty Establishing the European Community. It declared that:

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.<sup>56</sup>

The implementation of this strategy has been very successful largely due to its wide appeal to national governments that continually feel threatened by the ever centralizing power of the European Government. If the union government is constrained to administer only those actions that are necessary on a supranational scale, theoretically at least, nation-states can maintain a fairly high degree of national sovereignty. The European Constitution reiterates and emphasizes this principle in Article 9:

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence the Union shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.<sup>57</sup>

This concept is not unique to the European Union; it is inherent to nearly every federal system in the world. In Germany, Canada and the United States, lander, provinces or states are left to legislate those items which are considered best dealt with at the local level. In the United States only states, and not the national government, are permitted to legislate school curriculum, for example.

Despite its popularity, subsidiarity presents some conflicts with the rule of law, depending on its administration. If a law is made at the Union level but left to the states to administer or interpret in the way they see as best fitting their needs, the generality and congruence principles are sidelined. Applying the subsidiarity principle to Union law effectively creates different laws in each Member State as they apply the law to fit their own needs. How can everyone be equal before the law and the law be consistently enforced if everyone has a different idea of what it means? Take for example Article I-51, Clause 1, "Everyone has the right to the protection of personal data concerning him or her."<sup>58</sup> In one state this might mean that all publicly collected data, medical, legal, and financial information for an individual is inaccessible to the government without express permission.

In another, this might protect financial records but allow the government to file an individual's DNA sequences.

Hayek might loosely equate this sort of approach with that used in the pursuit of social or distributive justice—which often means that the same law does not apply to everyone in the same way. "To produce the same result for different people, it is necessary to treat them differently,"<sup>59</sup> he acknowledges. But the law is not meant to work that way, he explains; people cannot plan their lives and future actions if they do not know how the law affects them, regardless of the inherent unfairness of the policy. It is difficult to extend Raz's discussion of the positivist model to the principle of subsidiarity, but even his more tolerant approach to substantive justice would not eliminate basic generality and congruence conflicts.

### Hayek's Generality

What may seem to be the most straightforward of Fuller's eight principles, the generality principle, is potentially the most contentious. Fuller's attention to generality is relatively brief; he states that in order for the rule of law to exist, there must be laws and everyone must be subject to them. Hayek's understanding of generality is far more sophisticated, as was described earlier in this paper. Equality under the law cannot be achieved, according to Hayek, if laws are made that try to achieve particular results for any person or group of people. The European Constitution implies fairly directly that in fact, it may do just that. "It [the Union] shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between men and women, solidarity between generations and protection of the rights of the child."<sup>60</sup> Hayek would very likely assert that this is exactly the sort of misguided good intention that leads many socialist societies into lawless tyranny. Laws must consider everyone "collectively and all actions in the abstract, it does not consider any individual man or any specific action,"<sup>61</sup> asserts Rousseau in full agreement with Hayek's theory. The purview of government should be simply to ensure the security of the people and the security of the free market. Some excerpts from the constitution might be very promising to Hayek. "The Union shall offer its citizens an area of freedom, security, and justice without internal frontiers; and an internal market where competition is free and undistorted."<sup>62</sup> This clause emanates just the sort of laissez-faire attitude essential to Hayek for the rule of law. It may be too quick, however, to jump to the conclusion that Europe has finally backed a Hayekian version of the rule of law. Governments often attempt to use laws or

<sup>56</sup> Treaty Establishing the European Community, Protocol 30.

<sup>57</sup> Article 9.

<sup>58</sup> Article 51, Clause 1.

<sup>59</sup> Hayek, 88.

<sup>60</sup> Article I-3.

<sup>61</sup> Rousseau, "The Social Contract." 82.

<sup>62</sup> Article I-3.

economic policy to steer society in a desired direction. Such “planning” in policymaking in order to be entirely fair, and not simply based on the arbitrary will of those in power, would presuppose that everyone shared the same idea of optimal society; there would have to be a set of universal values shared in the society. There is a significant amount of evidence that in fact, this is precisely what the European Constitution does assume, and in fact declares proudly. The preamble proclaims, “Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the *universal values* of the inviolable and inalienable rights of the human person, freedom democracy, equality and the *rule of law*.”<sup>63</sup> (emphasis added) Again, later in Article 3 the Constitution reaffirms this assumption, “In its relations with the wider world, the Union shall uphold and promote its values and interests.”<sup>64</sup> In Hayek’s opinion it is absurd to believe that any society would have members so like-minded that they would value all of the same things to exactly the same degree or have “universal values and interests.” To apply this already “absurd” idea to a Union of twenty-five culturally and politically diverse nation-states might border on insanity.

