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# Letter from the Editors

Without support from the student body, faculty, and administration of the School of Public Policy (SPP), the University of Maryland Public Policy Review (“the Journal”) would never have come this far. We wanted to open the first letter from the editors with a profound thank you to the entire SPP community and its many members that helped bring this idea to fruition through either their direct support or encouragement. The first thank you, if we go chronologically, must go to David Crocker. We reached out to Dr. Crocker the morning after we came up with the idea to found a journal. He responded by marching us straight into Dean Philip Joyce’s office to discuss what was at the time, a mere possibility. Dean Joyce is someone else to whom the Journal owes an enormous debt. He has been the Journal’s strongest advocate and has given much of his time serving as the faculty sponsor.

Additionally, thank you to all the students and faculty that came to interest meetings and town halls, and members of the University’s staff that have sat down with us to help us with the myriad tasks that went into bringing this journal to life. There are too many to name, but please be sure that the staff of the University of Maryland Public Policy Review (UMPPR) is extremely grateful for your input and assistance. Finally, thanks to our authors for creating such excellent work, without you the UMPPR has no reason to exist, and to our editors for working so hard to shepherd the papers through our rigorous editing process.

The main reason the Journal was founded was to bridge the gap between all the research and analysis performed by the students of the SPP and the audiences that could benefit by reading these products. Publishing these papers is intended to enrich every member of the equation; the authors, by giving them a platform to showcase their hard work at the SPP and a chance to act as both thought leaders and critics; the audience, by providing access to information and analysis; and of course the overarching community of the SPP by acting as an outlet for engagement between community members at all levels and a forum for much-needed discussions. Without further ado, and because we are so excited to finally get these papers out to the public, it’s time to introduce the pieces featured in the UMPPR’s flagship publication:

We start this edition off with the Commentaries section. This edition’s Commentaries focus on environmental issues in public policy following the SPP’s participation in the Climate Action 2016 Summit. Leah Schleifer opens the section with a discussion of the importance of inclusiveness in environmental policy in “Making the Case for Environmental Justice.” Sean Jackson tackles an issue that reaches every household in “Seafood Fraud: Why You Can’t Trust Your Sushi and Possible Solutions.” Finally, one of the UMPPR’s very own, Whitney Dixon, discusses the role that environmental policy can play in diplomacy and rehabilitating strained international relations in “Environmental Reform: The White Rose of Diplomacy in Cuba.”

The Faculty Briefs portion of the Journal features short pieces by experienced faculty members. The authors distill lessons learned during their long careers in public policy into clear and accessible commentary. Allen Schick discusses the importance of understanding a country's culture and history and how that impacts the efficacy of development in "Itinerant and Ignorant: Working in Developing Countries," while David Falk introduces the "Five Axioms of Public Policy," bite sized rules that are ever present in the public policy area which aspiring policy professionals would do well to remember.

In an issue released during Women's Month, Lianne Berne and Kate Brolley challenge notions of feminism, and women's agency respectively. Berne challenges assumptions behind the concept of women's cooperatives in Morocco in "The Cooperative Conundrum: Traditional Values and Modern Feminism in Moroccan Cooperatives." Brolley, in "Women's Capacity for Collective Agency within the Informal Economy," analyzes the costs and benefits of the informal marketplace on women's ability to control their own futures by asserting their agency. Laura Checovich uses a systematic approach to determine the effectiveness of policy designed to reach Maryland youth in-need and effectively provide nutritious meals throughout the school day in "The Healthy, Hunger-Free Kids Act of 2010: A Multiple Perspective Analysis." Jessica Gottesman uses models outside the usual game theory analysis to explore how the Iran deal might be implemented, specifically, how conflicts or disputes may play out within the framework of the Joint Comprehensive Plan of Action and its mechanisms for dispute resolution in "The Iran Deal in Practice: Assessing Models of Cooperation for the Joint Commission." Finally, in "Deforestation and Forest Degradation: Exacerbating Non-Traditional Security Threats in Indonesia," Laura Krahl examines the role of environmental degradation in Indonesia and the resulting food scarcity as a security threat to the country.

Best regards,

Connor McHale & Dan Meier

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Renda Nazzal, Founder of the Argan Project\*

\* The Argan Project connects female-run cooperatives and family farmers in Morocco with conscientious consumers. <https://thearganproject.com/>

# Making the Case for Environmental Justice

Leah Schleifer

Over the past three years, I have been studying, preaching, and, more recently, teaching environmental justice. This intersection of civil rights, discrimination, and environmental issues fuses some of the biggest policy issues of this century. However, I am often frustrated to find it left out of the decision making process. I believe that environmental justice should exist not only as a niche issue, or an add-on to policy decisions, but should be given priority attention in environmental decision-making processes and policy education. This is relevant to both domestic and international issues, since environmental injustices are felt both locally and globally. By providing students and policymakers alike with the history, context, and importance of this intersectional issue, I hope to make the case for why we must actively seek out environmentally just options by fully and rigorously evaluating their impacts on poor and minority communities.

## **Environmental Justice 101**

Environmental justice, the movement against what is called environmental racism, can be loosely defined as the intersection of the environmentalist and social justice movements. The Environmental Protection Agency (EPA)'s definition of environmental justice is most widely used: "Environmental Justice is the fair treatment

and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." <sup>1</sup> Fair treatment means that no one community is disproportionately impacted by environmental consequences; meaningful involvement refers to a given community's right to participation at every step of the environmental policy making process.

Poor minority communities have long borne the brunt of environmental burdens—but this concept did not always have a formal name. This phenomenon was first largely recognized in 1982, when the rural, poor, and predominately black community of Warren County, North Carolina was chosen as the site for a toxic landfill. The resulting protests and marches brought together both civil rights and environmental activists and thrust the idea of "environmental justice" into the public eye. The topic was subsequently the subject of several studies, and the center of a growing movement. In 1994, environmental justice was the center of an Executive Order by then-President Clinton. For the first time, disproportionate environmental impacts on minority and poor communities had to be considered by federal agencies.

## **We Can Do Better**

Although helpful in bringing environmental justice into the public eye, the Executive Order was less than transformative. Disasters that disproportionately impact poor or minority communities—such as the gross mishandling of water quality issues in Flint, Michigan—have persisted despite this Executive Order. While it helped raise awareness for environmental justice issues, it made little substantive difference. While agencies must now address environmental justice, each agency has jurisdiction over how and to what extent they do so. The very definition of environmental justice varies between agencies.

If someone believes that they are subject to an environmental injustice, they can file a complaint with the EPA under Title VI of the Civil Rights Act (which prohibits discrimination in federally funded activities)—but what happens when they do? The EPA has never made a formal finding of civil rights violation, and there are environmental justice complaints that still have yet to be addressed by the EPA that are 20 years old—older than most of the students to whom I teach environmental justice. The projects that these complaints have been against have gone on, against the wishes of the surrounding communities.

The EPA cannot be entirely blamed for this—the Supreme Court has largely limited the ability of Title VI of the Civil Rights Act to apply to environmental justice issues: in *Alexander v. Sandoval*, a class action suit challenged the Alabama Department of Public Safety’s decision to administer driver’s license tests only in English. Those challenging this English-only policy constituted discrimination based on national origin.<sup>2</sup> The court majority

determined (against a dissenting minority of four) that only section 601 of the Civil Rights Act, not 602, applies to disparate-impact regulations. Since section 601 refers to actions with intentional discrimination, the claimant of a disparate-impact must show that any disproportionate effect was done intentionally. How does this license-testing case apply to environmental justice? In order for environmental justice cases to be brought under Title VI after *Sandoval*, section 601’s “intentional” discrimination must be proven. This is a considerable and almost impossible burden of proof for environmental justice issues, especially since many environmental injustices are not necessarily intentional. Environmental justice stems from institutional racism and deeply embedded forms of discrimination in our nation’s history do not meet the burden of proof for establishing “intent”. This makes any legal ramification on the grounds of environmental injustice highly unlikely, which leaves those subject to these injustices with little hope of remedy.

The United States cannot keep sweeping environmental justice issues under the rug, or let the voices of communities in danger die in the bureaucratic process. With recent media coverage of the lead crisis in Flint, Michigan, there may be the political will to finally bring environmental justice into the foreground. Flint’s water crisis stemmed initially from a series of decisions made by an emergency manager (appointed by the governor) who failed to consult with Flint’s mayor or city council before switching Flint’s water source to the Flint River. Then, although anti-corrosion measures are required under federal law, Flint’s water treatment plant neglected to use them—deciding, instead, to save money. A lack of public involvement and failure to comply with EPA regulations was then followed by a persistent failure to address

resident's well-founded complaints regarding water quality. The resulting public health crisis is an example of what can go wrong when local government systematically excludes and ignores the voices of the very people that they are supposed to represent. If Flint's state and local governments had followed the EPA's tenant of "meaningful involvement," the emergency manager would have sought input before switching Flint's water supply. If they had engaged in "fair treatment," the water treatment plant would not have been permitted to cut corners at the expense of public health. Citizen's concerns of water contamination would have been given real consideration. Instead, children will have to live their whole lives with the developmental damages thrust onto them by a huge environmental contaminant: lead. Flint teaches us that governments must take environmental impacts on communities into account before they make large policy decisions.

Therefore, the 1994 executive order, although well meaning, is entirely inadequate. The EPA should use the negative press it has received from failing to identify regulatory violations in Flint as an impetus to search for a new, meaningful way to quickly evaluate and address Title VI complaints. Agencies must have stricter guidance on how to address environmental justice in their decisions. Best practices for identifying and addressing environmental justice must be studied and widely promoted by government agencies. Local governments in particular need to be made aware of the impacts that seemingly normal decisions—such as posting fliers only in English in multilingual areas—can have on their community. Environmental justice is an issue that requires strong grassroots participation and consultation, since those in at-risk communities are best suited identify the issues relating to environmental justice.

While the Supreme Court exists to remedy the gaps left by executive and legislative branches, it has completely turned its back on environmental justice. The 2001 *Alexander v. Sandoval* decision killed the major legal tool that communities had to bring environmental justice cases forward. Stripping the Civil Rights Act of its ability to handle environmental discrimination was a disturbing decision which sent a clear message to minority communities in America: those in positions of power have the right to put you at a disadvantage, and you no longer have the power to challenge the decisions that put you in harm's way.

### **Environmental Justice and Climate Change**

Internationally, some countries are subject to environmental injustices stemming from climate change. It's a classic environmental justice issue: the actions of a few, big polluting countries disproportionately impact smaller developing states. For example, island nations are forced to deal with sea level rise that can wipe out important economic and cultural areas. When I heard representatives from the Marshall Islands—a small country in the Pacific Ocean—speak at COP21 in Paris, their plight made me realize once again the sheer disproportionality of environmental impacts. The countries that have polluted the most are largely safe and more economically prepared for the impacts of climate change, while small and poor countries that have barely polluted will completely disappear due to the actions of richer nations.

Environmental justice should be at the center of the environmental movement and at the center of climate change policies. Last November, over 180 countries signed the Paris Agreement, a historic international

agreement that serves as the current best tool to limit overall global warming to 2 degrees Celsius or less, above pre-industrial levels. In the implementation of this Agreement, the United Nations Framework Convention on Climate Change must ensure that those most impacted by its decisions are involved, every step of the way. The agreement voiced strong intentions to help those who have faced irreparable damages from a climate impacts, and seeks to greatly enhance existing tools that already help those subject to “loss and damage”. These efforts will be important to rectifying some of the harms that vulnerable countries must face due to the actions of others. However, more must be done. Countries responsible for the greatest amount of pollution should continue their trend of providing assistance to those who are climatically vulnerable - and ramp up their efforts when possible. Those in nations such as the Marshall Islands should be provided with immense international support as waters rise, and as the threat of a global climate refugee crisis becomes more and more likely.<sup>3</sup> The developed world cannot continue to ignore the voices of the poor, disenfranchised, or different, and let them bear the consequences of its actions.

## **Moving Forward**

Those involved in the policy process must continue to advocate for environmental justice, and to closely examine the community impacts of environmental decisions. I believe the first step is more environmental justice education: both formally and informally. Students of public policy and environmental science should learn about this concept in the classroom through case studies and community stories. This is already in place to some extent, but it can certainly be expanded at the University of Maryland. More importantly, there is a pitiful amount of environmental justice discussion in media, although this is where most of the public gains information on policy issues. Reporters and professors alike need to engage in the often-uncomfortable conversations about the communities that experience environmental harms. Those who have a large public platform in the environmental field should consider it their duty to tell the stories of poor and minority communities. We need to mainstream environmental justice into policy conversations both domestically and internationally.

## ENDNOTES

<sup>1</sup> <https://www3.epa.gov/environmentaljustice/basics/>

<sup>2</sup> Core, Lisa S. “Alexander v. Sandoval: Why a Supreme Court Case about Driver’s Licenses Matters to Environment Justice Advocates”. *Boston College*

*Environmental Affairs Law Review* (30:1), January 1, 2002.

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# Seafood Fraud: Why You Can't Trust Your Sushi and Possible Solutions

Sean Jackson

A commonly heard phrase in restaurants is “I’ll have the fish.” It is difficult to imagine another class of animal being ordered in such a fashion. “I’ll have the mammal” is likely never uttered when asking for a steak. We seem to have a very distant relationship with our cousins in the sea, but what fish you’re ordering at a restaurant very much matters. Say you and your friends go out to dinner at your favorite sushi restaurant. Everyone orders the spicy yellowfin tuna sushi rolls and enjoy. However, later that night everyone experiences stomach problems. In this situation some may wonder if the sushi was prepared incorrectly or if the spice upset all of their stomachs. The truth is the yellowfin tuna wasn’t tuna at all. The fish in question was Escolar, known for its properties as a laxative. This was not an unfortunate accident, but is in fact an example of seafood fraud: the practice of purposefully mislabeling seafood for financial gain.<sup>1</sup> Chances are if you have eaten seafood on a regular basis, you have been a victim of this practice. The most visible and intrusive form of seafood fraud is species substitution, or when a species of fish is labeled an entirely different species all together. Many have very little idea what they are eating when it comes to seafood, and seafood fraud only exacerbates this problem.

## **Seafood Fraud Costs you Money, Makes you Sick, and Destroys the Environment**

Oceana, an interest group specializing in ocean advocacy, has released several comprehensive studies researching the issue of seafood fraud. These studies examine DNA samples from restaurants across the country and test to see if the product in question is what it claims to be. One study found that 33 percent of the DNA samples taken were mislabeled species.<sup>2</sup> In the DC area every single sushi venue that was sampled sold mislabeled seafood.<sup>3</sup> While this may not immediately appear to be a significant issue, seafood fraud is not a victimless crime and has very serious consequences to both the human population and the environment. It represents dangers in the economic, environmental, and public health arenas.

A common phrase among American watermen is “Stop asking why local is so expensive and start asking why imported is so cheap”.<sup>4</sup> Seafood fraud is a very likely answer to the second question. The economic impacts of seafood fraud could be substantial, and this is not just because consumers will spend more than the market value for lower quality fish. There’s a lot of money in the seafood industry, and as with all economic

systems, good information is important for the consumer to act rationally on their preferences. Globally the US ranks third in seafood consumption (below China and Japan) and 90 percent of its seafood is imported.<sup>5</sup> The mislabeling of imports received decreases tariff revenue the country should be collecting. There have already been significant economic repercussions as a result of these crimes. Thomas George, former CEO of the Sterling Seafood Corporation, was ordered to pay \$64 million in lost tariffs when he was convicted of seafood fraud. George was attempting to avoid imposed duty of up to 63.88 percent for Vietnamese Catfish.<sup>6</sup> There's a lot of money being lost due to seafood fraud; it is a core principle of economics that the right price be found for the right product. The mislabeling of seafood products destroys that principle.

The most concerning negative effect of seafood fraud is how it impacts the environment. The seafood industry isn't as well regulated as other food industries. Bycatch and overfishing are causing serious environmental impacts on world's oceans, making consumer knowledge of what they are purchasing extremely important. Without proper labeling of the seafood, environmentally conscious consumers will struggle in their effort to avoid species that are listed as endangered under the IUCN threatened species list - nor can they reliably purchase fish that are caught only using sustainable practices. For instance, the Oceana study found mislabeled halibut: The Atlantic variety (*hippoglossus hippoglossus*, endangered) being mislabeled as Pacific Halibut (*hippoglossus stenolepis*, non-endangered).<sup>7</sup> The current labeling system is not sufficient for consumers to make informed purchasing decisions regardless of whether or not fraud has occurred. A given retailer is not required to disclose the fish species sold. Since Halibut is a genus, not a

species, any species of halibut can be labeled as such, even though there are serious differences in their endangered status. Seafood fraud also impedes tracking species catch rates, especially if the fraud occurs early in the supply chain, which undermines efforts to prevent overfishing. Seafood fraud raises huge concerns for fish populations - nobody should have to be unsure whether or not the animal product they're eating is an endangered species or not.

Toxicity and allergic reactions caused by seafood fraud are critical public health concerns. Mercury accumulates as it moves up the food chain, thus species at the higher end of the ocean food chain tend to have higher mercury levels. This phenomenon is known as biomagnification. Of the fish listed by the FDA the highest mercury levels were found in Tilefish which have a mean mercury concentration of 1.45PPM. For comparison, the fourth highest mercury concentration is nearly half that amount (Mackerel King has a mercury concentration of .73PPM). In the Oceana study Tilefish was mislabeled as Alaskan Halibut which only has a mean PPM mercury concentration of 0.241.<sup>8</sup> People may unknowingly be ingesting far more mercury than they thought they were. The amount of mercury in Tilefish is sufficient to render it inedible for pregnant women. Halibut is not on this list, an obvious problem for pregnant women.<sup>9</sup> Allergy is also a concern: one of the more common fish allergens is a Vietnamese fish called Striped Pangasius. This fish is frequently illegally mislabeled as Rock Cod and Pacific Cod.<sup>10</sup> The escolar fish has a health advisory due to causing gastrointestinal distress.<sup>11</sup> Shockingly, in 84 percent of the white tuna sampled, the fish that had been labeled as a type of white tuna turned out to be Escolar.<sup>12</sup> If you frequently find yourself having an "upset stomach" after eating sushi, this is likely the culprit.

## **How is this allowed to continue?**

Combating seafood fraud faces structural and political challenges despite garnering bipartisan support. Nearly all proposed solutions require further regulation. The seafood industry lobbies aggressively against legislative solutions.<sup>13</sup> Fishermen are undecided on the issue: many are engaged on one side or the other, but there is little consensus from the watermen community. This makes the coalition to combat seafood fraud weaker than its potential. Some watermen lobby in favor of regulation while others are skeptical and believe that it will raise costs.<sup>14</sup> These opposing forces have resulted in a lack of support and inaction by non-coastal legislatures and the defeat of state bills that would help to combat seafood fraud. Imported seafood is especially susceptible to fraud because of how it's processed. After a fish is caught or farmed it is sent to a secondary processing plant in countries where labor is less costly. The seafood is then labeled as a product of where the processing takes place, often omitting the initial country of origin. The seafood then enters the same export supply chain as most prepared foods.<sup>15</sup> This results in much of the imported seafood lacking an accurate country of origin label, and thus, decreased traceability back to the fishermen.

The sheer volume of seafood being imported is difficult to manage. DNA testing, the most reliable way to confirm species identity, is costly and time-intensive.<sup>16</sup> According to the Government Accountability Office (GAO) 2 percent of imported seafood is inspected while only .02 percent is inspected for fraud.<sup>17</sup> Additionally, there is interagency redundancy regarding inspection responsibilities between the National Oceanic and Atmospheric Administration (NOAA) and the Food and Drug Administration (FDA). A

Memorandum of Understanding in 2009 made information sharing between these agencies easier but didn't assign specific responsibilities regarding inspections.<sup>18</sup>

## **How do we solve this problem?**

Any solution to seafood fraud must include a traceability program. This is a program that would track any seafood caught or farmed from "boat to plate".<sup>19</sup> Traceability removes the processing issues that make seafood susceptible to fraud and creates a system that holds processors accountable when fraud is found. The traceability program will include information from when it is sent into production by the fishermen until it reaches the consumer. The information given will be: the scientific name and common name of the species caught, where the product was caught or farmed, the gear and method used to catch the product, and the weight of the product. This information minimizes the risk of accidental fraud due to common species types, makes inspection easier, and informs the consumer. Technology used to track this information will be as low tech as possible to avoid adverse costs to seafood products. The technology will also promote ease of use. This program should be enforced by the FDA and NOAA, and be part of the inspection process for imported seafood.

Even with better enforcement on the front end of the seafood supply chain, someone still must be held accountable for fraud, and this requires greater amounts of inspection. A .02 percent rate of inspection for seafood fraud is not an acceptable standard for the future. Though DNA testing is costly and time intensive it is the only reliable way to test for fraud.<sup>20</sup> To alleviate some of the cost of extra staffing the FDA will contract a commercial lab to conduct the DNA testing. The FDA will then be required

to increase inspections each year until a minimum of 4 percent of seafood is inspected for fraud by 2021. Inspections will concentrate on foreign distributors that have not become NOAA certified through the traceability program. To oversee this heightened focus on inspection a new department under the Division of Seafood Safety will be created and will be responsible for seafood inspections.

The Memorandum of Understanding from 2009 between NOAA and the FDA will be edited to make tasks more clear. The FDA will take the lead on the mandated increased inspections and specifically focus on inspecting for fraud. NOAA is still equipped for seafood inspections and will not be completely removed from the inspection process of seafood, but no increased responsibilities will be given. NOAA instead will take the lead on enforcing and auditing the traceability program, which will remove much of the departmental overlap.

### **What can you do?**

The seafood industry has lobbied against previous efforts to combat seafood fraud.<sup>21</sup> The National Fisheries Institute (NFI) represents 65 percent of the top seafood companies in the United States.<sup>22</sup> In 2014 the NFI political action committee spent \$96,814 on political donations and the NFI spent \$881,000 on lobbying to protect the seafood industry interests. The NFI influences Congress through direct lobbying, and through donations. They have spoken out against any regulation of the seafood industry as well as against any recommendations regarding the labeling of fish in accordance to their common name.<sup>23</sup> Instead of working against the powerful lobbying of the seafood industry, the best course of action would be to work with them. Their recommendations previously mentioned would not require that

seafood have a name change at the consumer level. That information should, however, now be available to inquiring consumers.

One negative effect of proper seafood fraud enforcement would be a price increase for seafood. Less fraud means seafood items will be sold at their “correct” price which will translate to a price increase for the consumer. The most contentious recommendation listed previously is the expense of the increased inspections under the FDA. The seafood industry is not likely to lobby against the increased inspections since they have often used the enforcement of existing laws in opposition to other reforms.<sup>24</sup> Congress already has bipartisan support on this issue, but reforms need more support from non-coastal congressmen. Consumers should let their congressmen know that seafood doesn’t just impact watermen, but everyone.

With the current political landscape, the recommendations listed here are not likely to receive the necessary appropriations. In order for the recommendations to garner enough support the coalition must be larger. TJ Tate (a member of Gulf Wild and director of the National Aquarium’s sustainable seafood program) wrote that any recommendations “won’t work unless fishermen/ watermen are part of the discussion”.<sup>25</sup> The coalition of nonprofits and environmental groups against seafood fraud should reach out to US commercial fishermen who are wary of regulation. They are possible allies since the price corrections would make them more competitive with foreign markets. Consumers must also be more engaged in the problem. The coalition should create a media campaign that informs the public of the scope of seafood fraud. Once the general public is informed that seafood products are often mislabeled, the political capital of the coalition will increase.

## **Conclusion**

Until policy solutions are put in place to combat seafood fraud, the average consumer cannot hope to make informed decisions when purchasing seafood. The market failure of bad information requires governmental action. However, until the government puts policy solutions in place, it is up to consumers to solve the problems with seafood fraud. Consumers should be more cognizant of the different species of fish, and what they look like; then, buy the entire fish and know the difference. Only buy seafood that you can verify was traced, such as seafood that uses an independent tracing system such as Gulf Wild's QR codes. If you're concerned about seafood fraud make your voice heard. Let your local congressman know you care about this issue, purchase your seafood wisely, and be an informed consumer. The next time you find yourself ready to say "I'll have the fish", the next few questions you ask your waiter should be "What kind of fish is this? Where was it caught? What traceability methods were used to ensure I know what I'm eating?". If government agencies and their constituents continue to ignore the issue of seafood fraud the oceans will continue to suffer, our economy will continue to get cheated, and you simply won't know what it is you're putting in your mouth when you eat seafood. Until this issue is given more consideration, enjoying Maryland Crab Soup with the family will always have question marks: Are these crabs even from Maryland? Is the meat even crab?

## ENDNOTES

<sup>1</sup> Shames, Lisa. United States Government Accountability Office, Seafood Fraud FDA Program Changes and Better Collaboration among Key Federal Agencies Could Improve Detection and Prevention, February 2009.

<sup>2</sup> Warner, Kimberly Ph.D., Walker Timme, Beth Lowell and Michael Hirschfield, Ph.D, “Oceana Study Reveals Seafood Fraud Nationwide”, February 2013.

<sup>3</sup> Ibid.

<sup>4</sup> Vilnit, Steve (@stevevilnit). “Stop asking why local food is so expensive. Instead, ask why imported food is so cheap” 23 May 2015, 5:13 AM. Tweet.

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<sup>6</sup> Carmichael, Rebekah, U.S. Department of Justice Press Release: ‘Defendant Also Ordered to Pay over \$64 million in Restitution’, *Food and Drug Administration Office of Criminal Investigations*, July 27, 2010.

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<sup>9</sup> Moisse, Katie. “Misabeled Fish Raise Food Allergy Risk”, *World News*, December 11, 2012.

<sup>10</sup> Warner, Kimberly Ph.D., Walker Timme, Beth Lowell and Michael Hirschfield, Ph.D, “Oceana Study Reveals Seafood Fraud Nationwide”, February 2013.

<sup>11</sup> Spiegel, Anna. “Is That Tuna You’re Eating, or “Ex-Lax Fish?” *Washingtonian*. February 21, 2013.

<sup>12</sup> Warner, Kimberly Ph.D., Walker Timme, Beth Lowell and Michael Hirschfield, Ph.D, “Oceana Study Reveals Seafood Fraud Nationwide”, February 2013.

<sup>13</sup> Stewart, Jeanine, “NFI, California Industry Cry Foul Over Oceana-Backed Seafood Mislabeling Bill”, *Undercurrentnews*, September 11, 2014.

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# Environmental Reform: The White Rose of Diplomacy in Cuba

Whitney Dixon

**D**uring former President Barack Obama's historic visit to Cuba on March 21, 2016, Cuban President Raúl Castro proudly proclaimed, "We have signed two Memorandums of Understanding (MOUs) regarding the protection of the environment and another for improving the security of maritime navigation."<sup>1</sup> As indicated by the announcement, the improvement of relations between the United States and Cuba began before the arrival of the U.S. President. As Castro emphasized in his speech, the process began with phone calls, delegate visits, and postal correspondence, exploring areas of varying political, social, and economic interests of both countries. However, Cuban President Castro chose to highlight the environment within the first few moments of his speech after 88 years of a strained relationship between the two countries. This emphasis on environmental protection alludes to its vitality as a tool for diplomacy.

## **Cooperation in Conservation**

Signed in November 2015, the Memorandum of Understanding (MOU) between the National Oceanic and Atmospheric Administration and National Park Service and two Cuban government entities, the Ministry of Science, Technology, and the Environment, and the National Center of Protected Areas is based upon mutual interests between the United States and Cuba. The MOU outlines cooperation in

the conservation and management of Marine Protected Areas (MPAs).<sup>2</sup> This cooperation includes such joint activities as scientific and best-practices exchanges, data sharing, public education, outreach, and MPA management. The protected areas mentioned in the MOU include the Guanahacabibes National Park in Cuba and the Florida Keys National Marine Sanctuary in the United States.<sup>3</sup> The exchange of ideas and management outlined in the MOU are important to foster the relationship for positive change throughout the U.S.-Cuba normalization process. This MOU laid the framework for future opportunities of cooperation by being one of the first of many MOUs to come after the initiation of the normalization process.

