



THE REVIEW OF INTERNATIONAL AFFAIRS

BELGRADE, VOL. LXIX, No. 1169, JANUARY–MARCH 2018

Danilo BABIĆ

INTERNATIONAL ECONOMICS

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DOMINATION IN SUB-SAHARAN AFRICA

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AMBASSADORS FORUM



THE INSTITUTE OF INTERNATIONAL POLITICS AND ECONOMICS

The Review of International Affairs

ISSN 0486-6096

VOL. LXIX, No. 1169, JANUARY–MARCH 2018

UDK 327

Publisher

Institute of International Politics and Economics,
Belgrade, Makedonska 25

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Layout

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For information on annual subscription please contact

BiFS doo, Books and Periodicals, Supilova 10

11000 Belgrade, Serbia,

Tel/fax: +381 11 20 84 229

E-mail: bfsbooks@sezampro.rs

Printed by: Sajnos doo, Momčila Tepavice 2, Novi Sad

The Review of International Affairs is included in ERIH PLUS (European Reference Index for the Humanities and Social Sciences) <http://erihplus.nsd.no/>



The Review of International Affairs is the leading journal of national importance, classified M51, according to the classification by the Ministry of Education, Science and Technological Development, the Republic of Serbia.

Publishing of *The Review of International Affairs* is funded by
the Ministry of Education, Science and Technological Development of the Republic of Serbia

The Review of International Affairs

Vol. LXIX, No. 1169, January–March 2018

UDK 327 ISSN 0486-6096

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MECHANISMS OF ESTABLISHING NEOCOLONIAL DOMINATION IN SUB-SAHARAN AFRICA

Danilo BABIĆ¹

Abstract: This paper discusses six different mechanisms by which the former colonial powers together with the United States maintain Sub-Saharan Africa in a state of controlled dependence and underdevelopment. The struggle for democracy and human rights has become a screen to establish a new system of exploitation, which, unlike colonialism, abolishes the perpetrator from any responsibility, given that the exploited countries are now sovereign independent states. Specifically, these are the development aid programs, the structural adjustment programs (SAPs), the World Trade Organization policies, the activism of non-governmental organizations, military interventions and the ‘colonization of the mind’. These mechanisms work individually, but also in a synergy creating a complex system of economic, political and cultural barriers that prevent the construction of local institutions which should create a functional political and economic system in African countries.

Key words: Africa, colonialism, neo-colonialism, imperialism, aid, structural adjustment, World Trade Organization.

INTRODUCTION

Sub-Saharan countries gained their independence in the late fifties of the twentieth century. Immediately afterwards, the international community engaged to accelerate the development of newly emerging countries and help them catch

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up with the rest of the world. However, in more than half a century of independence, the countries of Sub-Saharan Africa remained among the least-developed countries in the world. The implemented development concept is incompatible with African society and development strategies have become strategies for imposing neocolonial exploitation. In this paper, we will discuss six ways in which the so-called First World continues to hold the Sub-Saharan region in a subordinate position, although the epoch of colonialism has long ended.

‘TOXIC’ AID

There are three different types of aid: emergency aid, which is applied immediately after humanitarian disasters; humanitarian aid granted by different organizations (Red Cross, UNICEF, etc.); and systemic aid to promote the development of a country (Moyo, 2009, p. 21). In this section, we analyze whether systemic aid is helping Sub-Saharan Africa.

The main goals of systemic aid are long-term and aimed at raising the level of economic growth, reducing poverty and improving health care. Concretely, through development assistance are financed infrastructure projects, projects for mass immunization of the population and mass promotion of education. Donors mostly prefer the direct effects of development aid because such effects are easily measurable. The direct effects include: increasing the number of educated, the kilometers of built roads, reducing the number of people affected by infectious diseases. These goals are reached almost without exception and they signify a positive side of development aid. On the other hand, infrastructure projects that are being implemented forcefully relocate the population and destroy the ecosystem (Glennie, 2008, p. 26-27).

Regarding the macroeconomic impact of systemic aid, donors are trying to achieve a rapid development by making a ‘big push’ that would trigger the economic growth of Sub-Saharan Africa. Aid is thought to accelerate the annual growth by 1%. In July 2005, the G8 summit was considering doubling development aid in order to further increase the growth effect that aid creates. However, the law of diminishing returns applies to development aid as well, thus by doubling aid, it is not possible to double the growth. According to Collier (Collier, 2008, p. 100), when the level of aid reaches 16% of the recipient’s GDP, aid ceases to be effective. There is also a negative impact from aid dependency. In the 1960s, the share of aid in the GDP of Sub-Saharan Africa was 2.3%, in the 1980s it was 7.2%, and in 2008 it was 9%. Some countries like Gabon and Nigeria maintain a low level of the received aid of 3%, while in some countries (such as Malawi, Sierra Leone and Burundi) the percentage of aid in GDP significantly exceeds 20% (Glennie, 2008, p. 22). Aid dependency produced the effect of the ‘Dutch disease’ because the countries that received aid neglected the development of the economy. Aid is treated as a natural

resource and can cause conflicts over the control of such a resource (Collier, 2008, p. 40). Many countries finance a large part of their public spending through development aid. Such a mechanism of functioning is unsustainable because aid will stop at one point and the public finances will experience collapse.

An additional problem with aid is that policymakers prefer to choose ‘quick victories’ instead of a comprehensive long-term approach for reasons of publicity and ease of justifying financial resources (Glennie, 2008, p. 20). Neoliberal economists, who manage the ‘recovery’ of Sub-Saharan Africa, ignore the fact that the GDP growth does not guarantee a poverty reduction. In Tanzania, in the period 1990–2000, the growth was on average 4% annually. In that decade, the Tanzanian population grew by 3.5%. Due to inadequate economic policies, the number of the poor has increased regardless of a solid GDP growth. Another example is Angola, which in the period from 1998–2006 recorded the economic growth between 7% and 8% annually. However, this growth did not contribute to the improvement of living standards because it originated from the offshore oil sector, which was completely detached from the rest of the economy. In 1994, average the GDP growth in the region was 1.9%, but GDP *per capita* fell by 0.9% (World Bank Development Indicators). In general, the GDP growth in Sub-Saharan Africa does not create new jobs, as this growth comes from capital-intensive extraction sectors. In order to reduce poverty, a growth is needed in the agricultural sector in which the majority of the population work – unfortunately, this is not happening.

On the microeconomic level, systemic aid can also produce negative effects. Food delivery is most often associated with urgent humanitarian aid, but it is often included in systemic aid. The influx of aid in large quantities destimulates the production of local farmers by decreasing the prices with the excessive supply. In this way, in the long run, humanitarian aid contributes to the causes of hunger, although (in the short-term) it saves lives (Glennie, 2008, p. 15–16). The damaging impact of systemic aid on small entrepreneurs was best described by Dambisa Moyo (Moyo, 2009, p. 44), citing an example of a local African mosquito nets producer that was going out of business due to a malaria program that included giving nets for free. A similar situation exists in the entire textile industry.

The next effect we are considering is the impact of aid on the recipient country’s public policies. The local administration is often conditioned by the implementation of reforms or even blackmailed. Guinea officials received an ultimatum that unless they build the oil fields for exploitation a single dollar would not be given to the fight against the poverty. By conditioning the way in which money will be spent, the imposition of a neoliberal ideology is being indirectly enforced (Glennie, 2008, p. 37). The aid represented a carrot and the structural adjustment program (SAP), a stick in a well-known ‘carrot and stick’ mechanism. This kind of blackmail policy results in the degradation of local institutions. In 2003, the Government of Ghana increased customs duties on imports of rice and livestock to protect domestic

production. After pressure from the IMF, that decision had to be changed and the customs tax was returned to the previous level (Glennie, 2008, p. 55).

In order to be successful, systemic aid should not support the budget of Sub-Saharan countries because it creates a great potential for corruption; this aid is used by autocrats to finance armies and suspicious projects for personal enrichment. Development aid was granted to Zaire (now the DR Congo) where the level of corruption was very high. International institutions turned a blind eye on corruption as long as the privatization was carried out. How is it possible that aid is given to such highly corrupted countries? The answer to this can be found in the fact that until 1997 most of the OECD countries did not forbid the bribery carried out abroad. Experts dealing with corruption research sometimes ‘clumsily’ forget that bribery has two ends, donors and recipients, and that African countries are always the recipients in that chain (Collier, 2008, p. 137).

DEBT CRISIS AND STRUCTURAL ADJUSTMENT PROGRAMMES

When they gain independence, the countries of Sub-Saharan Africa tried to change the state of economic dependence on natural resources. There were different development strategies, such as import substitution and infrastructure construction. Such investments require a significant amount of capital that Sub-Saharan countries did not have. That is why politicians resorted to borrowing in order to raise the capital necessary for the launch of the economy. From 1974-1994, the debt level of the Sub-Saharan region increased from 15% to 90% of the GNP. The debt amounted to \$ 221 billion, and 21% of exports was spent each year to service that debt (Thomson, 2010, p. 194).

There are several reasons for this debt-increasing trend: (1) In the beginning, the countries of the region were borrowing on the basis of the future revenues from the sale of primary products. When the price of primary products fell and the price of oil suddenly jumped in the seventies, there was great pressure on the budgets of the countries of Sub-Saharan Africa; (2) the overall increase in interest rates in the eighties also had an adverse effect on debt level (Haynes, et al., 1987, pp. 344-352). The negative impact that terms of trade have produced on Sub-Saharan countries is perhaps best illustrated by the fact that in 1960 for a ton of sugar one could buy 6.3 tons of oil – and in 1982 only 0.7 tons of oil. (World Bank, 1981, p. 18).

It could not be expected that Sub-Saharan countries would develop and at the same time repay huge debts. In exchange for further debt relief, African governments had to change their economic and other public policies. The evaluation of the countries in the debt relief program has been measured by a set of criteria favoring liberal approaches in the macroeconomic, fiscal and trade policies followed

by smaller government spending. 'In practice, in order to fully utilize the debt relief program, the governments of Sub-Saharan African countries "mortgaged" their sovereignty' (Thomson, 2010, p. 203). The debt relief programs, development aid and sometimes humanitarian aid were conditioned by the implementation of structural adjustment.

After the debt crises in the countries of Sub-Saharan Africa, the only thing left to do was to seek assistance. Since other sources of funding did not exist, help was requested from the international financial institutions, the IMF and the World Bank. They started SAP characterized by the universal scheme of liberalization-standardization-privatization. In the mid-nineties, most Sub-Saharan countries joined the SAP on a voluntary basis.

Structural adjustment is a conditional aid program. In order to obtain a new loan, African countries were obliged to drastically change their economic policy: to liberalize their economy, demonstrate openness to foreign capital, and reduce the role of the state in the economy.

After independence, the economies of African countries were governed by large state-owned enterprises. International institutions have insisted on the liquidation or privatization of these companies, and intended to introduce a free market principle into the economy. An 'ineffective and interventionist state' was solely blamed for the failure of the economy in the previous period. The SAP advocated urbanization of Sub-Saharan states, although the main driving force of the African economy was the villages. The capital was drained from the villages and pumped into the cities.

In particular, SAP consisted of three reform programs: the first referred to the change in the agricultural policy. During African socialism, farmers were paid less than market value in order to finance the import substitution. After structural adjustment, the import substitution strategy was abandoned and farmers were paid the full price for their products. It was thought that this would increase their income, increase production and exports. In fact, the Sub-Saharan agriculture was transformed into a monocrop economy that insisted on growing export-oriented agricultural crops, while at the same time the local population did not have enough food for normal life.

The second part of SAP implied the liberalization of the exchange rate and the abolition of customs duties. The abolition of protectionism and the establishment of free competition could not bring anything good because Sub-Saharan Africa had almost no comparative advantage. The workforce was cheap, but unskilled and uncompetitive.

A public sector reform was the third segment within the framework of SAP. The concept of efficiency represents the 'sacred cow' of neoliberal dogma, therefore, insisting on a more efficient public sector is an integral part of all reform

programs implemented by the IMF and the World Bank anywhere in the world. Given the lack of qualified personnel, one could wonder if it is realistic to even expect from the public administration in Sub-Saharan Africa to be effective. A public sector reform also implied reducing the role of the state in the economy and a reduction in public spending. However, regardless how small is public spending, if a state is corrupted money will always first be spent on corruption. In the previous section, we noticed that humanitarian and development aid served as a reward for the implementation of structural reforms. If the implementation of structural adjustment is missing, then the necessary aid is missing. This fact must be kept in mind when considering the issue of voluntariness concerning the SAP (Thomson, 2010, p. 197-199).

Regarding the economic aspects of the structural adjustment results, the World Bank states in its conclusions that African countries have made great strides in improving public policies and restoring growth. In six countries that have fully implemented SAP in the period from 1987 to 1991, the growth of GDP was over 2% annually (World Bank, 1994, pp. 131-132). However, the United Nations found that other nations (which did not implement the programs) had identical or even better results in the same period (UNECA, 1991, pp. 11-17). Later, the World Bank recognized that only 6 countries made a significant progress, 9 countries made a minimal, and in 11 countries the economic conditions worsened. The question arises whether the downturn would be even greater if the program was not implemented, but definitely one cannot speak of spectacular success.

The SAP was aimed at attracting foreign investments. However, this did not happen because multinational corporations did not want to invest in an unstable environment. An additional problem for the arrival of investors was created by the reform itself, imposing a flexible exchange rate regime. Currencies of African countries constantly oscillated. This was a risk to the business, which multinational corporations were not willing to afford. International institutions have insisted on the liberalization of the African market, but the western markets have remained closed for the agricultural products from Sub-Saharan Africa under the pretext of food safety regulations.

By reducing social benefits, the SAP has caused a significant decline in standard of living. In Zambia, 8,500 workers were laid off because 47 textile factories had closed since they were unable to withstand international competition after the market liberalization. The national bus company, airline company, as well as the national hotel chain, were also liquidated. This contributed to the appearance of an army of 85,000 unemployed in Zambia in the period from 1991-95. (Simutanyi, 1996). The allocations for health and education have been drastically reduced. Certainly, the most severe consequence of structural adjustment was the abolition of food subsidies. We have already pointed out that the SAP favored urbanization, i.e. they advocated the development of the city at the expense of the village. New

urban population faced poverty because in the cities there was no way to earn a living because the people were mainly skilled to work in agriculture. By abolishing food subsidies, the newly established city class has been brought to the edge of existence. Food riots became an integral part of city life. Therefore, without previously planned, the programs for poverty reductions were included in SAP (Thomson, 2010, p. 201).

The SAP has disrupted the *modus operandi* of the political system of Sub-Saharan Africa. By reducing the role of the state, the oligarchs who worked in the public sector no longer had the money or power to maintain their clientelistic network. The weakening of clientelism also caused the loss of the legitimacy of the state (Ibid, p. 202-203).

After all, we can conclude that the SAP has contributed to further impoverishment and marginalization of the local population, thereby increasing the economic inequality.

THE WORLD TRADE ORGANIZATION POLICY TOWARDS SUB-SAHARAN AFRICA

Regarding trade, Sub-Saharan Africa has no competitive advantage. The market in the region is still small, unintegrated and has a low capitalization rate. Such market conditions, combined with poor infrastructure, raise transport costs and further reduce competitiveness. The labor power is cheap, but it is also very unskilled. The lack of industry and technological advancement has resulted in a significantly lower productivity of the local workforce compared to the workers from the developed world. Technological progress reduces the price of raw primary products, which are the main export items of Sub-Saharan Africa. Also, different income levels affect the different preferences of the inhabitants of the sub-Saharan region and the rest of the world. Thus, the rest of the world is not interested in the products (except for some exotic products) from Sub-Saharan Africa (Geda, 2002, p. 53-56).

The decision-making mechanism and the complaint process within the WTO is not favorable to underdeveloped countries because of the generally opposed interests of developed and underdeveloped countries in the world. Namely, undeveloped countries are often marginalized without an adequate participation in discussion and decision-making. Complaints processes require considerable costs, most notably in the form of trips related to work within the WTO, which is the disadvantage for the poor countries. In addition, developing countries are not adequately represented in the WTO by geographical principle. Developed countries, in line with their stereotypes, observe all underdeveloped countries as one monolithic block, ignoring the diversity and very often the mutually opposed interests of underdeveloped countries (Mshomba, 2009, p. 50-53).

The members of the WTO have the right to use safeguards if some of the other member states raise customs duties or introduce non-tariff barriers. However, this mechanism does not benefit Sub-Saharan countries. We will hypothetically consider an example of a trade between Ivory Coast and France. The main export product of the Ivory Coast is cocoa, while Ivory Coast imports cars and ship equipment from France. If France suddenly increased its import duties on cocoa from Ivory Coast, the Ivory Coast would have the right to take reciprocal measures. However, such a move from Ivory Coast would only make it difficult for its citizens to acquire quality cars and for their entrepreneurs the acquisition of ship equipment. France would, however, easily address the need for cocoa in another country of the region, for example, Ghana. An identical situation applies in the case of the introduction of sanctions. The possible sanctions of the Ivory Coast towards France would be counterproductive as it would not harm France, whose main focus is the EU market, while the Ivory Coast would lose its second-largest importer.

Another problem which the countries of Sub-Saharan Africa face within the WTO is patent and intellectual property protection. The problem of Sub-Saharan Africa is not related to the unauthorized use of copyright but to the pharmaceutical industry. After the Uruguay Round of negotiations, the rules for the export of generic drugs to African countries were strengthened by extending the validity period of patents. Consequently, effective and cheap medicines remained inaccessible to sub-Saharan countries (Mshomba, 2009, p. 127-129).

The third issue between the countries of Sub-Saharan Africa and the WTO is the agricultural negotiations during the Doha Development Round. Agriculture is the most important branch of the economy because on average agriculture in the Sub-Saharan region accounts for 16% of GDP and 21% of exports. The Doha Development Round was aimed at liberalizing the agricultural sector and lifting domestic subsidies. Such a request is an expression of the hypocrisy of developed countries, given that the EU and the USA have the highest subsidies in this area. Although after the Doha Development Round the market was open to products from Sub-Saharan Africa, farmers from the region failed to compete with European farmers due to high EU subsidies. The EU further aggravates the development of agriculture in the Sub-Saharan region by placing surpluses of the agricultural products in order to reduce storage costs. Greater supply cuts the price of agricultural products and discourages the production of local farmers (Ibid, p. 163).

NGO ACTIVISM

Since the implementation of structural adjustment and reduction of the role of the state, the non-governmental sector enjoyed the largest benefit. Officials of international institutions have welcomed the collapse of some Sub-Saharan states because they were able to rebuild the concept of the market economy without

interruption. 'The liberation of a civil society from the grip of the state has become an ideological project of the hegemonies of our time' (Carmody, 2007, p. 12). An important factor in the civil society system is represented by non-governmental organizations (NGOs) that have significant financial resources that often outweigh the GDP of some African countries. It is estimated that in the Sub-Saharan Africa region, NGOs employ 5% of the total workforce (Dicklitch, 1998, p. 24). Officially, their goal is to fight poverty and help build a stable, just and democratic society. However, their latent goal is to replace the missions that were there in the past and to fill the gap created by the abdication of most of the functions of the state. The term 'civilizing mission' is no longer used because it is not politically correct, but NGOs still strive to form an African society as they see fit and impose neoliberal capitalism as the only correct value system. All significant cash flows are taking place through NGOs, which further demotivates African governments to fulfill their obligations. Such organizations play the role of a distribution channel for money that comes in the form of international aid, also it gives them the tremendous power to determine the distribution criteria of aid funds (they assess who is suitable to receive the funds). In a way, it can be said that the governments of Sub-Saharan states and NGOs have changed places (Ćirjaković, 2013, p. 193-195). The typology of NGOs is very extensive; the type of NGOs that is especially worth highlighting is non-governmental organizations working for the government (GONGO). Due to the lack of professional staff, the authorities are forced to entrust the work of the energy, environmental protection agencies, etc. to the international non-governmental organizations. The space for malversation appears exactly in the two mentioned sectors, as these agencies should control the multinational companies that exploit natural resources.

NGOs in Sub-Saharan Africa perform three roles in social processes: firstly, they organize democracy schools with the goal of educating participants in the political process. These workshops discuss the importance of tolerance, ways of resolving political conflicts, the importance of compromise. Participants who are expected to become a future political elite are predominantly young. The second function of NGOs is to represent the rights of discriminated social groups. In Sub-Saharan Africa, this is most often the case with the female population and ethnic and religious minorities. The third role of the NGO sector is to supervise the political process (Dicklitch, 1998, p. 12-14).

In the area of Sub-Saharan Africa, along with NGOs, there are also 'non-governmental individuals'. Famous people often help using their publicity in resolving humanitarian problems; however, sometimes there are bizarre situations that a whole African country is identified with a particular celebrity - thus Madonna is in charge of Malawi, and Angelina Jolie of Ethiopia. The pinnacle of 'Celebrities Colonialism' represents the fact that George Clooney became the main analyst for Sudan's problems. It is devastating that the Internet buzzes with statements and

analyses by a famous actor about the Sudan, which many journalists cite as credible. 'Not on our watch,' a catchphrase of the famous actor became a symbol of American interventionism, but also the subject of many criticisms after the fiasco of the intervention in Iraq (Clarke, 2009, p. 327).