As a logical extension of Hayek’s objections to governmental “planning” in general he also strongly opposes attempts to implement distributive or substantive justice. When Hayek refers to planning he says, “we mean that sort of planning which is necessary to realize any given distributive ideals.”<sup>65</sup> A society that attempts to aid its most disadvantaged through its policies, Hayek demands, cannot possibly consider all people in the abstract, and so cannot be making law in a general sense. Distributive and substantive justice has long been championed by European countries, and the trend does not appear to halt at this constitution if Article I is any indication. “Believing that Europe...intends to continue along the path of civilization, progress and prosperity for the good of all its inhabitants, including *the weakest and most deprived*; that it wishes to remain a continent open to culture, learning and *social progress*.” (emphasis added) Such blatant acknowledgement of the pursuit of substantive equality would clearly indicate for Hayek, that in many portions of the constitution, generality, and subsequently the rule of law, are absent and that we continue “to move progressively away from the basic ideas on which Western civilization has been built.”<sup>66</sup>

### The Razian Rebuttal

Bemoaning the end of justice, civilization, freedom and Western society is not only overly-dramatic, but it fundamentally misunderstands the nature of the rule of law, Raz

might respond to the distressed Hayek. The rule of law is not inherently moral nor the ultimate guide to morality, according to Raz. It is simply a tool of free societies, and like any tool, it is only as good or “moral” as the task to which it is set. If we are going to use the rule of law tool, we should make sure that it is realized to a high degree, that it is sharp so that it can be effective. But if we need to consciously make room for other tools in our metaphorical societal toolbox, setting aside the rule of law at times in favor of a more precise tool is simply what is to be expected. It should not surprise anyone that we have moved away from some of the more traditional ideas of previous centuries, he could continue: that is simply the nature of progress. There are many ideas that, if implemented in their original form, would seem archaic in today’s world.

Raz would most likely view the very same statement in the preamble that Hayek would find “absurd”, as an acknowledgement that many, sometimes conflicting, values deserve realization, not simply the rule of law. “Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and *inalienable rights of the human person, freedom, democracy, equality and the rule of law*” (emphasis added). After all, Raz reminds us, the rule of law is meant to exist so that the law can benefit society. We should take very seriously claims that the law is not there to promote social good.<sup>67</sup> Perhaps the rule of law is not realized in the European Constitution, but that may not be negative if the rule of law hinders Europe from [striving] for peace, justice and solidarity throughout the world.”<sup>68</sup>

### Conclusions: A Rule of Law Deficit

As a standard for success, the European Constitutional Treaty does not solidly meet any of our models’ criteria for a strong rule of law. Concerns about clarity, accessibility, congruence, consistency and generality would prevail, according to this analysis, for all three of our theorists, and very likely for many more in this field. Hayek would rail against declarations of pursuing social justice and altering the *laissez faire* principle of the Free Market to enhance “fairness.” Even Raz would admit that the European Constitution struggles to prove that it is stable, clear, and above all prospective. “The violation of the rule of law... may lead to uncertainty... when the law does not enable people to foresee developments or to form definite expectations.”<sup>69</sup> The problem of promulgation, of people even knowing or understanding the laws, combined with the lack of clarity and potential lack of consistency within the European Constitution, according to Raz, makes it impossible for

<sup>63</sup> Preamble to the Treaty for Establishing a Constitution for Europe.

<sup>64</sup> Article I-3, Clause 4.

<sup>65</sup> Hayek, 39.

<sup>66</sup> Hayek, 16.

<sup>67</sup> Raz, 229.

<sup>68</sup> Article 1.