## **Environmental Protection and the Obama Administration**

In addition to creating the world's largest fully protected marine reserve in the central Pacific Ocean, more acres of federal land and sea were protected during the Obama Administration than any other presidency in the last 50 years.<sup>4</sup> The 1906 Antiquities Act provided the Obama Administration with the executive power to protect deep sea and open ocean ecosystems without congressional approval by stating that the president has authority to set aside "historic landmarks, historic and prehistoric structures, and any other objects of historic or scientific interest that are situated upon the

lands owned or controlled by the Government of the United States.”<sup>5</sup> Despite being the world’s second largest carbon emitter, the United States aimed to improve environmental sustainability during Obama’s years in office.<sup>6</sup> It was clear that environmental protection was a priority for the Administration.

### **Cuba’s Commitment**

The Cuban government has shown a similar dedication to environmental protection. At the Rio de Janeiro Earth Summit in 1992, the late Cuban President Fidel Castro announced that environmental protection and sustainable development would become Cuba’s top priority, even amidst an economic crisis.<sup>7</sup> The impetus for change may have been Havana Harbor’s identification as one of the most polluted bays in the world.<sup>8</sup> Shortly after, the inclusion of environmental protection in the Cuban constitution and the creation of a cabinet-level Ministry of the Environment were the first of many efforts to reduce deforestation and pollution and to promote sustainability. Between 1990 and 2010, Cuba’s total forest area grew by 39% and had 486,000 hectares of planted forests with 104 MPAs.<sup>9</sup>

However, it is a widespread fear that Cuba’s headways in environmental protection may be undercut by the indirect impact of the normalization process with the United States.<sup>10</sup> Cuba has 4,000 uninhabited islands and keys, miles of undeveloped coastline, a large variety of native species and an extensive coral reef system.<sup>11</sup> In 2016, the Department of Treasury permitted U.S. citizens to go to Cuba under one of twelve categories. Visitors in Cuba went up over 14%, reaching the one million mark.<sup>12</sup> Increased visitors in addition to the easing of trade barriers for American pesticides and building materials risks negatively impacting

Cuba’s biodiversity, especially in regards to its coral reef ecosystem if it does not take protective measures. Increased traffic to wildlife refuges and coral reefs should be met with increased policies to ensure their longevity.

### **Shared Waters, Shared Interests**

With only 90 miles of water separating the United States and Cuba, environmental protection is a joint priority. Bilateral efforts to prevent oil spills and create risk-free cleanup between the Florida Keys and the Gulf of Mexico are advantages of the normalization process. The International Association of Drilling Contractors emphasized that Florida’s \$60 billion tourism and fishing industries would be at risk if an oil spill of the same magnitude as the 2010 BP Oil Disaster were to occur in Cuban waters, especially if the technology needed to address it was inaccessible.<sup>13</sup> With the embargo still in place, most transactions between the United States and Cuba are prohibited without a license. The United States and Cuba share a biosphere where endangered species know no borders. In May 2016, the Cuban government permitted the operation of small and medium private owned businesses as part of its plan for economic development and reform. Previously, all businesses were state-owned.<sup>14</sup> One of the businesses that was provided the opportunity to operate in 2015 was Airbnb, signaling the reemergence of U.S. hospitality and accommodations for visitors in Cuba. This new relationship between the United States and Cuba emphasizes accessibility and mutual interests.

Creating bilateral environmental policy between the United States and Cuba is one area where shared interests can be emphasized, despite any political, social, or

economic differences. Environmental policies between the United States and Cuba create opportunities for information exchange through establishing meetings between agencies from both countries, the promotion of scientific research, natural resource management through recognition of shared territories, education outreach, and cooperation. Before, the United States and Cuba had separate means of mitigating damage to the environment. Now, environmental protection is a shared tool that can be utilized when economic and political capabilities are limited.

The views expressed in this publication are my own and not necessarily those of the U.S. Government.

## **Conclusion**

The Memorandum of Understanding between the United States and Cuba for MPAs signaled a new era for diplomacy between the two countries. Bilateral cooperation in environmental sustainability does not only make geographic sense, but it is valuable for best practices in both countries because it promotes information exchange, resource management, and sustainable development. While both countries are experiencing transitions in leadership, environmental protection has played an important role in fostering diplomatic relations between the United States and Cuba. As Latin American philosopher and Cuban national hero, Jose Marti once said, “I have a white rose to tend in July as in January, I give it to the true friend who offers his frank hand to me and to the cruel one whose blows break the heart in which I live, thistle nor thorn do I give: for him, too, I have a white rose”.<sup>15</sup> Environmental protection remains one of the most vital white roses that facilitates diplomacy, even when political and economic thorns might stand in the way.

## ENDNOTES

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# Itinerant and Ignorant: Working in Developing Countries

Dr. Allen Schick

Over the years, I have worked in more than fifty developed and developing countries, a track record shared or exceeded by many public policy professionals employed by the World Bank, International Monetary Fund, and other multilateral organizations. Before visiting a country, I study its history, institutions, and policies. Though I learn a lot, I rarely know enough by the time the plane lands and on-site development work begins.

Most developing countries share certain characteristics, but each has its own distinctive story. Almost all have a large proportion of citizens living in abject poverty with absent or inadequate public services, severe infrastructure deficits, and low capacity to collect taxes. But each country has its own narrative, embedded in memory and traditions that influence the distribution of material goods and political power, and that must be reckoned with in order for development specialists to avoid unforeseen obstacles and unwanted consequences.

This essay discusses three blind spots encountered by many development workers: the cultural underpinnings of society, its web of informal institutions, and the hidden interests of reform-minded country leaders.

## **Culture Explains Quite a Bit, but is Hard to Explain**

The first stop in a developing country generally takes the visitor to government offices and urban centers; rural villages are usually on the itinerary only to showcase a success story or dramatize the urgency of development work. Many of the world's poorest billion live as their forebears did for generations. Their villages are hardly touched by development, without running water or modern sanitation, where families are packed into small huts or threadbare homes, where roads are unpaved and health clinics remote. There is another side to these villages, perhaps less visible to visitors: the communities they form, the social order they maintain and the traditions they preserve. These villages are cocooned in cultures that mark them as traditional.

Culture refers to shared beliefs, morals, values, attitudes, practices, roles, symbols and language. It represents a society or group's collective wisdom and aspirations that are embedded in the behavior and routines of its members. Culture structures social relationships, both within a group and between it and outsiders, and ascribes obligations and rights to people who possess a common identity. Salient cultural features

are transmitted from one generation to the next, perpetuating patterns of behavior that persist unless they are uprooted by disruptive changes. Development can be either disruptive or accommodative, though it is more likely to be the former when Western models of socioeconomic wellbeing are imposed on a low-income country.

Artifacts of culture are readily observable when one visits a country, but underlying assumptions may be veiled from foreign eyes. Vital artifacts include the physical environment, the group's language, and its rituals and ceremonies. The essence of a society's culture lies within basic assumptions that may be so deeply entrenched and so widely shared that they do not have to be articulated. These assumptions generally are non-debatable and are extremely difficult to change. Development specialists who jet set from one country to the next typically see the artifacts but lack sufficient patience or expertise to discern basic assumptions.

Culture conditions a country's response to development, especially the tension between tradition and modernity, as Max Weber's modernization theory argued a century ago and Ronald Inglehart found in recent surveys of global values. Nevertheless, development experts tend to shy away from cultural explanations; they typically assess the efficacy of traditional societies in terms of western norms that are grounded on notions of efficiency, transparency, legal codes, and formalized relationships. They eschew cultural explanations of why countries progress or lag. To them, culture is opaque and not subject to rigorous empirical tests; it is the label applied to situations and outcomes that are not otherwise explicable. They believe that attributing a country's misery to its cultural baggage implies that development efforts are futile, that low-

income countries are imprisoned by their past and cannot forge a better future. They point to ample evidence that countries can surmount developmental shortcomings, some which once were economically backward have become among the most advanced.<sup>1</sup>

In my view, it is precisely because embedded culture can be uprooted that itinerant change-agents (which is what development workers are) should be mindful of the impacts of their repertoire of institutional and policy reforms on traditional societies. Returning to the traditional villages after development has reached their country one might encounter a very different scene from the one described earlier. Some communities will have new schools and clinics, better roads, and more opportunities for girls to pursue educational and economic opportunities. Some will experience an exodus of working-age males, greater poverty, or a widened gap between the haves and have nots.

Less visible to the naked eye may be breakdowns in traditional society, a shift away from extended families, or painful changes in roles and relationships. These effects may not be immediate, but probably occur in no more than one or two generations as the old order gives way to modern values and aspirations. The developmental balance sheet will record the material gains, which are real and warrant recognition, but it will have no entries to account for cultural losses, which also are real and warrant recognition.

### **Form and Behavior: What is written versus "what is"**

Preparing for their first visit to a country, development specialists study the system of government set out in the constitution, legislation, and other formal documents. We know that formal rules and

procedure do not fully describe how a country's economic and political system actually work, so we also study the distribution of power and social and economic relationships. It does not take long to detect discrepancies between what should be and what is, between written rules and actual behavior.

This gap exists in all countries and in all complex organizations, but it is far greater in developing than in developed countries. In developed countries, more than eighty percent of workers are formally employed; their employment status is recorded as prescribed by government regulations and they have rights and obligations codified in formal rules. In many low-development countries, formal employment covers less than half of the labor market, and in some less than twenty-five percent.

To paraphrase a report issued by the Organization for Economic Cooperation and Development (OECD), informal has become normal in developing countries. It is not simply a small deviation from formal rules, as is generally the case in advanced countries, but the basis on which society, including both public and private institutions, functions. It is not limited to labor markets, but spills over to public governance as well. For example, many developing countries have civil service rules that specify standards and procedures for recruiting public employees, but the actual way government jobs are filled depends on personal and political connections. The national budget allocates money to designated agencies and activities, but actual expenditures vary significantly from authorized amounts. The budget is informally made during its execution, not, as is commonplace in advanced countries, when it is formally prepared.

In critical features, the informal

public sector mirrors private conduct in traditional societies. Instead of written contracts that explicate key terms and conditions that are enforced by legal procedures, informal contracts are based on trust between the parties, and on implicit understandings and expectations formed by long-standing relationships between the parties. These 'relational contracts' are not arm's length. The parties know each other, they've dealt with each other in the past, and expect to maintain their relationship in the future. This type of relationship pervades government in low-income countries when managers buy goods and services from preferred vendors without going through competitive tendering processes, or supervisors hire job applicants who come from the same village or ethnic group. By western norms these relationships breed corruption, by traditional standards they build trust.

To western eyes, informality opens the door wide to inefficiency and corruption, to government action based on personal ties and covert financial inducements. Governments procure goods and services from party loyalists and bribery, not from those who offer the lowest price or best quality. Civil servants get jobs even when they lack the necessary skills and personal motivation, and hold on to their posts even when they perform poorly.

Inefficiency and clientelism are the main ports of entry for reformers who seek to transform traditional societal transactions from informal relationships to formal rules that are indifferent to personal interests. Inefficiency and clientelism make the actions of the government opaque to the governed, and establish arm's length relationships between anonymous parties and public decisions. It is no exaggeration to say that development is a process for replacing

informal institutions with formal rules and procedures. In both its public and private realms, development anchors society on prescribed rights and obligations rather than on personal connections.

Government reform in low-income countries is thus a means of undermining governmental and economic relationships based on personal characteristics and replacing them with the rule of law which supposedly treats all alike. This appears to be a win-win situation, opening the door to economic development and liberating those disadvantaged on the basis of ethnic identity, gender, color, political affiliation or other personal traits.

A fair accounting of the shift to formal, anonymous institutions may show significant developmental gains, including higher national and per capita income, reduction in corruptive bribes and deferential gifts, enhanced opportunities for previously-disadvantaged groups and people, improvements in the quality and accessibility of public services, and greater protection of citizens from predatory governments and enterprises.

On the other side of the ledger, costs may be less visible but nevertheless significant. They include erosion of relationships and loss of status or power, the socio-psychological burdens of anonymity, and a steep rise in transaction costs. Arguably, material gains outweigh the less tangible costs, but development-minded reformers err when they regard the formalization of social relationships as costless.

**Allies or Betrayers: You can't be sure until it's too late**

Itinerant reformers need indigenous

country leaders to promote and implement far-reaching changes in public policies and management. Local support has always been important, but is even more urgent in donor commitment (or lip service) to the country's ownership of reforms. In most developing countries, there appears to be an ample supply of politicians and managers eager to join the cause. The ranks of reformers have been swelled by the popularity of Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs), which pressure both the development community and low-income countries to show measurable progress. Reformers are ubiquitous in developing countries, in governing and opposition parties, at the center of government and at sectoral ministries, in non-governmental organizations and in other civil society organizations. Many are drawn to reform by the opportunity to do good for their country, and many by the opportunity to do well for themselves. Quite often these clashing motives coexist in the same person, making it exceedingly difficult to discern the true motives of development partners.

Why is it that many who start out committed to doing good end up doing well for themselves and ill for their countries? This pattern does not occur solely in development work, and is likely due to the corruptive allure of power that Sir John Dalberg-Acton identified more than a century ago. But several characteristics of development work stimulate 'bad behavior' by people who want their country to progress. One is that the inclination to give and demand bribes and gifts, with only a thin line separating the two, may be culturally acceptable and embedded in a country's web of informal transactions. Well-meaning citizens often are frustrated by the obstacles they face, their values warped by the huge gulf between their earnings as dutiful civil servants and what they can earn by defecting

to corruption.

Being a reformer is a big deal in low-income countries. You get noticed by the development community and opportunity will often present itself. If the breaks go your way, you get showcased at international meetings and are invited to advise other countries on how to successfully introduce transformative reforms. You peddle success stories, and never talk about the frustrations or failures, except to discuss how to overcome them. You glide between posts from public to private and back, and from national to international, accumulating accolades and financial opportunities along the way.

The public face of the reform-minded politician or manager is often pretty much the same as that of the obstructionist. A winning tactic for those who do not favor change is to avoid openly opposing reforms while working covertly to impede change. Meaningful reform almost always redistributes political and financial power, a motive for those who speak one way but act otherwise. Development experts often are indifferent to this quandary because they view reform as a net win for the country and therefore pay insufficient attention to the losses.

Itinerant reformers are perennially in search of champions who can mobilize support and surmount obstacles. But champions have their own agendas ranging from wholehearted support to subversion and corruption. There are many shades of grey between, but few reliable tests for distinguishing among them.

### **Avoiding Eyes Half-Open Development**

Development is hard work. Advice is tendered and conditions imposed without sufficient information and with no assurance of success, yet the payoff can be quite large. I hope these words encouraged development specialists to think deeply in how they approach unfamiliar communities. Though there are no simple solutions to correcting these blind spots which color the development community, this message is not intended to leave the reader feeling disparate of the industry. As the needs of the communities served evolve, so do those who assist them. Addressing these blind spots should be central to educating the next generation of development specialists, and in inspiring seasoned ones.<sup>2</sup>

## ENDNOTES

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# Five Axioms of Public Policy

David Falk

**I**t is my contention that there are at least five basic axioms that underlie all work in the public policy arena that students and practitioners must constantly keep in mind. These are not normative values, but practical principles that I have extracted from my years of policy advocacy and more reflective later years of teaching. These observations have become more salient in trying to understand and come to terms with the Trump phenomenon and the ascension of their kindred spirits elsewhere in the world.

**Axiom One:  
All public policies involve trade-offs.**

Obviously! There are always winners and losers, although the degree of concentration will vary widely by affected interests and the impact on them. Many public policies that especially favor a narrow group of beneficiaries spread their losses over a wide area so as to be virtually painless and usually hidden from view. For example, U.S. sugar subsidies and import restrictions benefit domestic sugar producers at a cost to Americans of pennies per capita. Other public policies may distribute their costs and benefits more evenly, or are realized over different periods of time.

While many costs and benefits are strictly economic and readily measurable, other trade-offs include non-monetary costs and benefits. For example, public financing of multimillion dollar sports stadiums is often not a sound economic investment, but may generate large unmeasurable non-economic benefits, such as enhanced citizen pride from hosting MLB or NFL teams in their city.

President Trump's recent executive order effectively shutting down immigration from many Muslim-majority countries pits the claimed benefits of enhanced protection from homeland terrorism against not only the obvious costs to would-be refugees, but heavy psychological insecurity for Muslims currently living in the United States.

One task of the student of public policy is to identify and evaluate all the trade-offs of every public policy and public policy proposal that come before them.

**Axiom Two:  
The Law of Unintended Consequences.**

The unintended consequences may be additional costs – or less often additional benefits – that were honestly overlooked by both sponsors and opponents of the policy, or additional costs or benefits that arise over time as the policy is implemented that could not have been reasonably foreseen.

Here is my favorite example: To control a tight budget in Wiscasset, Maine, Town Manager Andrew Gilmore informed employees of the town's transfer station – the village dump – that the transfer station had to close promptly at 4:00 pm because overtime could no longer be paid to Town employees, including those working at the dump. Not many days later there appeared an article in the county newspaper under the headline "Gilmore: Don't lock patrons in town dump," that began with "It's official. Town employees will no longer be allowed to lock patrons inside the Wiscasset dump." In ending overtime pay, the Town policy-makers had failed to anticipate the angry

reaction of the dump employees at losing their overtime pay which they expressed by strictly following instructions and locking the dump gate at exactly 4pm without first warning the patrons inside. The locked-in patrons were only released after calling the Town police on their cell phones.

Responsible policy-making requires addressing unintended consequences as they arise and making such changes as will better carry out the original purpose of the policy and mitigate its unexpected negative impacts. Health care in the United States would have been better if the Republican Congress during the Obama Administration had approved adjustments in the Affordable Care Act (aka Obamacare) to remedy certain unexpected defects as opposed to adopting a strategy which solely focused on working against the law.

**Axiom Three:  
People in positions of power hate to be criticized.**

President Donald Trump is not alone in this respect. Perhaps a few saints dwell among us politicians, managers and professors, but I don't know any. When we have worked really hard to do the best job we can – like pushing a bill through a divided legislative body, or delivering a brilliant course – we grumble at not being properly appreciated. And when we slough off in our tasks, we resent being exposed.

Democracy requires speaking truth to power to pierce the “bubbles” that surround people in authority. Bubbles are not conducive to sound policy-making as they restrict consideration of alternatives and assessments of short and long-term consequences. Regrettably, the opportunities for speaking truth to power face-to-face are few. Dissenting government officials may seek the protection of whistleblower laws, although these laws often fail to provide the

protections they were intended to. At the University of Maryland, students have anonymous course evaluations, but their impact on academic administrators is questionable at best. In addition to the free press, academic journals, and blogs, perhaps social media will prove to be the most effective method of pushing back by circulating contrary views and mobilizing people to protest in public and hopefully to vote. However the double edged nature of social media must also be acknowledged: namely, that it is very common for people to create “bubbles” of their own.

**Axiom Four:  
Knowledge is power.**

Policy advocates understand that often, the less people know about what they are doing, the more likely they will succeed. Consider the following: University of Maryland President Wallace Loh, when asked why the negotiations with the Big Ten were conducted in such secrecy, said, “I knew once the rumors started and start escalating, that could kill the deal. You just can't negotiate under these circumstances.” Critics of abandoning the Atlantic Coast Conference, created many years ago under the leadership of the University of Maryland, might have been able to upset the Big Ten negotiations if they had only known.

Those in the know will use their knowledge strategically, either by holding it tight to avoid damaging leaks as the Trump White House reportedly did with its recent executive order on immigration, or give it maximum publicity so as to develop grass roots support. Political scientist Deborah Stone devotes an entire book to “explor[ing] how policy information is strategically crafted in politics.”

Today, however, the centuries-old philosophical questions of “what can we know” and “how can we know it,” have, with

the ascendancy of Breitbart News and its alt-right siblings and a President who often describes his fantasies as facts, led to questioning the very existence of reliable knowledge. And this brings us to Axiom Five.

**Axiom Five:  
The Law of the Infinite Cornucopia.**

Arguments will be made with apparent sincerity and earnestness in support of every conceivable position on any issue of public policy. There is no limit to the arguments that can and will be made and to the factual assertions that support them. Some factual assertions are pretty extreme. There are those who still deny the existence of the Holocaust, as there are those who deny the existence of an irreversibly changing climate. There are those who claimed that the Affordable Care Act contemplated “death panels” to terminate the lives of terminally ill people. There is even a President who, to bolster his legitimacy, claims that three to five million votes cast by illegal aliens in the United States cost him the popular vote in 2016 and, to support a policy of excluding refugees from the United States, that Middle Eastern refugees in Sweden rioted one night when that never happened.

What is a student of public policy to do in the face of the overwhelming amount of information and misinformation, facts and “alternative facts,” arguments and counter-arguments?

Deborah Stone provides some guidance when she writes, “Much of what we ‘know’ is what we believe to be true. And what we believe about information depends on who tells us (the source) and how it is presented (the medium, the choice of language, the context).” To this, I would add the likely motive of the speaker providing the information because a questionable motive

should make one look further into the validity of the asserted facts.

Looking past the facts – for the facts and especially predictions of future facts will rarely be established to everyone’s satisfaction – to the policy arguments they claim to support, it is evident that everyone claims that their desired policy uniquely serves that most elusive concept, the “public interest.” But one’s public interest might be another’s misfortune. For example, House Speaker Paul Ryan claimed, during his bid to enact major health care legislation in the early days of the Trump Presidency, that his replacement for the Affordable Care Act enhanced individual freedom by eliminating the mandate that everyone must purchase health care insurance, whereas his opponents see the public interest residing in the widest possible expansion of health care insurance. These contradictory positions will be argued with facts, but resolved only through politics and the political institutions through which politics operate. The task of the student of public policy is to provide clarity to this contest with the hope that policy decisions will be made with as complete an understanding as possible of the factual and value bases on which they rest.

To me, public policy is as much a profession as medicine, law, engineering, journalism, nursing, plumbing, hair styling, accounting, architecture, information technology, and so on. Each of these professions has its generally recognized norms of excellence to which its practitioners should strive at all times. And the practitioners of each of these professions must undergo intensive and appropriate training to achieve their profession’s norms. To current and future students of public policy in training, I offer these Five Axioms of Public Policy to help you understand the

public policy world you will soon enter as  
public policy professionals.

## Endnotes

<sup>1</sup> Lincoln County Weekly, August 19, 2004.

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<sup>3</sup> Deborah Stone, *Policy Paradox: The Art of Political Decision Making*, 3d ed., Norton, 2012.

# The Cooperative Conundrum: Traditional Values and Modern Feminism in Moroccan Cooperatives

Lianne Berne

Women's cooperative organizations in Morocco are unique case studies of how modern feminist movements can overlap with traditional segments of society. However, women's work in handicraft cooperatives should not be simply taken at face value as a successful embodiment of feminism and empowerment. The history of these cooperatives and the social structure in Morocco create barriers and stereotypes that can in fact hinder women's ability to achieve gender equality and other feminist ideals.

Handicrafts in Morocco represent both traditional artisanship and the foundation of the tourist economy. The *souks*<sup>1</sup> of Marrakech, Fes, and other Moroccan cities are filled with leather goods, hand woven carpets, argan oil, and other handmade products that have been made in much the same way for centuries, often in small villages and *Amazigh*<sup>2</sup> communities in the remote regions of the Atlas Mountains or Sahara Desert. But the traditional craftsmanship techniques and ancient feel of the *medinas*<sup>3</sup> in Morocco may belie the modernization and technological advances that have drastically changed how these goods are created and sold.

Although the art of weaving and other skills may still be passed down in a family or community, business and marketing traditional goods have had global

influence. Individual artisans no longer have to rely on middlemen and local visitors to buy their crafts; the internet, mobile phones, and other technologies have found their way into even the most remote villages in Morocco.<sup>4</sup> Decades of globalization have brought Western ideas, social movements, and tourists to Morocco, which has promoted its traditional handicrafts and ancient cities on a global stage. This melding of traditional art and global business has resulted in the emerging popularity of an interesting social construction - the cooperative.

Cooperatives, and specifically women's cooperatives, are found in huge numbers throughout Morocco (nearly 10,000 as of 2011).<sup>5</sup> Most often, they produce woven rugs and argan oil, but also all manners of textiles, agricultural products, foodstuffs, and more.<sup>6</sup> These cooperatives are quite different from typical businesses in both structure and goals. Cooperatives are democratic and egalitarian organizations that strive to improve the lives of their members through economic and social empowerment, rather than corporate-style hierarchies that focus on profit. While these cooperatives are usually female-run, it is important to note that their existence is essentially unrelated to feminist movements in the country, in that these cooperatives were not created by or for feminist purposes.<sup>7</sup> The gendered aspect of handicrafts in Morocco is deeply rooted in

tradition and heritage; it is widely accepted in Morocco that women make rugs and men make cloth.<sup>8</sup> As some see it, weaving cloth is physically demanding work, so it is a man's job. Carpet weaving requires patience, so it is left to the women.<sup>9</sup> These roles are not a modern imposition or decision designed to empower women economically or socially, but rather a widely accepted societal tradition.

Despite the fact that cooperatives and feminist leaders in Morocco do not explicitly collaborate, it is not difficult to see the overlap between the mission of the cooperatives and some feminist values - education, economic empowerment, and a political voice to name a few. Might these cooperatives be advancing feminist goals unintentionally? How will these two movements intersect or clash as they develop in the future? How will globalization and technology affect this relationship and the viability of female cooperatives in Morocco in the next several years and decades?