There is nothing wrong with the fact that famous people with their publicity help to solve an acute problem. The troubles, however, arise from the fact that due to ignorance and lack of information, the priorities are wrongly determined. Thus, the conflict in Darfur has sparked much more attention than the conflict in the DR Congo, although it was much milder in intensity and number of victims.

If the role of multinational corporations is reflected in the privatization of the African economy, then the role of NGOs and non-governmental individuals is 'the privatization of African society'.

MILITARY INTERVENTIONS AND CHANGES OF LEADERS IN SUB-SAHARAN AFRICA

We can divide military interventions in Sub-Saharan Africa into three categories. Firstly, we will discuss the Cold War period operations. After the Second World War, European countries gradually lost interest in their colonial estates and allowed their colonies to become independent. The USA and USSR used the new situation to gain new members in their political bloc. Angola became a fertile soil for the Cold War conflicts. The Soviet Union armed MPLA via Cuba and the USA armed UNITA via the South African Republic (Collier, 2008, p. 124). DR Congo was the second destination of the Cold War conflict and the place of the most brutal change of a democratically elected leader of a state in history. The most famous Belgian financial institution *Soci t  G n rale de Belgique* controlled 70% of the Congolese economy. After Patris Lumumba came to power, the Belgian government did its best to keep control over the Congo economy, including the sponsorship of secessionist movements in two provinces rich in natural resources (Katanga and Kasai). When Lumumba, with the help of the Soviet Union and the UN peacekeeping mission, succeeded in neutralizing that plan, the process of his removal began - the Western powers could not allow the largest country and the richest in resources to fall under the influence of the Soviet bloc. Today it is widely known that Belgium and the CIA had an active role in the assassination attempt on Lumumba and even the role of executors.

France allowed the independence to its colonies, but kept them in economic and often military dependence. The French army carried out over thirty military interventions in the territory of Sub-Saharan Africa. France regarded these interventions as its natural right. The French expanded their influence on the former Belgian colonies (Rwanda, Burundi, Congo). During the Nigerian Civil War of

1967-70, France was the main weapons supplier to secessionist Biafra. France strongly supported the dictatorial regime of Mobutu in the then Zaire. In addition to Zaire, they also intervened in Chad, the Central African Republic, Gabon and Niger. In all these interventions, the goal was to preserve the regimes that allowed the uncontrolled exploitation of natural resources; more precisely, the goal was to preserve the dominance of the former colony (Schmidt, 2013, pp. 165-166). After the 1990s, the French did not want to use their military contingent due to pressure from public opinion, which did not want a costly military intervention in former colonies. For example, they allowed a small group of soldiers to make a military coup in 1999 in Ivory Coast because they believed in the general and his promise to organize elections after three months. In the end, the French troops made a buffer zone between the two warring parties in a conflict that lasted for several years. Also, the French troops were left once again with the 'empty guns' during a military coup in Mauritania in 2005 (Collier, 2008, pp. 129-130).

The last type of military intervention is peacekeeping missions. Currently, eight peacekeeping missions are underway in Sub-Saharan Africa under the UN mandate, while in the past there were twenty (UN, 2013). However, peacekeeping missions, whether carried out under the UN mandate or unilaterally (most often under the USA leadership) had enormous omissions and inconsistencies.

After the operation in Kuwait, military interventions were considered the axiom used in resolving conflicts. The USA forces overconfidently entered into the intervention in Somalia. The operation started with one day of delay in order for journalist teams to arrive on site. Everything was ready for the Hollywood blockbuster - live! However, the entire operation turned into a media fiasco: the USA forces withdrew from Somalia in October 1993 with a balance sheet of 18 killed soldiers, 2 shot down helicopters and several destroyed armored vehicles. After Somalia, a completely opposite stand toward military interventions has been taken - never to intervene! In less than a year, the genocide in Rwanda proved wrongness of that decision. Fear for the lives of peacekeepers and poor publicity outweighed the need to save between 800,000 and million lives. The absence of the intervention in Rwanda again caused the negative publicity and another dogmatic overturn happened. Military interventions once again became the dominant choice of resolving conflicts (Collier, 2008, p. 125-126).

THE 'COLONIZATION OF THE MIND'

The colonization of the mind is a form of epistemological violence, which is one of the worst attainment of colonialism. The colonization of the mind involves interference of an external factor (colonizer) into the mental sphere of a colonized subject. This intervention affects the mental structure of the colonized subject, changing both the content and the *modus operandi* of the thinking itself. The effects

of this process are long-term and irreversible. The colonization of the mind is manifested through various forms of everyday life, such as cultural and religious patterns, language, fashion, social habits, political attitudes, etc.

One of the properties of the colonization of the mind is mimicry². Africans who want to become Europeans have actually become a thorn in the eyes of African national leaders and other 'Afro-optimists', suggesting the idea that European thinking is better than African. However, 'imitators' are not aware that they will never be full members of European society since mimicry can never be completed due to racial differences (Ferguson, 2006, p. 159).

The colonization of the mind is usually done by Africans trained in Europe or in European schools in Africa; most often, they themselves became educators on different levels. The colonization of the mind is most easily carried out on children and youth because their personalities, attitudes and beliefs are not yet formed (Cooper, 2014, p. 3).

Knowledge is presented as a commodity that everyone wants because it is in the nature of the human mind to strive for new knowledge. In most cases, the educators who carry out the colonization of the mind through knowledge do not have full awareness of the harmful consequences of their actions. On the contrary, they think that they are helping the colonized subjects by providing them with better systems of knowledge and value systems, which enable them to cope better in the modern world. Most often, the educators themselves, at one point, completely unconsciously underwent the same process.

The process of colonization of the mind cannot succeed if it is based exclusively on fear and coercion. It is a process of 'cognitive persuasion' between the colonizers and the colonized. The initial advantage to the colonizer is provided by the inference methodology (specifically *modus ponens* and *modus tollens*) implicitly accepted at the beginning of the process. Unable to comprehend the principles of propositional logic (which they have never encountered before), the colonized accept the position of the colonizer. Then, the colonizer makes a comparison between the old and the new value system, immediately labeling the old way of thinking as obsolete, retrograde, even primitive, while newly-acquired (his own) is described as advanced and civilized. The colonization of the mind occurs when a colonized subject agrees to that offensive comparison.

Cultural violence is also a feature of the colonization of the mind. The process of 'deculturalization' of Africans takes place in three steps: (1) the colonizers persuade Africans to be ashamed of their own culture and heritage (because of

² Mimicry denotes the ambivalent relationship between the colonizer and the colonized. The colonized are trying to mimic the colonizers by adopting its cultural patterns. The result of this process is always a camouflage, an inferior copy of the colonizer.

poverty and crime, wars and war crimes, lack of education). (2) After that, they are suggested perceiving the white people as the super-ego and seeing them as a symbol of progress, development, happiness and good life. (3) Those who successfully master the previous two stages will receive the awards if they continue to expand the indoctrination.

Of course, there is always the possibility to avoid the colonization of the mind. However, for those rebellious individuals, a problem arises if they live in a society, which in principle and in the majority accepts the colonization of the mind. They usually get isolated, sometimes self-isolated from the society.

Rejecting the colonization of the mind causes discomfort also to the colonizers who are offended by the rejection of their 'superior' system. Their superficial goodwill rapidly gives way to scorn because they cannot accept the fact that someone so inferior and retrograde refuses to accept an advanced system of values. As proof of superiority, the colonizers emphasize their industry that has enabled them to afford many (material) goods. The fact that their subjects are primitive does not pose a problem to the colonizers (because by adopting a new system of values and thinking, with a lot of work, they will also become advanced), but the problem is in their laziness because of which they refuse to accept a transformation and modernization.

In what ways can we counter the colonization of the mind and eradicate it? Many prominent Africans advocated a revolution and a radical response. However, in the long run, violence always creates new violence, and therefore it is not a solution. To counteract the process of mind colonization, it is necessary to use a more sophisticated and comprehensive response. Resistance, just like oppression, must be at the epistemological and cultural level. The main goal of the resistance should be the deconstruction of the 'white superiority myth', as well as of all the structures that continue to support the colonial authorities in all aspects of everyday life in Africa.

It is easy to manipulate a man who is torn away from his cultural heritage; therefore, Africans have to reverse the process of deculturalization. It is not possible to remove all the influences of former colonial powers on the African continent, and it is not necessary - it should be kept in mind that many Africans did not imitate Europeans because they wanted to do it, but simply to survive (Ferguson, 2006, p. 157). The only correct way of reducing the effects of colonization of the mind is to preserve one's own identity and cultivate the culture of memory. Against the colonization of the mind, one should fight with its own weapons – education.

CONCLUSION

The aim of this work was to present mechanisms that enable the retention of Sub-Saharan Africa in a subordinate position. In the case of Sub-Saharan Africa, it

has been shown once again that there are no universal solutions. The aid programs, which after World War II revived Europe, have not produced an adequate effect in Sub-Saharan Africa. The debt relief initiative, viewed in the long run, failed to solve the problem of large debts. Structural adjustment has contributed to the minimal economic progress in some countries, but at the same time, it has caused negative effects on the living standards of citizens. Liberalization of the economy of the countries of Sub-Saharan Africa, on which developed countries of the West insisted, is an act of hypocrisy. Western countries that developed due to protectionism demanded the abolition of the protectionist measures of independent African states, justifying it as equal conditions for all. However, these equal conditions did not mean much to the countries of Sub-Saharan Africa, since colonialism, in various ways, prevented the development of the Sub-Saharan region. Expecting Africans to be competitive in a market game with Europeans and Americans is just as good as expecting a 10-year-old child to win a fight against a professional boxer just because they are fighting under the same conditions!

Patent protection programs within the WTO have been implemented at the expense of the Sub-Saharan region, limiting the availability of drugs in the region. Comprehensive military interventions, as well as the removal of unsuitable African leaders, permanently destabilized the region. The non-government sector did and ill turn to Africans by carrying out a number of functions that were necessarily within the jurisdiction of governments, thus further fostering the lethargy of the institutions of African countries. Epistemological and cultural violence is the umbrella mechanism of neocolonial domination. The alienation from its own cultural and historical heritage changes the mentality of the African people: everything traditional is considered primitive, and everything that is new and coming from outside is considered modern and advanced. If such a model of thinking is accepted, a phenomenon of the 'colonization of the mind' arises, characterized by auto-chauvinism and fascination with the former oppressors. Sub-Saharan Africa needs new solutions—African solutions!

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Danilo BABIĆ

MEHANIZMI USPOSTAVLJANJA NEOKOLONIJALNE DOMINACIJE U PODSAHARSKOJ AFRICI

Apstrakt: Ovaj rad govori o šest različitih mehanizama pomoću kojih bivše kolonijalne sile zajedno sa SAD održavaju Podсахarsku Afriku u stanju kontrolisane zavisnosti i nerazvijenosti. Borba za demokratiju i ljudska prava postala je paravan za uspostavljanje novog sistema eksploatacije koji, za razliku od kolonijalizma, abolira počinioца svake odgovornosti s obzirom na to da su eksploatisane zemlje sada suverene nezavisne države. Konkretno, radi se o programima razvojne pomoći, programima strukturnog prilagođavanja, politici Svetske trgovinske organizacije, aktivizmu nevladinih organizacija, vojnim intervencijama i 'kolonizaciji uma'. Ovi mehanizmi deluju pojedinačno, ali i u sinergiji, stvarajući kompleksan sistem ekonomskih, političkih i kulturoloških prepreka koje onemogućavaju izgradnju lokalnih institucija koje bi trebalo da kreiraju uređen politički i ekonomski sistem u afričkim zemljama.

Ključne reči: Afrika, kolonijalizam, neokolonijalizam, imperijalizam, pomoć, strukturno prilagođavanje, Svetska trgovinska organizacija.

Received: 26.09.2017

Revised: 18.12.2017.

Accepted: 10.01.2018.

UDC 339.92(497.11:510)
Biblid 0543-3657, 69 (2017)
Vol. LXIX, No. 1169, pp. 21–35
Original Scientific Paper

NEW OPPORTUNITIES FOR FURTHER IMPROVEMENT OF ECONOMIC COOPERATION BETWEEN SERBIA AND CHINA

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Abstract: China and Serbia in recent years have started new forms of cooperation within the established China-CEEC “16+1 cooperation” mechanism. This cooperation is far more comprehensive and bearing a number of completed and planned concrete projects. Chinese companies already have a number of infrastructure projects in Serbia, as well as some major investments in several sectors of the Serbian economy. Since these projects have been proven to be fruitful, apart from deepening the existing forms of cooperation, it would be desirable to start investing in new sectors of the Serbian economy that have a potential for growth and development. Since it is possible to export from Serbia to many countries of the world, China would benefit from production in Serbia. Investments in the agriculture and food processing industry have a great potential for further growth of these production sectors, and they occupy a significant place in Serbian exports. Based on the foreseen possibilities of growth, primarily in the processing industry of Serbia, the paper gives a few recommendations for industrial cooperation between China and Serbia.

Keywords: Serbia, China, EU, investment, industry, trade, production, development.

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SHORT SUMMARY OF CHINA'S TRANSPORT AND ENERGY INFRASTRUCTURE PROJECTS IN SERBIA

The 16+1 format is an initiative by the People's Republic of China aimed at intensifying and expanding cooperation between China and 16 Central and Eastern European countries (CEEC). CEEC includes 11 EU Member States and 5 Balkan countries.² In the framework of this initiative facilitation of cooperation first began in the fields of investments, transport, finance, science, education, and culture. China has defined three potential priority areas for economic cooperation: infrastructure, high technologies, and green technologies.

Cooperation 16+1, first of all, comes from political cooperation, which builds on the construction of infrastructure as a start and financial cooperation in order to achieve interconnection as an incentive for the promotion of bilateral cooperation and trade promotion. According to the statements of the Chinese officials, China is considering Serbia as a reliable partner and a large number of projects implemented by China, for the first time in Europe, were carried out in Serbia (Politika.rs).

TRANSPORT INFRASTRUCTURE PROJECTS

In 2010, the People's Republic of China and the Republic of Serbia concluded an agreement on the construction of the bridge in Belgrade, over the Danube River. In the following years the bridge, which was named after the great Serbian scientist Mihajlo Pupin, was built and opened in the presence of the highest state officials of both countries in December 2014 during the China-CEEC summit 16+1 in Belgrade. The bridge was built by the Chinese state company China Road and Bridge Corporation, with the help of domestic companies. The total value of the bridge Mihajlo Pupin together with all connecting roads amounted to 260 million USD. The Exim Bank of China financed 85% and the rest was financed by the Republic of Serbia and the city of Belgrade (Stakić & Zarkić, 2016, p. 96). That was the first completed China's large-scale infrastructural project in Southeast Europe.

The project of the Belgrade-Budapest High-Speed Railway construction was conceived in 2013 on the China-CEEC Summit. In the Serbian territory modernization and construction of the railway section from Belgrade to the border with Hungary in the north (Belgrade-Noví Sad-Serbia Hungary border) has the total length of 188 kilometers. The works on the project for the overhaul of the Belgrade-Budapest railway line in Serbia should start in November 2017, with the

² 16 Central and Eastern European countries (CEEC): Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia.

modernization of the Stara Pazova-Belgrade section. The whole project should set up unified railway-transport and customs system that would connect the Greece port Piraeus, through Macedonia with Serbia and Hungary and the rest of Europe, transporting the goods from China to Central Europe and vice versa.

ENERGY INFRASTRUCTURE PROJECTS

The Chinese investment in the Serbian energy sector started with the investment related to the revitalization of Kostolac-B Coal Power Plant. Kostolac power station comprises the 310-megawatt (MW) Kostolac A plant and the 700 MW Kostolac B plant. In 2010, “Elektroprivreda Srbije” (EPS) and China Machinery Engineering Corporation (CMEC) signed a preliminary contract for the redevelopment of the Kostolac Power Plant, called the block B3. Under the terms of the preliminary contract, CMEC will contribute 85% of the cost of the refurbishment of the plant and the installation of sulphur controls. EPS and CMEC started in January 2017 the installation of a modern BTO system, a rotary excavator, on the surface mine Drmno in Kostolac, which started the second phase of the modernization of Kostolac Thermal Power Plant, and the value of the entire project is 715.6 million USD. Also, the works started on the assembly of the rotor excavator, which is part of the project for construction of the third block in the Kostolac B of 350 MW. It will be the first large power plant that Serbia will get after three decades. The block B should be completed in 2020 (Tanjug.rs).

Serbian Ironwork, founded in 1913 under the name SARTID Ltd. and named Smederevo Steel after the World War II, was sold to U.S. Steel in 2003, which was its owner until 2012. In 2016, Serbian Ironwork was sold to the Chinese company Hesteel (98%) and was given the name Hesteel Serbia (Vasić, 2016, p. 364). Hesteel plans to invest 120 million USD in improving the structure of production, in order to improve energy use and to cut costs and improve technology (Rts.rs). Hesteel's acquisition of Ironwork Smederevo is the most important project of cooperation between the two countries. The new Chinese investment should boost steel production and the company's international competitiveness, and it should benefit local employment and the standard of living (Politika.rs(a)).

SIGNED ECONOMIC COOPERATION AGREEMENTS BETWEEN SERBIA AND CHINA

Cooperation between China and Serbia are now at the highest level since the establishment of diplomatic relations in 1955. The relations between the two countries went mainly in a positive direction. The first agreement between the Federal People's Republic of Yugoslavia (whose part Serbia was) and the People's Republic of China was about cultural cooperation and was signed in 1957. Later,

over the years, were also signed agreements on the commercial air transport (1972), cooperation in the field of veterinary medicine (1979), the waiver of the visa requirement for holders of diplomatic, official and ordinary passports with the “business” clause (1979), etc. In the field of economic cooperation, the first significant agreement was the Agreement on trade and economic cooperation, signed in 1996. During the turbulent years of Yugoslavia’s breakup, very important for the continuation of cooperation was the signing of the Agreement between the Council of ministers of Serbia and Montenegro and the Government of the People’s Republic of China on the succession of bilateral agreements between the Socialist Federal Republic of Yugoslavia and the People’s Republic of China, concluded in the period from 1955 to 27 April 1992.

The new impetus for the cooperation between China and Serbia was the Framework Agreement on Economic and Technical Cooperation between the Government of the Republic of Serbia and the Government of The People’s Republic of China, which was signed in 2009. This Framework Agreement initiated the intensification of economic relations, which resulted in the cooperation on several (above-mentioned) major infrastructure projects in the Republic of Serbia.

President of the People’s Republic of China Xi Jinping made the first official visit to the Republic of Serbia in 2016 when 23 agreements and memoranda of cooperation were signed. The relations between the China and Serbia are characterized by a comprehensive strategic partnership and are traditionally good and friendly. The bilateral cooperation between China and Serbia is at a higher level than before. Most of the cooperation fields are, according to the Chen Xin and Yang Chengyu research, doing well, including politics (9.81), investment (7.59), people-to-people exchange (7.59) and finance (6.15), while the trade cooperation should be improved. The business environment of Serbia is still very backward while its financial environment is modest. However, there is a close cooperation relationship between China and Serbia (Xin & Chengyu, 2016). For the People’s Republic of China, Serbia is one of the 16 CEEC with whom she wants to strengthen cooperation, while on the other hand, the People’s Republic of China is one of the major pillars in the foreign policy of the Republic of Serbia. Among the four pillars of Serbia foreign policies (EU, Russia, USA and China), China gained in importance. The Serbian government has maintained a close cooperation with China in global and regional affairs (Liu, 2013).

THE PRODUCTION IN SERBIAN ECONOMY

The Republic of Serbia is a landlocked country on the Balkan Peninsula in the European continent. In the past, Serbia was a predominantly agricultural country, but began industrialization in the early fifties of the 20th century and ended it during the eighties. During the process of industrialization, the most developed sectors

were furniture, base metals, chemicals, mining, textiles and food processing. The industrial decline started during the nineties, which was accompanied by the disintegration of the Socialist Federal Republic of Yugoslavia and overall loss of economic space. Privatization of industrial capacities in Serbia with the goal of industrial recovery has made an even deeper decline in industry, which was particularly felt in the metal and textile industry (Jelisavac Trošić, 2017).

INDUSTRIAL PRODUCTION

Looking at the latest trends, we see that in 2016, compared with 2015, industrial production in the Republic of Serbia increased by 4.7%. The volume of industrial production in 2016, compared with 2015, saw a growth in 20 divisions, with a share of 79% in the structure of industrial production, and a fall in nine divisions with a share of 21%. Observed by sections, in 2016 compared with 2015, the following trends were recorded: section of processing industry – increase of 5.3%, section of mining and quarrying – increase of 4.0% and section of electricity, gas, steam and air conditioning supply – increase of 2.7% (The Statistical Office of the Republic of Serbia). Data on industrial production by MIGs (the main industrial groupings - MIGs) in 2016 compared with the previous year expressed growth in the production of: durable consumer goods (9.5%), intermediate goods, energy excluded (9.1%), non-durable consumer goods (4.2%), energy (1.9%) and capital goods (1.6%) (See Table 1). The largest influence on industrial production growth in 2016, compared to 2015, had the divisions of manufacture of food products, manufacture of chemicals and chemical products, production of electricity, manufacture of rubber and plastic products and manufacture of tobacco products (Statistical Yearbook of the Republic of Serbia 2017, p. 273). Processing industry and within it primarily manufacture of food products shows a trend of growth and an increase in the share in the total production of the Serbian economy. That is why we consider it to be a promising sector for future higher investment. By investing in modern equipment and by knowledge-based investment, the processing industry has the opportunity to multiple increase profits. Also, the increase in production volume creates the potential for the growth of exports of products from this sector of the economy.