<sup>69</sup> Raz, 222.

this document to be adequately prospective. For Fuller it is less clear to what degree he would consider the rule of law absent because of his broader definitions of the criteria for compliance. He claims that the rule of law cannot, and probably should not, be complied to absolutely but also offers no specific point where departure from the principles becomes critical. Evidenced, however, by his argument that if you start to lose one principle, you begin to lose them all, we can safely assume that the European Constitution would not be his rule of law prototype since it “starts to lose” as many as five of his eight principles. In effect, we imagine Fuller continuing, the European Constitution far exceeds the standard of meeting a “morality of duty” and enters the much more legally ambiguous, and potentially dangerous, realm of the “morality of aspiration.”

As a constitution, it also extends far beyond an acceptable amount of open-ended vagueness present in many constitutions worldwide. While the constitution of the United States may also be unclear at times, the European Constitution is much more technically worded, and the problem of clarity is compounded by its inordinate length. Whereas in the US Constitution, courts may find two or three interpretations of a clause, a clause in the European Constitution could easily have dozens and dozens of interpretations. Its 6,000 words mix principles with minute details of policy so that the “spirit” or intentions of the laws are buried in technicalities to an extent that all three theorists would be forced to conclude that in no way does it comply with the clarity principle.

The large majority of revolutions in modern history have grounded their philosophies and new governments in the principle that those governments will be ruled by the people and their laws and not by any single person or group of persons – in other words, by the rule of law. While claiming that the European Constitution marks a counter-revolution of the rule of law may be a bit alarmist, the trend away from strong rule of law principles is increasing on both sides of the Atlantic. The expansion of emergency powers and the covert detention, trial by tribunal and sentencing of both American and foreign citizens has generated outrage in legal and academic communities, though relatively less in the general populace. In Europe, formal conceptions of the rule of law have recently been less popular and show few signs of gaining appeal in the future. This all begs the question, is the rule of law going out of style?

We are left with three possible conclusions; first that the rule of law is being sidelined because it cannot respond to today’s fast-paced, globalized world and will therefore become less and less relevant in the future: second that the rule of law is taking on a new place and definition in the world of political principle: or third, that the rule of law is embattled with the forces of arbitrary government and is losing a battle that may have serious repercussions for political and economic liberty worldwide.

There are certainly instances in the last decade in which the rule of law has been abandoned for the good of a particular government and not for its people. However, the trend in Europe has always had a very different flavor than across the Atlantic. Claiming that the rule of law is being defeated by tyrannical government within the European Constitution because it lacks clarity and strives for social progress is probably far too extreme for anyone save Hayek. Mostly likely the case here is that the rule of law has taken a seat at an international roundtable of political values at which it must negotiate and justify itself to a series of increasingly powerful humanitarian values. Yet, there are still very serious issues at stake that threaten to make the European Constitution ineffectual; a higher degree of compliance with the rule of law might begin to resolve these difficulties.

A potentially more immediate issue regards the ever increasing skepticism of European Union legitimacy. It is widely regarded as problematically undemocratic, with leaders left unaccountable for their actions. This analysis has exposed serious gaps in the rule of law and such gaps only become at least somewhat acceptable for Raz, if they are in the pursuit of greater cause – for example human rights. Unfortunately the European Constitution’s claim to grant certain rights is vague and potentially unenforceable. If the democracy and the rule of law are both deficient, and the protections of citizens are weak, the only legitimacy left to the EU is outcome legitimacy – that good things have resulted from its laws. This may have been enough to support the EU to this point, but we see it faltering as it claims greater and greater powers. The alternative to this union is considerably grim; a Europe in which wars rage every few years and poverty is rampant. For those that would face these conditions, a semi-legitimate government may be a better ruler than hunger and violence. For now though, integration has slowed considerably and the crisis of confidence in the EU that voted down the EU Constitutional Treaty is deepening, and it is unlikely that this treaty or perhaps any others will be ratified before some of these issues are addressed and resolved.

Are we on a “road to serfdom” and inevitable tyranny as Hayek declares, or has Europe progressively taken its less formal conception of the rule of law a step further? Perhaps the West’s view of democracy, the rule of law and legitimacy must be rewritten in an age in which laws transcend nations and the dearth of instantaneous information makes null every previous moment. This analysis raises more questions than it is able to answer. But this is consistent with how governments are legitimated; the legitimacy of rulers is not decided by scholars, but by the people that are subject to them.

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