### **The History of Cooperatives in Morocco**

Although the handicrafts themselves are traditionally Moroccan, the idea and structure of cooperatives are a relatively recent influence from the French. The first law establishing cooperatives was enacted in 1937, while Morocco was still a protectorate of France.<sup>10</sup> In 1962, six years after Morocco achieved its independence, the Office of Cooperative Development (ODCO) was founded and took stronger measures to develop these cooperatives. This office was tasked with providing information and training for cooperatives, awarding grants for their establishment, and serving as a source for administrative and legal support.<sup>11</sup> Post-independence, the Moroccan government invested heavily in programs aimed at women, such as these cooperatives

and women's clubs. The women's clubs, created by the Ministry of Youth and Sports, were places where women could learn sewing, knitting, or embroidery. However, these clubs were mainly focused on teaching practical skills to housewives rather than training women to work in a business or supporting themselves through their craft.<sup>12</sup> By the 1980s, Morocco began to see new laws and programs that put women at the heart of development. The Moroccan government devoted additional funding to combat female illiteracy and created a program in the Ministry of Agriculture, which trained women in animal husbandry.<sup>13</sup> Additionally, the United States Agency for International Development (USAID) created a new position in its Morocco mission, the Women in Development Officer. However, the role was small and the officer was not entitled to additional funds.<sup>14</sup> In 1983, ODCO introduced new laws intended to standardize cooperatives and ensure legal protection for cooperative members, though these were not fully implemented until 1993.<sup>15</sup>

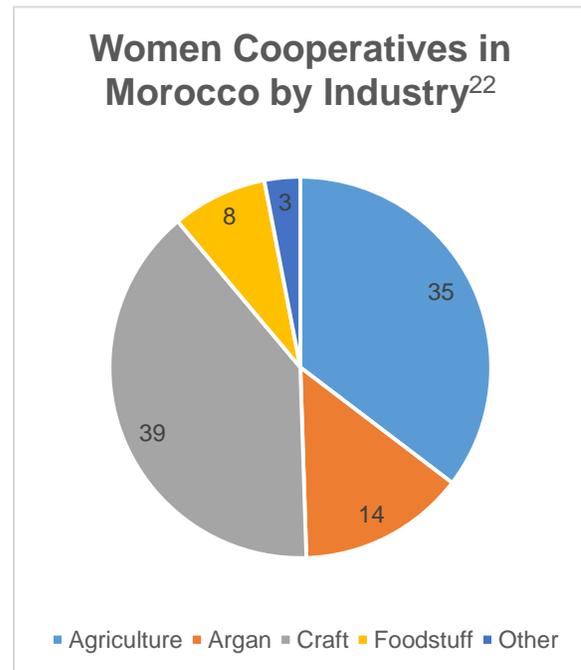
The United Nations Millennium Development Goals, which highlighted gender equality and the empowerment of women, renewed internal and external interest in providing economic opportunities by including Moroccan women in cooperatives.<sup>16</sup> In 2003, a seven year project called Le Projet Arganier, also known as the Argan Project or PA, was launched by the Moroccan Agency for Social Development in partnership with the European Union. The initiative aimed to empower rural women through the creation of argan oil cooperatives.<sup>17</sup> Cooperative laws were also part of the many reforms included in the new 2011 constitution, adopted under King Mohammed VI.<sup>18</sup> By late 2011, there were 9,046 recognized cooperatives throughout Morocco.<sup>19</sup>

The structure of a cooperative varies quite a bit from that of a typical business, with the main difference being in the leadership structure and financial decision-making power within the cooperative. Rather than a centralized leadership structure, the goal of the cooperative is for all members to share profits, decision-making power, and resources equally within the group.<sup>20</sup> In addition to the production of goods, cooperatives have a strong focus on development and empowerment.

To complement the economic and social empowerment gained from simply working in the cooperative, these groups often offer classes in literacy, business skills, or computer training to help members improve a wide range of skills that help the cooperative and the individual.<sup>21</sup> Because of this, cooperatives are often sought out and encouraged by government agencies or NGOs looking to focus on development. Cooperatives commonly sell traditional handicrafts, many of which are the types traditionally made by women, such as certain textiles and argan oil.

### Women Cooperatives in Morocco by Industry

The chart below represents the distribution of women's cooperatives by industry in 2014. The largest sectors by far are crafts, which include textiles and sewing, and agriculture, which includes farming, beekeeping, and other types of animal husbandry. Unsurprisingly, these are the same industries in which women have been working for centuries. There are comparatively few female cooperatives working in traditionally male industries.



### Cooperatives and Gendered Spaces in Modern Day Morocco

Female empowerment in Morocco is a lofty and complex goal and reform efforts often face significant barriers and pushback. It is not enough to simply offer job training programs, access to the internet, or leadership workshops. In the eyes of the prominent Moroccan gender studies scholar Fatima Sadiqi, Morocco suffers from “pervasive patriarchy” and “cultural resistance to equality,” which place deeply ingrained cultural norms among the many difficulties facing Moroccan women today.<sup>23</sup> Women make up less than one-quarter of the labor force, largely due to lack of education, high illiteracy rates, and a cultural stigma against women working outside of the home.<sup>24</sup> Nearly half of the population lives in rural and impoverished areas where GDP per capita is often less than 1,000 USD.<sup>25</sup> Illiteracy is rampant, particularly among older women. In one village, a researcher

reported that none of the married women could read, although some of the younger women did attend at least a few years of primary school.<sup>26</sup>

And yet Moroccan women are not helpless housewives sitting idle in their homes. Women have long been central contributors to household management in addition to their important roles in the community. In Amazigh communities in particular, women have been renowned as textile-makers, healers, midwives, agriculturalists, and other important public roles.<sup>27</sup> Historically, women provided for their family by weaving clothing and blankets for them and today they create and sell similar goods that bring in an important economic contribution to the household.<sup>28</sup>

Despite this recognition of women's contributions in the home, there is still a substantial backlash to women bringing this work out of the home and into the public sphere for their own economic benefit.<sup>29</sup> This is a side effect of the strict gender boundaries in Moroccan society. Many spaces are cleanly divided into male spaces and female spaces, not only within the *hammam*<sup>30</sup> or the mosque, but categorically. The coffee shop on the corner is a male space; the kitchen is a female space. The public street is also a male space by default, as is the workplace.<sup>31</sup> Women entering these spaces are trespassers, visitors at best, who must defer to the males around them.

While women's cooperatives are certainly not immune from this patriarchal structure, they do offer a way for women to breach some cultural norms through traditional, centuries-old work. In some ways, they are able to skirt around the issue of the male-dominated workplace by turning their workshops into a female space where women are free to gather and weave, sew, and

perfect their craft. But this is only half of the equation. All of the roles and spaces associated with selling goods and running businesses are decidedly male. Women are often unable or unwilling to risk breaching the male-dominated space of the souk to sell their crafts. Instead, they rely on middlemen who buy their goods at very low prices and sell them at a large profit to tourists.<sup>32</sup> Cooperatives can sometimes negotiate better prices with the middlemen than individual women, but even they cannot overcome the necessity of these traders. If the village is a tourist destination, or near enough to one, the cooperative may be able to sell directly out of their workshop, but not all locations have this luxury. More often than not, the women of the cooperatives must find a way to transport their goods to a far off tourist hotspots like Marrakech or Fes, making the role of the middlemen crucial.<sup>33</sup> However, several cooperatives have successfully digitized their sales by creating online stores with the help of the Peace Corps and other volunteer programs in villages such as N'kob, Ben Smim<sup>34</sup>, and Ain Leuh<sup>35</sup>. This new form of direct marketing may be creating a path for female cooperatives to entirely circumvent male spaces in their business model.

#### Feminism in Morocco

In order to understand how cooperatives intersect with and differ from the feminist movement in Morocco, it is necessary to understand feminism and its goals within the country. In some ways, Moroccan feminism has clear parallels to Western feminist movements and goals. Both movements rise out of social marginalization, a lack of educational and employment opportunities, and overarching patriarchy. They promote women's right to be politically active, economically empowered, and to take agency over their own lives.<sup>36</sup> Yet at its roots, Moroccan feminism is unlike its Western counterpart. Moroccan women face a much

different social and political structure which has grown from the historical and entrenched seeds of colonialism, fundamentalist Islam, and monarchical government.<sup>37</sup>

Feminism faces a unique set of challenges in Morocco, but with clearly defined aims and objectives, considerable progress has been made over the last few decades. The 2004 reformed Family Code is widely seen as one of the most progressive laws in the region. NGOs and other organizations continue their work to end violence against women, increase literacy rates, and provide access to financial credit and economic opportunities that are independent of male guardians or gatekeepers.<sup>38</sup>

As with any social movement, Moroccan feminism is not a united front. Some of the new rights granted to women in the reformed constitution include the ability to initiate divorce, pass on citizenship to their children, and to marry without the pressure of a wali, or marital tutor.<sup>39</sup> However, there has been considerable discussion and disagreement about the implementation of these new reforms and whether laws alone can truly impact change. Many argue these legal codes are an empty gesture of reform that will never trickle down to women's daily lives without a corresponding shift in cultural norms and expectations about gender.<sup>40</sup>

Regarding economic empowerment in particular, critics point out that an increase in women's income cannot truly be called empowerment if the hierarchy of the family remains such that women take on the responsibility of repayment and assume the burden of debt without gaining control of how the new household income is spent, as is the case with many microfinance recipients.<sup>41</sup> So where do cooperatives fall on this spectrum? Are they simply sources of income, financial burdens, or can they

provide the social empowerment or mobility needed to benefit from the economic gains?

### **Cooperatives as a Feminist Success**

Although economic success is not the only indicator of empowerment, it certainly should not be discounted as an important step in feminist progression and cooperatives have largely been hailed as an economic success in Morocco.<sup>42</sup> Women in argan oil cooperatives in southwest Morocco have an income nearly twice Morocco's per capita GDP in rural areas, while weavers in textile cooperatives find that they can sell their rugs for several times more than what they would receive individually from a middleman.<sup>43 44</sup> By improving working conditions and incomes for female workers, cooperative products may also qualify as fair trade, bringing in renewed interest and profits from socially-conscious consumers.<sup>45</sup> Additionally, cooperatives qualify for additional funding through government grants and assistance through the ODCO.<sup>46</sup>

Social empowerment is also a large and essential piece of the cooperative structure. In addition to the basic tenets of democratic decision-making and profit sharing, education about cooperatives and leadership training are core components of any true cooperative.<sup>47</sup> Educational opportunities within cooperatives abound and range in complexity from basic literacy courses to HTML coding to quality control and other important business skills.<sup>48 49 50</sup> These courses allow women to learn more about the cooperative itself and feel more connected to and invested in both their craft and the community at large. These trainings and workshops also focus heavily on real world skills that allow members to assume more responsibility within the cooperative over time, which helps ensure long-term

membership and sustainability of the cooperative.<sup>51</sup>

On an individual level, members of female cooperatives report great personal and financial success thanks to their work. At the most basic level, women have a renewed sense of purpose and a reason to leave the house and join a community of peers.<sup>52</sup> Their income has increased dramatically and they are able to use the profits to care for their family and support local community projects.<sup>53</sup> Overall, the women of these cooperatives are more confident, more willing to speak their mind, and more ambitious in their careers.<sup>54</sup>

Though they might not necessarily identify as a feminist or even be familiar with the movement, the progress these women have made through the cooperatives could be called a feminist success. They are empowered both socially and economically, they have broken down social barriers and cultural norms to become well respected workers in their communities, and they have more educational opportunities and prospects for advancement in the workplace.

### **Cooperatives as a Feminist Failure**

But how feminist is the Moroccan cooperative institutional structure as a whole? If social progress relies on shifting cultural norms and expectations, it seems unlikely that cooperatives could introduce a feminist mindset into the collective consciousness merely by coincidence, rather than through concerted effort. In order to understand the entire relationship between cooperatives and feminism, we must analyze the macrostructure of cooperatives in addition to their impact on individuals.

Essentially, the reason for the success and popularity of cooperatives may also be one of their biggest downfalls. These

associations build on the idea of ‘women’s work,’ or crafts and industries that women have been producing, often informally, for centuries. While this may help to give individual women more voice in these specific industries and in the home, it does nothing to advance options for women in new industries, to encourage higher education as a career path, or break stigmas about the necessity of female participation in the labor force. The mere existence of a women’s cooperative is not sufficient to advance female empowerment. At best, the institution of cooperatives offers no support; at worst, it actively promotes the status quo and keeps women confined to a predetermined set of employment opportunities.<sup>55</sup> While some women in cooperatives may learn new skills and use them to get a job in a new industry, this is a product of an individual’s decision and motivation, rather than an intentional goal of the cooperative structure. Without feminist activism, the female space of the cooperative is easily segregated from the rest of society, further enforcing the notion that the workplace and the public space are male spaces.<sup>56</sup>

Furthermore, Moroccan cooperatives are plagued by a number of practical concerns and errors in implementation. Perhaps the most concerning is the role of men in administrative and leadership roles. Although cooperatives are ostensibly female-run, a vast number of them in fact have men as crucial decision makers in formal administrative roles or behind the scenes, controlling their wives’ finances and speaking on their behalf.<sup>57</sup> In some cases, male administrators may be better able to cater to tourists by speaking English or French, but this linguistic advantage is not universal.<sup>58</sup> In the small village of Ain Leuh, tourists visiting the local agricultural cooperative learned about the organization, not from the women

who produce the goods, but from a male host who speaks the same Moroccan Arabic as the female workers.<sup>59</sup>

The male role within the cooperative is more indicative of a larger issue than a cause for alarm in and of itself. Certainly cooperatives do not have to be female-only to be successful, and male cooperatives also exist.<sup>60</sup> The real concern is the male domination of decision-making and complacency with the status quo. If men are benefitting from the patriarchal and hierarchical structure of the Moroccan status quo, what is their incentive to enact real change and advocate on behalf of these female cooperative workers?<sup>61</sup> To their credit, some men may certainly be aware of this power dynamic, actively working to include women's voices, and catering to their needs, but this is not systemic.<sup>62</sup> Allowing male leaders to decide if and how to incorporate female workers' voices in their decision-making is ineffective and an extension of the benevolent patriarch mindset that reigns in Morocco.

These issues of gender imbalance are not merely a matter of rural isolation or lack of awareness about the feminist movement. They are part of the equation, but feminism is not a panacea for these problems. Feminism, particularly Moroccan feminism, is generally viewed as an elitist movement.<sup>63</sup> Feminists are usually urban, middle and upper class women with all of the advantages of social mobility, access to education, and wealth. Many of the issues they are concerned with, such as parliamentary representation or equal standing in a court of law, are of little importance to rural women in cooperatives or seem so far removed from their daily lives that they are not even worth considering.<sup>64</sup> The wide-spread illiteracy and poverty among rural Moroccans, which draws many to the support structure of

cooperatives, also creates a barrier to participation in the feminist movement. As such, feminism is not a simple solution to the counter-feminist construction of the cooperative institution. There are simply too many differing and conflicting needs between the well-educated, wealthy, and urban feminists and the illiterate, impoverished, rural cooperative members.

### **Technology as a Solution**

If feminism is not the solution, might technology help to overcome the structural concerns and undemocratic flaws in Moroccan cooperatives? Technology, in its many forms, may be able to pose solutions to questions of education, middlemen, access to international markets, and more. Technology may be as simple as mechanical improvements. With argan oil cooperatives in particular, the mechanization process of extracting oil saves women countless hours and makes the entire process more efficient.<sup>65</sup> No longer do women toil away laboriously for 20 hours to extract one liter of oil.<sup>66</sup> Additionally, the machinery may be used as an additional source of income by renting out use of the machines or selling semi-processed products to other cooperatives and associations that do not own the machinery themselves.<sup>67</sup>

The internet, naturally, offers opportunities to rural communities and small businesses all over the world and Morocco is no exception. The internet is an excellent tool to support and supplement business skills, literacy, and website-building courses. By moving to online training programs, cooperatives eliminate the need to find a local expert willing to relocate to their village to lead these classes. Women of the cooperative could learn about cooperative structures and computer coding from trainers who might be located in Rabat, Cairo, Paris, or any number

of cities around the world. Open access to information would also help women track their expenses and save costs on their input materials. As it is, many female weavers report that they do not keep close track of their input costs, buying small quantities of material whenever they can find quality, inexpensive yarn.<sup>68</sup> With online marketplaces and access to information about prices, women could spend less money on input costs and buy their materials in bulk with other women in the cooperative.

Finally, online marketplaces open a new world of international markets and direct to consumer sales. Cooperatives with their own websites no longer have to rely on unscrupulous middlemen who pay minimally for handcrafted products and mark up prices in the *souk*.<sup>69</sup> Fairer prices come not only from the elimination of a middleman, but also from many international customers' willingness to pay more for what they view as a handcrafted, artisan product that comes from the empowering structure of a cooperative. One study of a cooperative's website found that consumers who visited a page with biographical information about the women involved bought more than twice as much as those who did not visit the page.<sup>70</sup> With the ability to sell directly to both domestic and international consumers, cooperatives may be able to circumvent issues of middlemen, social stigmas against women selling in the souk, and a lack of information about fair prices and profits.

### **Technology's Growing Pains**

Yet technology can cause its own issues. For every cooperative that is able to rent out its machinery, there is another group forced to pay to rent these machines or lose out to a competing seller with higher output.<sup>71</sup> For every website that allows women to circumvent the middleman, there is a need for computer literacy skills, which

may fall to an educated male or foreign volunteer, often from a program like the Peace Corps.<sup>72 73</sup> Although assistance from these foreign volunteers is not necessarily a detriment, their influence raises questions of authenticity, Western imperialism, and poverty tourism, complicating the essential purpose of the cooperative.

Logistically, the internet creates a new set of headaches. Although women may not have to transport their heavy carpets to the souk each week, they must manage international packing and shipping, answering emails in a foreign language, and collecting digital payments.<sup>74</sup> When access to the internet is largely restricted to mobile phones and occasional visits to a local internet café, the task of running an online business quickly becomes a heavy burden. Much like feminism, technology caters to an educated, urban audience in Morocco.<sup>75</sup>

### **The Future of Cooperatives: Sustainability, Success, and Innovation**

Cooperatives in Morocco cannot be easily defined. They are both feminist and anti-feminist, simultaneously progressive and traditional. They empower individual women while keeping the entire community trapped in a mindset of 'women's work' and outdated cultural norms. These contradictions and complex inner-workings will define the future of Moroccan cooperatives. Will they survive unchanged, a relic of past decades and traditional art techniques, or morph into something unrecognizable under the pressures of feminism and technological progress?

Perhaps the most urgent threat to the cooperative's survival is the aging participant population. In Ain Leuh, none of the women in the agricultural cooperative are younger than 40. When asked why young

women in the village did not join the cooperative, the current members note that the younger generation preferred to leave the village in pursuit of higher education instead; they were not interested in the agricultural work and manual labor offered by the cooperative. This phenomenon is not restricted to Ain Leuh by any means. In Ait Khabbash, an Amazigh village in southeastern Morocco, “fewer and fewer young women are learning how to weave blankets and carpets; it is rapidly becoming an art that is restricted to the older generation.”<sup>77</sup> For all the tradition and heritage embedded in traditional Moroccan craftsmanship, the aging population of weavers and other cooperative members may be the last of an era as young women leave their villages, earn college degrees, and join the modern economy.

However, the rural poverty and illiteracy rates still loom large, and clearly urban educational opportunities are simply not an option for many young men and women in these villages. Since both technology and feminism are more accessible for the urban upper and middle classes, they are therefore not available to the majority of Moroccans. Given this, perhaps cooperatives, even with the misgivings of male influence and imposed women’s spaces, will remain an attractive option to those who cannot simply leave the village and pursue higher education. Of course, there may also be a structural shift to accommodate the younger generation. A similar youth exodus can be seen in the handicraft apprenticeship industry, which was once very popular among young men.<sup>78</sup> Today, the government and organizations like the World Bank focus on recruiting youth to sell handicrafts rather than creating them, a way to keep young men in the industry while appealing to their future career goals.<sup>79</sup> Perhaps a similar campaign might encourage young women to get involved in

cooperatives as educators or website administrators, rather than weavers and artists.

Another major concern for the future of cooperatives, particularly in this era of online shopping, is the dependency on foreign volunteers and outside administrators whose work becomes absolutely critical to the daily operations of a cooperative.<sup>80</sup> Without the help of these volunteers, many cooperatives would not be able to communicate with English-speaking customers, maintain their website, and accept foreign payment. In many cases, the departure of these volunteers would mean an end to the cooperative. Fortunately, all parties seem to be well aware of this threat to the long term sustainability of the cooperatives. Susan Schaefer Davis, an academic expert and integral part of Moroccan cooperatives, has actively recruited and trained local Moroccans to take over her work running the website and completing other administrative tasks.<sup>81</sup> She has been largely successful, even finding a young female graduate of *Al-Akawayn* University with excellent English skills to succeed her.<sup>82</sup> In this way, she is taking active steps to achieve the goal of making the cooperative’s operations fully Moroccan, which is the only way to guarantee sustainability.<sup>83</sup>

Ultimately, cooperatives play an important role in Morocco. They have sustained many traditional art forms, provided educational and economic opportunities for rural women, and contributed heavily to Morocco’s tourist economy. Although they are not a perfect institution, they seem to be widely accepted and promoted by the Moroccan government and urban and rural Moroccans alike. Their sustainability depends on ending their dependency on foreign administrators and

lifting cultural restrictions on women. The Moroccan cooperative is a unique structure, and though it may adapt in the coming

decades, its important role in Moroccan society will likely ensure its survival.

## ENDNOTES

<sup>1</sup> *Souks* are traditional marketplaces commonly found in the old cities of Morocco

<sup>2</sup> *Amazigh*, sometimes called Berber in English, refers to the indigenous, nomadic tribes of Morocco and other parts of Northern Africa.

<sup>3</sup> *Medina* is a shortened version of *al-medina al-qadima*, meaning the old city. Every major Moroccan city has an old city, often behind ancient city walls and filled with souks for agriculture, household goods, clothing, and more.

<sup>4</sup> In a tour of the Moroccan Parliament, the host told the author's group that new bills and laws were advertised on television to make the public aware of any new reforms. When asked what they do to reach the population without televisions (given that nearly half the population lives in rural areas), he gave a bewildered laugh and replied, "Everyone has a television."

<sup>5</sup> L'historique des Coopératives au Maroc", Office du Développement de la Coopération, www.odco.gov.ma, January 31, 2016.

<sup>6</sup> Ibourk, Aomar and Jabrane Amaghous. "The Role of NIHD in Promoting Women Cooperatives in Morocco: a Micro Econometric Analysis," *Journal of Economics and Business Research* (2) 2014.

<sup>7</sup> Raja Rhouni, "Gender, Islam, and Society" (lecture, AMIDEAST, Rabat, Morocco, January 13, 2016).

<sup>8</sup> Humphrey, Jennifer. "Crafting a Cooperative: Lessons on Women's Education, Artisans' Livelihoods, and Rural Development in Morocco", *Independent Study Project Collection*, Brown University, 2005.

<sup>9</sup> Textile shop owner in Fes in discussion with author, January 2016.

<sup>10</sup> L'historique des Coopératives au Maroc". Office du Développement de la Coopération, www.odco.gov.ma, January 31, 2016.

<sup>11</sup> Ibid.

<sup>12</sup> Bordat, Stephanie Willman ,Susan Schaefer Davis, and Saida Kouzzi. "Women as Agents of Grassroots Change: Illustrating Micro-Empowerment in Morocco," *Journal of Middle East Women's Studies* (7:1) Winter 2011.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> L'historique des Coopératives au Maroc", Office du Développement de la Coopération, www.odco.gov.ma, January 31, 2016.

<sup>16</sup> Bordat, Stephanie Willman ,Susan Schaefer Davis, and Saida Kouzzi. "Women as Agents of Grassroots Change: Illustrating Micro-Empowerment in

Morocco," *Journal of Middle East Women's Studies* (7:1) Winter 2011.

<sup>17</sup> Lybbert, Travis J. "Booming Markets for Moroccan Argan Oil Appear to Benefit Some Rural Households While Threatening the Endemic Argan Forest," *Proceedings of the National Academy of Sciences* (108:34), August 2011.

<sup>18</sup> L'historique des Coopératives au Maroc". Office du Développement de la Coopération, www.odco.gov.ma, January 31, 2016.

<sup>19</sup> Ibid.

<sup>20</sup> Omari, Soumia and Fatima Elkandoussi, "The Marketing of Women's Argan Cooperatives: Challenges and Opportunities," *International Journal of Business and Social Science* (4: 6) June 2013.

<sup>21</sup> Ibid.

<sup>22</sup> Ibourk, Aomar and Jabrane Amaghous. "The Role of NIHD in Promoting Women Cooperatives in Morocco: a Micro Econometric Analysis," *Journal of Economics and Business Research* (2) 2014.

<sup>23</sup> Sadiqi, Fatima. "Gender at Heart of New Moroccan Constitution." *Common Ground News Service*, September 6, 2011.

<sup>24</sup> Bordat, Stephanie Willman ,Susan Schaefer Davis, and Saida Kouzzi. "Women as Agents of Grassroots Change: Illustrating Micro-Empowerment in Morocco," *Journal of Middle East Women's Studies* (7:1) Winter 2011.

<sup>25</sup> Dossa, Zahir. "Cooperatives: A Development Strategy? An Analysis of Argan Oil Cooperatives in Southwest Morocco," *Eucrise Working Paper*, (29:12) 2011.

<sup>26</sup> Humphrey, Jennifer. "Crafting a Cooperative: Lessons on Women's Education, Artisans' Livelihoods, and Rural Development in Morocco", *Independent Study Project Collection*, Brown University, 2005.

<sup>27</sup> Cynthia J. Becker, *Amazigh Arts in Morocco: Women Shaping Berber Identity* (Austin: University of Texas Press, 2006).

<sup>28</sup> Ibid.

<sup>29</sup> Humphrey, Jennifer. "Crafting a Cooperative: Lessons on Women's Education, Artisans' Livelihoods, and Rural Development in Morocco", *Independent Study Project Collection*, Brown University, 2005.

<sup>30</sup> The *hammam*, or public bathhouse, is a staple of Moroccan life. Most Moroccans visit the hammam weekly for several hours at a time to bathe, relax, and socialize.

- <sup>31</sup> Fatima Mernissi, *Beyond the Veil: Male-Female Dynamics in Modern Muslim Society*, Bloomington: Indiana University Press, 1987
- <sup>32</sup> Humphrey, Jennifer. "Crafting a Cooperative: Lessons on Women's Education, Artisans' Livelihoods, and Rural Development in Morocco", *Independent Study Project Collection*, Brown University, 2005.
- <sup>33</sup> Ibid.
- <sup>34</sup> Davis, Susan Schaefer. "Empowering Women Weavers? The Internet in Rural Morocco", *Information Technologies and International Development* (4:2), Winter 2007.
- <sup>35</sup> Yetunde Ajayi-Obe and Richard Messier, "Women Weavers of Ain Leuh, Morocco: Use of Internet Technology & Global Marketing", Interdisciplinary Qualifying Project: Worcester Polytechnic Institute, n.d.
- <sup>36</sup> Fatima Mernissi, *Beyond the Veil: Male-Female Dynamics in Modern Muslim Society*, Bloomington: Indiana University Press, 1987.
- <sup>37</sup> Ibid.
- <sup>38</sup> Bordat, Stephanie Willman ,Susan Schaefer Davis, and Saida Kouzzi. "Women as Agents of Grassroots Change: Illustrating Micro-Empowerment in Morocco," *Journal of Middle East Women's Studies* (7:1) Winter 2011.
- <sup>39</sup> Ibid.
- <sup>40</sup> Sadiqi, Fatima. "Gender at Heart of New Moroccan Constitution." *Common Ground News Service*, September 6, 2011.
- <sup>41</sup> Bordat, Stephanie Willman ,Susan Schaefer Davis, and Saida Kouzzi. "Women as Agents of Grassroots Change: Illustrating Micro-Empowerment in Morocco," *Journal of Middle East Women's Studies* (7:1) Winter 2011.
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# Women's Capacity for Collective Agency within the Informal Economy

Kate Brolley

In many developing countries, the informal sector accounts for roughly half, and sometimes even more, of economic activity. Millions of individuals operate within the informal sector; yet, the impact of the informal sector on development remains controversial and there are differing approaches on how to address informality. Women, in particular, often remain concentrated in “invisible” areas of informal work, such as domestic labor and “homework.” These types of work offer precarious employment status, low pay, lack of access to social protection, and a paucity of means to effectively organize to ensure the full enforcement of international labor standards and human rights.

Most of the previous research on the informal sector has devoted significant effort to defining its features and understanding its potential for economic development. This is certainly important and, in an effort to form a solid foundation, the beginning of this paper will address these issues. A discussion of the economics of informality alone, however, leaves the socio-political dimensions largely unexamined. Informal workers, especially women, are not often seen as political actors. The politics of informality involve

relationships between local, national, and international actors; each has their own role to play. This paper will argue the need to look at informal sector activities not merely as marginal, or as some sort of manifestation of disorder, or even as a deviation from a Western normative and economic ideal; rather, informality should be looked at as an opportunity, especially for women, to collectively articulate interests and agendas, express grievances, and claim rights. Therefore, the underlying motivation behind this paper is not to make an economic case for or against formalization, as it often done in development literature; rather, it seeks to explore the ways in which women are improving informal sector conditions.