*Table 1: Base indices of industrial production by MICS and sections, 2012–2016,
2010 = 100*

	2012	2013	2014	2015	2016
Energy	98.9	112.0	92.5	108.1	110.0
Intermediate goods, energy excluded	97.6	96.2	93.1	98.5	107.4
Capital goods	112.6	143.7	137.8	142.1	144.3
Durable consumer goods	88.1	100.0	100.4	101.5	111.1
Non-durable consumer goods	101.7	98.3	99.1	104.2	108.6
Industry total	100.2	105.6	98.8	107.1	112.1
<i>Processing industry</i>	<i>98.9</i>	<i>103.5</i>	<i>102.1</i>	<i>107.7</i>	<i>113.3</i>

Data source: Statistical Yearbook of the Republic of Serbia 2017, p. 276.

*Table 2: Indices of industrial production by economic activities, 2012–2016,
previous year = 100*

	2012	2013	2014	2015	2016
Processing industry	99.1	104.8	98.6	105.3	105.3
Processing of food products	100.7	95.4	104.5	100.1	106.0
Processing of beverages	103.4	92.7	99.5	104.6	99.9
Processing of tobacco products	93.3	92.7	97.5	157.7	122.6
Processing of textile	98.1	97.7	80.7	124.6	84.8
etc.

Data source: Statistical Yearbook of the Republic of Serbia 2017, p. 276.

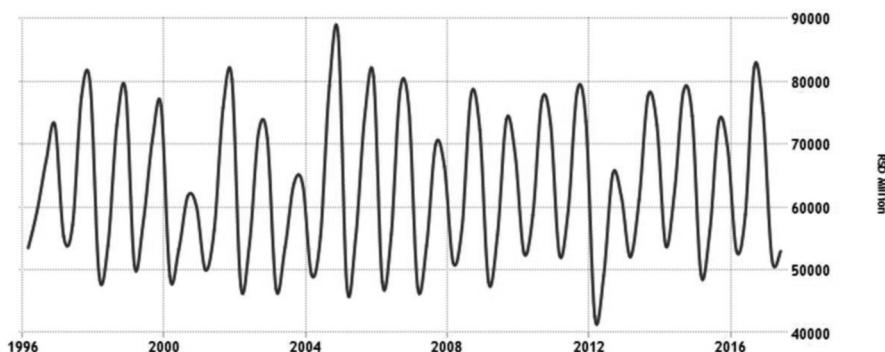
According to the indices of industrial production by economic activities since 2012 (See Table 2), the processing industry total industrial output has been on a relatively steady growth path. The production level fell continuously for one year (2014) when it was more than 6 percentage points below its former peak and then reached its highest value in 2015 and 2016. Accordingly, the indicator steadily increased again in the last two years and regained and exceeded the pre-crisis value.

When distinguishing between the main processing industries groupings the growth rates in different industry groups of the processing industry in Serbia had been also on a growth path. We paid a special attention to the processing of food products, beverages, tobacco products and textile which we consider to have the greatest chances to maintain a positive growth trend in the future years.

AGRICULTURAL PRODUCTION

Serbia has favorable natural conditions for the cultivation of a variety of agricultural products. In 2016, the share of crop production in the total value of agricultural production equaled 66.6% and that of livestock production equaled 33.4%. When compared to 2015, the net index of the physical volume of agricultural production increased by 8.3%. In relation to the previous year, crop production increased by 18.9%. Within crop production, the value of crop farming grew by 24.7%, while the values of fruit growing and viticulture fell by 3.9% and 14.5%, respectively (Statistical Yearbook of the Republic of Serbia 2017, p. 235). Especially in recent years, positive trends in the production and export of fruit have been observed. Horticultural activity in Serbia is characterized by the absence of significant shifts in production and sales, despite the comparative advantages that Serbia has (natural conditions, tradition, position, trade agreements, labor force, etc.), and so far it has not been able to exploit them. Insufficient customs protection, low level of knowledge about new technologies with insufficient investment potential and a short market chain that usually ends up in local markets has affected unfavorable trends in this business.

In 2016, arable land participated with 75.5% in the total agricultural area, fruit plantations/orchards with 4.8%, vineyards with 0.6%, permanent grassland with 10.0% and pastures with 9.0%. In the structure of sown arable land areas cereals participated with 67.9%, industrial crops with 15.7%, vegetables with 2.6%, and fodder crops with 9.1%. When compared to 2015, in 2016 the total production was recorded to increase for wheat by 18.8%, maize by - 35.2%, sugar beet – by 22.9% and sunflower – by 42.1% (Statistical Yearbook of the Republic of Serbia 2017, p. 235).

Graph 1: GDP from Agriculture in Serbia

Source: Tradingeconomics.com and Statistical Office of the Republic of Serbia.

The importance of agriculture in the economy of Serbia and other countries is measured as the value added of the agricultural sector as a percent of GDP (see Graph 1). According to the World Bank data for Serbia, the average value for Serbia during the period from 1995 to 2015 was 14.02 percent with a minimum of 8.18 percent in 2015 and a maximum of 21.34 percent in 1996. The future of Serbia probably lies in the development and modernization of agriculture.

SECTORS OF THE SERBIAN ECONOMY WHICH ARE SUITABLE FOR CHINESE INVESTMENTS

Increased interest in cooperation in the field of agriculture between China and Serbia is indicated by signed agreements in this area, such as:

- Memorandum of understanding between the Ministry of agriculture, forestry and water management of the Republic of Serbia and the general authority for quality control, inspection and quarantine of the PR of China on cooperation in the field of protection of the health of animals, plants and food safety, signed in 2007
- Protocol on phyto-sanitary conditions for wheat imports from the Republic of Serbia to the PR of China between the Ministry of agriculture, forestry and water management of the Republic of Serbia and the general authority for quality control, inspection and quarantine of the PR of China, signed in 2007
- Agreement on cooperation in the field of agriculture between the Ministry of agriculture, forestry and water management of the Republic of Serbia and the Ministry of agriculture of the PR of China, signed in 2007.

However, after this initial momentum, the focus has been shifted to other areas of cooperation so that the field of agriculture and processing industry remained just at the starting point. In the near future, the focus should be given back to these

areas of cooperation. Our recommendation is to make joint efforts to revive and increase agricultural production and processing industry.

Serbia is the 73rd largest export economy in the world and the 42nd most complex economy according to the Economic Complexity Index (ECI). The product space is a network connecting products that are likely to be co-exported and can be used to predict the evolution of a country's export structure. The economy of Serbia has an ECI of 0.317 making it the 42nd most complex country. Serbia exports 289 products with revealed comparative advantage.³ In 2015, Serbia exported \$14 billion and imported \$18.2 billion, resulting in a negative trade balance of \$4.18 billion. In 2015 the GDP of Serbia was \$37.2 billion and its GDP per capita was \$14.1k.

The top exports of Serbia are cars (\$1.3 billion), corn (\$564 million), insulated wire (\$481 million), rubber tires (\$411 million) and frozen fruits and nuts (\$381 million), using the 1992 revision of the HS (Harmonized System) classification. Its top imports are vehicle parts (\$870M), crude petroleum (\$709 million), petroleum gas (\$570 million), cars (\$567 million) and packaged medicaments (\$538 million) (The Observatory of Economic Complexity).

The top export destinations of Serbia are Italy (\$2.1B), Germany (\$1.66B), Bosnia and Herzegovina (\$1.08B), Russia (\$752M) and Montenegro (\$638M). The top import origins are Germany (\$2.15B), Italy (\$1.76B), Russia (\$1.59B), China (\$1.3B) and Hungary (\$1.02B) (The Observatory of Economic Complexity).

Table 3: Republic of Serbia Balance of Payments, 2007-2016, direct investment (millions of EUR)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
A	-2,528	-2,486	-2,068	-1,133	-3,320	-753	-1,298	-1,236	-1,804	-1,899
B	691	226	32	145	225	256	250	264	310	228
C	3,219	2,711	2,100	1,278	3,544	1,009	1,548	1,500	2,114	2,127

A - Direct investment, net (=assets - liabilities)

B - Net acquisition of financial assets

C - Net incurrence of liabilities

Source: National Bank of Serbia, Balance of payments of Serbia, 2007-2016 (BPM6).

In order to develop a more favorable environment for foreign investments, Serbia has adopted a number of laws and regulations. In 2002, it passed the Law

³ Meaning that its share of global exports is larger than what would be expected from the size of its export economy and from the size of a product's global market.

on Foreign Investments, and in 2005 a new Law on Foreign Trade was voted. In 2006, the Law on Foreign Exchange Operations entered into force, and the same year the Strategy for the Promotion and Development of Foreign Investments was adopted, as well as the new Constitution of the Republic of Serbia, which guarantees the rights of foreign investors and provides freedom of investment. Despite these measures after 2006, there is a decline in the inflow of foreign direct investments in Serbia (see Table 3, 4 and 5). The decline in inflows can in part be explained by the global economic crisis, but also due to the poor macroeconomic and institutional environment. However, the most significant impact was the slowing down of the privatization process in Serbia since the most foreign capital was invested through privatization (Novaković & Rapaić, 2014, pp. 170-175). In 2015, the Law on Investments entered into force in order to further liberalize international business and to accelerate the inflow of foreign investments.

Table 4: Republic of Serbia: Foreign Direct Investments, net (=assets - liabilities) 2010-2016, mil EUR

Source: National Bank of Serbia, Foreign direct investments, by country, 2010-2016 (BPM6).

	2010	2011	2012	2013	2014	2015	2016
Total	-1,133.411	-3,319.626	-752.829	-1,298.135	-1,236.298	-1,803.794	-1,899.175
China	-1.972	-5.965	-1.028	0.425	-82.530	-24.110	-68.171

Table 5: Republic of Serbia: Net Foreign Direct Investments Liabilities, 2010-2016, mil EUR

	2010	2011	2012	2013	2014	2015	2016
Total FDI liabilities	1,278.415	3,544.487	1,008.806	1,547.880	1,500.450	2,114.242	2,126.9
Agriculture, forestry and fishing	19.842	30.898	9.225	65.805	-0.330	63.846	43.3
Processing industry	329.439	631.124	521.244	679.199	535.204	721.135	749.5
Food products, beverages and tobacco products	38.023	249.257	157.830	166.181	108.522	122.939	145.7

Source: National Bank of Serbia, Foreign direct investments, net liabilities, by branch of activity, 2010-2016 (BPM6).

THE PLACE FOR CHINESE INVESTMENTS IN THE SERBIAN INDUSTRIAL PRODUCTION WITH TRADE GROWTH EFFECTS

The recommendation for future investments in Serbia would be in the sectors where production, profits and exports are expected to grow.

Trade

The rise of Chinese investments in Serbia in the last decade is the best indicator of the development prospects of the Serbian economy. According to the data of the National Bank of Serbia, in the period from 2005 to 2013, the total net inflows in money from China amounted to 20 million euros. On the list of countries from which Serbia imported goods, China was in fourth place. In the total export of Serbia during 2015, China has participated in 0.1% and in the total imports on the same year 7.3%.

Table 6: Value of trade between China and Serbia, USD 10000

	Total	Exports	Imports
2012	51422	41288	10135
2013	61204	43191	18013
2014	53730	42456	11274
2015	54883	41510	13374

Source: National Bureau of Statistics of China.

For China, Serbia is a trading partner of little significance and value (for trade data see Table 6). If we look at China's trading partners, they, for example, with the European Union achieve an incomparably higher turnover. On the other hand, for Serbia, China has become increasingly important among the most important trading partners. Despite this asymmetry arising from a real economic dominance of China, the two countries have a clear will to improve their economic and trade relations.

Looking externally, Serbia can serve as a manufacturing hub for duty-free exports to a market of more than 1 billion people that includes the European Union, the Russian Federation, the USA, Kazakhstan, Turkey, South East Europe, the European Free Trade Agreement members, and Belarus. This customs-free regime covers most key industrial products, with only a few exceptions and annual quotas for a limited number of goods (Development Agency of Serbia). Serbia is not a member of the World Trade Organization. Serbia has bilateral free trade agreements with the Russian Federation, Belarus and Turkey, and multilateral

agreements with the EU (Transitional Trade Agreement as part of the EU Stabilization and Association Agreement), the Unique Multilateral Free Trade Agreement in South East Europe - CEFTA 2006 and the Free Trade Agreement with the EFTA States. In addition, the USA put back Serbia to the list of beneficiaries of the General Preferential Scheme in 2005.

Serbia sees the People's Republic of China as the most important foreign trade and financial partner in Asia and as a major partner in achieving its strategic economic objectives. Lack of financial resources needed for realization of the planned economic development goals, enables China to invest its own financial resources on favorable terms using the Serbian market openness and good mutual relations permeated with mutual trust and benefits.

Investment in agriculture and processing industry

Serbia has very favorable natural conditions (land and climate) for varied agricultural production, as well as experienced producers, experts and scientists. In the structure of the realized value of the agricultural production 70 percent is from the crop field production, and 30 percent is from the livestock production. For comparison, in the EU 70 percent originates from the livestock and 30 percent is from the crop field production. Serbia's food exports to the world consist mainly of grains, sugar, fruits and vegetables (fresh and frozen), confectionary products and beverages. Serbia has around 5 092 000 ha of agricultural land (0.68 ha per capita), out of which 4 218 000 ha arable land (0.56 ha per capita) and is beyond the EU standards. The most important agricultural products in Serbia are maize, wheat, sunflower, sugar beet, soya bean, potato, apple, plums, grapes, pork meat, beef, poultry meat and dairy. Agriculture is the most important sector in the Republic of Serbia, which in the GDP participates with around 17 percent, as follows: Agricultural production 10.6%, Food industry 6.4% (Chamber of Commerce and Industry of Serbia).

Since Serbia is located at the crossroads of Central and Southeast Europe with fertile Danubian Plain in the northern part of the country and it has a good climate and soil conditions, organic products can be one of the factors of economic development and promotion of a country (Jelisavac Trošić, 2017). According to the data of the Customs Administration in 2015, the total organic products worth EUR 19.6 million were exported. Organic export mostly went to Germany, the USA, Netherlands, Belgium, Austria and Poland. Only one percent of total organic food products are sold on the domestic market. Export has been steadily growing and has risen by as much as 500 percent since 2012. From fruits, the largest export is frozen raspberries and blackberries, as well as fresh organic apples, while most of the exported processed products are apple concentrates, dried fruit, raisins, quinces and blackberries. That is why it is important to develop the processing

industry since the processed products are even more demanding and have a higher value in the foreign market. This sector has a great perspective for development in Serbia, and it is conditioned by the growth in Europe, where the average share of organic soil in the total agricultural land is about 6 percent, while in Serbia it is only 0.44 percent. It is currently one of the sectors with the largest and fastest growth in Serbia. Making high commitment at entry, experimentation, quick assimilation, and utilization of new knowledge seem to be part of the ‘Chinese way’ of internationalization of Chinese private firms, and appear to be critical to their success abroad so it could also be the way to do business in Serbia (Lyles et al, 2014). Serbia with the help of foreign capital should be able to re-industrialize its production and to restore and develop its agricultural and industrial capacity.

CONCLUSION

China and Serbia have good political relations that last for many years. Regarding the economic relations between the two countries, they have a lot of space for improvement. Given that political will and support for the improvement of economic relations between the two countries is currently present, it is the right time to use this favorable climate. Economic relations need to be improved, as there is a large inequality between two economies. Since China is a far stronger partner it gives her the opportunity to invest in Serbia’s economy and capitalize on its potentials. In addition to the already started direction of investment in transport and energy infrastructure, the best way is to invest in production and increase production, especially in those sectors of the Serbian economy that have the biggest chance of experiencing an increase in exports of their products in the near future. The new forms of cooperation should be a concrete project, investments in promising Serbian agriculture and processing industry. Investments in the agriculture and food processing industry would paw the new way of economic cooperation on the win-win basis for both countries.

Further incitement of Chinese investments in Serbia would represent the mutual benefit because they promote the mutual economic cooperation, raises the level of political relations and improves technological exchanges and cooperation. This direction creates the preconditions for the realization of the long-term development strategy of the “New Silk Road” as an undertaking for a common future. Cooperation between the two countries is constantly developing. If the planned is realized, Hesteel Serbia will have an impact on the increase of Serbian exports, and this would be a direction and a good example of what we wanted to emphasize in our work.

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NOVE MOGUĆNOSTI ZA DALJE UNAPREĐENJE EKONOMSKE SARADNJE IZMEĐU SRBIJE I KINE

Apstrakt: Kina i Srbija su poslednjih godina započele nove oblike saradnje u okviru uspostavljenog mehanizma “16 + 1” između Kine i zemalja Centralne i Istočne Evrope. Ova saradnja je mnogo sveobuhvatnija i sadrži brojne već završene i tek planirane konkretne projekte. Kineske kompanije već imaju veliki broj infrastrukturnih projekata u Srbiji, kao i nekoliko značajnih investicija u nekoliko sektora privrede Srbije. Budući da su ti projekti plodonosni, osim produbljivanja postojećih oblika saradnje, bilo bi poželjno da počnu ulaganja u pojedine sektore srpske privrede koji imaju potencijal za rast i razvoj. Pošto je moguće izvoziti iz Srbije u mnoge zemlje sveta, Kina bi imala koristi od proizvodnje u Srbiji. Ulaganja u poljoprivrednu i prehrambenu industriju imaju veliki potencijal za dalji rast ovih proizvodnih sektora i zauzimaju značajno mesto u srpskom izvozu. Na osnovu trendova rasta, prvenstveno u prerađivačkoj industriji Srbije, u radu je dato nekoliko preporuka za industrijsku saradnju između Kine i Srbije.

Glavne reči: Srbija, Kina, EU, investicije, industrija, trgovina, proizvodnja, razvoj.

Received: 28.11.2017

Revised: 19.12.2017.

Accepted: 11.01.2018.

INTERNATIONAL RELATIONS

UDC 341.76(47)Putin V.V.
Biblid 0543-3657, 69 (2017)
Vol. LXIX, No. 1169, pp. 36–50
Review paper

THANK YOU OR TANK YOU THE RISE OF DIPLOMATS IN THE PUTIN ERA (2000-2017)¹

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Abstract: A recent analysis of Russia focusing on the person of Russian President Vladimir Putin's and his psychological profile, though easy to comprehend, does not help to understand the international choices that Russia has opted for in the last decades and prevent us from seeing what Moscow really wants. Trapped in the old narratives of the Red Threat, the West cannot comprehend that today's Russia is not an automatic continuation of the Soviet period, but has developed new priorities and leadership, with different policies and approaches, especially in foreign policy. Instead of accepting the interpretation that Russian politics over the last seventeen years is dominated by Tsar Putin *tout court*, the paper offers a theory of three elites (spies, jurists, diplomats) that have rotated in and out of the Kremlin's top leadership positions during this period; each of them dealing with specific policy objectives. According to this interpretation, we are currently in the middle of the phase dominated by Russian Diplomats and the return of Foreign Policy as a central pillar of the Kremlin's political agenda.

Key Words: Russia, Diplomacy, Foreign Policy, Putin, Kremlin.

¹ There is a large body of recent literature, mostly Anglo-american and of a journalistic nature - that focuses on Putin's psychological profile in negative terms. See: Barbashin and Thoburn (2014); Hill and Gaddy (2013); Aron (2015); Katz (2016). Putin's figure has inspired several monographies. Among them: Gessen (2012), Kasparov (2015); Myers (2015); Zygar (2016).

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The recent publication of numerous articles aiming to analyze Vladimir Putin's psychological profile – in the belief that this approach is enough to explain Russian policies – provides us with a useful opportunity to present the following reflections on the main misunderstandings that are prevalent in Western countries, whenever they look at the Russian universe in order to understand its thoughts (not very successfully) and anticipate its moves (even less successfully).

This exercise is even more useful if we consider the simultaneous publication of other works inspired by a symmetrically opposed observation – again with sharp tones, but this time in favor of Moscow – that there is a rapidly spreading *Russophobia* that dominates the Western mainstream (Tsygankov, 2009; Valle, 2012; Chiesa 2016; Mattan 2016), inevitably fueled by the growing daily narratives of *Russia-gate* in the USA, after President's Trump election.

The following pages do not aim to clarify which of the two opposite sides is to be uncritically embraced, as we believe that nowadays most dialectics of this kind are, by their very nature, ideological and defending radical positions beyond every reasonable attempt to recognize or understand truths in the arguments of the opposite side.

After specifying – through a Weberian premise – that the author of this paper is well placed (also for autobiographical reasons) to look at the socio-political characteristics of contemporary Russia with patient eyes, we shall below list briefly (a complete analysis would require a monographic study) the main current misunderstandings about Moscow that have developed in Western countries.