What follows is a discussion of (i) the informal sector and (ii) the concept of agency within the informal sector. The first section looks at some characteristics of the informal sector and delves into some of the consequences of informality for women. The second section introduces the Capability Approach and the concept of agency. Following that is a discussion of agency in the informal sector, with particular attention to common organization strategies among women. Finally, using microfinance as a case

study, an attempt will be made to form a list of criteria for evaluating collective agency in the informal sector.

### **Characteristics of the Informal Sector**

Since its “discovery” in Africa in the early 1970s, the informal sector has been subject to endless interpretation, discussion, and debate. Up until the 1990s, the informal sector was merely seen as a passive sector, one in which its occupants resembled something similar to a labor reserve army: the formal sector could draw on reserves from the army when it was in need of additional workers. Disregarding the idiosyncrasies and peculiarities that the informal sector is known for today, economists and policymakers of the 1970s and 1980s generally viewed the sector as homogenous. The informal sector was seen as a place for individuals to establish illegal enterprises in an effort to avoid taxation and regulation. Due to widespread belief among economists that the informal economy contributed only marginally to GDP, the sector was not looked upon with seriousness. Furthermore, it was predicted that the informal sector would eventually disappear; the inevitable modernization and growth of economies would allow for it to be fully incorporated within the formal sector.<sup>1</sup>

Now, more than 30 years after initial discussions and debates, one thing has become clear: the informal sector, expanding rather than diminishing with modernization, is here to stay. The concept of informality has certainly evolved and its scope has been broadened from employment in a specific type of production to an economy-wide phenomenon. In 1991, the International Labor Organization (ILO) noted that the informal sector was “made up of small-scale economic activities, consisting of self-

employed persons who hire family labour or a few workers”.<sup>2</sup> The ILO did not formally define the informal sector until 1991; however, its discussion was important to the field of development economics in that it identified a few of development’s outstanding challenges, including: access to capital, the use of low-level technology, and the difficulty in accessing traditional financial markets and formal institutions.

In recent years, economists and development practitioners have partnered with the ILO in an effort to expand the 1991 concept of the informal sector. The Seventeenth International Conference of Labor Statisticians (ICLS), convened by the ILO in 2003, agreed on a new definition of informal employment. The ICLS defined informal employment as the “total number of informal jobs, whether carried out in formal sector enterprises, informal sector enterprises, or households, during a reference period”.<sup>3</sup> Included in this definition are the following groups:

- a. Own-account workers (self-employed with no employees) in their own informal sector enterprises;
- b. Employers (self-employed with employees) in their own informal sector enterprises;
- c. Contributing family workers, irrespective of type of enterprise;
- d. Members of informal producers’ cooperatives (not established as legal entities);
- e. Employees holding informal jobs as defined according to the employment relationship (in law of in practice, jobs not subject to national labor legislation, income taxation, social protection or entitlement to certain employment benefits).

- f. Own-account workers engaged in production of goods exclusively for own final use by their household.

It should be noted that the ILO specifically states that the above definition is to remain fluid and flexible in order to allow countries to accommodate their own situations and needs. As a result, in an attempt to understand their respective informal sectors, countries often use different aspects of the above definition; this leads to inconsistent measurement and an unclear overall picture. One thing is clear, however, which is that the informal economy consists of all economic activities that operate outside the official institutional framework; therefore, governments (and particularly those of developing countries) have little control over the quality of employment.

What follows is a discussion of some of the key characteristics of the modern informal sector, including: its size and economic significance, its existence on a continuum of economic relations, its composition, the nature of its legality, and its intended (and often unintended) consequences for women.

### **Size and Economic Significance**

Measuring the size and scope of informality has always been a challenge, in part because of the lack of consensus on standard measurement practices. However, this lack of consensus should not preclude attempts to understand the magnitude of this phenomenon. The argument for accurate

measurement is clear: gross domestic product (GDP) and employment figures can be vastly underestimated if informal sector activities are not taken into account. If the extent of informality and conditions within the sector remain unknown (or at least under-studied), the impacts on national, and even international, policies will be large and far-reaching. A deeper understanding of the informal sector will shed light on the effectiveness of economic growth policies. Precise measurement of the informal sector will allow policymakers to come to a conclusion about whether established growth policies are effective in alleviating poverty and reducing social and economic inequalities. More generally, the development community is better served when it has a clear picture of the dualistic labor force that exists worldwide; the effects of employment patterns on human development and well-being need continued study.

Even though accurate and reliable measurement of the informal sector is difficult, some estimates have been made and are reflected in **Table 1** below. From this, it is clear that informal employment represents more than half of non-agricultural employment in most developing regions. The relatively small size of the informal sector in Eastern Europe and Central Asia could possibly be explained by the region's legacy of centrally planned economies, in which informality was strictly illegal and tightly regulated.

**Table 1: Informality Estimates by Region  
WIEGO (2014)**

	<b>Informal Employment as a % of Non-Agricultural Employment (2004 – 2010)</b>
<b>South Asia</b>	82%
<b>Sub-Saharan Africa</b>	66%
<b>East and Southeast Asia</b>	65%
<b>Latin America</b>	51%
<b>Middle East and North Africa</b>	45%
<b>Eastern Europe and Central Asia</b>	10%

Efforts to estimate the contribution of informal activity to GDP are challenging, yet necessary. In terms of economic significance, the World Bank (2014) and the ILO (2002) estimate that the informal sector contributes over 50 percent of GDP in Ghana, Niger, and Togo, and just under 50 percent in Burundi, Cameroon, Chad, Senegal, and Mali.<sup>4 5</sup> In Peru and India, informal activities contribute to 49 and 45 percent, respectively, of GDP. While the aforementioned figures are only estimates, they do illustrate the importance and the value of this sector.

### **Continuum of Economic Relations**

Historically, the informal and formal sectors have been considered two distinct sectors, without direct links to one another. Recent thinking has shown that, in reality, the relationship between the two is far more complex, and both sectors can fall at different points on a continuum. Chen notes that the continuum, at its most basic level, is bookended by the informal sector on one side and the formal sector on the other.<sup>6</sup> She argues that, depending on their circumstances, workers can move with relative ease and speed along the continuum. For instance, consider the informal enterprise that has production or distribution relations with formal enterprises, perhaps in the form of sub-contract arrangements. Also consider

to a substantial portion of non-agricultural GDP. In Sub-Saharan Africa, the informal economy contributes to approximately 41 percent of GDP. Disaggregating this figure shows that informal activity contributes to the formal enterprise that hires wageworkers under informal employment relations. The relationship between the two sectors is fluid and this further compounds the challenge of data collection, as well as identifying strategies targeted to improving conditions within the informal sector.

### **Composition**

Using the operational definition from the ILO, the informal sector constitutes two main segments: self-employment and wage employment. Self-employment includes workers who operate in small, unregistered or unincorporated enterprises. Wage employment in informal jobs includes workers without benefits or social protection.

Amidst all of the ambiguity regarding the informal sector's definition and measurement, there are two significant facts that tend to emerge in the research: (i) the existence of an earnings gap within the informal economy and (ii) the over-representation of women in the informal economy compared to men in the sector. Concerning the first observation, Chen notes

that informal employers tend to have the highest earnings within the sector, while Homeworkers fall under the “wage employment” segment of the informal sector and will be discussed more in the section pertaining to consequences of informality.<sup>7</sup> In regards to the second observation, Chen also notes that men tend to be over-represented among informal employers, while women tend to be over-represented among homeworkers.<sup>8</sup> In fact, there are generally more women towards the lower end of the wage scale in the informal economy. When both of these observations are addressed in parallel, a third observation emerges: there are pervasive gender gaps in earnings/wages within the informal economy. The ILO finds that “as greater numbers of men enter the informal economy, women tend to be pushed to the lowest-income end of the informal economy, often as industrialized outworkers or petty traders.” This can be partially explained by globalization and its ensuing “race to the bottom” effect; as more companies seek to stay competitive, they outsource labor and turn their attention to the cheap, easy, and uncomplicated informal sector.<sup>9 10</sup>

### **Issues of Legality**

Those who wish to suppress the informal sector believe that informal enterprises operate in order to avoid paying taxes and business regulation fees. Others, however, see informal firms and informal workers as untapped energy, held back by the existing governmental regulation. Peruvian economist Hernando de Soto refers to individuals within the informal sector as “extralegals.”<sup>11</sup> He argues that “extralegals” are not incorporated in the formal system and, as a result, they cannot fully participate in the traditional economy. Economists who share de Soto’s view advocate for relaxed entry regulations and the formalization of

industrial outworkers (also known as homeworkers) have the lowest earnings. property rights in order to harness and capitalize on the productivity within the informal sector. Yet, there are still others who represent the more traditional development view of Lewis, Harris and Todaro and Rauch, arguing that the informal sector is merely a byproduct of poverty, which makes it an unfortunate, but inevitable, phenomenon.<sup>12 13 14</sup>

All of this is to say that the nature of legality within the informal sector is far from simple. Admittedly, there is a criminal aspect (dealing in illegal goods and services) of the informal sector; however, this is only a small part of the whole and it is certainly not within the scope of this paper. Many workers and enterprise owners operate illegally or semi-illegally because the current regulatory environment of the formal sector is too strict, cumbersome, and expensive. Chen, Vanek, and Carr find that the majority of informal enterprise owners would be willing to take on the burden of registration fees and taxes if they would be able to receive the benefits of formality, namely social protection, representation, voice, and worker’s benefits.<sup>15</sup>

### **Consequences of Informality for Women**

The consequences of informality, both intended and unintended, are numerous. This section will focus primarily on the impacts that informality has on women. As previously discussed, the majority of women in the informal sector operate as homeworkers and they find themselves at the lowest-paying and most vulnerable end of the informality spectrum. Women find themselves in the informal sector for many different reasons. Some of these reasons include the fact that women are often less able than men to compete in labor, capital,

and product markets because of their comparatively lower levels of education and

concentration of women in the informal sector revolve around the impacts of social norms: women's time and mobility are constrained by social norms that often assign women the responsibility for reproduction and family care. As a result, some societies discourage investment in women's education and training.<sup>16</sup>

Previous sections discussed how homework was at the lowest end of the informal sector with regard to wages. It also happens to be where the majority of women are concentrated. Homework is often a survivalist strategy in the informal economy and it does present a dual character. On the one hand, it can trigger an increase in household income and agency. This has the potential to provide a means for capability expansion. On the other hand, this type of work can operate as a constraint on human development and the capabilities of household members, not just on the women who are primarily involved. For example, this type of work can lead to child labor, which keeps children from school, thereby perpetuating a system of inter-generational poverty.<sup>17</sup> More generally, homework leaves women without social protection, voice, and access to formal financial markets.

### **A Note on the Capability Approach and the Concept of Agency**

Amartya Sen refers to development as "a process of expanding the real freedoms that people enjoy".<sup>18</sup> In the 1990s, the United Nations Development Programme (UNDP) adopted the concept of human development as a way to measure the status of developing countries around the world. Accordingly, this put the individual back at the center of development and, for many, development

skills, or their lower prevalence of property ownership. Other reasons for the higher

now represents the process of expanding capabilities to enable individuals to achieve lives that they value. An expansion of capabilities can be linked to a greater sense of agency among women. In its most basic form, agency can be understood as the process through which individuals make choices and then transform those choices into desired outcomes. List and Pettit argue that an agent must possess three features:

1. A *representational state* that depicts how things are in the environment;
2. A *motivational state* that specifies how the agent requires things to be in the environment;
3. And the *capacity* to process the other two states, leading it to intervene suitably in the environment.

Therefore, according to an agent's representational state, it has both the motivation and capacity to act in such a way that results in a favorable change in the environment. At the individual level, men and women around the world differ in their ability to make certain choices in a range of spheres. For women in particular, an expression of agency can be seen through their effective control over resources, ability to move freely and without harm, and capacity to make family decisions.<sup>19</sup> Solava Ibrahim, inspired by Sen's approach, notes that freedom, and agency are closely interconnected. Ibrahim illustrates this link by arguing that "wider freedoms allow agents to act and achieve the goals they value, while the exercise of agency leads to a further widening of freedom".<sup>20</sup> In an attempt to address vulnerability, Stacy Kosko identifies

what she calls “agency vulnerability.” The relevance of agency vulnerability stems from the risk of “maldevelopment,” when individuals lack agency.<sup>21</sup> Kosko notes that agency vulnerability, in its simplest form, involves the risk of being limited in one’s ability to control the economic and social forces that impact one on a daily basis.<sup>22</sup> Agency vulnerability is concerned with “potential for limitations on [...] being the master of one’s own life”.<sup>23</sup> This is particularly important to keep in mind during the following discussion of women’s agency.

Women’s agency has both intrinsic and instrumental relevance. It has intrinsic value in that being in charge of and responsible for one’s own life is good in itself. It has instrumental relevance in that it can improve the lives of a woman, a woman’s family and her community. A woman’s ability to exercise her agency is intrinsically important and also instrumentally important if she wishes to play an active role in shaping her community, social norms, and institutions at the local, regional, national, and international level.

An important subset of agency is group agency, or collective agency. Individual women may have limited voice, however, groups of women can act and can exert much more pressure. By acting together, as one unit, groups of women can, at times, overcome the constraints that face individuals. This is not to diminish the importance and relevance of individual agency; rather, it is to say that individual agency, especially in the context of the informal sector, is rarely sufficient to promote structural changes that can reform and transform the environment for other women. By contrast, women’s collective voice, in spite of the constraints, can and should contribute to changes in laws, policies, services, institutions, and social

norms that will increase women’s individual agency. Providing an environment where women’s voices can coalesce into a collective voice promotes women’s individual agency and greater gender equality.

Women’s capacity for collective agency in the informal sector comes with its challenges. In fact, the interaction of markets, regulations, and extant social norms all play a role in influencing and defining women’s capacity for collective agency. Additionally, coupled with their positive influences, they also present mutually reinforcing constraints presented below.

### **Collective Agency and the Informal Sector**

Before delving into the specific relationship between collective agency and the informal sector, it is worth noting that solidarity and collective agency is not always a natural or customary tendency among informal workers. This can be specifically true for homeworkers and own-account workers as they may often be in competition with each other. Consider, for example, the street vendor who is selling the same product as the vendor next to her, or the homemaker who is making the same article of clothing as the other homeworkers in her village. For men, consider the informal taxi drivers competing for customers in the same area or even waste pickers who are competing for recyclable materials in the same landfill. Therefore, while informal workers may come together for specific and immediate reasons, their collective action may be short-lived if an ongoing common purpose is not identified.

The benefits of organizing are numerous. Through organization, informal workers can pool their knowledge and skills in order to advocate for their economic, social, and political rights. Stemming from the previous

discussion on consequences of informality for women, it comes as no surprise that almost all membership-based organizations of women in the informal sector share the following broad goals with, of course, different emphases: voice and representation; improving the economic position of workers; negotiation and collective bargaining; accessing services; and mobilizing around issues geared towards political power and social inclusion.<sup>24</sup> But how exactly do women come together to form groups in order to achieve these goals? What are the outstanding issues that continue to hinder the realization of their goals? The remaining discussion addresses these questions in addition to tackling the most pertinent issue of all: how should collective agency be evaluated?

### **Organization Strategies**

Both Lindell and Meagher argue that collective groups in the informal economy are a result of reactions to contemporary economic and political processes, as well as reactions to evolving social relations and cultures.<sup>25 26</sup> In discussing the strategies that women use to organize themselves in the informal sector, it is important to keep in mind that the dynamics of collective organizing are changing due to the changing nature of ethnic, racial, gender, economic, and political patterns. All of this is to say that one informal economy is not necessarily identical to the next. The remainder of this discussion looks at informal economies in general; however, a more nuanced treatment would require an analysis of informal economies by such factors as region or culture.

Meagher posits that there are three main types of organizations available for women in the informal sector: trade unions, worker cooperatives, and issue-based

organizations.<sup>27</sup> Furthermore, informal workers organize at various levels: local, national, regional, and global. It is sensible to discuss these three types of organizations starting with the smallest, issue-based organizations, and working up to the largest and perhaps most effectual: trade unions. To begin, it is important to note that these three types of organizations are generally considered to be membership-based organizations, in which “democratic” principles are claimed to be upheld so that the elected officials are held accountable to the general membership.

*Issue-based organizations*, often at the grassroots level, serve as an important catalyst in the development and empowerment of women. These membership-based organizations often fill the vacuum that is created in the wake of trade unions and associations; they attempt to represent workers left outside of the mainstream trade union organization. In these types of organizations, women coordinate around specific issues such as unsafe transportation, lack of clean water, or lack of access to decent health care.

*Worker cooperatives* allow informal workers to “pool financial resources, equipment, skills and experience (to minimize transaction costs), enabling them to increase their earning power and/or to obtain goods and services by sharing the gains from these combined resources”.<sup>28</sup> The UN also notes that in addition to cooperatives pursuing income-generating activities, worker cooperatives also may pursue social objectives.<sup>29</sup>

*Trade unions* have traditionally targeted workers in a “relationship of net dependence” with respect to their employers, in a fixed workplace, and with contracts that are more or less stable.<sup>30</sup> In reality, few, if any, of these

features apply to workers in the informal sector; yet, the prevalence of unions within the informal sector continues to increase.<sup>31</sup> Within the trade union movement, there are unions in the formal economy that recruit informal workers, and there are newly formed unions of informal workers.

One of the most well-known examples of a trade union within the informal sector is the Self Employed Women's Association (SEWA) in India. Since its inception in the 1970s, SEWA has developed into one of the largest trade unions (with over 700,000 members) dedicated to organizing female workers in India's informal economy. Unlike traditional trade unions that unite workers of only one trade, SEWA brings together workers from many different informal occupations – from street vendors, to homeworkers, and even agricultural laborers. Higher wages are often the central issue around which SEWA organizes its campaigns.<sup>32</sup> For example, when SEWA recognized that more and more incense stick rollers were joining their organization, they took up a joint study with the labor and health departments of the Indian government. The study focused on the difficulties and health hazards that incense stick rollers face as well as income disparities for different age groups. Through intense effort by both SEWA and the Indian government, minimum wages were then fixed at a realistic level for workers in this trade. SEWA has also been successful in lobbying the Indian government in 2004 to approve a policy to protect street vendors and then again in 2008 when they worked with the government to approve legislation on social security for informal workers.<sup>33</sup> SEWA also attempts to empower workers and expand their capacity and capabilities by challenging traditional notions and attitudes about informal workers. This is an example of the state playing an active and supportive role with respect to the informal sector. The

pursuit of the protection and encouragement of equity (both within the informal sector and with respect to the formal sector) is a necessary and worthwhile agenda.

A particularly effective organization, the International Domestic Workers' Network (IDWN), combines all three aspects of the aforementioned systems of organizing. The IDWN gathers membership-based domestic workers' organizations – including trade unions, associations, and cooperatives – into an international network. At its inception, IDWN campaigned for establishing a Domestic Workers ILO Convention in an attempt to bring equal recognition to domestic workers. While IDWN has a mixture of men and women, it recognizes that the majority of domestic workers are female and it makes sure that women play key roles in the governance and structure of the organization. IDWN collaborated with NGOs, church groups, and local and national governments to campaign for a Domestic Workers ILO Convention. Finally, in 2011, the ILO convened the convention. Bonner and Carré, from WIEGO, conclude that the success of IDWN hinged on its ability to “transcend the gender barriers and patriarchal attitudes found in much of the formal trade movement and allow voices previously unheard to be heard”.<sup>34</sup>

HomeNet South Asia (HNSA), a division of SEWA, is an example of an NGO that is in the process of transitioning to a membership-based organization model so that homeworkers can have a greater say in its governance.

Membership-based organizations (MBO) are unique within the world of informality as the members are responsible for electing their leaders. MBOs operate on democratic principles that hold the elected officials accountable to the general membership. WIEGO notes that HNSA's purpose is multipronged: information sharing

and learning; creating solidarity; removing isolation and facilitating networking; advocacy by enhancing voice and visibility; and playing a role in raising resources for itself and its affiliates.<sup>35</sup>

### **Outstanding Issues and Hurdles**

Even with successful examples of collective action within the informal sector, there are still hurdles facing trade unions, worker cooperatives, and issue-based organizations. These hurdles impact the capacity of women to exercise collective agency, thereby weakening their informal associations.

Jennifer Widner argues that prospects for effective collective organization among informal actors are undermined by diverse “livelihood portfolios” and pervasive mistrust among members.<sup>36</sup> This, she argues, can lead to a fragmentation rather than a union of economic interests and political strategies. Furthermore, Tostensen and colleagues note that associations within the informal economy tend to be weak as a result of having limited resources.<sup>37</sup> Therefore, the capacity for agency among its members is restricted.

More specifically, existing social norms define and constrain the space for women to exercise their agency. Social norms can “impose penalties both on those who deviate and on those who do not enforce the norms”.<sup>38</sup> Examples of restrictive social norms include women not being able to leave the house unaccompanied, women not having any control over the family’s budget, or women being pushed to marry at a very young age. Social norms persist for a variety of reasons, including widespread practice, ignorance of alternatives, power, and cultural beliefs; however, market incentives and networks have the ability to shift entrenched

social norms. In some instances, changes in social norms can promote women’s agency. In addition, women as agents in deliberation have the unique ability to scrutinize, assess, and reform customary norms.

### **Evaluating Collective Agency**

Membership-based organizations (MBOs) in the informal sector are proud to be democratic, transparent, and inclusive. MBOs strive to increase the agency of their members. The recent proliferation of MBOs in the informal sector demonstrates the *potential* for civil expression and civil action; however, this outcome cannot be taken for granted. An organization may be democratically controlled, but does this mean that each and every member participates in every decision? An organization may claim to be transparent, but does every member understand the decisions that are made? Democratic rhetoric can often be used as a camouflage for elite control. It therefore becomes important to evaluate these organizations based on the *actual* and equal or widespread agency they encourage, rather than what they claim to encourage. The political, social and economic accomplishments of these collective organizations depend primarily on their ability to mobilize participation, develop a measure of representativeness and accountability, and pursue collective interests at various levels.

### **A Case Study: Evaluating Agency in Commercial Microfinance Groups**

Microfinance has long been hailed as a developmental “silver bullet” and, in 2005, Jonathan Morduch, Chairman of UN Expert Group on Poverty Statistics, argued that “microfinance stands as one of the most promising and cost-effective tools in the fight

against global poverty”.<sup>39</sup> Microfinance groups are extremely prevalent in the informal sector, especially among women. Many of the hurdles facing women in the informal sector include lack of access to formal markets and credit, entrenched and unjust social norms, and lack of representation and voice. Microfinance was originally conceived in order to break down some of these barriers for women and increase their capacity and freedom for agency. This section attempts to highlight that microfinance groups, at times, are examples of organizations that claim to foster agency for women in the informal sector, yet, in reality, often fall far short of that goal.

Microfinance’s modern pioneer is Dr. Muhammad Yunus, a Bangladeshi economist who started the famous Grameen Bank. Muhammad Yunus recognized this growing informal sector and began to think of ways to integrate it into the formal sector. He theorized that a loan program could be self-sustaining if, by basing loans on social collateral, individuals in poverty could gain access to credit and capital. He further extended his idea by proposing that borrowers form groups. Extra credit is extended to the group provided that every member of the group repays the previous loan. The logic of this setup is that social cooperation, and in some cases social pressure, will result in financial responsibility. In recent years, however, the result that microfinance promises (of bottom-up development, capacity building, and exercise of agency) has been clouded by scathing reports of commercialization and exploitation. Generally, there are two main critiques of commercial microfinance institutions: high interest rates and forceful loan recovery practices.

Arguably the most prominent criticism of microfinance in recent years concerns the

higher-than-normal interest rates charged by the industry. Interest rates vary by region and by type of microfinance institution. A study by the Inter-American Development Bank revealed that annual interest rates on microfinance loans in the Latin American and Caribbean region ranged from 15% to 109%. Furthermore, the average loan from an MFI in that region ranged from 20% to 45%.<sup>40</sup> By expanding and looking at MFIs globally, studies show that typical annual rates range from 20% to 70%, with an overall average of approximately 30%.<sup>41</sup> By virtue of their position in society, typical microfinance clients are excluded from the formal economy. They are mostly women in the informal sector. These women are unable to take loans from commercial banks because they lack the necessary collateral and thus generally request smaller loans the banks typically provide. As a result, these women are vulnerable and they become susceptible to the microfinance groups. Commercial microfinance institutions can exploit a woman’s vulnerability by charging her higher interest rates than banks in the formal economy (from which she is excluded) would.

Much of the recent media coverage of microfinance has focused on allegations of microfinance institutions using forceful and coercive loan recovery practices. Although the majority of the data on this subject is anecdotal, its seriousness warrants an examination. Examples of direct coercion include, but are not limited to, “an instance of refusing to let the dead body of a member be removed till debts were cleared; pulling down tin roofs of the huts of villagers, threatening mothers about the safety of their daughters, and even driving women into prostitution in order to pay back debts”.<sup>42</sup>

While these may be the exception rather than the norm, another increasingly worrying

aspect of loan recovery practices is peer pressure in borrower groups, especially female groups. This can be considered an indirect form of coercion. Microfinance institutions typically employ a group-lending model. In this model, a loan is given to a group of individuals and these group members are jointly responsible for the repayment of the loan. Proponents of the group-lending model believe that it provides a social escape for the clients. The majority of clients in group-lending are women and these meetings often give them a chance to get out of the house and socialize with other women from their community. Several studies have shown that there can be negative effects of peer pressure in borrowing groups and this can lead to over-indebtedness.<sup>43 44</sup> The reason for this over-indebtedness is because individuals who cannot repay their portion of the group loan are often forced to take out a loan from another microfinance institution, or even local loan shark, in order to make their payment on time.

Certainly, there are many successful examples of microfinance and this spotlight is not attempting to take aim at the whole industry; rather, it serves to show how easily women can be deprived of their agency in the informal sector through exploitation and coercion, even in systems designed specifically for their benefit.

In light of this case study, it is important to effectively to evaluate agency. Below is an outline of critical considerations for evaluating collective agency, as promoted by MBOs, within the informal sector.

1. Does the MBO promote the self-interest of its members? Does it permit, encourage, or require sacrifice of self-interest to the good of the group or its collective action?
2. Is it governed by agreed-upon norms

- that encourage group cooperation?
3. Does it capitalize on economic or social opportunity?
4. Was the MBO initiated by a loyal and dedicated leader who successfully coordinated the efforts of his or her members? Did he or she nurture the leadership and agency of other members?
5. Does it promote equity and foster empowerment? How does it treat dissent within the group?
6. Is the MBO based on cooperation, where members join voluntarily in order to promote their individual and collective well-being (not necessarily to gain material rewards)?

It would be prudent for organizations within the informal sector to think about the above list in order to ensure the protection and encouragement of women's agency.

## **Conclusion**

The informal sector is full of contradictions. It can be chaotic, frightening, lonely, and draining, yet, it can also be a place of refuge and of dignity-affirming individual and group action. It can be a place to find acceptance, earn a living, increase well-being, and exercise agency. Agency, as shown in this paper, can be constrained by forces such as the market, regulation, and social norms and group agency. Yet, even fighting against these mutually reinforcing constraints, women come together to exercise their collective agency in the informal sector. They form cooperatives, participate in membership-based organizations, and become a part of trade unions. The pursuit of the protection and encouragement of women's agency in the informal sector is a necessary and worthwhile endeavor.

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# The Healthy, Hunger-Free Kids Act of 2010: A Multiple Perspective Analysis

Laura Checovich

It was clear early in the first term of the Obama Administration that there was a problem with children's nutrition and school lunches. The Center for Disease Control (CDC) recently reported record numbers of overweight and obese children in the U.S. population.<sup>1</sup> Furthermore, the National School Lunch Program (NSLP), which is administered by the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS), had a significant number of schools out of compliance with nutrition and administrative standards.

There was an opportunity for reform and many policy actors, including First Lady Michelle Obama and secretary of agriculture Tom Vilsack took the charge. Their resulting actions, as well as the actions of others, eventually led to Congress passing the Healthy, Hunger-Free Kids Act of 2010. The policy contained several new provisions. It sought improve childhood nutrition and enhance schools' capacity to correctly implement the program. The policy also sought to raise the number of students served by the NSLP. In 2009, before the passage of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), 16.3 million students took advantage of free lunches in their schools. The free and reduced price school lunch program saw steady but slow growth and served 1.7 million more students in 2009 than in 2005. In 2014, the first year of full HHFKA's full implementation, provisions of free lunches increased to 19.2 million

students, almost doubling the previous five-year growth.<sup>2</sup>

Increasing the number of students served was only one of the goals of the Act, which also aimed to improve childhood nutrition and to enhance the ability of schools to correctly implement the program. I will explore the policy through a multiple perspective analysis to better understand how the policy became law, how it was received, and how it evolved. It will also contain an analysis of the actors, politics, and values involved in the key developments of the policy. This multiple perspective analysis of HHFKA comprises of five sections: (I) a description of the policy case (II) an analysis of the policy through a rational perspective (III) an analysis through the political perspective (IV) an analysis through the normative perspective, and finally (V) concluding comments on the analysis framework. Due to the complexity of the political process, the paper focuses on the aspects of the narrative related to the policymaking process to provide better understanding of motives behind behaviors of federal actors and policy makers, and how those actors' behaviors led to HHFKA today.

The data for analysis is from a variety of government sources, news articles, and public records. Government sources and public records also provides the legal language as well as summary reports on the technical details of the law's provisions and implementation processes. News articles

from the time of the bill's negotiation and passage serve as the best record of the policy's process and creation. Despite these sources, it is difficult to capture the intrapersonal and informal interpersonal dialogues among the policy actors that are determinant in the policymaking process; however, one can infer the content of those dialogues and their subsequent actions by extensively documenting those actions, their outcomes, and the gap between them. By taking this approach, in combination with reliable data sources, and finally consolidated in a multilevel analysis, this paper should be able to detail the policy process, and rationale behind the developments of HHFKA.

### ***I. Description of Policy Case***

This section describes the evolution of childhood nutrition programs, the changes made during the Healthy, Hunger Free Kids Act reauthorization, enforcement mechanisms, and the political and practical impacts after its passage.

#### **History of Federal School Meal Programs**

Subsidization of school lunch in the United States gained popular support near the beginning of the 20th century with the publication of Robert Hunter's book, *Poverty*. In it, he highlighted the importance of providing needy children with good nutrition as a method of improving their potential in society.<sup>3 4</sup> During the Great Depression, it was clear that state funded lunch programs would not be able to provide sufficient financial resources to address the growing problems of childhood malnutrition amongst the poor. As they existed then, meals provided in schools were not nutritionally adequate or, in some cases, even provided regularly. Further, during the 1930s, the nation's produce market faced a demand shortfall, and surpluses in produce

overwhelmed international trade markets. With cheap food prices and inadequate state programs, the United States Department of Agriculture (USDA) began buying the surplus produce in 1936, redistributing it to schools for the purpose of improving school lunches.<sup>5</sup>

In 1946, Congress passed the Richard B. Russell National School Lunch Act (NSLA), in order to address the problems faced by the states in providing sufficient school lunch programs. The Act provided school districts with a greater sense of security and encouraged schools to invest in their lunchrooms and lunch programs. Congress used the new law to assert that assistance in "providing an adequate supply of food and other facilities for the establishment, maintenance, operation and expansion of nonprofit school lunch programs" was a matter of "national security" that "safeguard[ed] the health and well-being of the Nation's children and encourage[ed] the domestic consumption of nutritious agricultural commodities and other food."<sup>6 7</sup> In 1970, Congress established a uniform guideline for determining student eligibility for free or reduced price lunches. The new policy considered family income as it compared to the federal poverty line as well as family size and the number of school-age children in a family. It also required that children receiving subsidized lunches not be identifiable in any way, including having to use a separate form of payment, separate lunchroom, separate type of meal or separate serving line.

#### **Getting to the Healthy, Hunger-Free Kids Act**

Between 1970 and 2010, the federal childhood nutrition program saw few adjustments. In the late 1970s, the program was expanded to include breakfast and an

afterschool snack to the meals available for some children. In the 1980s, the dietary restrictions placed on snacks and vending in schools was relaxed. It was not until the late 1990s that nutritional quality returned to prominence as a policy issue, but even then, enforcement of the policy was inconsistent and a low priority. As the law became a lower and lower priority for enforcement, a number of authorized programs began to face practical challenges to their operation. The problems that arose sometimes allowed undesirable de facto policies to take hold.<sup>8</sup> The worst of these problems caught the attention of the national media in the mid-2000s. The press reported that one-third of participating schools were meeting the law's nutritional guidelines and that an increasing number of schools had established policies that identified free and reduced meal eligible students to their peers.<sup>9</sup> To make matters worse, childhood obesity hit a record high, with the CDC reporting more than one-third of American children were designated as either overweight or obese.<sup>10</sup> Between flaws and childhood obesity, the National School Lunch Program (NSLP) was ripe for policy change.<sup>11</sup>

In February 2010, just over a year after arriving in the White House, First Lady Michelle Obama announced Let's Move!--an initiative aimed at improving childhood nutrition and reducing childhood obesity. The first lady's initiative emphasized increasing childhood physical activity, educating children and adults on nutrition, improving the administration of nutrition programs, and improving access to high-quality meals at school.<sup>12</sup> Mrs. Obama partnered with Tom Vilsack, the secretary of agriculture, as well as with allies in the House and Senate to pass a new childhood nutrition and school meal bill that reinforced the initiative's goals.

## **Development of Policy Provisions and Goals**

HHFKA was sponsored by Sen. Blanche Lincoln (D-AR), chair of the Committee on Agriculture, Nutrition and Forestry, in the months after First Lady Obama began the Let's Move! Campaign, the Act introduced four major policy changes to the child nutrition bill. These policy adjustments aimed to increase the number of children served by school breakfast and school lunch programs, promote healthy eating habits, decrease childhood obesity by improving the quality and nutrition of food served in schools.<sup>13</sup>

The major policy change was the addition of the Community Eligibility Provision (CEP) as an option for high-needs schools to participate in the school lunch program. The CEP program certifies students if they:

- Are in the foster system
- Are homeless or a runaway
- Receive Supplemental Nutrition Assistance Program (SNAP) benefits
- Receive Food Distribution Program on Indian Reservation (FDPIR) benefits
- Are enrolled in Head Start or Even Start
- Are a migrant
- Receive Temporary Assistance for Needy Families (TANF) cash assistance

Under the Community Eligibility Provision, if a school or local education agency (LEA) has a student body that is made up of at least 40-percent directly certified students the entire school becomes eligible for free meals and the federal government reimburses the school according to a new formula.<sup>14</sup> Schools that qualified and opted-in to this program agreed to serve free breakfast and lunch to all students, cover any costs above the federal government's

reimbursement, and discontinue collecting free and reduced price data through surveys and applications. This provision accomplished the goal of increasing the number of students served free or reduced meals in school, reducing the paperwork associated with the program and reducing the stigma of receiving those meals.<sup>15</sup>

A second major policy initiative enacted new nutrition standards for all food and beverages sold on school grounds during school hours. The policy aimed to remove unhealthy junk food and sodas from snack carts, school stores and vending machines to make space for healthier options. The nutrition standards align school meals and snacks with the standards set in the Dietary Guidelines for Americans, updated by the Department of Health and Human Services in 2010 (the final rule for HHS alignment was not announced until 2012).<sup>16</sup>

The third noteworthy change is that the new policy increased the federal reimbursement rate for school lunches by \$0.06 for all National School Lunch Program (NSLP) participants who comply with new nutrition standards issued by the Department of Agriculture. As of writing, the USDA reimburses schools for free, reduced and “full price” meals at different rates.<sup>17</sup> Increasing the reimbursement from \$2.72 to \$2.78 for free meals helps cover the increased costs of providing more nutritious meals. Lawmakers indexed the increase to inflation in order to guarantee that there would be sufficient funding in the future.<sup>18</sup> The increase in funding sought to ensure that schools would not discontinue their participation in the NSLP due to funding concerns.

Finally, the policy expanded after-school meal programs provided through the Child and Adult Care Food Program (CACFP) nationwide to address the

nutritional needs of poor students. The program is currently offered in all 50 states, Washington, D.C., and the territories of Guam, Puerto Rico, and the U.S. Virgin Islands.<sup>19</sup> The additional funding, equaling approximately \$114 million, will cover more than 21 million meals annually.<sup>20</sup>

### **Political Reception**

Despite the expected political popularity of a program improving childhood health and nutrition, the Healthy, Hunger Free Kid’s Act faced intense opposition and a difficult road to passage with the nutritional standards drawing the most public attention and ire. Students, parents, teachers and even cafeteria workers (who had previously been strongly in support of the changes) came out against the new standards when their impacts became evident. Students, unimpressed with the fresh fruits and vegetables, whole grains, and lack of sugars and fats in their meals, began throwing away their meals and even opting out of the School Lunch program at an alarming rate.<sup>21</sup> Parents voiced their concern with government over-involvement in regulating their children’s diet. Cafeteria workers and school administrators began to panic that the standards would lead to the financial insolvency of school cafeterias, despite the additional funding the federal government offered.<sup>22</sup>

The standards also angered Republicans who agreed with parents and saw the regulations as the government acting as a “nanny state,” limiting the choices of schools, students, and communities.<sup>23</sup> Opponents, including the snack food and soda industry, argued that the policy limits the choices available to students especially since students began to refuse the healthier meals.<sup>24</sup> Because the new standards expanded to all food sold on school property, fundraising companies that sold sweets also

felt the pinch. The new policy was bad for business and took away one of their strongest sources of revenue from a captive customer base.

Even those who were supportive of the nutritional standards found the proposed cost of the Act to be cause for alarm. Policymakers estimated the cost of increasing access to free lunches through CEP and raising the reimbursement rate to be \$4.5 billion over 10 years. The Act called for \$2.2 billion to be taken from the budget of the Supplemental Nutrition Assistance Program (SNAP) in order help pay for higher costs. The proposed cut to SNAP caused major opposition among Democrats while the program's high cost caused opposition from Republicans.<sup>25</sup> In order to regain the support of the Democrats, the White House promised to fully fund the SNAP budget again in the future.

To counter the negative reception, First Lady Obama, along with her allies, Secretary Vilsack and Senator Lincoln, attempted to reframe the issue as one of national security and national health. First Lady Obama defended the bill in the weeks before its passage by saying "Military leaders ... tell us that when more than one in four young people are unqualified for military service because of their weight, childhood obesity isn't just a public health threat, it's not just an economic threat, it's a national security threat as well."<sup>26</sup> In order to further ensure the bill's passage, she also garnered support from the American Heart Association, Secretary of Health and Human Service Kathleen Sebelius, and even from traditional opponents of the administration such as Mike Huckabee.<sup>27</sup> Due in large part to the intersecting motives of policymakers on public health and national security, the bill passed unanimously in the Senate and by a wide margin (264-157) in the House of Representatives.

## Secondary Impacts

The USDA introduced the Community Eligibility Provision not only as a way to serve more children free meals, but also as a way to reduce the paperwork involved with providing them. The logic was that by reducing the paperwork and administrative burden of a school lunch program, schools would have more resources (personnel and financial) to devote to other work. Under the new law, CEP participating schools only need to collect direct certification data about their students once every four years.<sup>28</sup> Collecting data directly from students and their families is known as an inaccurate measure of student need for nutritional or financial assistance, especially at the middle and high school levels where students are less likely to identify themselves due to stigma.<sup>29</sup>

Therefore, it is likely that the Act's sponsors and the USDA did not see the harm in eliminating the yearly counts. However, over time, various state and local level school funding formulas came to rely on free and reduced price lunch eligibility rates as an indicator of a school's neighborhood poverty level and the average financial need of their students. States also use the indicator as a proxy for poverty in programs ranging from community health to urban planning.<sup>30</sup> Similarly, the Department of Education also used the free and reduced-price count to inform the formulation of assistive funding for LEAs with high percentages of low-income families under the Elementary and Secondary Education Act, as is allowable under Title I, Part A of the law.<sup>31</sup> In addition, academics used free and reduced-price lunch as an indicator of the low-income status of a school or neighborhood. While an inaccurate and flawed measure of student poverty is inaccurate, the elimination of the yearly count of students has eliminated the only

stable (however inaccurate) data point for researchers and other government purposes.

### **Characterization of Policy**

HHFKA has aspects of all three policy types that Cornell professor Theodore Lowi identifies - distributive, regulatory, and redistributive - all which are techniques of control.<sup>32</sup> The reinvented National School Lunch Program is a distributive policy because it provides children with the “gift” of free, high-quality lunches and offers financial sponsorship for other community-based nutritional programs. The policy is regulatory through its implementation of nutritional standards and the requirements that schools must meet to receive funding, in effect restricting their choices. Finally, the policy is redistributive in two ways. First, it uses taxpayer money to pay for the program that feeds poor children. Second, it shifts the power of choice of school lunch policies away from schools and to the federal government.

While HHFKA exhibits aspects of all three of Lowi’s types of policy, it is narrower in how it is implemented. McDonnell and Elmore identify five policy instruments for creating real change out of policy: mandates, inducements, capacity building, system change and hortatory policy.<sup>33</sup> The HHFKA primarily makes use of inducements as a mechanism for implementing the law. Lorraine M. McDonnell and Richard Elmore describe inducements as “the money, services, or in-kind materials to be transferred, and the guidelines that spell out how they are to be used.”<sup>34</sup> Schools and communities value school meal programs, but they are very expensive to run. HHFKA offers schools significant financial support for meal programs in exchange for the schools agreeing to use the funds to buy healthier

meals and to serve a growing population of student meals for free. Without the funds, many schools could not operate their programs. Therefore, they accede to the regulations.

### **II. *The Rational Perspective***

This section describes the rational perspective in its most academic and theoretical form, the strict rational perspective, and then explores the assumptive relaxations of the model that help it become a more practical and realistic method of analysis. Then the section will apply the relaxed model to the Healthy, Hunger Free Kids Act case.

#### **Overview of the Strict Rational Perspective**

The strict rational perspective proposes that policymaking is a value-maximizing action that seeks to find the “optimal solution to a substantive problem.”<sup>35</sup> According to Betty Malen of the University of Maryland & Michael Knapp of the University of Washington, the perspective is based on a means-end theory of action in that policy is purely an instrumental means for achieving its stated goals.<sup>36</sup> The process is a linear one, with policymakers moving through seven stages:

1. Diagnosis of the problem
2. Identification of the policy options
3. Assessment of the policy options in terms of their capacity to correct the problem
4. Choice of the best option given the specified constraints
5. Implementation of the policy choice
6. Evaluation of the outcomes
7. Adjustment and re-application of the revised policy<sup>37 38</sup>

The seven stage-model attempts to ensure that the final policy directly addresses the problem that is identified.

According to Graham Allison of the John F. Kennedy School of Government at Harvard and Philip Zelikow of the University of Virginia, “an economic man [is one who] makes optimal choices in narrowly constrained, neatly defined situations.” Put another way, a rational actor uses value-maximizing “reckoning” to determine which alternative available to them provides the most efficient outcomes.<sup>39</sup> Of course, most policy decisions are not made by a single person, nor is the optimal alternative identified using just one set of values. The rational model accounts for these realities by assuming that rational decisions are made by groups who have come to a “values consensus” and act as a unitary actor.<sup>40</sup> When a group must come to a consensus on their values for the policy, it is possible that individuals in the group may have to sacrifice their personal values in order to maximize the outcome for the whole group.<sup>41</sup>

Another assumption of the rational model is that actors are able to “secure complete information about the substantive problem and all conceivable solutions” and to “develop a clear understanding of the cause-effect relationships” between the policies and their outcomes.<sup>42</sup> If policy actors have complete information before making their decision, it is assumed that rational decision-making allows people to make the most optimal decision.<sup>43</sup> Donna Kerr of the University of Washington refers to this assumption as “game conditions,” or the situation in which policy goals are clearly articulated and decision-makers have all the facts. Of course, even in the most academic situations, it is not possible to have all the facts. Therefore even the most rational choice is

made in “partial ignorance.”<sup>44</sup> This problem will be further examined in the next section discussion of relaxing the rational model.

After gathering the as much information as possible, determining the relevant alternatives, and identifying the consequences related to each alternative, the policy actor must make a choice.<sup>45</sup> Making a rational choice simply involves selecting the alternative that most closely matches the values of the actors and incurs the fewest consequences through a set of cost-benefit analyses.<sup>46</sup> Understanding the causes and effects of the selected policy alternative is critical to the seventh step of the rational policymaking process- using adjustment loop. The rational model relies on empirical evidence to prove that the ends have been attained due to the means selected. However, because “intentions do not beget results in a straightforward fashion,” as Malen & Knapp states, policymakers looking to maximize their outcomes must be prepared to make mid-course corrections and shift their recommendations to fit the newest and most accurate information.<sup>47</sup>

### **Relaxing the Rational Perspective**

As previously stated, Kerr’s argument that it is impossible to “maximize” a policy decision because all decisions are made in “partial ignorance” necessitates relaxing the rational model to fit the realities of information availability. Kerr suggests that policy alternatives are selected to satisfy or contextually optimize the identified problems. Charles Lindblom of Yale University goes one step further, arguing that policymakers are not able to differentiate between means and ends leading to the intertwining of evaluation and policymaking.<sup>49</sup>

Kerr describes the satisficing model of the rational theory as the logical relaxation of the maximizing model because

it retains the idea that it is possible to make a rational choice without forcing the actor to consider every possible permutation.<sup>50</sup> However, Kerr suggests we should be wary of a model that does not require actors to define their “good enough” alternatives rationally or that allows the values of the public to sway the decision of the actors as it opens up decision makers to irrational choices.

In response to the failings of the maximizing and satisficing models Kerr offers the contextual optimizing model. Limiting the field of alternatives and requiring the field of admissible choices to include alternatives that are rational to the relevant public policy actors helps ensure that the choice is useful but still chosen rationally.<sup>50</sup> Therefore, it is critical to understand what criteria must be met in order for a policy choice to be deemed rational in the view of the relevant public. To gain this understanding, we use the ideas of the rational actor and unitary actors. As described early, the rational actor makes an optimal choice within the constraints of the situation. If members of the relevant public are each asked to make an optimal choice, it would be nearly impossible to come to a unitary agreement on what the rational alternative choice is, due to their differing values. This obstacle to rational decision making can be addressed through the idea of Pareto efficiency. Under Pareto efficiency, actors are not asked to make the best decision for themselves but to choose an option that increases the benefit/ cost ratio of any one individual without reducing that ratio for any other individual. The choice arrived at under Pareto efficiency should be one that is rational to the relevant public because it maximizes benefit to individuals in the aggregate. If Pareto efficiency is achieved, the contextual optimizing model stays true to

its name and accounts for the public context in which the decision must be made.

Still, decision making of this type assumes that actors are able to differentiate between the means and ends of a decision. Lindblom argues that the rational-comprehensive model (in which analysis is means-ends based) does not occur in reality because it requires “intellectual capacities and sources of information men simply do not possess.”<sup>51</sup> He instead argues that the rational model be relaxed further to what he calls the “successive limited comparisons model”- or the “branch” model. Lindblom calls it the branch model because it assumes that the process continuously builds out as new information is acquired and new situations occur, similar to the fractal patterns of a branch.<sup>52</sup>

Under the branch method of analysis, the assumption of linear decision-making is replaced with one where means and ends are intertwined and analysis is limited to outcomes. In fact, the root of the branch method rests upon Malen & Knapp’s seventh step: the adjustment loop. Good policy is created not by agreement on the most “rational” policy, but by whether or not policy actors can agree on it being the most rational policy. Implicit in this method is that policy actors need only to agree on which policy is the best next option, but not on the values that have brought them to the decision.

### **Applying the Rational Perspective to the HHFKA**

Central to most of the variations of the rational perspective is the idea that the means and ends of a policy case are linked, or that there is a measureable impact caused by the policy. To analyze the HHFKA from a rational perspective, this section will seek to answer three core questions:

- Was the HHFKA created in response to a tractable problem and follow the rational model theory of action?
- Did the policymaking process follow the theory of contextual optimization?
- What do the actions of the policy actors reveal about the policymaking process?

Was the HHFKA created in response to a tractable problem and follow the rational model theory of action?

The rational perspective suggests that after policymakers identify a measurable problem, they will seek out complete information about all conceivable solutions. A number of reports released in the mid-2000s suggested schools were not implementing the National School Lunch Program with fidelity and that students were being underserved by the program. In addition to these problems, there were also reports that schools were not meeting the nutritional standards set in place years earlier. After looking at the data, policymakers knew their problem could be solved by new policies to improve the nutrition of the meals and expand access to the program. However, since the rational perspective measures the quality of the policy intervention by whether or not the policy achieves its intended ends, one must observe the outcomes to determine whether or not the policy was effective.

It is difficult to measure whether or not schools are implementing the NSLP with fidelity, especially when it comes to how students are identified in the lunchroom. Some reports revealed that schools that chose not to participate in CEP did a better job at drastically reduced identifying recipients (separate lunch lines, different meals, etc.) for students receiving free and reduced price meals when compared to their past.<sup>53</sup> However, where CEP was implemented, there was a measurable increase number of

students in the number of students served by the lunch program. In the years after the implementation of the CEP and HHFKA programs, the number of new students participating in the free lunch program nearly doubled.<sup>54</sup>

The record of success on improving nutritional quality is more mixed, and the low availability of data hinders the ability to draw insights. According to the USDA's Food and Nutrition Service (FNS), over 90 percent of the schools have successfully updated their meal options to reflect the new nutritional standards.<sup>55</sup> However, as their data is not all-encompassing, one has to consider these results with other sources. For instance, The New York Times reported that students protested menu changes and in some cases began throwing school provided food away in large quantities. This demonstrated that schools were changing their menus, but the result did not follow the intended impact.<sup>56</sup> Though the data is somewhat unreliable, it appears that the policy's success may have led to its drawbacks.

The theory of action, that policymaking is an "instrument for achieving a stated end," is largely met by the HHFKA. While the new policy did increase the number of children served, improve the fidelity of the program nationwide, and improve the nutritional quality of school lunch meals, the public pushback negated some of the success. Therefore, even though the policy is aligned with identified problem, HHFKA does not follow the rational model theory of action.

### **Did the policymaking process follow the theory of contextual optimization?**

The policymaking process in Congress is a mix between public, formal processes and informal actor-to-actor discussions. Therefore, it is difficult to gain

the full picture to assess whether or not the process followed the seven-step model or the contextual optimization model of rational perspective outlined previously. However, it is safe to assume that policymakers did not spend unlimited time or resources attempting to discover every possible alternative policy (step 2), which rules out the strict rational perspective. It is likely that they also violated the assumptions of the contextual optimizing model by not fully considering the effects of the policy for the relevant public. The policy's negative impact on research, data collection, and eating patterns of students were unrelated to the intended goals of the policy, but they serve as proof that policy actors were operating in partial ignorance.

While the contextual optimizing method of relaxed rational perspective allows for failings in the acquisition of complete knowledge prior to decision-making, it still requires that the alternatives presented be fully formed. Because the consequences arose unexpectedly, we can assume that the alternatives were made with incomplete knowledge, and therefore still fail the relaxed rational perspectives. The policy also does not meet the assumption of Pareto efficiency because it causes one group to benefit at the expense of another group. Therefore, HHFKA does not meet the relaxed model of contextual optimization.

It is more likely that the policy followed Lindblom's branch model of successive limited comparisons because the reauthorization of the old regulations into the HHFKA reworks the previous policy by using new information to address the problems. It is also essential to the model that policy choices are based on the values of the policymakers, rather than the relevant public. The pushback from students and cafeteria workers over the nutritional standards, as well as the impact on data collection, is evidence that policymakers did not consider

the relevant public when creating the policy. Though they were informed by research, the nutritional standards were a goal of the political actors and they were happy to ignore the will of the public.

### **What do the actions of the policy actors reveal about the policymaking process?**

While Mrs. Obama and Senator Lincoln spearheaded the bill, pushing Congress to pass it, other actors with their own agendas, goals, and values had input, morphing the policy from its idealized original drafting. As such, it is important to distinguish between the official policy actors and the members of the relevant public. If the group of policy actors is limited to Mrs. Obama, members of Congress, and the USDA, the assumption of a unified policy actor holds up. As stated, although not every aspect of the decision process could be documented, one can assume that actors reached a balance between the individual values and motivations of the individual policy actors and the overarching goals of the group to which they aggregate. By the end of the deliberations, and after all the relevant policy actors had been consulted, one can conclude the group did act as a unified policymaking actor.

If students, parents, schools and staff are included, however, as policy actors, rather than members of the public, then the assumption no longer holds. The actions of this second tier of actors often contradicted or even undermined the goals of the first, as evidenced by the negative reaction to the program. According to the contextual optimization model of the rational perspective, the field of admissible choices must include a "policy which satisfies the relevant public's criteria for a rational choice."<sup>57</sup> HHFKA does not meet this standard, even though it does meet the

standard of a unified actor among the first tier policy actors.

### **Evaluating the Rational Perspective**

After comparing the case with the rational perspective, and to the contextual optimization model specifically, it is clear that there are major shortcomings to using this perspective as the only lens through which to analyze policy. The perspective does reveal the use of data and measurable outcomes by actors, the use of values and goals to inform decisions, and the unified actions of some of the policy actors. Unfortunately, it failed to illuminate why or how the different values of all of the policy actors influenced the final policy. This paper will add the political and normative perspectives to fill the gaps in the analysis.

### **III. *The Political Perspective***

This section introduces the political perspective, first by describing its theoretical underpinnings, then applying the theory to the HHFKA, and finally discussing how well the perspective can describe the policy process.

#### **Overview of the Political Perspective**

The political perspective proposes that policymaking is a method of regulating the distribution of scarce resources in ways that legitimize the authority of the existing system. Policymakers identify social conflicts (in this case the quality and distribution of school meals), and then they apply their power to influence the resulting policy outcome.<sup>58</sup> Resource or value conflicts are not just identified by politicians, but also by bureaucrats and/or interest groups as equal stakeholders in the process.

As the name of this perspective suggests, “politics” (sometimes in its insidious form) influences the policymaking process. Politicians, or more broadly, policy players, form alliances or factions and barter or battle for the power to make change. Malen & Knapp propose that the relative power of policy players (and therefore the values and interests they can exert) is critical to the management of the problem and the eventual reformation of the policy.<sup>59</sup> Players with substantive policy expertise wield greater power due to their ability to influence others, their knowledge of the political system (which they helped construct), and their established standing in the hierarchy. The need for expertise is a major reason that interest groups and bureaucrats are able to exert control.<sup>60</sup>

John W. Kingdon of the University of Michigan describes the relationships that form between bureaucrats, interest groups, and pertinent politicians as “iron triangles,” a term that implies the impenetrability of the group by outside political forces.<sup>61</sup> The existence of iron triangles is one reason that American policymaking is sometimes described as intractable or inert. Patrick J. McGuinn of the Drew University describes the system as the stasis school of political theory as one where policies remain stable and highly durable over time due to forces such as federalism, separation of powers, and other methods of power fragmentation.<sup>62</sup> Paul Pierson of the University of California, Berkeley popularized the idea of path-dependent policymaking, a variation on the idea of “status-quo” politics. Pierson argues that while most policy is informed by decisions that came before, limiting the ability for dynamic change, policymaking can still see change when conditions are right.<sup>63</sup>

Often the condition change that is necessary for policy change to occur is a shift in public opinion. The public's power over politicians makes them a critical fourth actor in the policymaking process. While most of the time the public is content to let policy amble on, McGuinn likens public opinion to a herd of antelopes- prone to a change in direction when they perceive a threat.<sup>64</sup> Accordingly, politicians react to shifts in public opinion in order to please the public (or calm the herd).