The main, and final, objective of this exercise is to avoid those simplistic interpretations – such as the very concept of Putin as the *alfa-omega*, the beginning and the end of the Russian universe – that are useful to quickly communicate with wide, absent-minded public opinions, but end up confirming pseudo-theories about Russia being unavoidably different and irrationally aggressive on the international level, permanently locked in an old-style cold war attitude. These interpretations prevent us from understanding what Moscow really wants to achieve and hampers our ability to work with the Kremlin on establishing a decent framework for agreement on the new World order.

WHAT REMAINS OF THE OLD GOOD RED THREAT

The main misunderstanding – 'main' because it generates many more misunderstandings in its turn – concerns the evaluation of how much of contemporary Russia can be ascribed to Soviet times and how much derives from a different political evolution that has taken place in the last 25 years.

Despite well-established methodologies in the social sciences over the last decades that should prevent such generalizations – this issue is still approached with too much emotion and political prejudice.

Due to a series of convenient circumstances, both political and cultural, the choice has been to interpret events in terms of a complete continuity with the past and to assume a total, automatic, overlap between the logic of the Kremlin's actions in Soviet times and now.

Among the (banal) **cultural reasons** for this mistaken interpretation, there is also the difficulty of the West to find new expertise on Russian affairs that has developed independently from the studies on the USSR. This is also due to the insufficient investment on research and studies on Russia promoted in the '90s when the geopolitical importance of the country was greatly diminished (Yalowitz and Rojansky, 2014).

An entire generation of scholars and analysts was lost, so much that the Kremlin's actions are commented on by experts of the Soviet period still obsessed with cold-war interpretations, or dealt with using banal daily-news narratives.

The resulting reports are not necessarily wrong, but they do not contribute much to understanding what is new in Moscow.

The prejudices that accompany these beliefs lead us to assume, *ex ante*, that Moscow is to blame for triggering every crisis and *ex post*, that Russia's involvement will only make the situation worse, instead of improving it.

As simplistic as this assumption might sound – it is surprisingly still widespread throughout western academia.

On the other hand, the political reasons for this unwillingness to accept contemporary Russia as something different from the USSR are less casual, more sophisticated, and correspond to a strategic choice, i.e. the need of Western political systems to find an external predictable enemy, which is easy to identify and present to domestic audiences – in order to overcome the new fissures that are opening within Western societies.

From this perspective, Moscow looks like the perfect enemy because it is: a) traditional, due to its long history of opposition to the West; b) institutionalized, because it is used and prone to fighting and negotiating according to consolidated schemes; c) autarchic, because it is ready to take on an oppositional role for long periods; but, above all: d) easy to communicate to the Western public opinion, which is especially important at a time during which identities are increasingly in flux and publics are increasingly questioning their relations with their respective political and institutional establishments.

In other words, Russia is a reassuring enemy, the 'Devil you know'; it is preferable to other threats, from Daesh to various forms of terrorism, which are much more disturbing insofar as they are difficult to circumscribe and define; so much that their roots are in those very Western societies they fight against.

The old channels of the anti-Soviet mainstream, which is often still alive, have encouraged European and American institutional political communication to switch

from the rhetoric of the ‘Red Threat’ to that of the ‘Russia Threat’: a very short step, easily put into practice.

The inclusion of Eastern countries into the European Union has not softened European and American anti-Russian stances, despite the fact that their inclusion into Europe itself was obtained in Moscow thanks to the approval and co-ordination of the Kremlin, as Romano Prodi (2014) has reminded us during his most recent visits to Moscow.

Some EU founding countries – France and Italy among them – soon abandoned the belief that the new members (above all, Poland and Baltic countries) would bring greater expertise about Russia to the fore thanks to their historic closeness and sometimes common cultural roots. Instead – these countries took Europe’s positions to the extreme. In the wake of their negative experience and obsession with Soviet times, these countries sought out open confrontation with Moscow, then waved the predictable Russian reaction as evidence of Moscow’s treachery in front of the eyes of the astonished EU older members, thus lobbying to make Europe’s anti-Russian positions even more negative.

From this perspective, it is no surprise that with the Middle-East ablaze, NATO gave priority to discussing military deployments in the Baltics (Karaganov, 2016); or that Merkel, in the middle of an unprecedented migrant crisis, thought it was more important to implore German citizens to stock food in case of—among other things—a military conflict with Russia. It is even less surprising that a 2015 survey found that Londoners considered Russia to be a bigger threat than British educated Islamic extremists, who have flocked to Syria to wage Jihad (Kendall, 2015). As if Russian oligarchs residing in London were busy planning terrorist attacks against the heart of the City.

Thus the contemporary ‘Russia Threat’ rhetoric continues to move along the same trajectories that once belonged to the ‘Red Threat’. While the underlying reasons for this are mainly political, the basic problem is that they create various distorted perceptions. Being widespread on intermediate levels, they end up being difficult to eliminate, influencing not only public opinions, but the very (micro) politics of the West, and increasing the perception gap between Russia and the West.

In particular, we would like to stress two main distorted perceptions in return, referring to a) the way and the instruments with which Russia interacts internationally and sets its foreign policy; b) the structure of institutional power on which Russia bases its policy implementation.

MEASURED REACTION VS. OVER-REACTION

During the main crises that have taken place in recent years (from Syria, since 2012, to Turkey, to sanctions and the various anti-doping scandals), on several

occasions Moscow, surprisingly, did not immediately respond instinctively and militarily. On the contrary, the Kremlin's response has been measured and focused on political negotiation—most of the time offering concessions to the opposing side. This runs counter to the well-established Western myth of Russia's propensity to over-react and retaliate, which is seen as an essential feature of the emotional and the vindictive Slav spirit. In fact, for Russia the use of military power lost their primary role, becoming the last resort rather than the first choice for Russian leaders.

Although often evoked by the West – the cliché of a “*Tank-you*” style over-reaction of the Russian bear has materialized very rarely. Instead, Russia has responded with deft and measured diplomacy. It has shown that it can work constructively with a variety of actors to address complex and disparate scenarios — from Iran to Saudi Arabia and Turkey; from Israel to Hamas and Hezbollah; from Libya to North Korea.

It is interesting that this shift to diplomacy and negotiation in foreign policy is (paradoxically) taking place during the 100th anniversary of the Bolshevik revolution, which was known for its violence and radicalism.

This makes it is even more difficult for the West to acknowledge that this change of attitude is real.

Russia's emphasis on diplomacy is designed to advance its national objectives and interests, which are overtly declared in the first place with an almost naive Russian diplomatic narrative. This frankness is opposite and alien to the narratives of Western foreign policies, which, on the other hand, are busy justifying every *realpolitik* action they take by appealing to the universal values they created — values that turned out to be political golden cages.

Western countries seemed surprised and fell into the trap of making the discussion more aggressive – often using rhetorical tones that were, frankly, a bit coarse – as if they were nostalgically looking for a conflict with the *Red Bear*; like in good old times, when a blunt, obtuse *Niet* from Moscow was a cliché to recite like a mantra on this side of the Iron Curtain.

Lacking arguments that could appeal to public opinions (and voters) that were becoming more skeptical and disillusioned, mainstream Russia watchers again focused on the fear of the “Red Threat” and the Kremlin's obscure intrigues, as was the case with accusations that Moscow was working to engineer the collapse of the EU – incidentally, nothing more alien to Russian national interests; or that it was clandestinely supporting Donald Trump in the race for the US Presidency, through among other things, hacking into Clinton's emails.³

³ On a side note the author remains unconvinced by the evidence thus far provided to support the “Russiagate” narrative in the West and, especially the assertion that Russian activities were designed to sway the elections in favour of Trump. The author is convinced that if such activities did indeed

On the other hand, this negative over-exposition of Russia and its President in Western media has not always had the hoped-for delegitimizing effect. The unanticipated effect of continuously underlining Vladimir Putin's authoritarian decision-making has created the myth of Putin as a charismatic leader in the mind of Western masses, as opposed to weak European and American leadership, so aloof in their bureaucratic short-circuits and internal political tactics.

If Putin is perhaps the only current establishment leader that can enjoy the respect rather than disillusionment – if not sarcasm – of wide sectors of public opinion (not just in Russia), the reason also lies, paradoxically, in the overdose of Western anti-Russia mainstream rhetoric.

In their rush to develop a narrative about the dangers of “*fake news*” coming from the East – the Western political establishment have under-estimated the problems that are facing many of its “*fake leaders*”, who face a crisis of legitimacy and credibility that has few precedents in the European history of the last two centuries.

It took a long time to understand – and still not all media in the West have – that constantly portraying Putin as a decisive, macho leader and criticizing him for his lack of political correctness or support for some of the issues advocated by Western populist movements has not really weakened his popularity, but instead added to his image as a charismatic leader in the eyes of Western publics that yearn for a new De-Gaulle or Brandt for the new millennium.

Indifferent, but also annoyed by the excessive criticism it is exposed to, in any case, contemporary Russia has not responded by easily resorting to the issue of force or coercion, which would have been typical of the Western stereotype of the Kremlin being traditionally ‘trigger happy’.

Russian foreign policy has invested in the use of those means of persuasion – pressure- conditioning, commonly included in the definition of soft power (Daugherty, 2013, Pellicciari, 2015).⁴ This goes against the ‘*Tank you*’ expected (and possibly even hoped) by the theorists of Russia as a country always prone to attack – despite, we may add, it historically has been mainly obsessed with defense.

To do so, on the one hand, Russia has resorted to classical means and methods of intervention, such as using energy supplies as a geopolitical instrument and acting as a catch-all donor by allocating aid to strategically interesting countries and political

take place they were not all that exceptional (as most States conduct such activities in other States, even during election time) and that they were mainly oriented at weakening and delegitimizing Clinton's eventual presidential mandate, which most Russian observers saw as the most probable outcome of the US election. A weakened and delegitimized Clinton presidency was, at the time, seen as the best case scenario for Russian diplomacy.

⁴ On the basic foundations of Russian forcing politics in transition, Tsygankov (2016); Mankoff (2009); Gorodetsky (2003). For Russian politics in the Balkans see: Headly (2008).

actors. On the other hand, Russia adapted itself to using traditional Western means, even making use, when necessary, of the tactics of its Western adversaries.

This is demonstrated by counter-sanctions and the re-launching of media addressed to foreign countries (whereby Russia Today and Sputnik⁵ have taken the place of the old Voice of Russia, with an angle that is directly addressed to Western publics), up to marketing campaigns and tourist promotions abroad that aim to convey the image of a happy, optimistic country – whose ideological manifesto were, in a way, the games in Sochi.

The significant costs of all these tools do not prevent Moscow from using them, despite the economic crisis triggered by Western economic sanctions, the fall in the price of oil over the last few years, and (consequently) the devaluation of the Ruble.

Unlike American foreign policy – which always keeps an eye on costs with a military industrial complex largely in private hands – Russia sticks to old habits. From the Soviet period, Russia has inherited a culture of the public expense that prioritizes geopolitical objectives over the necessary costs to attain them. The most recent evident example of this attitude is Moscow's active involvement in facilitating the end of Iran's international isolation. This despite the fact that Iran's return to World energy market has had deleterious effects on oil prices and further contributed to the weakening of the Ruble. Despite these considerable costs, Moscow has nevertheless decided to go further to help the international rehabilitation of Iran.

Paradoxically, even though it considers modern-day Russia to be the “heir” to the USSR, the West has not fully grasped that the “whatever-it-costs” approach in foreign policy continues to be an important element of continuity with the Soviet past.

This mistake has been paid with the failure of the main objective of sanctions: changing Russian foreign policy, and starting a crisis, first economic, then political, which aimed to change the leadership of the country.⁶ Instead of planning hardline military retaliation against the West, Moscow has used this chance to launch its own program of (counter) sanctions, carefully and rationally designed to support the protected re-birth of some domestic markets, mainly in the sphere of tourism and agriculture. From being traditionally an instrument used as the last step before a military confrontation sanctions have now become a first step alternative to military action. Moreover, they are introduced to stay for a long time – even when the conditions that have justified their introduction are gone - and if need be can coexist with an environment of good bilateral relations with the recipient country.

⁵ See the following websites: www.rt.com and www.sputniknews.com.

⁶ On the main trajectories of the relations between Europe and Russia, see Johnson (2005); Nicchia (2008); Gomart (2008).

THE THEORY OF THE THREE ÉLITES: SPIES, JURISTS, DIPLOMATS

As far as the institutional structure is concerned, the toughest prejudice to overcome is accepting that the Russian political system is well-rounded, for sure hard to understand, but not impossible to understand. And the simplistic interpretation of a ‘Tsar ruling alone’ – even better if he is a moody tyrant – shows its limits every time it is recalled to explain the Kremlin’s latest decision in foreign or domestic policy. When in the past the information coming out of Russia was relatively sparse, this approach could be used from time to time. Now that relevant information is readily available, it shows its limits and negative side effects.

Western countries have always struggled to understand the dynamics of Moscow’s decision-making and those of the relations between Russian power élites. The attention focused on the Emperor has often concealed the lack of first-hand news about the Empire and has made us forget that in large countries like Russia the destiny of the latter is always more important than the destiny of the former.

The direct evidence of this lack of understanding is the interpretation of the last seventeen years of Russian political history since, on 31 December 1999, Vladimir Putin took Boris Yeltsin’s place as the President of the Russian Federation, at the end of a very rapid turnover – incidentally, yet another one that Western countries did not expect and that caught them unaware.⁷

According to those who embrace a person-oriented interpretation, Russia’s last seventeen years have been dominated by Tsar Putin *tout court*, without adding any further explanations (Gessin, 2015; Kasparov, 2015; Zygar, 2016).

It is a direct representation, easy to comprehend, which, however, does not help to understand several public policies and international choices that Russia has opted for in the last decades.

We believe instead that in the aforementioned period there have been three public functions played by distinct groups of élites rotating in and out of the Kremlin’s ruling positions. Though distinct the three groups of elites were not opposed to one another, but rather operated in synergy and each group assumed the prominent “front-runner” position in the government as required by the governmental priorities of the moment.

The first élite that was appointed to lead the country was from the intelligence services, in the first five years of Putin’s era (the indication is obviously approximate), that is, from 2000 to 2005 (Kryshtanovskaya and White, 2005).

This group was appointed in the most important and most visible role to establish domestic security ‘the Russian way’, that is, as a reaction to the perception

⁷ On the Russian history of the last decades, see, among other: Kotkin (2001); Dutkiewicz and Treni (2011); Gorham (2014); Kotz (2007).

at the end of the '90s that the state was dominated by hard-liners liberal economists inspired by Gaidar (Wedel, 2001), and was close to collapsing and being sold off to foreign subjects.

The *modus operandi* that was chosen was deeply rooted in the Soviet period, since the choice fell on the representatives of one of the main élites of the Russian public administration, that is, the intelligence community (the *razvedchiki*) (Kryshtanovskaya and White, 2005).

This passage of recent Russian political history is the one that is best known and most visible to the West, and the fact that Putin came from the ranks of the service contributed to the creation of a series of negative narratives that linked him and the ruling elite to the stereotype of the 'spies that came in from the cold' of Soviet times (Harding, 2011).

What the West has not grasped yet is that this phase was limited in time, and the fact that Putin is still the leader of the country does not mean that Russia is just as simply 'ruled by the KGB', an idea that the West is still trying to validate.

Though cadres from the intelligence services still continued to play an important role in leading the country, in the next five-year period (2005-2010), they ceded front-leadership to the emerging category of jurists, who started to take the most high-ranking positions (Monaghan, 2012).

They were faced with the task of the new emergency that followed, that is, (re)creating a middle-class that was satisfied and, therefore, conservative (until then it has been almost non-existing and crushed by the '90s gap between the rich and the poor) so as to consolidate the legitimacy of the Russian political leadership (Sakwa, 2007).

As Russia was, by tradition, culturally dominated by bureaucratic formalism and hyper-regulation, and witnessed the rise of oligarchs as the consequence of wild deregulation – which was recommended by Western aid to foster free markets (Rutland, 2013) – state jurists seemed the best subjects to grant the introduction of (some) rights and (many) rules to encourage the redistribution of income in favor of the middle class.

Rather than adopting economic and structural reforms – which were postponed time and again – the country reached its stability by developing a State subject to the rule of law, with limited participation (a hybrid model of liberalism with little democracy), that still persists. This model looked more similar to some Liberal European States from the beginning of the XIX century (such as Giolitti's Italy) than to the recurring Western narrative of the 'dictatorship of spies' mentioned above.

This second phase – which played itself out well before the patriotic solidarity that followed the Ukrainian crisis – resulted in the strengthening of the leadership in the eyes of the population and established a real majority consensus in the country.

The West would not acknowledge these changes, and for several years would continue to comment on the Russian leadership as if it was a group of ‘praetorian spies’, distant and insensitive to the people’s requests, which has to manipulate the result of the elections to cling to power and which will eventually be wiped away by increasing, unstoppable grass-root opposition.

At the same time, the West would not abandon the stereotype of Moscow as the ‘dark city’ of the Evil Empire and failed to acknowledge the impressive urban and cultural renaissance experienced by the biggest European city, the real beating heart of a huge country with a hyper-centered political and administrative organization.

In the meantime, once it was made sure that Ivan, the civil servant (*apparatchik*)’ was socially put back at center stage and released from the humiliations endured during the oligarchs’ period (the public pillory reserved to Khodorkovsky is only the most striking example), the Kremlin moved on to the new political objective that will characterize the third five-year period, that is, the current phase that began in 2012 (ideally with the end of Medvedev’s Presidency).

This phase is dominated by Russia’s strategic decision to restore its historical role – on an international scale – that, rightly or wrongly, it thinks it deserves: to return to being the main interlocutor, if not a competitor, of the US.

Among the three objectives of the government in the fifteen years under analysis, this one directly involves the foreign policies of the country, which occupy again the heart of the political agenda after two decades in which the domestic dimension was primary.

As a consequence, the third élite emerging on center stage are diplomats, another top function in the Russian public administration. By diplomats we mean not only the personnel of the powerful Ministry of Foreign Affairs, but also the graduates of the MGIMO State University – the prestigious, isolated ‘Grand École’ that has now regained its former glory.⁸

Career diplomats also take on positions at the top of the Ministry, thus creating an efficient functional osmosis between the political level and the administration. Moreover, when they are sent to the main reference embassies, their mandate is uncharacteristically longer and they are involved in prior consultations with the Presidential Administration, the real political and constitutional heart of the Federation’s policymaking. Incidentally, MGIMO graduates and personnel seconded from MID have risen to several key positions– from discreet but ubiquitous Yuri Ushakov, the main counselor for foreign policy, to Anton Vaino, the head of the administration, to his deputy Vladimir Ostrovenko to the President’s spokesman Dmitry Peskov.

⁸ MGIMO is the acronym of Moscow State Institute of International Relations; it is a Russian university founded in 1943 as a MGU faculty - Moscow State University (see <http://mgimo.ru/>).

This happens both on the multilateral level (before becoming the Minister of Foreign Affairs, Sergey Lavrov was the Russian Ambassador at the UN in New York) and on the bilateral one: the Kremlin's main decisions in foreign policy have witnessed a growing, precise, direct involvement of embassies and ambassadors the likes of Sergey Razov (in Beijing for a decade, now in Rome), Vladimir Chizhov (in Brussels for over 10 years), Alexander Yakovenko (in London since 2011), Vladimir Grinin (in Berlin since 2010), Alexey Meshkov (in Rome for a decade, now in Paris after having served as vice-Minister of Foreign Affairs with the crucial mandate for European Affairs), etc.

According to the above interpretation, we are currently in the middle of the phase dominated by the Russian Diplomats and the return of Foreign Policy as a key element of the Kremlin's political agenda.

The return of the diplomats to the core of public administration does not imply the demise of the other two élites (Intelligence personnel and Jurists), who continue dictating Russia's domestic political course of action.

Rather, their growing influence is functional: to affirm and fine-tune the technical use of those instruments of foreign policy mentioned above. This clearly contradicts some of the stereotypes most rooted in Western governments, preventing them from understanding not only Moscow's final objectives but also the meaning of its intermediate moves.

In the last three decades, the Kremlin has been intensively working on its foreign policy and especially after the Ukrainian crisis, it started developing bilateral contacts with each Western actor individually at an unprecedented rhythm – despite, or maybe, thanks to the hostility of the EU and NATO.

From Iran to North Korea, Palestine to Turkey and Syria – Russian diplomats are sent to different hot spots to “find-a-deal-and-mediate” with a political mandate stronger than ever.

CONCLUSION

The Western approach to understanding Russia has almost exclusively focused on the charisma and psychology of the *Tsar*. Moreover, political and cultural factors make it easy for Western observers to simply fall back to the traditional anti-Russian and cold-war rhetoric in framing their analysis. This prevented them from recognizing the important evolution that has taken place in the Russian political system over the last 20 years and consequently hampered their ability to understand Moscow's policies.

The 20 years of Putin legacy can also be seen as the synergistic work of three elites, namely the Intelligence personnel, the Jurists and the career Diplomats. Each of these groups has taken the front-running position in the political structure (while

being backed by the other two) according to the policy objectives of the moment: namely to reestablish domestic security (2000-2005); develop a middle class and a Rule of Law system (2006-2011); and finally, to regain international prestige (2012-today)

According to this interpretation, we are currently in the middle of the phase dominated by the Russian Diplomats and the return of the Foreign Policy as the key element on the Kremlin's political agenda. This explains both Russia's revived activism at the global level and also its inclination to respond to crises through diplomacy rather than through traditional military means.

After the shooting of the Russian Jet at the Turkish-Syrian border; the killing of Andrei Karlov, the Russian Ambassador in Ankara; the post-Crimea scenario; the Olympic doping scandal; the permanent tensions with the Baltic states, the Russia-gate scandal in the USA, etc. - the West has often been surprised (sometimes even giving the impression of being disappointed) to see that Moscow has not responded with military actions\retaliations but has instead used diplomatic instruments and tools such as Aid and Sanctions to support its friends and punish its adversaries.

Trapped in the old narratives and the rhetoric of the 100th anniversary of the Bolshevik Revolution, the West is unable to comprehend that today's Russia is not simply an automatic continuation of the Soviet Union but has rather developed new priorities and leadership, with different policies and approaches.

The dominant stereotype of the Red Threat is useful in giving a clear and predictable narrative to the confused Western public opinion. However, it does not help us understand Russia's real foreign policy objectives and prevents us from working on what really matters: the preparation of a future framework of Russia-West relations that will help us avoid conflict and competition and begin managing larger global governance problems we must all face.

On the contrary, Western research and analysis of Russia have not advanced past the Sovietology of the Cold War period. It remains obsessed with divining *what's-in-the -mind* of the Tsar and mapping the narrow interest groups active in the Kremlin, with a very poor understanding of the current constitutional and policymaking mechanisms of the country.

As a result, Western analysts are almost always taken by surprise by changes in Moscow political orientations and leadership. They are left to comment on events after they have happened and are very rarely able to forecast them.

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Igor PELLICCIARI

HVALA ILI — USPON DIPOMATA U PUTINOVOJ ERI (2010-2017)

Apstrakt: Skorašnje analize Rusije sa fokusom na ličnost ruskog predsednika Vladimira Putina i njegovog psihološkog profila, iako lako razumljive, ne pomažu u razumevanju međunarodnih poteza Rusije u poslednjih nekoliko decenija i onemogućavaju da vidimo šta Moskva zaista želi. Savremeni Zapad ne može razumeti da današnja Rusija nije automatski nastavak sovjetskog perioda, nego država sa novim prioritetima i vodstvima, sa različitim političkim i spoljnopoličkim pristupima. Umesto prihvatanja aktuelnog tumačenja da ruskom politikom u poslednjih sedamnaest godina dominira car Putin, rad nudi teoriju tri elite (špijuni, pravnici, diplomate) koji su se smenjivali na glavnim rukovodećim položajima u Kremlju, baveći se određenim političkim ciljevima.. Prema ovom tumačenju, trenutnu fazu karakteriše dominacija ruskih diplomata i vraćanje spoljne politike kao centralnog stuba Kremlja.

Ključne reči: Rusija, diplomatija, spoljna politika, Putin, Kremlj.

Received: 20.12.2017.

Revised: 10.01.2018.

Accepted: 25.01.2018.

THE POLITICS AND SOCIETY OF SOUTH ARABIA – A DREAM THAT TURNED INTO A NIGHTMARISH REALITY

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Abstract: In its broadest sense, this paper deals with the socio-political situation in one of the World's most fragile and unstable states – Yemen. The first part of the paper gives a review of the socio-political situation in the pre-unification period, with a focus on the explanation of some regional differences in this highly fragmented society. The second part deals with the difficulties of the post-unification period during which tensions in Yemen gradually grew and eventually led to a full-scale war that started in 2015. The third part is a review of the situation from the start of the political turmoil until the present day.

Yemen is the least known of all Arab states and the situation in it is often misunderstood or oversimplified. For this reason, the goal of this paper is to shed light on the entangled Yemeni socio-political dynamics in order to help the understanding of the present political context in this country.

Keywords: Yemen, PDRY, YAR, unity, war, history, society, politics.

INTRODUCTION

In these times of increased political tensions and instability, challenges for World's security are numerous. Problems with terrorism, growing tensions between the United States and Russia, concerns about North Korea's nuclear program, etc. are all undoubtedly very important issues, but at the same time, a shadow is undeservingly cast over some huge problems in other parts of the planet. One of these chronically neglected areas is Yemen, which has been dealing with a disastrous war that led to a catastrophic security and humanitarian situation in this region.

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United in 1990, for the first time in its history, Yemen is still struggling to create and maintain at least some sort of political stability. Earlier in history, the unification of South Arabia was considered an unfulfilled dream of Yemeni people. Culturally, politically, religiously, geographically and in many other ways divided, people from this part of the World consider themselves to be the descendants of Qahtān, or South Arabians, which makes them a distinct ethnic group from other Arabs. Yet, in spite of the fact that South Arabia was a home to some very powerful kingdoms, it has never been willingly united. Never, until the new winds of World's politics gave Yemenis this opportunity in 1990. Unfortunately, the problems started to show from the very first day and, with some ups and downs, this newly formed Republic gradually slid into a chaos which turned Yemen into some of the world's most fragile and failed states, along with Somalia, South Sudan, Sudan and the Central African Republic (library.fundforpeace.org, 2016).

In this paper, I intend to review Yemen's highly heterogeneous society and deal with the failure of the unification process in the early nineties and gradual growth of the tensions between different political actors. Ultimately, I will analyse the actual political situation in Yemen, review its prospects for resolving the crisis and challenge the idea of unity.

THE FRAGMENTED NATURE OF YEMENI SOCIETY

Although making a single, separate, ethnic group, South Arabians were never actually united. Until the early 20th century, even the communication was difficult in this region, due to Yemen's unusual topography. For example, the most populous part of the country, which stretches from the border with Saudi Arabia to the Gulf of Aden, is covered by very high mountain ranges with its peaks reaching altitudes well over 3000m. Further to the east, we have a vast and extremely hot desert with a fertile valley Wādī Hadramawt, which is another regional centre of South Arabian culture, situated in the middle of it.

Also, there is a number of local cultural specificities that influence the socio-political sphere in today's Yemen. For example, north-western parts of Yemen are home to *Zaydiyya*, a third largest branch of Shia Islam. With a population of between 8 and 10 million people (rough estimation), it is the only significant Zaydi population in the World. Being doctrinally closer to Sunni Islam than other Shia branches, Zaydi Islam has itself never been a cause for religious tensions, but it did help create a very specific local society. Founded in the 8th century by Zayd ibn 'Alī (698 – 740), Zaydi Islam found its way to Yemen in the following century, when it was brought there by Yahyá ibn al-Husayn, after being invited to arbitrate between the local tribes. There, he took the title Hādī ilá al-Haqq and formed a branch of Zaydi Islam that is called after him al-Hādawiyya. It was adopted by tribal sheikhs in the highlands and perfectly blended with the mentality of the

tribes (Gagić, 2016, p. 389). Knowing about the nature of Zaydi Islam is very important for understanding the socio-political situation of Yemen and its inner instability and one of the key things is the fact that they had their own state (at times there was more than one) from 897 to 1962. Although it had an imam as a ruler², it relied on the protection of the tribes who used their power to maintain a stable influential role in the society throughout centuries. Yemeni tribes, particularly the ones from the northern parts of the country, are still very influential, they possess a great amount of light, mid and even heavy weapons, which is often regarded as a certain obstacle for creating a stable modern country, due to their habit to challenge the central authority of the state.³

The situation in the rest of South Arabia was much different since it was home to many different political entities, and at the moment of liberation of southern and eastern parts of Yemen from British occupation, there were more than twenty separate sultanates, emirates and shaykhdoms (Day, 2012, p. 59) that needed to be united. It is important to notice that the British until 1953 never tried to impose unified government over the colonised territories in Yemen, except in Aden, which was in their focus while the rest remained relatively independent. Still, their firm presence in Aden, which has one of the best natural ports in the World, contributed to its development into the most liberal city in the Peninsula. Immediately after independence, in June 1969 the Marxist political stream took control of the country, renaming it to the People's Democratic Republic of Yemen (PDRY). Among the consequences of these developments was the creation of a secular society, led by a strong ruling apparatus which banned some of the traditional customs such as carrying weapons and revenge killings. All of this remained virtually unknown to the North where parts of the country are still ruled by the tribal customary laws. These evident differences were among the main causes for the concerns of the southerners about the idea of unity. In 1995, Michael Hudson wrote about the statement of Haydar al-Attās, a first prime minister of the Republic of Yemen, who allegedly said that the Socialist Party would have difficulties to expand the southern system to the anarchy in the north (Day, 2012, p. 123). Haydar himself later confirmed saying this in an interview for al-Jazeera (aljazeera.net, 2009) and unfortunately his concerns were well founded.

² One of the main differences between Zaydi Islam and the most widespread branch of Shia Islam, the Twelver Shia, is nonexistence of the hidden imam. In Zaydi Shia, any descendant of Muhammad can be an imam and serve as a ruler.

³ It is even present in Zaydiyya doctrine, since one of the key pillars of Zaydi Islam is the doctrine of *khurij* which allows them to raise an armed rebellion against a ruler that they consider to be a tyrant. More on Yemeni tribes in the works of Dresch, Weir and Caton.

TWO REPUBLICS – TWO SYSTEMS

Inspired by Arab nationalism, with its centre in Egypt, the ideas of Yemeni unification started taking shape in the 1950s. After the creation of the PDRY and the YAR at the end of the 1960s, it became more realistic but Yemenis waited until 22 May 1990. Having in mind that the PDRY had to resolve their own divisions and first create a strong country themselves, as well as the fact that the early years of YAR were also very turbulent, with assassinations of presidents being a rule rather than an exception, it made sense that two newly formed countries could not just jump into unification. However, during the next 20 years, the differences between the PDRY and YAR continued to grow. Firstly, the Marxist regime in the PDRY created a strong one-party system, which was highly centralized and was very important for maintaining the cross-regional balance in the country (Day, 2012, p. 81) with government representatives in most regions being people native to those regions. This practice was virtually unknown to the northern parts of the country.

During the Republican revolution in northern Yemen, one of the issues that were discussed was the position of the tribes in the newly-formed Republic. There were two streams with completely different points of view. According to the first group, the tribes only care about their own social and political status and are chronically unaware of how important is the creation of a political system and a country led by the rule of law. This stream argued that the tribes should be under a strong control of the country, similar to the situation during the rule of the last two imams from the Hamīd al-Dīn dynasty (1904 – 1962), which was highly oppressive towards the tribes. But the other side claimed that the tribes had suffered a lot during those decades and that they would be prepared to accept the formation of a central government, under the condition that they were treated fairly (Al-Shajrabī, 2009, p. 33-34). The second opinion was accepted, and in following decades the YAR was ruled by tribal elites from its northern territories (particularly Hāshid tribes).

Political developments in the YAR during the seventies, particularly the ones concerning the presidential position, speak a lot about the tribal influence in this country. Between 1974 and 1978, three presidents were forcibly removed from the office. The first one, ‘Abd al-Rahman al-Iryānī was removed in a bloodless coup in 1974, but the other two, Ibrahim al-Hamdī and Ahmad al-Ghashmī were both killed in 1977 and 1978 respectively. All these presidents, including the newly elected one, ‘Alī ‘Abdullah Sālīh were appointed and removed by the will of the tribal sheikhs from Hāshid and Bakīl⁴ confederations.

So, what did actually make the PDRY enter a union with politically such a different country? A major political disorder inside Yemen’s Socialist Party

⁴ Bakīl is the largest tribal confederation and at that time was the second strongest one, after Hāshid.

culminated in a 12-day long war in Aden in 1986. At that time the president of PDRY was ‘Alī Nāsir Muhammad whose security forces launched an attack inside the YSP Politburo meeting. Four key members were killed with ‘Alī Sālīm al-Bīd being the only survivor (Day, 2012, p. 73-75). Heavy clashes were started and a horrible destruction was inflicted upon Aden. The result was the removal of ‘Alī Nāsir Muhammad, whose place was taken by ‘Alī Sālīm al-Bīd, but the consequences were so big that the system could not be restored. Also, towards the end of the Cold War, Soviet support decreased and the PDRY faced severe economic and security problems by the end of the eighties. At the same time, powered by the 1984 oil discovery and mostly Saudi (and the United States) support for Islamic fundamentalist currents in Yemen, Sālīh finally managed to stabilize his authority. The mentioned spreading of Sunni fundamentalism and, actually, extremism, which had never been a part of Yemeni tradition, will have a huge impact on the political situation after the unification⁵.

In any case, the differences between the two countries were obvious and surely bigger than they had been twenty years prior to the unification, but at that particular moment the PDRY’s economy was shaken and its security was fragile, so forming the united country seemed like a good idea and a potential way out of the crisis.

THE SONS OF QAHTĀN UNITED

This unification was a long-awaited one. Although the two parts of South Arabia became republics approximately at the same time, they postponed the process of the unification because of their differences and local issues. But then, when another opportunity arose, they hastened into it, without much negotiation, in spite of the obstacles that everybody was aware of. Whether it was the oil discovery in a border region, or the collapse of the Soviet Union, or the mix of these and other reasons, both the PDRY President ‘Alī Sālīm al-Bīd and the YAR President ‘Alī ‘Abdullah Sālīh opted for a quick unification, agreeing that some issues would be resolved along the way.

Some things were not so difficult to agree. For example, it was agreed that twenty ministers should be from the north and nineteen from the south, with the prime minister being a southerner Haydar al-‘Attās. The deputy ministers came from the region opposite from the region the minister came from. “The best practices” from the two completely different systems were left to be decided upon later, but the years passed and nothing happened. Instead, this situation was used to turn some things in Sālīh’s favour. For example, the Ministry of Finance was ‘Alawī al-Salāmī, a member of Sālīh’s party the General People’s Congress. Being in charge of the salaries for all government officials he was forced to work before the

⁵ More on Salafism in Yemen in: Salmoni, B., Loidolt, B., Wells, (2010) and Bonnefoy, (2011).

administrative practice was determined. Naturally, he went for the old YAR practice, thus eliminating the PDRY accounting institutions, although their practice was far more advanced (Day, 2012, p. 111).

Another, more vivid and more violent example is the series of assassinations or attempted assassinations of southern political figures, most of whom were the members of YSP. They started in 1991 and until the end of 1992 the number of violent attacks, many of which, with a deadly outcome, reached one hundred. It is needless to say that this was a clear proof of an immense hostility towards the Socialist Party. It is also very important to notice the further development of good relations between ‘Alī ‘Abdullah Sālih and the Sunni extremist groups. The spread of radical Salafi influence started in the eighties and was supported by the Saudis. Also, similarly to Afghanistan, the U.S. administration did not hesitate to provide help for the militant Islamic fundamentalist groups in Yemen in order to hinder the spreading of Soviet influence in the region. These extremists, particularly the followers of Muqbil ibn Hādī al-Wadī whose Salafi centre Dār al-Hadīth was the most influential one in Yemen, played a big role in aggression towards the YSP, labelling them as infidels and enemies of Yemen’s unity.

The foundations of the idea of unity were obviously shaky from the very beginning, but the process of implementation showed that it was probably ill-conceived and that the real political transition based on a dialogue between two previously sovereign states was never in Sālih’s plans. One of the points the two sides did agree on was establishing of a multi-party system with the Parliament being elected in free elections, which was probably one of the main reasons for the hostility towards the YSP since they were surely regarded as the most serious political threat to the north’s hegemonic ambitions.

As for the society itself, it also remained deeply fragmented, which was shown in the first parliamentary elections that were held in Yemen in April 1993. The two sides opted for a simple majority electoral system where a single candidate was chosen from each of 301 electoral units out of which 245 were in the regions that previously belonged to the YAR since the north indeed had much larger population. Sālih’s GPC did win the elections with around 40% of the votes, a new Islamist party Islāh came second, which was probably the biggest surprise of the elections and the YSP came third with around 18%. However, what is maybe more important is the fact that the GPC actually won only in the northern and western provinces (such as capital San‘ā’, Sa‘da, Hudayda etc.). In the midland regions such as Ta‘izz, Islāh did great and actually won the most seats in this important region. However, the most interesting are the results from the southern provinces where the GPC won only 3 seats out of 56, Islāh did not win a single seat, while the YSP’s candidates came victorious in 41 electoral units. The YSP had 43 candidates in the south, which means that only two of them actually lost, and the ones that won mostly did so in a very convincing manner (Day, 2012, p. 117 – 122).

A coalition government between the GPC, Islāh and YSP with a five-member presidential council was supposed to be created. Since the GPC did win by far the most seats, they insisted on having 3 members in it while the other two would be shared between Islāh and the YSP. However, due to the convincing victory in the southern provinces, the YSP demanded that they share 4 seats with the GPC, claiming that they represent a half of the country. The presidential council was finally formed on 11 October 1993, according to the southerners' demands, but they insisted on pushing the other demands for reforms. 'Alī Sālīm al-Bīd started giving statements about him being concerned about Yemen's unity, and in general, the YSP officials started suggesting the federalization of the country, splitting it into two entities. Of course, they were accused by the Sālīh and his Islamist partners from Islāh of plotting the secession and from this point the situation could only go one way. Some further negotiations did take place, but even back then nobody seemed to believe that they could end in success.⁶

The war was swiftly won by the north whose army overrun the south in several months. It lasted until 7 July and marked the definite beginning of northern hegemony with Sālīh's patronage system, which relied on heavy corruption, on top. It is worth mentioning again the Sunni extremists, followers of Muqbil ibn Hādī al-Wādī'ī, as well as the former jihadists from Afghanistan that were given asylum in Yemen in exchange for the support on the battlefield. They played an important role in Sālīh's victory, and some even claim that their role was a decisive one (Haykel, 2002, p. 30). In any case, it could be argued that in 1994 the dream of Yemen as a voluntarily unified country was already over. Yes, the Republic of Yemen did continue to exist and still officially exists, but this unity is not based on something that all sides agreed upon.

MULTIPLICATION OF PROBLEMS

Salafis with extremist ideas and other Sunni extremists continued to live safely in Yemen during the nineties which would backfire on Yemen's security on the turn of the 21st century. Meanwhile, a political factor with completely different views developed in the border region with Saudi Arabia. Partially due to the fact that Zaydi community fell into an identity crisis after the Republican revolution that overthrown the Imamate, but partially as a response to the strengthening of Salafism in its own courtyard in Dammāj (it is where Muqbil's Dār al-Hadīth was located) in Sa'da Governorate, formation of Zaydi revivalist groups was to be expected in Yemen. After unification and introduction of party pluralism, there was an attempt

⁶ Whether the south was actually plotting the secession was never proven. The secession of the south was announced, but only on 21 May 1994 which was almost a month after the Civil War started (27 April).

to give Zaydi community a political party that would protect their interests, so the first Zaydi party was formed. It was named Hizb al-Haqq, but this experiment failed since this party made a series of political compromises such as the denouncement of Imamate and rejection of some important Zaydi practices.⁷ In addition to this, violent developments that dragged the country into the Civil War, in which Sunni extremists played a prominent role, only accelerated the development of a new Zaydi group that would become one of the key political players on the Yemeni chaotic scene.

Once a member of Hizb al-Haqq, Husayn Badreddin al-Hūthī was among the ones who distanced themselves from this party for ideological reasons. In the mid-nineties he left Yemen and spent some time in Syria and Iran, where he got inspired by Iranian political and economic system. When he returned, after some time, he formed an organization called The Believing Youth (*al-Shabāb al-Mu'min*).⁸ The radicalization of this movement coincided with other developments on Yemeni (and global) political scene in the early 2000s. As an announcement for the following turbulent period, a terrorist attack happened in Aden port on 12 October 2000. On that occasion the USS Cole naval vessel was a target of a suicide bombing in which seventeen American sailors were killed. Ṣāliḥ's regime, being very close to the extremists who lived in Yemen and who, among other things, organized the terrorist attack on the USS Cole⁹, started facing problems because of these connections. When he was strengthening his ties with the extremists, particularly in the early nineties, Ṣāliḥ must have calculated in the possible problems these ties might cause, but he probably also miscalculated his capabilities to deal with them. After the USS Cole bombing, Ṣāliḥ came under serious pressure to cooperate with the United States Government but somehow managed to avoid direct involvement. When the 11 September suicide attacks happened, Ṣāliḥ had no choice but to enter the "War on Terror". At this moment he had to betray many of his old allies in order to prevent a potential American military intervention. He started with arrests, deportations and assassinations and also allowed the US Army to perform the drone attacks against the terrorists. Since then, extremists have been very active, mostly against the Yemeni Army and particularly in the southern provinces of Abyan, Laḥij, Shabwa, parts of Ḥaḍramawt, but also in the northern provinces of Ma'rib and al-Jawf, while there have been some deadly attacks in the capital city as well. Occasionally, they are in control of some parts of the Yemeni territory and have been responsible for many deadly attacks throughout the country.

⁷ Such as *khumij*, which is mentioned in the footnote 2.

⁸ More on Hūthī in the works of Aḥmad Dagħshī, (2010, 2012)

⁹ According to some sources a high ranking officer of Yemeni Army General 'Alī Muḥsin al-Aḥmar was connected to the USS Cole bombing (Day, 2012, p. 195 – 198).