Kingdon proposes that there are reasons beyond shifts in public opinion that open the "policy window" and allow for major policy change to occur. Any shift in one of the three "streams" - problem, policy and political - could cause an alignment that gives a policy actor opportunity. Most often, these shifts occur in the political stream through a change in political power or national values. However, Kingdon warns that policy windows close just as suddenly as they open, meaning that policy players must act quickly if they want to take advantage.

### **Policy Regimes and Group Decision-making**

Policy conflicts are characterized by their distinctive paradigms and power arrangements.<sup>66</sup> The regime created by the four types of policy actors seeks to identify and define the problem, its relevant population and the potential policy solutions. McGuinn theorizes that created policies "reflect the regime's particular conceptions of the ends and means of government programs, the institutional arrangement that structures policymaking in the area, and the goals of the members in the dominant political coalition."<sup>67</sup> Put another way, the policies created by regimes are a reflection of the ways that having a regime impacts policy decision-making. Allison and Zelikow

examine the effects of group decision-making on policy decisions in their chapter on Governmental Politics. They identify seven ways in which the processes taken up by groups impact the outcome of policy problem solving. They propose that groups:

1. make better decisions;
2. have a principal-agent problem;
3. are influence by who participates;
4. are influenced by formal and informal rules;
5. are influenced by issue framing and agenda setting;
6. suffer groupthink; and
7. must appreciate the complexity of joint action.<sup>68</sup>

### **Application of the Political Perspective**

At the core of the political perspective is the idea that policymaking is the action of interest driven actors cooperating to influence policy outcomes through negotiation and bargaining. To analyze the HHFKA from a political perspective, this section will seek to answer two core questions:

- Was the HHFKA created to regulate the distribution of scarce resources and affirm the legitimacy of the system using a political model theory of action?
- How did the negotiations or conflicts of policy actors impact the final version of the policy?

### **Was the HHFKA created to regulate the distribution of scarce resources and affirm the legitimacy of the system using a political model theory of action?**

The political perspective suggests that a policy's purpose is found within the conflict between political players. The mid-2000s, reports detailing the failings of the National School Lunch Program brought the

underlying conflicts around the policy national attention. As discussed earlier, the finding that the program was improperly implemented, not serving enough children or the right nutritious food, caused the program to be a major concern of both politicians and the public. Kingdon would have identified this as a shift in the problem and politics that worked together to open a policy window.

Historically, the government has been one of the only providers of social welfare programs (the other being the church). A large part of the regime's legitimacy to collect taxes and exert laws comes from the expectation that they will adequately redistribute the wealth to those in need.<sup>67</sup> The HHFKA (and particularly the CEP) reallocated the funds traditionally used for NSLP and part of SNAP funding away from just serving poor students and gave schools the opportunity to serve all students. The new program helped the government (Obama, Congress, and USDA) retain legitimacy by improving the oversight on schools receiving the money and by redistributing the resources of the program in a way that matched the values of the community. Schools that had previously not met the standards of nutritional quality or were operating out of compliance with the programs rules faced stronger penalties from the government, while at the same time, more students were served than ever before.

### **How did the negotiations of policy actors impact the final version of the policy?**

Though many policy actors wanted to take action, the relative power actors exerted over the issue influenced which actors became involved in the process. Mrs. Obama used her political and public prominence to ensure her position in the negotiations. Other prominent politicians, like Sen. Lincoln and other member of the

Agriculture and Education committees, did the same. Bureaucrats from USDA also held power within the negotiations by exerting the power of their topic area expertise. Interest groups (cafeteria workers, school principals and parents) attached themselves to the issue using their own subject matter expertise. However, two types of interest groups existed as the policy was being negotiated; those in agreement with the bureaucrats and politicians, and those against them. The groups supporting the regime acted as part of the iron triangle, while those against them were cast as outsiders.

Key to the future policy was the timing of the stream shifts. With Mrs. Obama entering the White House and Tom Vilsack entering USDA just after the reports on the failings of NSLP, both were eager to get to work on such a visible issue. To Mrs. Obama, the student lunch program was an attractive workspace, as it is a social issue within the policy arena of first ladies. Similarly, the issue of school lunch programing would have been attractive to USDA and Congressional actors as it was a departure from the controversy around the 2008 Farm Bill and USDA's uneven distribution of subsidies to farmers. By framing the issue as about the health of children and the national security of the country, both politicians' and bureaucrats' interests were served by taking up the HHFKA.

Because so many actors shared a desired outcome, the negotiations focused less on the content of the law and more on how it would be implemented and regulated. Even though the law's critics worried about the cost of higher-quality foods and increasing the number of students served, they still supported it. Superintendents, cafeteria workers, students, and parents argued for leniency and added financial support in order to ensure the law succeeded,

rather than trying to undermine the purpose of the policy.

### **Evaluating the Political Perspective**

The political perspective highlights the political realities that were necessary for HHFKA to become law. Luckily for the policy's advocates, the timing for the HHFKA could not have been better, and the majority of the solutions it proposed were acceptable to the majority of policy actors. However, the ease of its passage calls for deeper retrospective investigation into why there was so little pushback. The political perspective does not adequately explain why the policy was well-received, therefore we will examine the policy again, through the final perspective: the normative perspective.

#### ***IV. The Normative Perspective***

This section introduces the normative perspective, first by examining the cross-cutting role of values analysis, then by describing the theory that underlies the perspective, and finally by applying the theory to the HHFKA and discussing how well the perspective describes the policy process.

#### **Overview of the Normative Perspective**

The normative perspective proposes that the goal of policymaking is to promote social values by both shaping the aims of society to promote "good" outcomes and by creating the conditions necessary for those outcomes to take hold.<sup>70</sup> Values are considered part of the policymaking process in both the rational and political perspectives as well, however, according to Malen & Knapp, the normative perspective encourages consideration of how values "permeate every phase of the process."<sup>71</sup> In this perspective,

the worth of a policy is not based in whether it solves a problem or lends itself to maintaining system legitimacy, but instead whether the means and ends support the values of a good society. As was discussed in the rational and political perspective sections, values impact the identification of a problem and the suggestions of policy solutions. The normative perspective attempts to explain how values impact both problem identification and policy solutions simultaneously

According to Joseph Kahne of Mills College, understanding the values underlying a policy is important because it helps policymakers evaluate the impact of societal norms on the ethical priorities that inform their policies.<sup>72</sup> For the Healthy, Hunger-Free Kids Act, the social value up for examination is the belief that society should not allow poor children to go without at least one meal a day. This value informed the creation of the original school lunch laws and has permeated the reauthorizations, renegotiations, and iterations of NSLP laws. Of course, the values of a society are hardly unitary and people often have "conflicting senses of fairness, justice, rightness, and goodness."<sup>73 74</sup> Generally, values are not distinct enough as to become intractable conflicts, but instead they are often disagreements between actors about which shared values should take precedence over others.

**Application of the Normative Perspective**  
At the core of the normative perspective is the idea that policymaking "mirrors and modifies the value-structures of society through the cumulative effects of policy processes and policy choices."<sup>75</sup>

To analyze the HHFKA from a normative perspective, this section will seek to answer three core questions:

- What values does the HHFKA promote?
- Was the HHFKA created in accordance with the normative perspective theory of action?
- How does the HHFKA attempt to change societal values?

### **What values does the HHFKA promote?**

The Healthy, Hunger-Free Kids Act shares a set of values that was put forward in the opening lines of the original School Lunch Act in 1946:

“It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation’s children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.”<sup>76</sup>

Publically the Healthy, Hunger-Free Kids Act promotes increasing nutritious food choices in schools, holding schools to higher standards of implementation, including more students in the meal programs, and, more broadly, improved national security. These stated goals serve as tangible objectives in the greater effort of promoting a social safety net for children—something that is nearly impossible to oppose. No one, save the coldest of hearts, believes that a school-age child should have to fend for themselves when their parents cannot provide for them (while it a near-universal value, mode of implementation is

not). Children, and especially poor children, have a special place in the sympathies and values of our society. In large part, policymakers and the public see children as “the future” and worthy of significant investment. Very few would oppose a bill that promoted the health and education of children while simultaneously being able to claim investment in the security (economic and military) of the nation’s future. The proof of the intersection of HHFKA with these strongly held values is in the final vote count of Congress. Of the 535 voting senators and congressmen elected, 364 of them voted to support the \$4.5 billion price tag associated with HHFKA.<sup>77 78</sup> The law had strong bipartisan support despite most Republican’s generally being opposed to welfare spending. Their support either reflects their concern with national security, or that there is an exception to welfare spending when it comes to children.

In addition to improving the NSLP and safeguarding health outcomes for children, the law continued the tradition of using the program to support the nation’s farmers both through the maintenance of schools as a market in which to sell their goods and through subsidies to promote the growth of crops to support the school lunch system. In 2012, the USDA went one step further towards integrating farms and healthy foods into school meals by introducing the Farm to School program, which connects schools with local farms to facilitate learning about agriculture and healthy eating.<sup>79</sup>

### **Was the HHFKA created in accordance with the normative perspective theory of action?**

Malen & Knapp propose that in the normative theory of action, “policy activity shapes how values get defined and whether values are actualized.”<sup>80</sup> By framing

the problem as one of national security, public health, and moral rightness, policy actors were able to attract a broad array of support for their solutions. , childhood nutrition advocates have long relied on the nation’s value of “national security” as a way to garner support.

From 1946 to Mrs. Obama’s more recent comments on the military readiness of the nation’s children, the fear of an unhealthy (and thus unprepared) nation and military motivated childhood nutrition and school lunch laws. The issue of national security dovetails nicely with the increased calls of the past decades for improved public health. In 2012, approximately 12.7 million children (17 percent of children) in the United States were obese and even more were classified as just overweight.<sup>81</sup> Not only does military readiness suffer from generations of unhealthy children, but the cost to public health rises as well. Obese children are more likely to become obese adults who are more likely to suffer from heart disease, diabetes, cancer, and stroke.<sup>82</sup> The HHFKA included both the concerns of national security and public health in its definition of the problem. However, much of the power behind the HHFKA came from the argument that improving childhood nutrition and the National School Lunch Program was the “right” thing to do. Once again, problems facing children often garner support as society see its role as protecting them, and thus the future. By emphasizing the plight of children, the problem is framed as one of a societal failure rather than a political failure.

Despite the framing as a societal failure, political actors are responsible for “actualizing” the values of society into policies. This responsibility is somewhat captured through the rational perspective and political perspective. The rational perspective suggests that the policy actors unified to create a set of policies that were

means-ends matched with the problems they had identified. HHFKA included policy solutions to match the concerns of nutrition and health, proper implementation, and under-servicing, as these were the concerns identified by the values of the public. Data quality and data collection, though, are not a high priority for the public and as such, were left behind in the creation of the policy.

### **How does the HHFKA attempt to change societal values?**

The normative perspective emphasizes how policymaking both “mirrors as well as modifies” the values of society through policy choices.<sup>83</sup> Since there is already a strong societal value for supporting children, the HHFKA does not seek to modify the value, but instead to mirror and magnify it. Most welfare policies, including the original National School Lunch Program, focused their support toward poor children or children facing some other welfare insecurity. Through the inclusion of the Community Eligibility Provision, the HHFKA aimed to include all children in the benefits of the new school lunch requirements. CEP ensures that eligibility requirements and stigma do not stop any student from receiving a nutritious meal.

Finally, the HHFKA was part of a larger movement aimed at increasing public awareness of and support for healthy habits—Mrs. Obama’s Let’s Move program. By drawing attention to the issues of childhood health, the first lady’s program started a broader conversation in the public and in the media about healthy eating and exercising practices, as well as about the quality of food more generally. By changing the conversation and focusing the framing, the HHFKA and Let’s Move attempted to change the values of society to include a more holistic approach to health and wellness.

## **Evaluating the Normative Perspective**

The normative perspective inspires discovery of the ways in which values such as public welfare and national security can permeate the creation and growth of the HHFKA. Values like public welfare and national security clearly permeated the creation and growth of the policy. The inclusion of these values was also evident in the rational and political perspectives after applying the normative perspective to them as well. This perspective offered the greatest insight into the policymaking process as it made clear why a policy with such a significant cost could be adopted into law. Unfortunately, the perspective also illuminated why some policies, such as a better data policy, were not put into place. Because the values of researchers were not prioritized, data quality was left behind.

### **V. *Summary and Analysis***

Using a multi-perspective analysis, this paper analyzed the many forces that influenced the development of the Healthy, Hunger-Free Kids Act. By rigorously examining the policy through three perspectives and frameworks, the analysis revealed more about this specific policymaking process.

Analyzing HHFKA through the rational perspective revealed that despite the policy appearing to be a means-end solution, failing to fully make use of data and the iterative policymaking process led to the failure to create a Pareto optimal policy. The perspective also fails to reveal the ways in

which the goals and values of each of the policy actors may have affected the policymaking process. To that end, analyzing the HHFKA through the political perspective did reveal the role of politics and the policy window in passing the new child nutrition policy into law. Using the political perspective, we are able to see deeper into the reasons that the law so little procedural pushback. Finally, using the normative perspective reveals the values, both of policy actors and society, which may have influenced the law's passage. Throughout the policymaking process, it was clear that accuracy, efficiency and good data use were not the priority, and that the process was being influenced by values such as child welfare and national security.

Through this multi-perspective analysis we can conclude that the policy was well-linked to the problems actors wished to solve, and that it reflects the best intentions of the community, despite the other ways the policy fell down. Additional research should be done to studying the case of the HHFKA, especially as the federal government makes adjustments to the policy's regulations to make up for failings in the original law and as a new administration comes to power. Of course, there are more than three perspectives through which the policy can be examined. An organizational perspective may lend more to the actions of local level actors (school admin and staff) and their attempt to preserve structures and routines. A symbolic perspective may have garnered a better understanding of how the symbol of providing food served the goals of advocates aiming at solving poverty.

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# The Iran Deal in Practice: Assessing Models of Cooperation for the Joint Commission

Jessica Gottesman

This paper explores the role of the Joint Commission in mitigating and addressing allegations of noncompliance with the Joint Comprehensive Plan of Action (JCPOA) or the Iran Deal. It applies international relations models of cooperation to relevant game theory-based scenarios, with the goal of extracting useful policy recommendations to help stakeholders develop common vocabulary and a clearer framework for decision-making processes. The paper asks two main questions. First, how can theories of international cooperation anticipate compliance problems that might be brought to the Joint Commission during implementation of the Iran Deal? Second, what recommendations can be drawn from these theories to help prevent or manage such situations to increase the probability of JCPOA success?

This paper is broken down into three parts. Part I of this paper briefly reviews and analyzes the key provisions of the JCPOA's dispute resolution process, including a graphic representation of the steps required to respond to a formal allegation of noncompliance. Part II uses the Prisoner's Dilemma, Chicken, and Stag Hunt models to

illustrate how contention towards the Iran Deal conflicts might actually play out in political decision-making. Part III discusses possible permutations of these games that allow for more realistic complexity, including multiple iterations, multilateral players, and the impact of domestic politics on two-level games. Part III considers possible objections to the game theory approach.

These games and the discussion of their relative merits and limitations will help develop suggestions for improving the likelihood of cooperation when applied to the Iran Deal. Two essential policy recommendations emerge from this analysis. First, participants should employ progressive reciprocal strategies to allow flexibility in responding to disputes. Second, stakeholders should improve communication to clearly and credibly point out expected responses to noncompliance. These strategies should also include an honest assessment of how domestic political considerations affect international agreements.

## **Introduction: One Year into the Deal**

One year into reaching multilateral agreement on the Joint Comprehensive Plan of Action (JCPOA), commonly known as the Iran Deal, the initiative that was the topic of strong political disagreement around the world largely faded from media coverage. With the election of Donald Trump to the U.S. presidency, however, there has been a sudden resurgence of media attention to the Deal. Many wonder whether the United States is likely to continue, withdraw, or somehow alter the agreement given President Trump's campaign statements against the Deal.<sup>1</sup> In November 2016, the Tehran Times in turn reported that Iran was ready to reactivate its uranium enrichment capabilities if the United States extended the Iran Sanctions Act.<sup>2</sup> In December 2016, the U.S. Senate passed a 10 year extension of sanctions against Iran after passing the House of Representatives unanimously.

Regardless of speculation about the future of the Deal, however, ongoing tensions over the past year already served as a perpetual reminder that the Iran Deal's success was never assured. The U.S. ransom payment to Iran for the release of hostages, conflicting military actions in the region, and Iranian citizens' frustration with a slow rate of sanctions lifting and economic improvement occurred in the last year. For what it's worth, Iranian citizens attributed this to Saudi Arabia as well. Some nonproliferation experts argued that one year into the Deal, Iran was meeting International Atomic Energy Agency (IAEA) requirements and JCPOA was working.<sup>3</sup>

Others faulted Iran for twice exceeding the 130-ton allotment of heavy water allowed under the JCPOA in February 2016 and again in November 2016.<sup>4</sup> Meanwhile, major weapons sales to the Middle East have risen sharply in recent years, indicative of the high level of tension and potential for even more volatility in the region. Members of the Joint Commission, the entity responsible for dealing with allegations of noncompliance with the JCPOA's provisions, must be ready to engage in a robust resolution process if the Deal is tested. Such an event could be a direct accusation of noncompliance formally submitted to the Joint Commission, an indirect test of the Deal's endurance in the face of non-nuclear disputes, or possibly both if non-nuclear conflicts escalate and challenge political will on both sides of the Deal.

At its core, the Iran Deal remains an executive agreement on the part of the United States, not a signed treaty, which would have required Congressional approval.<sup>5</sup> For Iran's part, the Iranian Parliament did not sign the internationally negotiated JCPOA, but rather a revised version that called for the immediate cancelation of all sanctions.<sup>6</sup> In the absence of a fully binding treaty, success hinges upon a mix of compliance and cooperation strategies. One year into the Deal, game theory demonstrates that cooperation strategies are all the more relevant.

## **Part I: Important Provisions of the JCPOA and the Joint Commission**

The Joint Comprehensive Plan of Action (JCPOA) was formally endorsed by the United Nations Security Council (UNSC) on July 20, 2015 (Resolution 2231), and took effect 90 days later.<sup>7</sup> Among its provisions,

the JCPOA established the Joint Commission consisting of Iran, China, France, Germany, the Russian Federation, the United Kingdom, and the United States, coordinated by the High Representative of the Union for Foreign Affairs and Security Policy.<sup>8</sup> The Joint Commission, among its other roles, is responsible for addressing allegations of nonperformance of commitments agreed to under the JCPOA, making it the immediate body that resolves conflicts regarding state implementation.<sup>9</sup> As the possibility of future conflicts and allegations of noncompliance are likely, it is worthwhile to take a closer look at this body and to test theories of cooperation in order to develop creative solutions for resolving conflict in JCPOA implementation. To determine effective strategies for promoting compliance and resolving compliance concerns, it is important to first understand the rules of the game as laid out in the JCPOA, including some important nuances.

### **JCPOA Purpose**

The JCPOA states that its purpose is: to “ensure that Iran’s nuclear programme will be exclusively peaceful.” It also explicitly states that “Iran envisions that this JCPOA will allow it to move forward with an exclusively peaceful, indigenous nuclear programme, in line with scientific and economic considerations, in accordance with the JCPOA, and with a view to building confidence and encouraging international cooperation.”<sup>10</sup> Iran has several key commitments for which noncompliance allegations might be brought before the Joint Commission. For example, Iran agreed to certain limitations on its enrichment activities and research and development for 8-10 years, with uranium and uranium enrichment testing

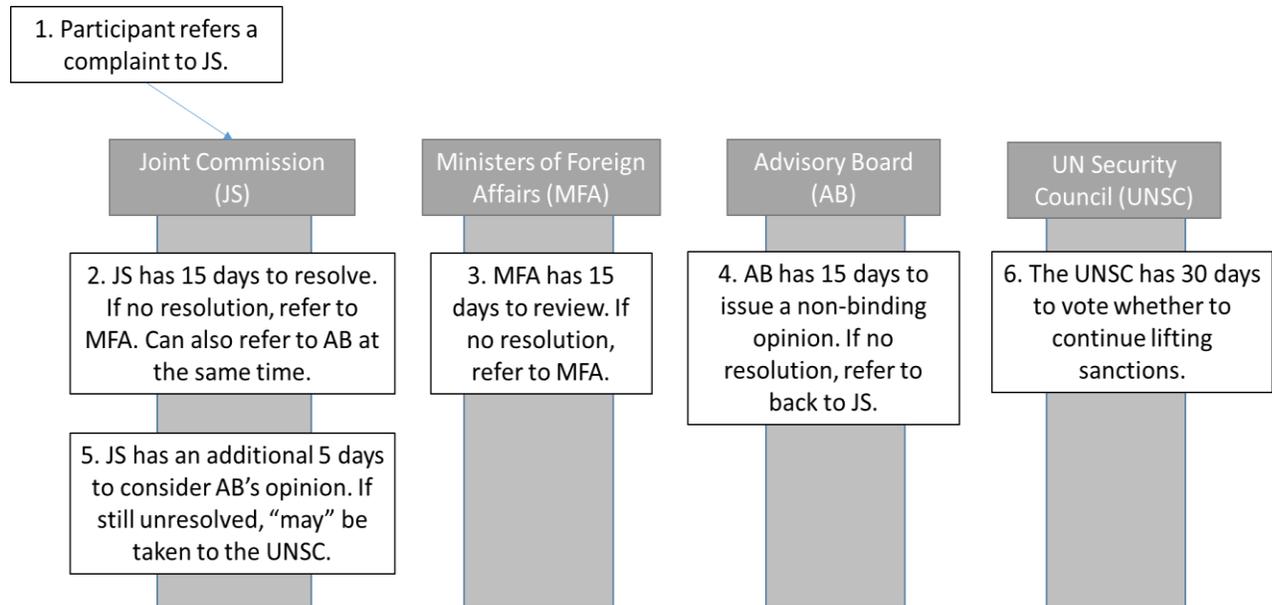
conducted exclusively at the Natanz Enrichment Facility.<sup>11</sup> The Fordow Facility will be converted into a, “nuclear, physics, and technology centre,” with international collaboration and projects briefed to the Joint Commission in advance.<sup>12</sup> No uranium enrichment will take place at Fordow for 15 years.<sup>13</sup> Arak will be redesigned to be used for industrial and medical research.<sup>14</sup> In addition, Iran agreed to IAEA monitoring, containment and surveillance of centrifuge rotors and bellows, and procurement restrictions subject to Joint Commission approval.<sup>15</sup> <sup>16</sup> Finally, Iran promised not to engage in research and design activities that would contribute to developing a nuclear weapon.<sup>17</sup> As Iran complies with its commitment never to “seek, develop or acquire any nuclear weapons,” an additional purpose of the JCPOA is to “produce the comprehensive lifting of all UN Security Council sanctions as well as multilateral and national sanctions related to Iran’s nuclear programme.”<sup>18</sup> On Implementation Day (as a result of Iran meeting certain preliminary requirements) the UN Security Council, United States, the EU and its Member States formally suspended nuclear-related sanctions.<sup>19</sup> The United States, EU and its Member States also committed to engaging on joint projects with Iran in the pursuit of peaceful nuclear technology; and to help ensure that Iran will have access to trade, technology, finance, and energy.<sup>20</sup>

### **The Joint Commission**

The JCPOA provides multiple steps and levels for possible dispute resolution. Negotiators were careful to spell out multiple levels of dispute processes to maximize opportunities for conflict resolution. The

steps of the dispute resolution process are represented graphically in Figure 1.

**Figure 1: Anatomy of a JCPOA Dispute**



According to Article 36, Iran or any member of the P5+1 can bring a complaint to the Joint Commission claiming that another participant is not fulfilling obligations under the JCPOA.<sup>21</sup> The Joint Commission then has 15 days “to resolve the issue, unless the time period [has been] extended by consensus.”<sup>22</sup> After the Joint Commission has considered the claim, any participating state that does not believe the issue has been resolved may “refer the issue to Ministers of Foreign Affairs” for an additional 15-day review (again, unless extended by consensus). If neither of these entities resolve the issue, it may be brought to an Advisory Board, “which would consist of three members (one each appointed by the participants in the dispute and a third independent member).”<sup>23</sup> The Advisory Board would then have 15 days to issue a non-binding opinion, and, if still unresolved, the Advisory Board’s opinion is then

considered for up to five days by the Joint Commission.<sup>24</sup>

The final provision is perhaps the most crucial: “If the issue still has not been resolved to the satisfaction of the complaining participant, and if the complaining participant deems the issue to constitute significant non-performance, then that participant could treat the unresolved issue as grounds to cease performing its commitments under this JCPOA in whole or in part and/or notify the UN Security Council that it believes the issue constitutes significant non-performance.”<sup>25</sup>

The complaint would then be brought to UN Security Council, which would have 30 days to vote whether or not to continue lifting sanctions.<sup>26</sup> Absent a positive vote, sanctions would be automatically re-imposed (whether or not they are then enforced, of course, is another matter).<sup>27</sup> Article 36 of the JCPOA recognizes that participants could cease

performing their commitments in whole or in part (even legitimately, according to the document), before the UN Security Council ever considers the re-imposition of sanctions. The “Parameters for a Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran’s Nuclear Program,” (hereafter referred to as the White House Fact Sheet) states in the “Sanctions” section, “If an issue of significant non-performance cannot be resolved through that process, then all previous UN sanctions could be re-imposed.”<sup>28</sup> Significantly, Russia and China would have no veto power over the re-imposition of sanctions. Given the actual JCPOA language, however, even discussing re-imposition of UN sanctions by the UN Security Council seems rather unlikely to occur. Note that these so-called “snapback” provisions, a term used in the White House Fact Sheet (not in the JCPOA) referred not to UN sanctions but rather U.S. and EU-imposed sanctions.<sup>29</sup>

Finally, Annex IV states, “Except as stated otherwise in this Annex, decisions by the Joint Commission are to be made by consensus.”<sup>30</sup> There is only one exception stated in the Annex: according to Article 4.4, matters involving inspections on Iranian territory (pursuant to Section Q of Annex I) may be made by consensus, “or by affirmative vote of five JCPOA participants.”<sup>31</sup> Since the word “consensus” is not included in the language about the Joint Commission resolving disputes, Article 4.1 therefore implies that all disputes not specifically dealing with inspections must be decided by consensus. Otherwise, either any participant can refer the matter to the next level as described by Diagram 1, or the JCPOA would break down at this stage.

## **Part II: Models of Cooperation**

Given the ground rules learned from JCPOA and the Joint Commission, Part II discusses how theories of international cooperation may be used to anticipate problems that might arise and draws recommendations to prevent or manage such situations. This section will consider dispute resolutions as seen through the eyes of Rationalist International Relations Theory, including liberal institutionalism and realism, and the classic games of Prisoner’s Dilemma, chicken, and Stag Hunt. Applied to the Iran Deal, these games, including discussions of their relative merits and limitations, will develop suggestions for improving cooperation.