However, Sunni extremists were not the only side dissatisfied with the newly established cooperation between Yemen and the United States. Only several months after the 11 September attacks, in early 2002 the former of the Believing Youth Ḥusayn Badreddin al-Ḥūthī started giving public lectures and speeches directed mostly against the United States and Israel, but also against Salafism while criticizing Zaydi Islam and praising Hezbollah and Iran for their wish to confront the enemies of Islam (Gagić, 2016, p.208). Over time his speeches became more fiery and aggressive, which provoked a reaction from the Government who opted for heavy repressive measures in order to try to stop the development of this potentially rebellious and militant group. Ḥusayn himself was killed in the beginning of military actions in 2004, but his martyrdom only inspired the Ḥūthīs to persist in their fight. Between 2004 and 2009 a series of military actions were taken and resulted in thousands of deaths, hundreds of thousands of refugees and a humanitarian catastrophe. However, it is also important to notice that since 2004 Ṣa'da Governorate has been firmly in Ḥūthīs' hands and still is among the territories of Yemen that are controlled by their self-proclaimed executive body called the Supreme Political Council (*Al-Majlis al-Siyāsī al-A'la*) which was formed by the Ḥūthī leadership and the GPC, the party of the former President 'Alī 'Abdullah Ṣāliḥ.

So, since the beginning of the 21st century, Yemen has had to deal with increased security and economic problems from multiple sides. As for the southern parts of the country, political unrest grew bigger and led to the formation of separatist groups such as al-Hirāk, a movement created in 2007 by the retired army officers. They basically criticised the regime for widespread corruption, the failure of democratic mechanisms and hegemonic politics towards the south. Or as one political refugee from al-Mukalla, Ḥaḍramawt, put it, "they wanted a modern civil society, free from corruption and tribalism".¹⁰ The change of balance in favour of the north after 1994 is certainly one of the main causes of instability and since then Ṣāliḥ has been exploiting the South and creating the resentments that fed the growth of Hirāk (Brehony, 2016, p. 137).

On top of all that the corruption was rampant and the life in Yemen started becoming more and more difficult and particularly worrying were obvious signs of water scarcity.¹¹ The tension grew and in 2009 it could be heard from Yemenis that political unrest could be expected. The interviewed Yemenis hoped for political changes, but at the same time were worried about the deterioration of the economic and security situation in the country. Moreover, most of them did not think that Ṣāliḥ had intentions to provide the opposition, now united under the name Joint Meeting Parties (*Aḥzāb al-Liqā' al-Mushtarak*, formed in 2005), with an opportunity

¹⁰ The interview was performed in Belgrade in February 2015.

¹¹ Upon my arrival in Yemen in January 2009 I was informed in-written that the country is facing a severe water crisis and people are asked to try to save water.

to compete for power in fair elections. Instead, they were sure that Ṣāliḥ would try to shift the power to his son Aḥmad. So unlike the other Arab countries, where popular uprisings were started in late 2010 and especially in early 2011, the one in Yemen was somewhat expected and did not come by surprise.

YEMENI UPRISING – POSTPONEMENT OF A DISASTER

Lan yakūn hunāka tamdīd wa lā tawrīth wa lā i'ādat 'aqārib al-sā'at li al-warā', or “there will be no extension, no inheritance, no resetting the clock”. This is how 'Alī 'Abdullah Ṣāliḥ spoke on 2 February 2011, several days after the protests against him had started and a day before the *Yawm al-Ghadab*, or the Day of Anger, as the protestors had named their gathering scheduled for 3 February. He also called the Joint Meeting Parties for negotiations about the revision of the Yemeni Constitution. Neither people, nor opposition reacted positively to his words and invitations. The demonstrations continued and in this period they were still without an active participation of the political parties, so the early developments in Yemen had the elements of a real popular uprising. But although the protestors insisted on peaceful and bloodless revolution, the things did turn violent and Yemen was on a brink of a full-scale civil war.

The thing that could have pushed Yemen towards the war was a sniper attack against the protestors that occurred on 18 March 2011 and in which 52 people were killed and 617 wounded. To the disappointment of many Yemenis, in the following period, political actors started being more and more involved and started distancing themselves from Ṣāliḥ's regime. The situation lost its character of a popular uprising and became a ruthless political struggle for power. This disappointment was even bigger when some controversial political characters such as the most hated general 'Alī Muḥsin al-Aḥmar¹², surely the most powerful army officer, renounced Ṣāliḥ's regime and joined the protestors. There was also an obvious split inside the Yemeni army that resulted in serious clashes all over the country with the city of Ta'iz being the place that suffered the most, along with its inhabitants.

International community, particularly the countries of the Gulf Cooperation Council (*Majlis al-ta'āwun li-dumal al-khalīj*) Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates, supported by the United States decided to try to intervene in the form of an Initiative that would draft the process of Ṣāliḥ's stepping down from power and the beginning of a transitional period.

After the initial rejection from both sides followed by a serious wounding of 'Alī 'Abdullah Ṣāliḥ in a bomb attack on 3 June, the opposition was first to agree to sign

¹² 'Alī Muḥsin was Ṣāliḥ's right hand and probably the second most powerful figure in the country. He also had strong ties with Islamic extremists in the past and it was speculated he had been in contact with organisers of the 2000 USS Cole bombing. See footnote 8.

the Initiative. Šāliḥ did the same upon his return to Yemen from Saudi Arabia, where he had left after being wounded. The Initiative was signed on 23 November 2011 and marked a new beginning which gave some hope to Yemenis. Still, many people were disappointed by this development as it was full of compromises according to which Šāliḥ was granted amnesty from prosecution. The new president was elected on 21 February 2012. There was only one candidate, Šāliḥ's deputy, 'Abdu Rabbuh Maṣṣūr Hādī, but the turnout of around 65% was pretty high, thus confirming people's desire to give the transitional regime a chance. As for the new Government, almost half of its members were from Šāliḥ's GPC whereas this party held the most seats in the National Dialogue Conference (*al-Mu'tamar lil-Ḥiwār al-Waṭanī al-'Ām*), formed in late 2012. Still, the NDC had some good sides that gave people reason for optimism. Women represented 28.5 percent of the 565 members, civil society 7, youth represented 15 percent, etc. 52 percent of the NDC members were from the South (Lackner, 2016, p. 19) which could be understood as a sign of goodwill towards the much less populated part of the country. Also, President Hādī is a southerner, as well as the first prime minister of the transitional Government Muḥammad Sālim Bāsindawa.

This Conference also included the members of groups such as al-Ḥirāk, Anṣār Allah (Ḥūthīs), Salafī party the Rashad Union (*al-Ittiḥād al-Rashād*). It was divided into nine subcommittees that were supposed to discuss the most important issues for Yemen and give conclusions about the Southern issue, the Ḥūthī issue (called the Ṣa'da issue in the NDC), security affairs, etc. During the whole 2013, it performed a series of interviews about the functioning of NDC. In these interviews, it was clear that Yemenis had great hopes for the future but, at the same time, were worried, particularly about the Ḥūthīs who constantly showed very rigid attitude without no willingness whatsoever to negotiate.¹³

Still, the NDC was concluded on 24 January 2014 with some major decisions rejected by various dissatisfied sides. The final document suggested the forming of six federal regions with the cities Sana'a and Aden being the separate units (Gagić, 2016, 223-224). The idea was to support the bigger autonomy on the local level and overcome the regional differences, but both Ḥūthīs and the Southerners opposed this idea, for different reasons. Ḥūthīs claimed the opposite of the NDC and insisted that the idea of federalization was completely wrong and that it would have disastrous consequences for the unity of the nation. Also, the moment the decision of the NDC about the six region federalization was announced, the Southerners rejected it. It did not come by surprise because a couple of months earlier, one of their leaders Muḥammad 'Alī Aḥmad¹⁴ stated that "what has been announced about the six regions

¹³ Interview with Mukhtār al-Ḥammādī, then the director for educational programmes in the Ministry of Education of Republic of Yemen – November 2013.

¹⁴ Muḥammad 'Alī Aḥmad had been a member of the team that discussed the Southern Issue before he left the NDC in November 2013.

is a coup against what had been agreed at the dialogue” (bb.com, 2014). Unlike Ḥūthīs, many Southerners would support the idea of federalization (at least initially), but only if the new country consisted of two federal units, one of them being the territory of former PDRY. However, the idea of only two federal units was refused being regarded as just a mid-step towards the secession of the South.

This huge differences about one of the crucial issues for the future of Yemen nicely describe the failure of the NDC and Yemeni transitional government in general. Yemenis had big hopes and President Hādī did get support from his citizens who came out to the voting polls in big numbers. On the other hand, a series of compromises, made in order to persuade Ṣālīḥ to step down, not only allowed the former president to remain in the country, but also allowed him to remain at the head of GPC which held almost half of the seats in the Government. In 2013 I interviewed a former local elections candidate of Iṣlāḥ party. On this occasion, he gave a very bitter comment that Ṣālīḥ was intentionally destabilizing the country and he was “up to something together with the Ḥūthī dogs”. Changing sides and forming hardly imaginable coalitions is not strange to Yemen, but I had to take this statement with a grain of salt, having in mind my interviewee’s Islamist political orientation. In spite of that, his prognosis turned out to be true as everything happened exactly according to his expectations.

YEMEN – THE REPUBLIC OF DEATH, HUNGER AND CHOLERA

Something that at least resembles a sovereign country ceased to exist in March 2015 when Ḥūthīs, backed up with some parts of the Yemeni army loyal to the former president, swept over virtually the whole territory of former YAR and besieged Aden thus triggering a military operation led by Saudi Arabia. These developments were not completely unexpected since Ḥūthīs had already attacked and overrun the Ḥāshid tribe bastion ‘Amrān Governorate in July 2014. The defeat of the strongest tribal confederation, which was supported by the 310 armoured division led by general ‘Alī Muḥsin al-Aḥmar, as well as by the Yemen Army’s air force, marked the beginning of serious changes in the Yemeni political scene.

On 5 January 2015 Ḥūthīs rejected the draft constitution with the proposal of six region federalization being the main reason for rejection. Shortly afterwards they launched an attack on the presidential palace in Sana’a, which led to the resignation of the Prime Minister Khālīd Baḥāḥ¹⁵. On that occasion, President Hādī was put

¹⁵ The Government of Sālim Bāsindawa resigned in September 2015 after Ḥūthīs managed to occupy military barracks as well as several buildings that belonged to Ministry of Defence. This led to the resignation of the Government while ‘Alī Muḥsin’s brother Ḥamīd al-Aḥmar and the winner of Nobel prize for peace in 2011 Tawakkul Karmān left the country.

under the house arrest that he left after a month and left to Aden. In the meantime, Ḥūthīs disbanded the Parliament and formed the Revolutionary Committee (*al-Lajna al-Thanriyya*). Since then they have been in control of the Yemeni capital, and since then Yemen has only formally existed as a country, although even before that some elements of Yemen's statehood were very shaky. During the next two months, Ḥūthīs and the parts of the Yemeni Army loyal to Ṣāliḥ managed to occupy the territories mentioned in the first paragraph of this chapter. What followed was probably the worst possible reaction to these developments. Saudi Arabia has been politically involved in Yemen throughout history and the occupation of this country by Shia rebels, accused of being heavily supported by Iran, was something that the Saudis surely did find very disturbing.

A concise description of what happened in Yemen between 2011 and 2015 was given to me by the director of an Arabic language institute in Sana'a. In an electronic message, several days after the beginning of the air attacks, he wrote that the Saudis did their best to overcome the Yemenis peaceful revolution in 2011, and supported Ṣāliḥ by money and weapons. They were worried about the change, and now they fought Ṣāliḥ because he made an alliance with Iran, and Yemen became a threat. "There will be no solution coming from outside Yemen. But Iran, the Saudis, the USA will never let Yemenis live peacefully", he said.¹⁶ In two sentences he summarized the nature of Saudi involvement in Yemen.

On top of everything, the Saudi-led intervention turned out to be a complete failure, from many aspects. Firstly, no military goals have been achieved so far. After more than two years of severe fighting on land between the coalition forces, supported by the Yemeni army and tribal militias, against the Ḥūthīs and the parts of the Army that are loyal to Ṣāliḥ and after the same period of heavy bombing, the coalition around the Saudis have only managed to suppress the Ḥūthīs from Aden and other former PDRY territories as well as from the areas around Ma'rib. Sadly, this does not mean that Hādī's administration has the control over the southern lands. In fact, even the control of urban areas is doubtful, not to mention the rural and more isolated parts of the country where extremist fractions are thriving. The extremists even kept some bigger cities under control which was not the case at the time this paper was written (liveuamap.com, 2017).

Apart from this minor battlefield success and thriving of extremist fractions, which was expected to happen, there are many other disastrous consequences. Even before the political turmoil that developed into a full-scale war, Yemen was the poorest country in the Peninsula and one of the poorest countries in the World. Severe aggression against it led to a severe starvation of many Yemenis. The UN reports from April 2017 show some very disturbing numbers according to which

¹⁶ Electronic message from 8 April 2015.

6.7 million people were in need of urgent food assistance (un.org, 2017). In total, it is estimated that shocking 17 million people in Yemen, or around 60% of the population, are food insecure (wfp.org, 2017). These numbers undoubtedly show that Yemenis are virtually dying from starvation. Moreover, after the publication of these data, cholera epidemics have erupted, as a direct consequence of increasingly poor living conditions and famine. In July 2017 reports about cholera spoke about the “worst cholera outbreak in the World” with 320 thousand cases recorded, with 5 thousand new cases every day and around 1700 casualties, a quarter of whom were children (Asrar, 2017). The calls for urgent help are responded, but one has to notice the hypocritical behaviour of certain countries. For example, the UK is one of the largest aid and relief donors to Yemen with over 130 million Pounds during 2016. But in the same period, this country sold weapons worth 3.3 billion Pounds to Saudi Arabia (Lackner, 2017). The United States is an even bigger supplier of weapons to the Saudis with 11.25 billion dollar worth weapon sales in 2015 (telesurtv.net, 2015). Both of these two countries’ specialists assist the Saudis in precision targeting, but its goals and results are debatable because until April 2017 in Saudi air raids “270 medical facilities have been bombed, close to 750 schools and more than 500 markets and shops damaged or destroyed” (Lackner, 2017).

Although the role of the foreign factors must never be neglected, describing this situation as not more than a proxy war between Saudi Arabia and Iran (and the two countries’ allies) would be oversimplified. This region suffers badly from a chronic political instability and this is partly due to negative foreign influence, but partly a result of heavily fragmented nature of its society. Unifying Yemen might have been a good idea in theory, but balancing all the specificities of its people and making one system out of two very different ones were very demanding tasks and Yemenis failed to complete them.

After this, Ṣālīḥ imposed northern hegemony while dragging the whole country into poverty by his firmly established patronage system. This way he enabled the development of the separatist organizations such as al-Hirāk. By openly supporting and cooperating with mostly Salafi extremist groups he gave Zaydis a reason to radicalize their movement which they did. Then, by turning against his extremist allies in 2001 Ṣālīḥ opened another front for Yemen and its people. Not that the anti-extremist attitude is bad, but 2001 definitely showed that the cooperation with them was a bad idea in the first place, although this is a lesson that leaders from other, more powerful countries, still have not learned. In any case, the reasons for ever-growing tension among people gradually grew and already in 2011 the situation was ready to explode, and the sides were ready to start the war. It did not start that year, but all that Yemenis succeeded was to postpone something that unfortunately could not be avoided.

In short, Yemen has over past decades turned into a land of poor, frustrated and sick people that are either just trying to find the way not to die from starvation,

diseases or bombs or are fighting for their ideals, causing the death of their fellow Yemenis.

FINAL OBSERVATIONS

With the first two sections I intended to briefly show just how heterogeneous Yemeni society really is and how different two political systems were united into one Republic in 1990. These issues are very important for understanding Yemen's inner instability and its political dynamics. Although the contours of mutual South Arabian identity can be recognized, there is no doubt that many regional specificities make the political situation in Yemen very complicated, which is often overlooked. Dealing with these issues was not the main topic of this paper and more information can be found in the works of Stephen Day and Paul Dresch, for example. Also, it has to be noticed that Yemen has always had a reputation of being difficult to govern which is shown in works by historians such as al-ʿAmrī and al-Madʿaj.

The next two sections showed the failure of the process of transition after the unification during which internal differences, tensions, security and economic issues only grew, mostly due to the corrupt and hegemonic politics of the former President ʿAlī ʿAbdullah Ṣāliḥ whose decisions gradually pushed Yemen towards the chaos. The uprising in 2011 did not come by surprise like in other Arab countries. Instead, the situation that I witnessed in 2006 and particularly in 2009 showed bitterness and frustration among Yemenis who, in a series of interviews I performed with them, suggested that the changes are much needed. Unfortunately, for various reasons such as regional differences and external factors, this political transition also failed. At first, a new Civil war was avoided but, in fact, it was just postponed for several years. In this period the tensions only grew and finally led to a full-scale war that started in 2015 and is still going on.

At the moment there is no doubt that the only priority for Yemenis is to stop the ongoing war that has so far taken tens of thousands of lives and pushed a country into an even more extreme poverty. It reached a stalemate with no obvious changes on the battlefield and it does not seem like there are any prospects that the situation can be changed in favour of any of the warring parties. The negotiations are needed but the completely opposite goals of the rival sides are worrying, to say the least. Yemen craves for making advance towards finding the political solution since it has already turned into a country that resembles Somalia, a failed state with an ineffective Government, big parts of the territory under the control of different political actors who do not recognize Government's authority, the strong presence of extremist groups, and a state whose people are exposed to an extreme famine.

As for Yemeni unity, it could be said that it did not fail with the beginning of the political turmoil in 2011, but it actually failed back in 1994. This statement could be

called biased since it backs the southern point of view, but the PDRY entered the unity with the YAR as a fully sovereign state and a member of the United Nations, and it has to be taken into account. Yemeni unity was formed as a consensual one, but its consensual nature remained highly doubtful after 1994, to say the least. The only way for Yemen to protect the unity of the country is to reach an agreement that all sides would be satisfied with and for the South returning to the post-1994 period is surely not an option. Therefore, some sort of federalization of the country would probably be the best solution. Ḥūthīs and Ṣāliḥ firmly reject any idea of federalization while the South might consider the idea of two federal units.

In the meantime, Ṣāliḥ for some time continued inciting fight against Saudi Arabia calling his supporters and Ḥūthīs to continue their armed struggle (middleeastmonitor.com, 2017). But a couple of months later, Ṣāliḥ again tried to switch sides, as he did on many occasions during his political career. During late summer and autumn, the relations between Ṣāliḥ and Ḥūthīs gradually became more and more tense. The two sides had their disagreements in the past, but they culminated and turned violent in late 2017. Finally, on 2 December, Ṣāliḥ obviously felt secure enough to call for a popular revolt against Ḥūthīs, but this time he did not succeed and was killed only two days later. Saudis, on the other side, regularly performed their devastating attacks and continued to do so after Ṣāliḥ death.

With this situation, in which death and devastation are parts of everyday life, seriously considering any of the two above-mentioned federalization ideas would be unfoundedly optimistic. All in all, with the lack of feasible political options at the moment and with the obvious stalemate on the battlefield, Yemen is on a way to firmly establish itself as a failed state with its sovereignty left in ruins. Consequently, its unity seems to be further and further away and it might again become just a dream that was briefly interrupted in the early nineties.

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Marko GAGIĆ

**POLITIKA I DRUŠTVO JUŽNE ARABIJE
– SAN KOJI SE PRETVORIO U STVARNOST
POPUT NOĆNE MORE**

Apstrakt: U najširem smislu ovaj članak bavi se društveno-političkom situacijom u Jemenu, koji je jedna od najkrhkijih i najnestabilnijih zemalja sveta. Prvi deo članka daje pregled društveno-političke situacije u periodu pre ujedinjenja, sa fokusom na razjašnjavanju nekih regionalnih razlika u ovom veoma fragmentiranom društvu. Drugi deo bavi se teškoćama u periodu po ujedinjenju, tokom kojeg su tenzije u Jemenu postepeno rasle i na kraju dovele do rata koji je počeo 2015. godine. Treći deo daje pregled situacije od početka političkog previranja do današnjeg dana.

Jemen je najnepoznatija arapska zemlja a situacija u njoj se uglavnom tumači na pogrešan i previše uprošćen način. Iz tog razoga, cilj ovog članka je da rasvetli zapetljanu jemensku društveno-političku dinamiku, kako bi se omogućilo ispravno razumevanje trenutnog političkog konteksta u ovoj zemlji.

Ključne reči: Jemen, Južni Jemen, Severni Jemen, ujedinjenje, rat, istorija, društvo, politika.

Received: 15.08.2017.

Revised: 12.11.2017.

Accepted: 11.01.2018.

THE GUAYANA ESEQUIBA CONFLICT: KEY HISTORICAL FRAMEWORKS AND LEGAL ISSUES

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Abstract: For many centuries South America was a place of great powers clash. After decolonization, many South American states established the *uti possidetis* principle based on which they grounded their frontiers. The case of Guyana Essequibo is an example of breaking this principle and international law. The question of Guayana Esequiba is the subject of a territorial dispute between Great Britain and British Guiana on one side, and Venezuela on another. In this regard, this work is divided into four chapters. In the introduction author deals with historical issues related to this territory, or analysis of the *uti possidetis* principle implementation. In the second chapter are emphasised the British claims to this territory expressed through the introduction of so-called Schomburgk line. The third chapter deals with the legal analysis of The Arbitral Award of Paris. The author points out that it was a crucial political argument rather than a legal one. The fourth chapter analyses the Geneva Agreement, or its non-implementation. At the end, the author emphasises the important role of multinational corporations for (un)solving of this problem.

Key words: Guayana Esequiba, Venezuela, Great Britain, The Arbitral Award of Paris, Geneva Agreement

INTRODUCTION

Territorial disputes in the international law represent a particularly sensitive topic, especially due to the political factors' participation, which usually prevails in

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comparison with legal reasoning. In this regard, Guayana Esequiba is the subject of many controversies. Although this territory is within Co-operative Republic of Guyana (Guyana), the Bolivarian Republic of Venezuela (Venezuela) believes that this territory was temporarily occupied, and in regard to the legal aspect of the issue, it belongs to Venezuela without doubt.

After decolonization, many South American states were faced with problems. One of these was securing the sovereignty and territorial integrity. In this regard, ex-colonies of Spain and Portugal established the *uti possidetis* principle on the basis of which they divided all territories and in the event of any dispute as a valid frontier they would accept this which in that year divided ex-colonial territorial administrative units (vice-kingdoms, captaincies, etc.) (Krivokapić, 2010, p. 1110-1111) This was done in order to prevent European colonial powers to pronounce these territories as *terra nullius*, and then to occupy it² (Dujčić, 2017, p. 102).

The Guayana Esequiba case is an example of flagrant breaking of this norm and international law. This is one disputable issue between Venezuela on one side, and the British Empire and Guyana on the other dated 200 years in the past.

Review no 1: Map of Venezuela. Darkened territory represents Guayana Esequiba territory



Sources for the Review: <https://www.caracaschronicles.com/2014/03/31/esequibo-blues>

² Professor Kreća defines under the term occupation the effective peaceful occupation, or: “taking over territories in order to establish sovereign administration that within relatively short period of time does not belong to anyone”. (Kreća, 2012, p. 305)

During 1777, the Spanish Empire, in the part of the colonised territory of Latin America established the Captaincy General of Venezuela through a decree of the King Charles III. This document was brought in order to unite divided provinces regarding politics, economy and army. Thirty-three years later, after a long-lasting war for independence, on April 19th, 1810, the Declaration of Independence of Venezuela was signed that clearly established the territory of the new state. The Independence Act of 1811 established that the newborn Republic of Venezuela fully inherited the territory that had belonged to the former Captaincy General and the river Essequibo was established as the western frontier with the Netherland.

When the Napoleonic wars in Europe ended in 1814, Great Britain pushed the Netherland to renounce its territories in South America. At that moment Spain and Portugal represented the only obstacle for the foreign affairs policies of the USA and Great Britain. Frustration with the Spanish colonial administration and stumbling Spain empowered at that moment the fight for the independence of the colonies and the war with France contributed to the struggle to achieve independence (Paligorić, 2003, p. 52-53). The idea for regional Latin-American integration by Simon Bolivar caused the declaration of Great Colombia (*Gran Colombia*) signing the Constitution in the Congress of Cucuta in 1821 (Bethell, 1985, p. 141). In Article 6 of the above-mentioned Constitution, was stipulated "that territory of Colombia is the same one that had been former Viceroyalty of New Granada and the Captaincy General of Venezuela". Therefore, the Constitution itself confirmed the *uti possidetis* principle as valid with the determination of the frontiers of the new state.

The British settlers, mostly from India, used to cross the river Essequibo continually and secretly. Simon Bolivar protested in 1822 believing that immigrants must respect the law of Great Columbia, i.e. to move back to their manors.

In 1825, the British Empire acknowledged the independence of Great Colombia and Guayana Esequiba as an integral part of that state (Kinsbruner, 2000, p. 105-106). But the Bolivar's dream of a state with similar structure as the USA did not last too long. Venezuela declared independence in 1830 and the new state defined its territory in Article 5 of the new Constitution, which included all that had been called the Captaincy General of Venezuela (Nader de El-Andari, 2015).

THE SCHOMBURGK BORDERLINE

Soon after the discovery of the gold mines in this territory, the British territorial claims of Guayana Esequiba were renewed³ (Donovan, 2004, p. 672). In this regard,

³ Great Britain during exploitation of the gold in Venezuela went to such extent that established in 1867 own company for digging and processing of the gold (The British Guyana Gold Mining Company). The map of British Guiana illustrates the Schomburgk line as the western frontier and not the border line with Great Columbia that Great Britain accepted in 1824.

Britain consciously decided to violate the *uti possidetis* principle, and they drew a new borderline that crossed the territory of sovereign, independent Venezuela. Without consulting with the government of Venezuela, Britain engaged Prussian botanist Robert Schomburgk to draw the map. Under the patronage of the Royal Geographic Society of London and The Colonial Office during 1835 was drawn so-called the first Schomburgk line by which there was attached 4.929 km² of Venezuelan territory. Several years later, in 1840 Schomburgk modified the map and drew a second borderline according to which British Guiana tried to take over 141.930 km² of the territory of Venezuela. This act of Britain was severely protested against by Caracas. Minister Alejo Fortique asked the British government to remove border milestones around the second Schomburgk line. After this protest, the British government removed randomly posted markers acknowledging the territorial sovereignty of Venezuela (2015, p. 17). In fact, Great Britain by Schomburgk lines tried to discover to which extent Caracas would tolerate its attempts, due to the fact that the Schomburgk line in London had never been understood as the final aim of the British Empire, but as the line of blackmail (Rose et al., 1959, p. 304). In 1850, Great Britain and Venezuela signed a treaty by which the British Empire was obliged not to occupy and inhabit the subject territory (Humphreys, 1967, p. 139). However, after secret explorations, Great Britain discovered new significant gold mines in the Jurua River (*Río Yurúa*) basin. Since Venezuela in that moment was in the civil war, they decided to support leading powers, which in return promised this territory to Great Britain⁴. (Humphreys, 1967, p. 139) After realising that Venezuela was significantly destabilized by the civil war, The British Empire made the third Schomburgk line during 1887, taking over 167.830 km² of the territory of Venezuela. Enabled at that moment to undertake armed intervention against a stronger enemy, Caracas ceased diplomatic relations with Great Britain.

⁴ The civil war in Venezuela, known as Federal war or Five-year war (1859-1863) was a civil war between supporters of the conservative and liberal parties. Liberals or federalists wanted federal structure of the state while ruling conservatives, supported by oligarchs, were severe opposition to any reforms. Culmination of unsatisfaction was during Juliano Castro who by coup d'état with support by oligarchs took over the power in the country. This resulted in great demonstrations. Liberals enjoyed great support by the people and even they did not have organized central command and party apparatus, they won (Humphreys, 1967, p. 139).

Review no 2: Schomburgk line



Source for Review: Internet, <http://venezuelasambasad.com/wp-content/uploads/2016/02/Ginebra-24-esp%C3%B1ol-con-gu%C3%ADas.pdf>

- 1) Border line of “Gran Colombia” and Great Britain (1824);
- 2) The first Schomburgk line (1835);
- 3) The second Schomburgk line (1840);
- 4) The third Schomburgk border line (1877)

The United States (USA) was not satisfied by the British ultimatum. It collided with the Monroe doctrine according to which each intervention of European states on the territory of America represented a violation of the interests of the United States⁵. (Levy, 1995, pp. 213-216) In this regard, the USA by diplomatic act forced Great Britain to accept arbitration for the entire disputed territory.

THE TREATY OF WASHINGTON AND THE ARBITRAL AWARD OF PARIS

The Arbitration agreement between Great Britain and Venezuela was signed in 1897 in Washington DC. This agreement prescribed the legal range of arbitration and Article 1 stipulated the final definition of the border between the British colony and Venezuela (Treaty of Arbitration between Great Britain and the United States of Venezuela, 1897). Article 2 of this agreement anticipated the membership of the arbitrary court and defined other members, procedures and other conditions.

The Arbitration Court had 5 members. On the side of Great Britain, there were Sir Richard Collins and Lord Russell. Venezuela did not have the right to its own representatives. Its interests (ironically) were defended by Melville Fuller and David Brewer who were nominated by the Supreme Court of USA. The main representatives of Venezuela were Benjamin Harrison, a former American president, and Mallet-Prevost (Internet, 2017).

The key argument of the side of Great Britain in this arbitration was the fact that before the independence of Venezuela, Spain had not undertaken the effective possession of the subject territory, i.e. that territory belonged to the local First Nations. Great Britain also thought that Venezuela had never achieved factual sovereignty over the subject territory (Lalonde, 2015, p. 254). American arbiters did not agree with the fact that the First Nations had any kind of sovereignty since such decision would not be adequate to them. As a compromise, Britain and the USA, pushed by Marten, unanimously agreed that the British side abandoned the thesis of the sovereignty of the First Nations due to neglecting the *uti possidetis* principle and the decision of the British side on the border confirmation as of 1824.

The Paris Arbitration decision was signed on October 3rd, 1899. This was one political and legally unfounded decision brought under the pressure of two empires⁶

⁵ Monroe doctrine represents a principle expressed through formula: America to Americans. This represents unilateral act of USA pointing, on one hand to imperial ambitions of USA, and on the other side to their relative weakness and fear in front of the European intervention. Although Monroe doctrine was directed against expansion of European capitalism, it contains a seed of imperialism which later became its full label. (Levy, 1995, pp.213-216)

⁶ Arbitration has, of course, its negative sides. First of all, there is increased possibility of abuse such as imposing unjustified solutions to the economically weaker side. In the dispute between Venezuela

(Varady at al., 2017, p. 574). Here was unanimously agreed that the line of separation between British Guiana and Venezuela should be the Schomburgk line with smaller changes⁷ (Turner, 2006, p. 260). Although deeply frustrated, but on the other side loaded by the internal demonstrations in the country, Venezuela accepted this outcome of the arbitration.

THE UNITED NATIONS AND THE GENEVA AGREEMENT

The publication of the Mallet-Prevost writings in “The American Journal of the International Law” in 1949, uncovered the background of the Arbitral Award of Paris⁸ (Schoenrich, 1949, pp. 523-530). Venezuela decided to reject the decision of the arbitration commission and claimed the help by the United Nations (UN) in the further proceedings of this dispute.

Venezuela decided to claim such help significantly encouraged by the Permanent Arbitration Court which by its verdict in 1910 established invalidity of the arbitration agreement between the USA and Venezuela of the marine Orinoco Steamship Company case as of 1903 (Radivojević, 2009, p. 158).

Venezuela picked the right moment to inquire this question in the UN. After the World War II, the international community as the main objective proclaimed the maintenance of the peace and security as well as the respect of sovereign equality of all states regardless their size (UN Charter, 1945). Therefore the speech of the Minister of Foreign Affairs of Venezuela, Mr. Falcon Briceno in 1962 in front of the XVIII General Assembly of the UN left a great impression to the international community since the UN insisted at that moment on starting a debate between Venezuela and the British colony.

On February 1966 the Geneva Agreement was signed where the governments of Venezuela and Great Britain recognized the existence of the dispute over sovereignty of the territory of Guayana Esequiba establishing procedures for peaceful solutions (Geneva Agreement, 1966). In the preamble of the treaty is

and British Empire those abuses are more than obvious (Varady at al., 2017, p. 574). The author of this article believes that The Arbitral Award of Paris violated conditions for validity of arbitration decisions, i.e. the condition of arbitration-ability was not fulfilled since one party (Venezuela) was disabled to present its opinion and statement.

⁷ Territory of Guayana Esequiba by this arbitration belonged in the amount of 90% of its territory to the British Guiana. Venezuela was *awarded* by the border line on the Wenamu river gaining small extension to the territory that had not even been included in the arbitration, but *as concession* British Guiana got significant mine wealth. (Turner, 2006, p. 260).

⁸ Mallet-Prevost his document of policy-making of the Paris arbitration left to the judge Schoenrich. In his testimony he stated that the same must not be published except by Schoenrich personal decision after his death.

emphasised that to it approached two governments, British and Venezuelan, providing that “it was taken into considerations the following independence of the British Guiana”⁹. In this regard, Article 8 of the Agreement stipulates that after the independence of the British Guiana, besides Britain and Venezuela governments, it will also be the party in the dispute.

The entire dispute was entrusted to the Joint Commission that was made of two representatives of British Guiana and Venezuela. Its task was to find out a solution satisfying for both sides and it was obliged to report every 6 months starting with the first meeting. In the case of failure of the mutually acceptable solution within 4 years after signing the Agreement, the Joined Commission would in its final report provide the governments of Guyana and Venezuela all unsolved issues for consideration. These governments would with no delay select one of the means for the peaceful solution of disputes stipulated by Article 33 of the UN Charter¹⁰. In the event if these two governments within 3 months after receipt of the final report failed to establish a mutually acceptable solution pursuant to Article 33 of the UN Charter, the decision would be entrusted to a corresponding international body with the consent of both parties in the dispute; or in the case of disagreement to the UN General Secretary (Geneva Agreement, 4(2)). He is liable for the final solution of the dispute.

According to the quoted provisions, it is debatable why Britain became (remained) the third signatory of the Geneva Agreement in the moment when Guyana became independent since Britain was not predicted as the party in any legal instrument in the Arbitration.

However, the most controversial part of the Geneva treaty is Article 5, paragraph 2. Namely, it stipulates that “no acts or activities taking place while this Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the territories of Venezuela or British Guiana or create any rights of sovereignty in those territories, except in so far as such acts or activities result from any agreement reached by the Mixed Commission and accepted in writing by the Government of Guayana and the Government of

⁹ British Guiana became independent on May 26, 1966. Faithfull to the anticolonial tradition and respecting the UN Charter, Venezuela acknowledged among the first the independency of Guyana while not waiving its territorial rights.

¹⁰ Article 33 of the UN Charter says:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, Mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangement, or other peaceful means od their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Venezuela. No new claim or enlargement of an existing claim to territorial sovereignty in those territories shall be asserted while this Agreement is in force, nor shall any claim whatsoever be asserted otherwise than in the Mixed Commission while that Commission is in being". This was revoked several times (Gomez, 1992, p. 26). Since the Joint Commission was not able to bring a decision that would satisfy both parties, in 1970 negotiations were ceased by the Protocol of Port of Spain (The Protocol of Port of Spain, 1970). Namely, in Article 3, it was provided a delay on the period of 12 years of Article 4 of the Geneva Agreement regarding the way of selection of the dispute solution.

After 12 years, in 1982, Venezuela decided not to ratify the Protocol of Port of Spain and accordingly to activate again the bilateral negotiations embedded in the Geneva Agreement. Next year Venezuela proposed direct negotiations with Guayana while Guayana suggested the solution of the dispute in three ways: 1) solving of the dispute before the UN General Assembly; 2) solving of the dispute before the UN Security Council; and 3) solving of the dispute before the International Court of Justice. Venezuela rejected these proposals considering the disputable issue as the matter of interest of two sovereign and internationally recognized states. Ruined by a deep economic crisis, Venezuela in 1987 in the agreement with Guyana accepted the method of the "Good Offices", which is based on the invention of mutually acceptable solution for both parties in accordance with the Geneva Agreement and started to implement it the next year¹¹.

It is difficult to draw the conclusion that there is some progress in solving this dispute since this method is still in force¹² (Andrews, 2017, p. 5).

INSTEAD OF CONCLUSION

All mentioned disagreements lead us to a conclusion that achievement of the permanent solution in this dispute is a challenging and hard job. Powers from this region still treat states in Latin America as subordinated, i.e. as the object of their

¹¹ Professor Krivokapić defines the method of good offices defines as an instrument of peaceful solution of international disputes. Good offices today in the most often cases means an attempt of the international community, particularly the UN General secretary to bring into the contact parties in dispute that they can in between reach satisfactory solution. This method we differentiate from mediation because mediation third party directly participates in negotiations (provides comments, suggestions, etc.), while with good offices the role of third party is just inducement of the parties to approach negotiations or to convey message between the parties. Since third party continues in practice to help searching peaceful solution and after providing direct contact, there are more and more authors that put this method in a kind of mediation (Krivokapić, 2015, p. 200)

¹² Guyana Chronicle informed that UN General Secretary Mr. Antonio Guterres would entrust this issue to the International Court of Justice unless it would be solved until the end of this year.

policies. In this regard, finding out the permanent and sustainable solution depends primarily on their compromises (Nikolić, 2017, p. 26). However, multinational corporations represent another significantly important factor within the macro plan when *solving* this problem.

Namely, the lack of any control of the frontiers of marine regions by Venezuela is used for many misuses with the exploitation of natural resources. Guyana, contrary to the Geneva treaty in 1993, approved an exploration to the Exxon Mobile in the disputed Stabroek block. It is estimated that this company will on the basis of the oil reserves and natural gas perform the pure profit higher than 40 billion dollars (Fuelfix, 2015). After the Bolivarian socialist revolution, Venezuela is even more against exploitation of its natural resources. However, the culmination of frustration of Caracas is the incident in 2013 when the seismic exploration ship “RV Teknik Perdana” directly controlled by the American oil company Anadarko Petroleum Inc. entered into the epicontinental shelf of Venezuela (Felix, 2015, p. 45). Consequently, for the first time, Nicolás Maduro expressed open threats with the military intervention if the misuse of the Geneva Agreement continues (Kaieteur news, 2013). Therefore, multinational companies made a certain turn in the politics. Since the death of Hugo Chávez, the financing of opposition started in order to break the socialist regime. After the triumph of the ruling power and the breakdown of the coup d’état, the government in Caracas decided to calculate future prices of oil and fuel in Chinese currency and not in dollars as it did before (Martić, 2017, pp. 50-53). This broke, temporarily, the *Monroe doctrine*.

The *uti possidetis* principle and the British acknowledgment of the borderlines in 1825 will stay further on the strongest legal arguments on the side of Caracas in this dispute. The International Court of Justice decision in 1992 in a dispute between El Salvador and Honduras goes in favour of these arguments. The Court at the time predicted to solve this territorial dispute by the *uti possidetis* principle unless both parties explicitly agree to solve this dispute in some other way (ICJ Reports, 1992, p. 514). However, political factors tell us that the solution of this dispute depends on the interests and the real ratio of powers on the terrain. How this will perform we can only wait to see. In long terms, present *status quo* is not convenient to any party in this dispute.

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Aleksa NIKOLIĆ

**SUKOB OKO GVAJANE ESEKIBE:
KLJUČNI ISTORIJSKI OKVIRI I PRAVNA PITANJA**

Apstrakt: Južna Amerika je vekovima bila mesto ukrštanje velikih sila. Nakon oslobađanja od kolonijalne vlasti, brojne južnoameričke države ustanovile su princip *uti possidetis* na osnovu kojeg su utvrdile granice novonastalih država. Slučaj Gvajane Esekibe predstavlja primer kršenja ovog principa i međunarodnog prava.

Pitanje Gvajane Esekibe predmet je teritorijalnog spora između Velike Britanije i Britanske Gvajane s jedne, odnosno Venecuele s druge strane. S tim u vezi rad je podeljen na četiri celine. U uvodu autor govori o istorijskim pitanjima vezanim za ovu teritoriju, odnosno analizom primene principa *uti possidetis*. U drugom delu rada ističu se britanske pretenzije prema ovoj teritoriji iskazane kroz povlačenje tzv. Šomburgove linije. Treći deo rada bavi se pravnom analizom Pariske arbitraže. Tu autor u prvi plan ističe kao presudne političke a ne pravne argumente. Četvrti deo se bavi analizom Ženevskog sporazuma, odnosno njegovom (ne)primenom. Na kraju, autor ističe značaj multinacionalnih kompanija za (ne)rešavanje ovog problema.

Ključne reči: Gvajana Esekiba, Venecuela, Velika Britanija, *uti possidetis*, Pariska arbitražna odluka, Ženevski sporazum.

Received: 17.12.2017.

Revised: 15.01.2018.

Accepted: 24.01.2018.

UDC 327:341.222(265.57)
341.222(510:529:52)(265.57)
Biblid 0543-3657, 69 (2017)
Vol. LXIX, No. 1169, pp. 83–105
Original Scientific Paper

UNRESOLVED TERRITORIAL ISSUES IN THE EAST CHINA SEA

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Abstract: In the last decade, China, Taiwan and Japan have intensified their territorial claims in the East China Sea over the islands that the Chinese call Diaoyu, Taiwanese Diaoyutai, and the Japanese Senkaku (hereinafter: the Senkaku/Diaoyu Islands). Due to the increasingly visible escalation in mutual relations arising from different points of view regarding the sovereignty of the mentioned islands and different approaches of the coastal states regarding the delimitation of the borders of exclusive economic zones and continental shelves where no party wants to make concessions to the other party, the application of international law seems inevitable mechanism for overcoming territorial disputes. This is very important because if the disputes are not settled peacefully and with the application of international law, it is quite certain that in the future, the relations between the coastal states will deteriorate. Along with this, there may also be stronger interference by the United States in disputes, which, as a great power, can use the existing situation to strengthen its own geo-strategic position and military presence, and then to ensure its own geo-economic interests in a global game for the energy resources in which this maritime region is quite rich. Hence, it is necessary for all parties in the territorial dispute to make additional efforts to reach solutions in accordance with the rules and principles of international law, which, in all likelihood, constitute an optimal guarantee of achieving lasting peace and security in this part of the world.