Rationalism posits that actors strategize predictably based on reasoned logic to maximize gains and minimize losses.<sup>32</sup> Liberal Institutionalists believe that states try to maximize absolute gains, and many see game theory as a useful exercise for predicting state behavior.<sup>33</sup> They further argue that international organizations and institutions, such as the Joint Commission, can increase cooperation between states.<sup>34</sup> Realists see the world as a zero-sum game in which states try to maximize relative gains as they compete against each other.<sup>35</sup> Key challenges that the Joint Commission will likely face include high levels of mutual distrust between the Islamic Republic of Iran and Western states, challenges of cooperation between democratic versus authoritarian member states, lack of communication, the JCPOA’s preference for consensus-based decision-making (Annex IV, 4.1), the combination of international and domestic factors on decision-making (two-level games), and risk aversion versus sacredness

and identity in measuring the likelihood of risk-taking behavior.

Another complex issue likely to stimulate conflict is that sanctions relief under the JCPOA is treated entirely separately from sanctions against Iran regarding human rights violations and state support to terrorist organizations. This was emphasized by President Obama when he announced the release of the White House Fact Sheet.<sup>36</sup> Theoretically, the United States and other countries are free to impose targeted sanctions against Iranian individuals and institutions for non-nuclear-related reasons such as the above, including the same individuals and entities that were previously targeted under the nuclear sanctions regime, but were subsequently released on Implementation Day. One might easily imagine a thorny dispute wherein an individual or entity is newly sanctioned, Iran presents a case to the Joint Commission, particularly if implementation of other factors are already not going well or creating divisiveness that the sanctions present a de facto reinstatement of nuclear sanctions and, thus, bad faith in the JCPOA. The Joint Commission, and then the Security Council, would be put in the nearly impossible position of evaluating each side's "intentions" and, by extension, choosing sides. With arguable claims to legitimacy on all sides, the JCPOA could quickly fall apart. We will see these dilemmas play out in the three games.

**The Prisoner's Dilemma**

The Prisoner's Dilemma, part of game theory as described by Robert Jervis, provides a bilateral model that may be applicable to U.S.-Iran relations.<sup>37</sup> In the original model, two guilty prisoners are

interviewed separately by police. Each prisoner is presented with two options: to cooperate with each other by refusing to confess the crime, or to defect and confess to the police. If both cooperate and refuse to confess, they will each receive a relatively short sentence, represented by a score of 3, where 1 is least favorable to the individual and 4 is most favorable. If one cooperates but the other defects by confessing the crime, the prisoner who confessed will be released with a score of 4 and the prisoner who did not confess will receive a much longer sentence as punishment, denoting a score of 1. If both defect and confess the crime, they will each receive a medium sentence score of 2. In the case of the Iran Deal, the game might be played as follows:

Figure 1: Modeling the Iran Deal as a Prisoner's Dilemma

		United States	
		Cooperate	Defect
Iran	Cooperate	3 / 3	1 / 4
	Defect	4 / 1	2 / 2

(CD): The United States cooperates (C), but Iran defects (D). For example, Iran could secretly cheat by attempting to develop nuclear weapons, all the while simultaneously benefiting from sanctions relief. If obtaining nuclear weapons is Iran's goal, Iran in this game would be much better off and the United States would lose its objective of a non-nuclear Iran.

(DC): The United States defects (D), but Iran cooperates (C). For example, the United States could "snap back" all sanctions (at least in theory), or simply refuse to fully cooperate with Iran economically in order to keep a strong competitive advantage in certain markets, or more likely, preemptively out of fear that Iran will cheat and try to obtain a nuclear weapon. The United States in this game would gain a comparative advantage and Iran would be much worse off. Iran will be prohibited from obtaining a nuclear weapon, yet not benefit as expected from sanctions relief.

(DD): If both parties defect, the result could lead to direct conflict. According to the model, this would still be preferable, however, to cooperating while the other defected.<sup>38</sup>

(CC): If both parties cooperate, neither gains as much of an advantage as when one defects and the other cooperates, yet both are better off than if they both defect. The United States would gain its objective of a non-nuclear Iran, and Iran would benefit from sanctions relief.

This example presents a highly simplified situation and ignores the second- and third-order consequences of defecting. While the game may be limited, however, it

is still educational for the purpose of discussion. For instance, the key factor in the Prisoner's Dilemma and in reality is uncertainty. The United States and Iran have high levels of mutual distrust. Each side faces pressure to defect first for fear of losing and ending up in a dangerous, politically disastrous, least favorable situation. With this in mind, the JCPOA seeks to mitigate uncertainty by including inspections on Iran's nuclear activities, and by resolving disputes with series of steps that create multiple "plays" of the game to build the potential for trust.

On the other hand, the provision for "snap-back" sanctions might not decrease uncertainty, raising the stakes to an all-or-nothing scenario. While in theory this provision is intended to raise the stakes on Iran's side only and keep Iran in compliance, it may instead increase pressure on both sides to defect first and minimize their own losses in case each expects the other to defect. Additionally, the provision itself is uncertain in that it relies on the tenuous assumption that the UN and all P5+1 players, excluding Iran, will actually re-impose and enforce sanctions on Iran. This uncertainty may be akin to the prisoners in the Prisoner's Dilemma perhaps questioning whether the police will (or can) in fact impose the penalties threatened.

### **Stag Hunt**

In the game "Stag Hunt," originally theorized by Jean-Jacques Rousseau, a group of hunters surround a stag.<sup>39</sup> If all of the hunters cooperate to trap the stag, everyone will eat well (CC). However, each hunter has some incentive to defect and chase a passing rabbit instead, letting the stag escape. The defector will eat lightly (DC) while the others will not eat at all (CD), so the incentive is to

protect oneself against others' possible defections by being the first to chase the rabbit. Finally, if all of the hunters go after their own rabbits, all will have at least some chance at eating lightly (DD), though none of them will eat as well as if they had worked together to capture and eat the stag instead.

Stag Hunt demonstrates the value of cooperation among multiple players. In theory, if all JCPOA participants follow the agreement, all will benefit from the security of a nuclear arms reduction in Iran and enjoy access to a new trading partner, even as Iran benefits from sanctions relief and a renewed economy. On the other hand, if participants expect the Deal to fall apart, each participant is incentivized to undermine the Deal or not implement it fully. Similarly, each player is incentivized to maximize relative gains by cheating on the Deal, whether for economic benefit, to satisfy political constituencies at home, or as mentioned, simply out of distrust because they expect other players to cheat.

Stag Hunt could be applicable to sanctions, for instance. The sanctions regime against Iran started to crumble long before Implementation Day, as individual actors and states tried to position themselves first to benefit from the new market.<sup>40</sup> It could also apply to re-imposition of sanctions against Iran. Observers who argue that sanctions brought Iran to the negotiating table worry that a full re-imposition of sanctions is no longer a credible threat if Iran defects.

### **Chicken**

In the game Chicken, two drivers race toward each other. Each hopes to avoid a disastrous head-on collision (DD), but prefers that the other side loses face by being the one to defect and swerve out of the way.

It is also possible that both swerve (CC), in which case neither wins glory nor suffers the ignominy of being the "Chicken" who swerved.<sup>41</sup>

Chicken could come into play over the Iran Deal if, for instance, an allegation of noncompliance drove Iran and the United States into a threatening stalemate. Each side could threaten to realize the other's worst fears. In an extreme scenario, a dispute over noncompliance could culminate in the United States signaling an intention to force an Iranian regime change unless Iran conceded to U.S. demands, while Iran could threaten to obtain a bomb at any cost unless the United States conceded to Iran's demands (the latter could be especially credible, for instance, if Iran were somehow found to be closer to a "breakout" point for possessing nuclear weapons than previously believed). Both sides would hope the other would not ultimately follow through on its threat.

Another scenario could be that both sides threaten to pull out of the Deal unless the other side agrees to certain concessions. For instance, Iran might threaten to pull out of the Deal unless the United States "cancels" all sanctions, including terrorism and human rights-related sanctions (something Iran has already tried to demand).<sup>42</sup> Or the United States might insist that Iran open its military installations for inspection in return for continued U.S. support of the Deal, though such a provision falls outside of what was agreed to in the JCPOA. In each of these examples, the model assumes that both sides hope neither will withdraw from the agreement, but that the opponent will play "Chicken" by giving in to the other's demands.

### **Part III: Discussion**

What makes Prisoner's Dilemma, Stag Hunt, and Chicken interesting is not that any of them alone aptly describes the situation of the Iran Deal, but that these games can be amended to fit different types of iterations and requirements that bear a closer resemblance to reality. They also allow us to tweak the terms of the game so that what starts as one game actually evolves into another.

#### **Game Theory Variations**

One issue with the Prisoner's Dilemma is that the Iran Deal is a multilateral arrangement and not merely bilateral, although the United States and Iran were the main negotiating partners. The classic Prisoner's Dilemma may be amended to account for multilateral situations. Like many international relations theorists, Oye presents multilateral games as more challenging than bilateral games in terms of achieving cooperation.<sup>43</sup> Increasing the number of actors increases complexity: transaction costs increase, it is more difficult to predict individual behavior among multiple actors, it becomes more difficult to recognize and control problems, and it is less feasible to sanction defectors. All of these might quite logically be applied to the Iran Deal. Many, however, are the same as the difficulties of Stag Hunt described already.

Robert Pahre, takes a more positive view of multilateral arrangements.<sup>44</sup> In his iterated multilateral Prisoner's Dilemma, Pahre finds that multilateralism may make cooperation either easier or more difficult depending on the context.<sup>45</sup> Pahre contends that while international relations scholars often argue that bilateral cooperation is easier

to achieve than multilateral cooperation, multilateral agreements, in fact, use a variety of "enforcement mechanisms" to achieve things that might not be possible in bilateral agreements.<sup>46</sup> These include setting stronger norms of behavior, as well as creating social pressures to comply with majority views and not spoil agreements.

Applying Pahre's work, one may argue that in the Iran case, the multilateral identity of the JCPOA allows for monitoring of behavior on behalf of all, increases the severity of sanctions if re-imposed, compared to ad hoc bilateral sanctions, and creates stronger norms of behavior which all participants are expected to follow. Furthermore, the JCPOA presents an asymmetrical situation in that the majority of votes on the Joint Commission are Western states. Asymmetry in multilateral agreements has been shown to increase the likelihood of agreement, given the collectively stronger power of the majority to set the tone of compliance norms and pressure minority compliance.<sup>47</sup> Thus, Pahre's findings would support the importance of multilateralism for the JCPOA and by extension, the necessity of maintaining the multilateral framework in resolving disputes (rather than resorting to bilateral side deals when expedient).

Applied to the Iran Deal in actuality, however, the applicability of these findings is somewhat murky. If all members of the P5+1, excluding Iran, fully participate in the terms of the Deal and are in agreement on what constitutes a violation of the Deal and how to respond, the multilateral framework increases the likelihood of JCPOA success. Iran in this case would feel more pressure to comply with the majority. However, if the majority members are not likely to agree to a

course of action or even undercut one another in pursuit of relative gains, the multilateral framework might instead decrease the likelihood of JCPOA success. At the time of this article, the latter scenario may be more likely.<sup>48</sup>

Another important game theory variation is including multiple plays of the game – in other words, recognizing that however the game turns out today, the JCPOA parties expect to interact with one another in the future. Keeping this in mind is likely to influence today’s interactions. Oye points out that international cooperation is not based on single-play games.<sup>49</sup> Rather, the “prospect of continuing interaction affects the likelihood of cooperation.”<sup>50</sup> This creates the opportunity for strategies of reciprocity. “In all three games,” he writes, “a promise to respond to present cooperation with future cooperation and a threat to respond to present defection with future defection can improve the prospects for cooperation.”<sup>51</sup> These strategies are present in the JCPOA as noted earlier, both in the warning that UN sanctions could be reapplied in the event of Iranian noncompliance, and in Iran’s warning that if sanctions resume Iran may cease JCPOA compliance in whole or in part.

Future iterations would have an impact on all games. In the case of Prisoner’s Dilemma, for instance, Oye suggests altering the payoff structure to maximize gains from cooperation and minimize gains from default.<sup>52</sup> The Prisoner’s Dilemma may be tilted in favor of cooperation by making the gains as substantial as possible resulting from cooperation, and likewise minimizing the gains from unilateral defection.<sup>53</sup> Applying these principles to Iran, maximizing gains through cooperation could be achieved by

some integration of Iranian and Western economies. For example, the cost to all parties of reapplying sanctions would be higher because it will hurt vested business interests.

Conversely, if re-imposition of sanctions on Iran burdens the other members of the Joint Commission unequally, this could cause discord especially if the members are willing to tolerate different levels of noncompliance. Is it likely that all non-Iran participants will agree that a given dispute demonstrates a clear violation by Iran? One wonders if a breach on Iran’s part, even if it did seem to clearly indicate bad faith, would galvanize all participants in the sanctions regime to restore sanctions even if business interests are now at stake. Creating some interdependence strengthens the agreement from the standpoint of binding countries together and altering the payoff structure so that noncompliance and the resumption of sanctions would hurt both parties significantly. However, it could also mean that states will not intervene or gather enough domestic political will to act, which therefore emboldens the deviant behavior (see the Domestic Matters section).

Stag Hunt may be the best model to describe the overall Iran Deal as it exists currently, since this game naturally emphasizes multilateral cooperation with a significant payoff for all parties if they cooperate. If the Iran Deal is viewed as a Prisoner’s Dilemma, however, the game can turn into a Stag Hunt by emphasizing a common goal, peace and open trade, for which all parties must work together to achieve and for which defection comes with only minimal benefits, eating a rabbit rather than stag. The JCPOA is designed to

emphasize this payoff structure. In terms of conflict resolution, the JCPOA's multiple steps for resolving disputes increases iterations of the game, offering additional chances to dissuade rabbit-hunting behaviors and build cooperation and consensus.

### **Domestic Matters**

Robert Putnam's two-level games theory model further complicates the traditional rational policy model by considering how domestic considerations affect international decision-making.<sup>54</sup> Putnam describes a state's decision-making process as being the product of interaction between two chessboards – international and domestic politics.<sup>55</sup> A negotiator has a particular “win set” of available agreements he can make that would be acceptable to his domestic audience.<sup>56</sup> Putnam describes the interesting possibility of a chief negotiator being less eager for an agreement than his constituents, just as the American public was more eager than the Nixon administration to see a negotiated end to the Vietnam War.<sup>57</sup> In Iran, while President Rouhani and the general Iranian public favor a deal to end sanctions, the Ayatollah has final say over Iran's decision-making and has demonstrated more reticence to the JCPOA.<sup>58</sup> In the United States, while the Obama administration and some legislators have demonstrated enthusiasm for and commitment to the JCPOA, the rest of Congress and the American people remain largely divided in their opinions.<sup>59 60</sup> Each country's decisions are influenced by the domestic game, especially among leaders in the United States as politicians position themselves for elections.

Brett Leeds takes a related approach, using game theory regarding domestic

political processes to predict the likelihood of international cooperation.<sup>61</sup> According to his analysis, jointly democratic dyads and jointly autocratic dyads are more likely to cooperate than a democracy-autocracy dyad.<sup>62</sup> In other words, states with similar domestic designs are more likely to cooperate based on perceptions of each other's ability, “to make credible commitments,” and to “accept the possibility that the agreement may fail [because] decisions to cooperate are dependent not only on one's own preferences, but on one's expectations regarding the behavior of others.”<sup>63</sup> This important insight demonstrates a challenge to the Joint Commission's structure. Western states and Iran have a challenge viewing each other's systems as credible. The West sees Iran's all-powerful Ayatollah as largely unaccountable to his citizens and therefore untrustworthy, and Iran views the West's democratic system with suspicion, in part because Western countries' commitments may change with new administrations.<sup>64 65</sup> On the other hand, if Russia and China could be convinced to agree to re-imposition of UN sanctions in the event of Iranian noncompliance, the credibility of the sanctions warning would rise dramatically.

Finally, connected to the domestic scene, our discussion of Prisoner's Dilemma generally relies on an assumption of risk aversion, as increased risk aversion correlates with higher cooperation outcomes.<sup>66</sup> Barry O'Neill points out that risk aversion, however, is not necessarily metric.<sup>67</sup> By stating that risk aversion is not necessarily metric, O'Neill means that what would be considered rational behavior for a state trying to preserve its existence and gains does not necessarily apply when the concept of “sacredness” is involved. To preserve what is

considered “sacred,” a country might multiply its level of acceptable risk whether or not the level of risk appears logical to secular cost-benefit analysis. The likelihood and degree of risk-taking can also be more dependent on the comparable risk-taking between countries, as well as the worth or sacredness of a place, position, or religion to be defended. Both possibilities lead to higher risk-taking in a country’s decision-making.

For instance, if Iranian leaders, especially the Ayatollah, were to consider the acquisition of a nuclear bomb to be in Iran’s interest as a sacred right no matter what the consequences, as some believe, Iran might only follow the JCPOA to the extent that it benefits Iran temporarily and quells domestic dissent against the government.<sup>68</sup> In this view, Iran will only comply with the JCPOA as long as necessary to ensure sanctions relief and be able to sabotage re-imposition of the sanctions regime, and then it will pursue the bomb whether or not it hurts their international relations and trade in the long run. To prove such a view false requires transparency to avoid misperceptions, honesty about one’s domestic politics, demonstrated reliability, and altering the payoff structures as laid out by the JCPOA. It would help, for instance, if the Ayatollah had come out in full support of the JCPOA, helped fulfill Iran’s commitments, and demonstrated reliability, rather than offering tepid support with a number of new conditions and ultimatums that were not part of the JCPOA negotiations.<sup>69</sup> Similarly, the Obama administration has made promises in the agreement for which it might not be able to follow through, as the administration is nearing an end, the Deal is relatively unpopular both in Congress and with the

American public, and we do not yet know how the next U.S. president will respond.

### **Objections to the Game Theory Approach**

Harrison Wagner cautions international relations analysts that Stag Hunt, Chicken, and Prisoner’s Dilemma are not always appropriate models for international situations.<sup>70</sup> For instance, if actors view unrequited cooperation as equal or even preferable to mutual cooperation, there is no incentive to cheat. Likewise, if either or both actors prefer mutual defection to mutual cooperation, none of these games would capture that scenario. For instance, while the United States certainly does not prefer unilateral cooperation (Scenario CD), some players have argued that Iran never intended to obtain a nuclear weapon in the first place (if true, presumably there would be no defection in Scenario DC and thus Prisoner’s Dilemma would not be applicable).<sup>71</sup> Finally, it may be argued that some might prefer Scenario DD. For instance, the United States could prefer Iranian defection so that it could credibly attempt to coerce a regime change in Iran. If Iran does strongly desire nuclear weapons, it is harder to imagine Iran preferring Scenario DD, when Scenario CD (Iran benefits from sanctions relief while also obtaining a nuclear weapon), if successful, would be of much greater benefit to Iran. Wagner’s caution, I believe, does not negate this paper’s claims, but rather reinforces the benefits of considering the Iran Deal through multiple game theory models, all the while acknowledging the complexities of the situation. The reality of uncertainty means that no one model is a perfect fit.

In international relations theory, Realists see the world as did Hobbes – as a dangerous anarchy in which sovereign states rely on relative power (especially military power) to survive and to determine the behavior of other states by coercion.<sup>72</sup> Realists also understand states to be rational actors, meaning that states strategize in order to maximize their likelihood of continuing to exist.<sup>73</sup> Joseph Grieco, a Realist, finds fault with the cooperative outcomes of game theory espoused by Liberal Institutionalists like Jervis, Oye, and Pahre.<sup>74</sup> Grieco argues that states are positional, not egoistic, and are more concerned with relative gains (i.e. maximizing individual gains and minimizing gaps in gains favoring the other side) than absolute gains (i.e. maximizing gains overall, irrespective of the other side's relative position).<sup>75</sup> So, for instance, the absolute gains idealized in Stag Hunt would be less compelling from a Realist perspective.

On the other hand, Realism and the game theory models explored in this paper, including the Stag Hunt scenario, are not necessarily incompatible. Robert Jervis writes, "Game theory and Realism are generally compatible – both are structural, strategic, and rational ...." He also argues that "realists never claimed that relative gains were all that mattered... and many realists have been sensitive to possibilities of mutual security."<sup>76 77</sup> Without treading too deeply into the academic debate, a Realist perspective does not negate the value of the games themselves, but rather affects a player's decision-making to some extent.

Interestingly, Grieco himself generally favors the JCPOA as being a balanced agreement in which the West had the upper hand and Iran made somewhat greater sacrifices than the

United States (again, the relative gains being most important).<sup>78</sup> He cautions that Iran will likely test the agreement with some degree of noncompliance, but that, "[i]f there is a clear and strong push-back from the other signatories, including the "snapping back" of some sanctions, then Tehran will probably bring itself back into compliance with the agreement."<sup>79</sup> This perspective actually fits well with the earlier discussion of multiple iterations of these games (recall Oye's point that international cooperation is not based on single-play games) as well as Pahre's discussion of the benefits of asymmetrical agreements in a multilateral context.<sup>80</sup> Any gap between Realists and Neoliberals on these models and the Iran Deal, therefore, is narrow and can be bridged by adjusting the rules of the model.

## Conclusions

The Iran Deal is a political agreement and not a binding treaty. We see this in the language of the JCPOA itself. For example, Iran promises to "seek" to ratify the Additional Protocol, just as the United States will consequently "seek" legislative action to lift remaining sanctions.<sup>81 82 83</sup> In the absence of a binding treaty ratified by the U.S. Congress, cooperation strategies become especially important. Two major policy recommendations emerge from this paper's analysis: the usefulness of "Tit for Tat" strategies and the need for increased communication.

First, JCPOA participants should take advantage of opportunities to use "Tit for Tat" when possible. "Tit for Tat" is a strategy used in multiple iterations of a game, and can be used to overcome the challenge of Prisoner's Dilemma. In this model, players make immediate decisions in isolation, but

with knowledge of the last round's outcome. If Player 1 defected on the last round, Player 2 will likely defect in the current round, but if Player 1 cooperated in the last round, Player 2 may copy this and cooperate for this round. As additional rounds are played, the participants have opportunities to develop trust. The "Tit for Tat" strategy improves the chances for cooperation by quickly punishing defection (in the next round) but also allowing one to quickly forgive defection if the other player begins cooperating again. The most crucial challenges involve sanctions. As stated, if a dispute cannot be resolved through the dispute resolution process, according to the JCPOA, UN sanctions will be automatically re-imposed unless the Security Council decides otherwise.<sup>84</sup> However, with almost identical language to an earlier sentence in Article 26, Article 27 concludes: "Iran has stated that if sanctions are reinstated in whole or in part, Iran will treat that as grounds to cease performing its commitments under this JCPOA in whole or in part."<sup>86</sup>

This wording could create a kind of "Tit-for-Tat" strategy. From a Western point of view, if Iran is shown to be in noncompliance through an internationally legitimized dispute resolution process, in theory UN sanctions will resume but could be lifted again if Iran returns to compliance. From Iran's point of view, if countries are using compliance allegations as an excuse not to provide promised sanctions relief, Iran may legitimately reciprocate by withdrawing some or all of its cooperation. The problem with these statements, however, is that on the UN side, "snapback" sanctions do not allow much room for a "Tit-for-Tat" strategy. In practice, the JCPOA might have had a better payoff structure if sanctions against Iran were

lifted in stages tied to specific compliance goals (beyond the initial one stage required to initiate Implementation Day). Each stage would be substantial enough to eventually gain momentum for automatic cooperation as in a snowball effect, each additional round of sanctions lifting further galvanizing Iranian popular support of the Deal as sanctions relief is felt. For Iran, this clearly would be worth strengthening their commitment to the JCPOA. Similarly, investment firms and businesses in the United States would benefit each time additional sanctions on Iran were lifted, demonstrating legitimate, increased political and economic credibility on the part of Iran and, therefore, desirability for investment. If it was determined that Iran was not meeting its obligations under the JCPOA, then sanctions could be reapplied at some level in the stepped process, rather than relying on either a draconian all-or-nothing approach "in whole" or a vague threat for any country to partially cease compliance "in part".

The second main conclusion is that JCPOA participants should prioritize increased communication to overcome potential differences of perspective. Stephen Majeski's experiments in game theory demonstrate the value of communication in raising the likelihood that bargaining parties will cooperate. For instance, even under the current JCPOA wording, both sides could be more transparent with "Tit for Tat" strategies. Participants could, for instance, announce in greater detail how they plan to respond to noncompliance issues. If a participant decides to rescind compliance "in part," each country might benefit from stating (or at least strongly hinting) what that "part" might be, what factors would likely lead to this decision, and what types of agreements might

help restore trust and quickly bring all parties back to full compliance. It would also help to be specific about exactly which nuclear-related sanctions will be lifted, and which sanctions are deemed, naturally or arbitrarily, to fall under the category of terrorism or human rights-related sanctions and therefore will not be lifted. Currently, the difference between the two is murky.

Iran has expressed frustration with a slow rate of sanctions relief and blames the United States for moving slowly to lift sanctions and for not helping companies invest in Iran.<sup>87</sup> Indeed, the United States could increase its communication and credibility by openly helping U.S. companies navigate the legal boundaries of doing business in Iran. Whether or not businesses actually choose to invest (and risk losing financially if the Deal ever falls apart) may be beside the point; for the sake of optics, this increased communication would make it more difficult for others to blame the United States if the Deal falls apart.

One of the key benefits to the JCPOA's dispute resolution process is a balance between forcing functions and flexibility. The clear time limits for each body to attempt to resolve a conflict prevent disputes from being dragged out forever. At the same time, the JCPOA includes flexibility for the Joint Commission and Ministers of Foreign Affairs to have additional time if necessary, again limited by the stipulation that extensions are granted only by consensus. Presumably the JCPOA parties hope that participants' heads will cool and a dispute may be whittled down to a consensus deal during the waiting time between the back-and-forth on reviewing bodies. This flexibility is especially important given the

added challenge of an agreement consisting of both autocratic and democratic partners, as described earlier.

Another aspect of the need for communication is that each JCPOA participant should be aware of and communicate to others the status of domestic interests and pressures that might affect the agreement. Each state is involved in a two-level game with domestic and international politics. The domestic portion may be severely opaque to other states. Increasing this type of communication will help to avoid misunderstandings and surprises, just as it will likewise help states prepare their responses and increase or mitigate punishment as they determine what the situation merits. This will also allow the Joint Commission greater time to understand disputes that are likely to arise in the near future.

As participants strategize how they will respond to these expected difficulties, international cooperation, amended models, and recommendations described in this paper are useful for the discussion on how to achieve cooperation and increase the Iran Deal's likelihood of success. Indeed, the Deal is only as strong as the cooperation strategies behind it.

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# Deforestation and Forest Degradation: Exacerbating Non-Traditional Security Threats in Indonesia

Laura Krahl

In many developing countries, forest resources play a critical role in security. Whether through the provision of livelihoods or ecosystem services such as water purification, climate regulation, or erosion control, forests are undeniably linked to the well-being of people.<sup>1</sup> They often underpin cultural and spiritual values, which are important to maintaining social cohesion and dignity.<sup>2</sup> Indonesia currently has the highest rate of deforestation in the world, having surpassed Brazil in 2012.<sup>3</sup> The country's palm oil and logging industries are lead causes of deforestation and forest degradation. Burning forests is widely regarded as the quickest and cheapest method to clear land for palm oil plantations and this method creates a host of other issues related to greenhouse gas (GHG) emissions.<sup>4</sup> Logging is also a major issue with forest clearance taking place in 37 of the country's 41 national parks.<sup>5</sup> Currently, deforestation and forest degradation as a result of land use change are exacerbating non-traditional security threats such as water scarcity, food insecurity, and vulnerability to natural disasters in Indonesia.

The World Food Program (WFP) confirms that forest conversion, especially in upstream areas, has negative effects on water resources. Complete removal of tree cover upstream accelerates water discharge. Trees also help perpetuate the water cycle by

returning water vapor to the atmosphere.<sup>6</sup> Water shortages, in turn, cause reduced food security, as the country's food supply is largely agriculture-based. Deforestation and forest degradation also directly contribute to food insecurity by reducing the availability of land for local farming. Land use change further contributes to food insecurity by causing loss of the valuable biodiversity necessary to produce nutritious food. The destructive cycle is perpetuated due to the depreciated viability of soil that has been over farmed.

Forest ecosystems play an important role in reducing the vulnerability of communities to natural disasters by reducing physical exposure to natural hazards and increasing their ability to withstand and recover from them.<sup>7</sup> In Indonesia specifically, deforestation and forest degradation are making the country more vulnerable to small floods and drought. Deforestation increases soil erosion and leads to a greater risk of landslides.<sup>8</sup> Without tree cover to block the sun, forest soils quickly dry out making drought a major concern. The economic incentives for land use change in Indonesia combined with a largely decentralized government make the implementation of effective deforestation policy difficult. Indonesia has detailed environmental laws but enforcement remains very weak.<sup>9</sup> If the country is to mitigate its

risk of non-traditional security threats such as water scarcity, food insecurity, and vulnerability to natural disaster, it must improve efforts to combat deforestation.

### **Local and Global Concerns: Deforestation and Non-Traditional Security in Indonesia**

Deforestation affects far more than just the immediate area of the forests; it affects the entire ecological system of which the forests are a part. In Indonesia specifically, deforestation as a result of land use change is causing immense challenges related to air quality, water supply, wildlife habitat, and rights of indigenous peoples, carbon emissions, and the ability to withstand natural disasters. Indonesia has the third largest area of tropical rainforest on the planet with forests covering about 89 million hectares of land. However, deforestation is occurring at a rate of 1.17 million hectares per year.<sup>10</sup> Furthermore, in 2010 it was estimated that 85 percent of Indonesia's GHG emissions come from land use activities with 37 percent due to deforestation and 27 percent due to peat fires.<sup>11</sup> Palm oil expansion in the country threatens to drive far more species to extinction than prior episodes of deforestation in countries such as the United States (US) and the United Kingdom (UK) because forests in Southeast Asia, like those in Indonesia, contain a far greater diversity of species.

Deforestation and forest degradation affect thousands of Indonesians nationwide. Those living under the poverty line in rural areas are most affected. According to the World Bank, about 50 percent of Indonesians live on less than two dollars per day and 70 percent of the country's poor live in rural areas.<sup>12</sup> Rural households below the poverty line are most dependent on forest income and natural resources.<sup>13</sup> An estimated 6 million people in

rural areas of Indonesia receive a significant share of their income from forests and from trading agroforest products.<sup>14</sup> These people rely on forests for a wide spectrum of essential needs such as food, construction, and other goods. Loss of forest cover is often a cause of serious changes in health such as increases in vector-borne diseases like malaria and dengue fever.<sup>15</sup> When deforestation and forest degradation occur in Indonesia, the poor suffer most.

In a relatively young democracy like Indonesia, non-traditional security issues such as those stemming from deforestation can have an immense impact on civil conflict. As traditional access to land and other natural resources are lost to outside investors, transmigrants, and large private development projects, economic displacement and marginalization of indigenous groups have occurred.<sup>16</sup> These practices have created a sense of injustice arising from government control and exploitation of valuable resources. When combined with sharp religious and ethnic differences, these grievances motivate violent conflict.<sup>17</sup> In Kalimantan for example, government policies promote large-scale logging and palm oil plantations. These policies have resulted in a highly systematic and devastating exploitation of forests. They have also resulted in the repossession of land from indigenous Dayak communities. These practices pollute water systems, deplete fish supplies, and reduce the amount of game in the forest, which interferes with customary subsistence patterns. These factors have contributed to the outbreak and intensification of violent conflict between groups. West Papua and Aceh have also recently witnessed the uprooting of indigenous groups. In both regions, secessionist demands of the Free Papua Movement and Free Aceh Movement have prompted protests and demonstrations that

have been forcefully halted by Indonesian armed forces.<sup>18</sup> Reducing the risk of non-traditional security threats associated with deforestation and forest degradation is paramount to avoiding civil conflict in a country where peace remains fragile and unequal forest rights remain unresolved.<sup>19</sup>

Deforestation and forest degradation in Indonesia have considerable impact on the global population as well. In addition to millions of species losing their habitat, deforestation drives climate change because when forests are burned, carbon dioxide pollution is released and less GHG is absorbed from the atmosphere.<sup>20</sup> In Indonesia, burning of peat forests is of particular concern. Peat forests emit exponentially more carbon than tropical forests when burned. To make matters worse, these fires are harder to detect and harder to extinguish because they can burn underground for up to several meters.<sup>21</sup> The 2015 Sumatra and Borneo forest fires affected not only air quality and respiratory health in parts of Indonesia but neighboring countries such as Singapore and Malaysia. The 2015 fires are a particularly severe example, but this is an annual occurrence that disrupts lives, costs billions of dollars to mitigate, and leaves millions of people at risk of respiratory disease.<sup>22</sup> The fires moved Indonesia from the world's sixth largest GHG emitter to its fourth, just behind Brazil, and required outside assistance from several countries to control. The fires also contributed to climate change on a massive scale. A Scientific American report estimated that the fires accounted for over three percent of global emissions last year.<sup>23</sup> Forests still cover about 30 percent of the earth's land area but this coverage is being lost in large quantities each year.<sup>24</sup> Land use change in one country affects biodiversity that provides a variety of nutrients in people's diets, on a global scale. It also affects resilience to

unexpected crop failings and ingredients for global medicine.<sup>25</sup> When deforestation occurs, there is clearly forest cover loss at the local level, but loss of ecosystem services due to human alteration of the environment costs the entire planet \$3.53 trillion every year.<sup>26</sup> Clearly, deforestation and forest degradation in Indonesia impacts the rest of the world.

### **Analysis of Current Non-Traditional Security Threats**

There is a close link between deforestation and water quality and quantity. As Gede Sedana, Dean of Agriculture at Dwijendra University has stated, "If we lose the forest, we lose the water".<sup>27</sup> Forests contribute to maintaining high drinking water quality in watersheds by preventing soil erosion. Cutting down forest increases the flow of surface water, which in turn transports sediment downstream and affects water quality. Additionally, tree roots, undergrowth, and forest litter trap sediment. On sloped land, trees prevent landslides and soil movement as leaves absorb the impact of raindrops.<sup>28</sup>

Statistically speaking, Indonesia is not a water scarce nation. Water resources in Indonesia represent nearly six percent of the world's water resources and over 20 percent of Asia's freshwater. Those resources, however, are not spatially and temporally distributed evenly. For example, Java is home to 10 percent of the country's water resources but 60 percent of the country's population. During the dry seasons, there is a shortage of water, especially in main population centers such as Java, Bali, and Nusa Tenggara. The chief issue with Indonesia's water supply is that the majority is sourced from surface water so when it is polluted, the country loses more of the natural resource than it would if it relied more heavily on groundwater. The country

struggles to provide clean water for human consumption and wastewater treatment is inadequate.<sup>29</sup>

An example of deforestation causing water scarcity in Indonesia is within the Leuser National Park on Sumatra. In the Leuser Ecosystem, the first signs of reduced water replenishment are clear. For example, groundwater reservoirs are being exhausted and several rivers run completely dry during part of the year. Despite its protected status, deforestation in the park is widespread. Logging of water-catchment areas in Leuser is responsible for taking 94 percent of failed irrigation areas out of production. Due to the change in micro-climatic conditions, less water is generated. Compared to ten years ago, approximately 50 percent of the streams in Aceh have less than 50 percent of the typical water flow in the spring. Additionally, 20 percent of the flows are completely dry throughout the year. In other areas of North Sumatra, 80 percent of the rivers contain less than 50 percent of the usual water flow and around 15 percent of rivers have gone completely dry.<sup>30</sup>

The impacts of deforestation on the main stakeholders of the Leuser Ecosystem include more expensive water for the local community and costs associated with the change of water distribution systems at the local and national government levels. Both households and industries should anticipate water shortages and higher costs for water. The decline in fresh water is also expected to have a detrimental impact on fisheries as well as hydro-electricity plants in Aceh.<sup>31</sup> Forests are sources of biodiversity and as such, are inextricably linked to food security, nutrition, and health.<sup>32</sup> Forest cover maintains the soil and water base for sustainable agriculture. It also helps maintain crops and livestock, mitigating the impacts of climate change and extreme weather events

on the world food supply.<sup>33</sup> A quality environment including adequate forest and biological resources is essential if sustainable food production is to be maintained.<sup>34</sup> The rapid growth in world population, heavy resource consumption by some nations, and inadequate management of forest resources are having a negative impact on food security.<sup>35</sup> In 2015, The Global Food Security Index ranked Indonesia as number 74 of 109 countries examined with a food security score of 46.7 out of 100 based on food affordability, availability, and safety.<sup>36</sup> The World Food Program suggests that deforestation has a huge potential impact on food security in Indonesia.<sup>37</sup> The combined effects of deforestation and climate change are causing food insecurity in the country.

An example of deforestation affecting food security is found on Kalimantan. Often described as the “lungs of the earth”, the island’s landscape is rapidly changing.<sup>38</sup> Logging operations and palm oil plantations are clearing the agro-forests of the island’s uplands. While development for palm oil is commercially successful, it has a detrimental effect on food security. The expansion of palm oil plantations has driven food estates to operate on the marginal peatlands, where it is difficult to produce rice. In these areas, climate change exposes dry land farmers to the risk of harvest failures, especially in El Niño events.<sup>39</sup> Specifically, the effects of deforestation and climate change can be seen in Danau Sentarum National Park in West Kalimantan. In 1997, Sentarum Lake supplied 60 percent of all the freshwater fish in the province. Despite its classification as a critical wetland, nearby logging operations are causing large fluctuations in water level and increased sedimentation.<sup>40</sup> Additionally, as a result of deforestation and food insecurity, the Dayak communities fear extinction of cultural elements related to their livelihoods.<sup>41</sup>

Traditional Dayak agriculture includes both dry and wet rice farming, collecting rubber, and harvesting of fruit and nuts from communal groves. Some villages also maintain areas of “adat”, or traditional forest where building materials and other food sources are gathered. As the Dayak lose access to land, they also lose this important part of their heritage.

While recent studies by the Organization for Economic Cooperation and Development show that food security in Indonesia has improved, the prevalence of undernourishment and household food insecurity is still high.<sup>42</sup> Indonesia has the potential to produce enough food to feed its population but it is prevented from doing so by deforestation, climate change, and a number of other limiting factors. The country faces other challenges to food security such as El Niño seasons, which affect temperature and rainfall; issues of food distribution across an expansive island chain; and the rice export market. Increased pressure from expanding industrial, urban, and tourism areas also make it difficult to find new agricultural land accessible to transportation infrastructure.<sup>43</sup> An effective approach to addressing the food insecurity caused by deforestation will have to take all of these aspects into consideration.

Lastly, deforestation increases Indonesia’s vulnerability to natural disasters such as small-scale flooding, landslides, and drought. It also limits the country’s ability to recover from these events. A recent study by the Center for International Forestry Research (CIFOR) has shown that while deforestation does not increase the risk of severe flooding from extreme weather events, it can contribute to small-scale flooding, especially in downstream areas.<sup>44</sup> Deforestation contributes to flooding and landslides in a number of ways. Forests increase water infiltration: the roots and

undergrowth of forests can absorb water and disburse it to streams. However, when trees are cut down, their habitats are vulnerable to highly variable conditions including heavy rainfall or no rainfall at all, both of which present issues. Flooding is damaging to crops, private homes, and public infrastructure. When the ground becomes saturated, landslides also pose serious risk to communities situated on or beneath hills. One example of this is in Riau Province, Sumatra – an area that has been extensively cleared in recent years.<sup>45</sup> Already this year, the region has experienced flooding and landslides due to heavy rainfall. In Agam, thousands of tons of topsoil, as deep as 2.5 meters high and 15 meters across, blocked the road after an enormous landslide.<sup>46</sup>

The opposite problem of too little rain is also an issue in Indonesia. Tropical forests function as a biotic pump as they have higher evaporation rates than other types of vegetation. As humid air rises from the forests, the water vapor condenses. As water vapor condenses, the volume of the air decreases and air pressure decreases. Because air flows from places of high pressure to places of low pressure, forests draw in moist air from elsewhere. These pressure systems are found in the Amazon River Basin, Congo River Basin, and over the Indonesian islands.<sup>47</sup> In 2012, a study by Dominick Spracklen found that when air passes over extensive tropical vegetation, it produces at least twice as much rain over air that passes over less vegetation.<sup>48</sup> This phenomenon helps to regulate the amount of rainfall that an area receives. Tropical forests can help mitigate the effects of El Niño years when unseasonably low rainfall and high temperatures create severe drought conditions and spark wildfires. However, when these forests are cut down, a major source of moisture is removed from the atmosphere. In 2015, several areas of

Indonesia experienced drought. Southern Sumatra as well as Central and South Kalimantan were the most critically affected areas. The dry weather was particularly problematic in these areas because it intensified seasonal fires. Deforestation and El Niño together are an extremely dangerous combination. Reducing deforestation could significantly decrease the risk of devastating fires as a result of drought and El Niño patterns.<sup>49</sup>

### **Analysis of Current Deforestation Reduction Efforts**

In recent years, the Indonesian government has taken steps to address environmental issues. In 2009, it pledged to reduce GHG emissions by 26 percent or by 41 percent with international support, by 2020.<sup>50</sup> The national government has also signed bilateral and unilateral agreements on reducing deforestation and the resulting emissions. One such example is a Memorandum of Understanding with the Government of Norway who pledged funding to reduce deforestation.<sup>51</sup> The agreement resulted in a two-year moratorium on new permits to clear primary forests and peatlands.<sup>52</sup> In 2011, the country established a task force for reducing emissions from deforestation and forest degradation (named REDD+: reducing emissions from deforestation and forest degradation).<sup>53</sup> Also in 2011, the United Nations Office for REDD+ Coordination in Indonesia was established to promote a coordinated response to challenges and opportunities for climate change mitigation and adaptation.<sup>54</sup>

The following year in 2012, the National REDD+ Strategy was launched. In January of 2015, however, President Joko Widodo merged the National REDD+ agency with the Ministry of Environment and Forestry, raising concern about the

government's commitment to REDD+ programs. Though the president created the Director General of Climate Change in the merge, many argued that moving a coordinating agency under a ministry would reduce the government's ability to address its issues.<sup>56</sup> Recently, Christine Padoch of CIFOR remarked that the REDD+ program, as it was intended, has barely begun.<sup>57</sup> Yet the Indonesian government continues to agree to projects related to reducing deforestation and restoring forest. It also extended the two-year moratorium until 2015. The national government partners with non-government organizations and research foundations on projects like peat restoration, accurate reporting, and the "One Map" project to create a common mapping system for the country. Despite these efforts, the deforestation rate was only slightly reduced from 2009 to 2011. Indonesia also saw an uptick in tree cover loss as recently as 2014 and 2015.<sup>58</sup>

Despite the government's continued commitments to reducing deforestation and emissions, enforcement and accountability continue to be major issues holding back significant progress. Protected areas such as national parks have proven ineffective as illegal logging and palm oil planting continues. HAKA, an NGO focused on the need for better enforcement and accountability in the Aceh Province, is frustrated by the failure of the Aceh government to protect its natural resources. HAKA works closely with local law enforcement, policing illegal deforestation and poaching in and around the Leuser Ecosystem. In addition to their research functions, the organization motivates and empowers civil society to report illegal activities that harm the environment. HAKA frequently battles the provincial government as is evidenced in their recent class action lawsuit challenging the legality of a proposed

spatial plan and attempting to hold the Acehese government accountable.<sup>59</sup> Corruption is also persistent. Kuntoro Mangkusubroto, a former task force official for implementing the Norwegian plan under President Susilo Bambang Yudhoyono, expressed concern that if the money they pledged went directly to the national budget, it would end up in the hands of consulting firms or companies in which politicians had an interest.<sup>60</sup>

### **Weighing Policy Options**

The Indonesian government cannot effectively address non-traditional security threats until deforestation is under control. Despite widespread recognition that deforestation in Indonesia is a serious problem, attempted solutions have been largely ineffective.<sup>61</sup> Going forward, policymakers must focus their efforts on the political power of logging and palm oil companies in Indonesia as well as the economic incentives behind deforestation in a developing country. Otherwise, policies will continue to be written, without sufficient implementation or enforcement. Only after Indonesian policymakers must recognize that the forests are indispensable and the political structure and processes must be changed to reflect this.<sup>62</sup> To reduce deforestation, the Indonesian government needs to give immediate attention to its economy, regulations, reporting transparency, indigenous rights, and its REDD+ programs. Also noteworthy are some policy options that directly address water scarcity, food insecurity, and vulnerability to natural disasters.

A first option for reducing the risk of non-traditional security threats intensified by deforestation involves creating increased economic incentives for preserving forests. The goal of this solution is to help Indonesia

generate income from protecting forests rather than destroying them. One example of an initiative that creates economic incentives for preservation is carbon trading. Carbon trading involves the transaction of verified carbon credits that can be used to purchase GHG emissions after a participating entity's quota is spent. This can be a voluntary or mandatory program, where firms that create less carbon than the amount permitted, can sell credits to other firms. Carbon markets are usually created and managed by the government. Indonesia, as a whole, can also participate in international carbon trading.<sup>63</sup> However, CIFOR has stated that measuring carbon, making payments, accountability, and funding will be challenges associated with this option in Indonesia.<sup>64</sup> Currently, the National Council on Climate Change in Indonesia is working on implementing a voluntary carbon market, but CIFOR has shown that converting a hectare of forest for palm oil production is currently two to three times more profitable than preserving it for carbon credits in a voluntary participation scenario.<sup>65</sup> For a carbon market to be effective in Indonesia, participation by all firms would need to be mandatory.

Additionally, options such as a pilot program called "payment for performance" could incentivize citizens to conserve forest resources. A successful example of this kind of program is in India, where the government recently implemented the pilot, pledging to allocate billions in tax revenue to encourage forest conservation.<sup>66</sup> India's central government collects taxes and then passes along about 40 percent of that revenue to state governments. The revenue is shared between states on the basis of population, area, income, and forest cover. Each state's share of tax revenue depends on how much forest is maintained.<sup>67</sup> A similar scheme can be envisioned and adopted for the provincial level governments of Indonesia.

A second option is for the Government of Indonesia to reform current regulations that encourage deforestation. Specifically, one regulation, which states that companies could risk losing licensed forest areas if they fail to develop them, should be reformed. Currently, the law specifies that any company approved to develop land should develop it within three years or it risks losing its rights to the land. A company called Golden Agri Resources is facing this issue as they possess rights to large plots of land on Kalimantan but recently made a “no deforestation” pledge. Large areas set aside for “High Conservation Value” and “High Carbon Stock” put the company in violation of laws prohibiting them from retaining rights to idle lands. The Indonesian government is, in effect, denying them the ability to preserve the land.<sup>68</sup> The government could also mandate that palm oil plantations use land that has already been cleared.<sup>69</sup> This solution would prevent further deforestation but is likely to be highly contentious since the quality of soil declines after it has been repeatedly over-farmed. Creating regulations around innovative approaches such as prioritizing forest-free lands for agricultural development may also be prudent.<sup>70</sup>

A third policy option is to create greater transparency and accurate reporting of deforestation. One way to achieve this is to expedite the “One Map” process, which is designed to consolidate and publicly disclose information on forests, concessions, indigenous territories and other spatial information. The One Map process has been slow and arduous, relying heavily on maps made at the local level. Providing more effective oversight on the process would ensure map quality and could expedite the process. This goal can also be achieved by supporting the Corruption Eradication

Commission’s efforts to address forest-related crime. To effectively mitigate the threat that palm oil places on biodiversity, conservationists need to persuade consumers to continue to demand greater transparency in land-use decisions by governments and greater environmental accountability from palm oil producers.<sup>71</sup>

A fourth policy option is for the Government of Indonesia to continue working with human rights organizations such as Aliansi Masyarakat Adat Nusantara to advance indigenous groups’ rights to land. Although the politically indigenous people are often scapegoated for the destruction of forests, these groups actually have the opposite effect. Large companies and some politicians claim that swidden agriculture practiced by indigenous groups is inefficient and destructive, but in reality, indigenous groups maintain forests and only use a small amount of the natural resources. These groups are often blamed and used as scapegoats, but they have immense potential to help in the struggle against deforestation.<sup>72</sup> The Kesatuan Pengelolaan Hutan (KPHs), or forest management units, was set up by the national government to interact with district governments as well as local indigenous communities. This program has the potential to bridge the gap between the national strategy and local interests without the inefficiency that comes with mismanagement. Currently, however, there are only 24 KPHs with more than one staff member and only 14 with institutionalized budgets. To be sustainable, the KPHs must have designated budgets and human resource services to implement them.<sup>73</sup> Government officials should work to share accurate information about the benefits of guaranteeing land tenure rights for indigenous groups and should allot the resources that KPHs need to be successful.

A fifth option is for Indonesian President Jokowi to consider moving REDD+ back to its own national agency. Merging the agency with the Ministry of Environment and Forestry severely limits its power and ability to effectively implement programs. As former REDD+ chairman Heru Prasetyo stated, “the merger significantly slowed things down domestically”. On an international level, the reorganization of REDD+ has raised questions about Indonesia’s commitment to reducing emissions and deforestation.<sup>74</sup> Re-establishing the agency, as a separate entity would ensure that its initiatives are properly monitored and its functions remain transparent. It would also ensure that the organization is able to collaborate with stakeholders from the government, the private sector, local communities, and scientific communities to create a clear direction for the agency.<sup>75</sup>

Lastly, some policy options for directly addressing water supply, food security, and natural disaster preparedness should be considered. To ensure that Indonesians have the water resources they need, the Food and Agriculture Organization of the United Nations recommends that the country develop integrated water resource management plans as part of a comprehensive watershed planning process.<sup>76</sup> They advise a step-by-step planning process to ensure a variety of stakeholder buy in. One potential issue might be the overlap of administrative authorities at the local level or regional levels. Another possible solution to Indonesia’s water scarcity issues involves forest stewardship. In this case, upstream communities are compensated by downstream users through direct payment for the provision of hydrological services or protection of water quality. The district level government would mediate this process.<sup>77</sup> A final suggestion for

ensuring water quality and quantity is using riparian buffer zones. These buffer zones are made up of land adjacent to streams where vegetation is influenced by the presence of water. They are often thin lines of vegetation along stream banks. The buffer zones prevent sediment, nitrogen, phosphorus, pesticides, and other pollutants from reaching water sources. These zones are most effective when they include a native grass along with deep-rooted trees or shrubs. The vegetation lining the streams can be a major source of nutrients for communities that rely heavily on rivers and streams for their water supply. These zones are particularly effective in areas where woody debris and leaves in the water are common. Overhanging riparian vegetation also helps keep streams cool so less water evaporates. Riparian vegetation typically needs little maintenance beyond ensuring that livestock do not graze there.<sup>78</sup> In Indonesia, vegetation can be planted along banks to provide these benefits.

To address food security, Terence Sunderland of CIFOR suggests that Indonesia use more marginal lands to increase land use intensification and agricultural conservation by providing fair and equitable access to smallholders. Sunderland cites a joint project between CIFOR and the World Agroforestry Centre in Guinea. He states that the program co-managed classified forests for conservation and livelihood, which increased local income and expanded vegetation cover in just three years.<sup>79</sup> WFP also has recommendations for food security in Indonesia. It states that some districts in Jambi, Riau, Sumatra, Selatan, Bengkulu, and Kalimantan should embark on a comprehensive plan for slowing deforestation and regenerating degraded forests. WFP further recommends that integrated watershed development projects will improve soil, enhancing land productivity and crop yields. Moreover, the

use of appropriate indigenous techniques will create more sustainable agricultural livelihoods. Lastly, WFP proposes that early warning and surveillance systems should be used to ensure the timely identification of risks to crops to avoid heavy losses.<sup>80</sup> These proposed plans, along with improving the transportation infrastructure to move agricultural products more easily, could improve food security in Indonesia.

WFP states that disaster preparedness and contingency planning go hand-in-hand with water supply and food security. The effects of disasters can severely impact the food and water security situation in a country unless disaster preparedness and response structures are sufficient. Districts of Indonesia that frequently experience disasters should prepare community-level contingency plans and put in place structures for enhancing resilience. WFP suggests that climate change issues be integrated into all policies and projects.<sup>81</sup> To improve disaster preparedness and response, the Government of Indonesia should increase cooperation and collaboration efforts with organizations such as the Red Cross. The Red Cross currently administers integrated community-based risk reduction products, integrated health and disaster risk reduction projects, and monitors and evaluates reporting systems in the country.

To avoid additional burdens on the national budget for post-disaster rehabilitation, the government should work with organizations such as the U.S. Agency for International Development's Office of Foreign Disaster Assistance and the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) to build stronger infrastructure and early detection capabilities. The government should prioritize building national capacities to respond to natural disasters, but should also

have proper planning to transport food and water to affected areas. UNOCHA recommends that Indonesian officials should participate in more simulations of natural disasters and should assess the effectiveness of its first response teams.<sup>82</sup>

Additionally, early detection operations must be improved, given the country's location in the equatorial Pacific Ocean as well as its vulnerability to earthquakes and extreme weather conditions. As recently as March 2016, all 22 early warning buoys that Indonesia deployed after the 2004 tsunami were inoperable when a massive undersea earthquake occurred off its coast. Though the earthquake did not trigger a tsunami, it exposed major gaps in the Indonesian early detection system. The buoys, which serve as a critical early warning system capable of notifying millions of people on the coastline to provide invaluable evacuation time in case of an emergency, were damaged by vandals.<sup>83</sup> The Indonesian government must immediately make security and maintenance of the buoys a major priority. The non-traditional security threats of water scarcity, food insecurity, and vulnerability to natural disasters are interconnected in Indonesia. An area that is currently water and food secure may become insecure if farmers, the private sector, and policymakers do not adopt strategies and practices that are environmentally sustainable.<sup>84</sup>

## **Conclusion and Recommendations**

Large-scale agriculture and agro-products are major contributors to Indonesia's economy but are damaging to its natural resources. The government must acknowledge that the country cannot continue on a destructive path and must take steps in the right direction. However, the country's plan is to double production of key

commodities like palm oil and increase its Gross Domestic Product by seven percent in the next four years. Indonesia struggles with the need to boost profitability, while also prioritizing sustainability.<sup>85</sup> An expected transition from an El Niño year to La Niña in the fall of 2016 could worsen the situation in several Southeast Asian countries, including Indonesia. If deforestation is not reduced, the country will continue to lose invaluable natural resources, water will become scarce, vulnerability to natural disasters will increase and citizens will experience decreased food security. Indonesia's poorest communities living in or near forests will be most affected.

The political explanation of deforestation in Indonesia shows that the solutions to this problem proposed by development experts, environmentalists, and public policy analysts will continue to be ineffective without corresponding changes to

the attitudes and practices of politicians.<sup>86</sup> The Government of Indonesia should take a holistic approach to reducing deforestation by immediately placing priority on providing economic incentive to conserve forests, reforming pertinent regulations and laws so that major firms are able to preserve land, increasing transparency of reporting so the government gains credibility, enhancing indigenous rights and recognizing communities as partners, allowing REDD+ programs to function at their maximum potential and limiting the political power of logging companies. At the same time, the country must also take steps to develop integrated water resource management, regenerate degraded forests for local agriculture, and actively maintain disaster preparedness measures recognizing that water supply, food security, and vulnerability to natural disasters are undeniably connected to deforestation in Indonesia.

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