Key words: East China Sea, territorial disputes, Senkaku/Diaoyu Islands, maritime delimitation, Japan, China, Taiwan, international law.

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GEOGRAPHICAL POSITIONING OF THE SENKAKU/DIAOYU ISLANDS

In the world-renowned naval charts, the Senkaku/Diaoyu Islands are positioned in the East China Sea (in Chinese, *Dong Hai*), which is part of the Pacific Ocean (Google maps, 2017). They are located in the waters between 123°20'–124°40'E (east longitude) and 25°40'–26°00'N (northern latitude), roughly due east of Mainland China, northeast of Taiwan, west of Okinawa Island, and north of the southwestern end of the Ryukyu Islands (Wikipedia, 2017). The Senkaku/Diaoyu Islands represent a group of five smaller volcanic islands and three cliffs: Uotsurishima/ Diàoyú Dǎo, Taishō-tō/ Chīwěi Yǔ, Kuba-shima/ Huángwěi Yǔ, Kitakojima/Běi Xiǎodǎo, Oki-no-Kita-iwa/Dà Běi Xiǎodǎo, Oki-no-Minami-iwa/Dà Nán Xiǎodǎo and Tobise/Fēi Jiāo Yán. In some naval charts that were mainly plotted by foreign seafarers and geographers, this island group was designated as the Pinnacle Islands (Lai, 2013, p. 208, Alkhalili, 2013). In the group of the Senkaku/Diaoyu Islands, whose surface is approximately 6.27 square kilometers, only two islands are inhabited and are located on the very edge of the continental plateau of the East China Sea. The islands are facing Okinawa to the south, and are approximately located 76 nautical miles east of the Chinese island of Pengjia, 100 nautical miles northeast of Keelung in Taiwan, 220 nautical miles west of Okinawa, and 92 nautical miles northwest of the Ishigaki Islands in Japan (Ishigaki-jima).

RETROSPECTIVE OF STATE CLAIMS FOR SOVEREIGNTY OVER THE SENKAKU/DIAOYU ISLANDS

The dispute over the Senkaku/Diaoyu Islands originates from the distant Chinese-Japanese past (Upton, 1972, Ivy Lee, 2013, pp. 35, etc.). Until the 1970s, China, Taiwan and Japan had claimed sovereignty over the islands located half way from Taiwan and the southwestern end of Okinawa. According to Chinese historical artefacts, China was the first to discover and use the islands of Senkaku/Diaoyu. At the time of the Chinese dynasty Ming (from 1368–1644), this area was considered an integral part of the Chinese territory. The Islands of Senkaku/Diaoyu are officially mentioned in the 15th century, in a document found in the Bodleian Library in Oxford and in the book *Shun Feng Xiang Song*, published in 1403. A comprehensive evidence of the Chinese affiliation of the island of Senkaku/Diaoyu is found in numerous reports compiled by Chinese emigrants at that time, but also in naval and military charts and defensive documents in which the islands are drawn on a road leading from China to Okinawa. During the Qing dynasty (from 1644–1911), the Senkaku/Diaoyu Islands were under the jurisdiction of Taiwan, which was part of China. As the border between the Senkaku/Diaoyu Islands and Okinawa in the 17th century, the area of Heishuigou was taken, which

is described in historical sources as the “Black Water Zone” that cultivates the Chinese continental plateau. Historical sources state that in 1720, the deputy of Chinese Ambassador Xu Baoguang sent a royal sign to the King of Okinawa. Working with local representatives, he succeeded in compiling a travelogue *Zhongshan Chuanxin lu*, in which the westernmost border of the kingdom of Okinawa in Kume-yima south of Heysheigh was identified based on the record of the mission of Chusan. Something similar was done by the deputy ambassador, Zhou Huang, in 1756, confirming that Heishueigou represents the border between Qui Yi and Kume-jima, while envoy Li Dingyuan noticed that there was a traditional practice of sacrificing domestic animals when crossing the Okinawa basin (Joyman Lee, 2011, Cohen&Chiu, 1974, p. 351).

In talks with Japan over the sovereignty of the Ryukyu Islands, Li Hongzhang, the Qing dynasty diplomat called to the fact that the Japanese writer Hayashi Shihei noticed in his illustrated geography that the Senkaku/Diaoyu Islands are not entering the composition of the Ryukyu Islands (Hamakawa, 2015, p. 5). In the same period, sea charts and geographical maps of large maritime powers such as the United Kingdom, Spain, the United States of America and France portrayed the Senkaku/Diaoyu Islands with a component part of China (e.g. a geographical map called “China’s latest map” in Great Britain in 1811, then a ticket was printed in the United States in 1859, etc.). A naval map of the eastern Chinese coast from Hong Kong to the Liaodong Bay built by the British Navy in 1877 portrayed the Senkaku/Diaoyu Islands as part of Taiwan. In addition, the Senkaku/Diaoyu Islands were clearly separated from the Japanese Nansei (Nansei shotō) or the Ryukyu Islands on the maritime chart. After Japan annexed the Ryukyu Islands in 1879 (renaming them to Okinawa Island), Japan began to operate more or less concealed with the aim of occupying the Islands, and finally it was able to do that after the end of the Chinese-Japanese War (1894–1895). On this occasion, the renowned Chinese state reformer Wang Tao, voiced opposition to Japanese expansionism, pointing out that Japan had no right to join Okinawa since this area was more formally in vassal relation to the Japanese state of Satsum. However, China was too weak to resist the Japanese military force that quickly occupied the whole of Korea (which was previously vassal of China), as well as strategically important Chinese territories in southern Manchuria, the peninsula Liáodōng, Taiwan and the Pescadores/Penghy archipelago in the Taiwan Strait. The occupation of the Senkaku/Diaoyu Islands in 1895 was not regarded by China as a legal act under international law.

Japan has ignored Chinese historical and legal arguments, believing that a request for sovereignty over the Senkaku/Diaoyu Islands stems from the fact that the Islands were discovered in 1884 by a Japanese sailor Koga Tatsushiro who after the discovery asked the Japanese government to lease the islands. However, from the available historical sources relating to this case, it appears that neither the Japanese authorities

at that time were entirely sure of whether the Senkaku/Diaoyu Islands discovery could be a valid legal basis for the Islands to belong to Japan given that there was no clear evidence to support the merits of this requirement. Therefore, the Japanese government has dispatched secret missions to establish relevant facts for the purpose of legitimizing the demand that the Senkaku/Diaoyu Islands belong to Japan. Given that the contested islands were not inhabited or occupied by any country as “no one’s land” (*terra nullius*), Japan, on the basis of a Cabinet decision of the Imperial Council of Ministers on January 14, 1895, put the Senkaku/Diaoyu Islands under the administrative power of Okinawa Prefecture. Shortly after the victory in the Sino-Japanese War, on April 17, 1895, Japan and China signed the Peace Treaty in Shimonoseki, on the basis of which Taiwan (Formosa), along with all accompanying islands was transferred to Japan (Gaimusho, 2017, Shigeyoshi, 2012). It is interesting that the Peace Treaty of Shimonoseki did not mention in the text anywhere that the Senkaku/Diaoyu Islands were simultaneously transferred to Japan.

From the current Chinese perspective, there are very few arguments to support the Japanese request that these islands are not occupied. According to Chinese legal opinion, there is a clear distinction between the view that the islands were “uninhabited” and the view that the islands “were not occupied”. Historical sources prove the exact opposite because before the Japanese discovery and occupation of the Senkaku/Diaoyu, the Islands were visited by Taiwanese fishermen whose graves have been preserved to this day. China’s territorial claim is also justified by the fact that prior to the Japanese discovery of the Senkaku/Diaoyu, it carried out some state acts such as providing navigation assistance to ships, collecting medicinal herbs and fishing. After the conclusion of the Peace Treaty of Shimonoseki in 1895, the Senkaku/Diaoyu Islands were given to Taiwan. By the end of the Second World War, the Islands were returned to China. Namely, China persistently insists that, according to the Cairo Declaration and the Potsdam Proclamation rendered during the Second World War by the Allied Powers (which Japan accepted as part of a Peace Treaty concluded in San Francisco in 1951), it was clearly stipulated that Japan was obliged to return China the administration of these Islands, as well as to all other territories that Japan took over by force, such as Manchuria, Formosa and Pescadores. Moreover, in Article 8 of the Potsdam Proclamation of Allied Powers, it is underlined that the Japanese sovereignty relates exclusively to the islands of Honshu, Hokkaido, Kyushu, Shikoku, “and such minor islands as we determine” (Cairo Communique, 1943, Potsdam Proclamation, 1945). In October 1945, Japan renounced rights over Taiwan. However, the issue of territorial sovereignty over the Senkaku/Diaoyu Islands was not explicitly solved. In response to the possible omission of the Senkaku/Diaoyu Islands from the final text of the Peace Treaty, on August 15, 1951, prior to the San Francisco Conference, the Chinese government publicly announced that: “If the People’s Republic of China is excluded from the preparation, formulation and signing the Peace Treaty with Japan, regardless of its

content and outcome, it would be considered unlawful and invalid by the central national authority”. In September 1951, the Chinese government sent another note stating that the San Francisco Peace Treaty was illegal and invalid and that the Diaoyu Islands are “China’s Inherent Territory”. According to the Chinese standpoint, after the Japanese surrender at the end of the Second World War, Taiwan was returned to China along with the Senkaku/Diaoyu Islands (The People’s Republic of China, State Council Information Office, 2012).

Japan contests China’s alleged argument by stating that its sovereignty on the Senkaku/Diaoyu Islands stems from Japanese continuing administration that begins with the incorporation of Islands which dates back to the Sino-Japanese War and the conclusion of the Peace Treaty of Shimonoseki, and then on the basis of the absence of Chinese territorial claims between 1895-1970. Finally, Japan believes that it takes sovereign rights on the Senkaku/Diaoyu Islands based on the fact that they were affiliated to the group of islands Nansei Shoto which have nothing to do with Taiwan (whose government of Kuomintang recognized for opportunistic reasons as a legitimate Chinese government until 1972), and hence, even with the San Francisco Peace Treaty concluded after the end of the Second World War in which China and Taiwan did not take part (Seokwoo Lee, 2002, pp. 124-126).

In order to understand the difference in the views of China and Japan, it must be taken into account that based on the San Francisco Peace Treaty the Nansei Islands south of the 29th parallel of the northern latitude were placed under the care of the United Nations and the civil administration of the United States of America. The US Administration of the Ryukyu Islands (USCAR), adopted on February 29, 1952, Regulation no. 68, and then on December 25, 1953, and Proclamation no. 27, which unilaterally extend the boundaries of this area on the Senkaku/Diaoyu Islands (Treaty of Peace with Japan, 1951). Based on the US-Japan Treaty of 1960, the US took over the administration of Okinawa, including the Senkaku/Diaoyu Islands (Treaty of Mutual Cooperation and Security, 1960).

Considering that there is a possibility of a different interpretation that could lead to an open territorial dispute, in August 1970, the Okinawa Assembly adopted a decision on the basis of which the Senkaku/Diaoyu Islands were declared as an integral part of the territory of Japan. This decision was supported by the National Parliament of Japan. That same year, Taiwan made an official protest, and China made similar complaints through public media demanding that it should return to the Senkaku/Diaoyu Islands. Japan and the United States then signed the Reversion Agreement on 17 June 1971, which envisioned the return of Okinawa. The Okinawa Reversion Agreement also included the restoration of administrative authority over the Senkaku/Diaoyu Islands from May 15, 1972 (Agreement concerning the Ryukyu Islands and the Daito Islands). On the same day that the said Agreement was signed, the US Government issued a statement that the return of Okinawa would have no effect on the sovereignty over the Senkaku/Diaoyu

Islands. On this occasion, the Ministry of Foreign Affairs of China made a protest on December 30, 1971, stating that the alleged conduct of the United States leading to an open violation of the territorial sovereignty of China is not acceptable to China and that it would therefore be necessary that the United States return China its sovereign rights over the islands. The request came after the Committee for Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas under the auspices of the UN Economic Commission for Asia and the Far East (ECAFE) began geophysical measurements in 1968 and since the report in 1969 stated that the area of the epicontinental plateau between Taiwan and Japan is rich in oil and other natural resources (Emery, et al, 1969, pp. 3, etc.). However, the transfer of administration over the Senkaku/Diaoyu Islands from the United States to Japan did not confirm the transfer of sovereignty. As the matter of fact, during the administration of the Senkaku/Diaoyu Islands, the United States did not dispute the Chinese sovereignty or emphasized that Japan possessed this sovereignty. Officially, the United States insisted that the issues of sovereignty over the Senkaku/Diaoyu Islands should be resolved between interested parties (Valencia, 2007, pp. 155, etc.).

In connection with the above-mentioned actions, the Ministry of Foreign Affairs of Japan on March 8, 1972, issued a statement entitled: “The Basic View of Sovereignty over the Islands of Senkaku” (Ministry of Foreign Affairs of Japan, 2017). That document repeats the claims of Japanese original sovereignty over the Senkaku/Diaoyu Islands. Namely, Japan claimed that the islands were *terra nullius*, and that they did not belong to Taiwan or the islands of the Pescadores before they were assigned to it by the Qing Dynasty on the basis of the Peace Treaty of Shimonoseki. According to the Japanese viewpoint, China did not consider these islands as an integral part of Taiwan, and the islands could not have been included in the territories that Japan had renounced under the provision of article 2 of the San Francisco Peace Treaty. The Senkaku/Diaoyu Islands were placed under the administration of the United States of America as part of the Nansei Island in accordance with the provision of Article 3 of the said Peace Treaty. According to the Japanese view, the Senkaku/Diaoyu Islands were definitely returned to Japan in accordance with the Okinawa Reversion Agreement (Hamakawa, 2015; Jade Harry, 2013, p. 660, Asada, 2007).

This view was completely unacceptable to China, so China expressed its view that the Japanese incorporation of the Senkaku/Diaoyu Islands as *terra nullius* constitutes an unlawful act of occupying Chinese territory that has no effect in international law. Neither the contract of Shimonoseki, by which Japan forced the Chinese dynasty Qing to give him Taiwan, along with all of the associated islands, including the Senkaku/Diaoyu Islands, is of no legal significance, as confirmed by the acts of the Allied Forces of the Second World War – the Cairo Declaration and the Potsdam Proclamation by which the Allied Powers obliged Japan to

unconditionally return all the territories it had seized from China. The said acts clearly define the Japanese territory which does not include the Senkaku/Diaoyu Islands. These islands have not been placed under the custody of the United Nations and the administration of the United States of America on the basis of the Peace Treaty from San Francisco. The United States arbitrarily extended custody to the Senkaku/Diaoyu Islands which *per se*, represented the Chinese territory. The subsequent “return of administrative powers” over the Senkaku/Diaoyu Islands to Japan, represents for China an unlawful attempt by Japan to occupy the Chinese territory, which in essence represents a sort of challenge to the post-war international order. However, despite open opposition, China was keen to freeze the existing conflict with Japan for some time, so in that sense, Chinese President Deng Xiaoping proclaimed a new foreign policy, “leaving aside territorial disputes” with Japan, “for the purpose of joint development”. Such an approach led to the normalization of diplomatic relations in 1972 and the signing of the Treaty of Peace and Friendship in 1978. On the basis of the Treaty, the two sides agreed not to raise any further questions regarding the sovereignty over the Senkaku/Diaoyu Islands, but to leave the issue “for resolution to future generations” (PRC Ministry of Foreign Affairs, 2000). However, although the resolution of the problem was left behind, the territorial dispute between China and Japan has not been unfortunately resolved to this day. The dispute came to the surface again, as rich oilfields were discovered in areas of their unilaterally declared exclusive economic zones. From that moment, two sides ask each other for the delimitation of its exclusive economic zones, and then the continental shelves (Harrison, 2005).²

China stands by its position that the line of demarcation must pull along the edge of the epicontinental plateau that is approaching the Okinawa archipelago. On the other hand, Japan believes that the line of delimitation should go along the central line that separates a part of the coastal area of the two countries. Japan has repeatedly accused China of exploitation near the area belonging to the Japanese exclusive economic zone. China made a proposal for joint investment in the disputed area due to these allegations. Following several unsuccessful bargaining attempts and sending military troops to disputed areas, the Chinese state overseas oil company *China National Offshore Oil Corporation*, began the exploitation of gas in the Shirakaba/Chunxiao which China considers to be 4 nautical miles inside the Chinese exclusive economic zone. Since Japan did not agree with China’s stated

² Chinese estimates of potential gas reserves on the entire shelf range from 175 - 210 trillion cubic feet. Foreign estimates of potential oil reserves on the shelf are as high as 100 billion barrels. Chinese estimates of ‘proven and probable gas reserves of some 17.5 trillion cubic feet on the Chinese side, much of it in the Xihu Trough. Japan and China assume rich petroleum deposits in the seabed around the disputed Islands, where the Japanese government speaks of over 94.5 billion barrels of quality oil.

approach, and considering that the site is located on the other side of the borderline, Japan tried to respond to Chinese unilateral action by guaranteeing the right to exploit its *Empire Oil Company* in the Teikoku Sekiyu area. However, for security reasons, this company has never started business. The Ministry of Foreign Affairs of China has filed a protest note to Japan since such a Japanese act is qualified as open provocation and violation of Chinese sovereign rights. In the further course of events, the above outburst between Japan has led to a worsening of relations between the two countries. The situation gradually deteriorated and in 1992, following the promulgation of the Chinese Law on the Territorial Sea and the Contiguous Zone, it culminated. The Japanese Ministry of Foreign Affairs has strongly protested against the new Chinese Law. Considering that in this case there can be no question of a territorial dispute, Japan has strengthened the request for the Senkaku/Diaoyu Islands by giving some of them to private persons. In January 2003, the Japanese government announced that it rented the island of Kuba-shima/Huangwei Yu, back in 1972, for 20 years. Kuba-shima/Huangwei Yu, along with Okinawa, were hired by the United States for military purposes. For allegedly preventive reasons, the remaining three islands – Uotsuri-shima/Diaoyu Dao, Minami-kojima/Nan Xiaodao and Kita-kojima/Bei Xiaodao, the government of Japan rented in 2002. China reacted harshly to these unilateral acts issuing a protest note. After the meeting of the President of China, Hu Jintao and Japanese Prime Minister Yasuo Fukuda in 2008, there was a melting of mutual relations. By the Agreement on joint exploitation of oil and gas in Shirakaba/Chunxiao and Asunaro/Longjin areas concluded on June 18, 2008, the two sides principally obliged the East China Sea to be no more a crack of the conflict but the “Sea of peace, cooperation and friendship” (China and Japan Joint Press Statement, 2008). The Agreement literally confirmed that it does not prejudice the merits of the set territorial claims, but is mutually agreed upon by each other “understanding” for cooperation. In this regard, China and Japan have undertaken to no longer undertake unilateral acts related to the exploitation of oil and gas in disputed areas until a final solution is reached. Given that China has already begun to exploit the gas in the Shirakaba/Chunxiao area, China has sent a call to Japan to provide technological support and invest in exploitation for the purpose of jointly generating profits. In relation to gas sites of Asunaro-Longjin, two countries have concluded the Agreement on a common development zone of 2,700 square kilometres. The Agreement represented a milestone in improving bilateral relations between China and Japan (Stamm, 2008). However, due to the fact that China continued to use independently two controversial gas sources Tianwaitian and Sankei, Japan protested that China was in violation of the provisions of the Agreement (Hunt, 2017). For Japan was not acceptable China’s view that China had sovereign rights even to the area of the continental plateau almost to the Japanese island connected to the south by Okinawa, which overlaps with its exclusive economic zone of 200 nautical miles

(Guoxing, 1995, pp. 9, etc.).³ In order to secure its territorial interests, on 12 November 2008, Japan submitted to the Commission on the Limits of the Continental Shelf information on the limits of its continental shelf beyond 200 nautical miles from the baselines from which the extent of the terrestrial sea is measured, and in accordance with Article 76, paragraph 8, of the United Nations Convention on the Law of the Sea (Submission by Japan, 2008). China subsequently responded by submitting a preliminary note to the Secretary-General of the United Nations on the establishment of the external border of its continental shelf beyond the 200 nautical miles (PRC Preliminary Information, 2009). This notification was realized through an official request of December 14, 2012, which also, on a unilateral basis, formally extended its sovereign rights to the Okinawa Basin (Submission by the PRC, 2012). This act was preceded by Japanese unilateral nationalization of the three islands of the composition Senkaku/Diaoyu Islands (Fujihira, 2013, p. 42). From that period, relations between the two countries have been considerably worsened. China has begun to directly contest Japan's long-standing physical control of the disputed areas by deploying Chinese CMS vessels to regularly patrol the territorial waters of the disputed areas. It also established an Air Defence Identification Zone (ADIZ) in the East China Sea overlapping with Japan's ADIZ which is formed on August 29, 1968, and patrolled the relevant airspace with military and maritime surveillance aircrafts (BBC, 2013). Japan and other interested coastal states refused to admit the Chinese ADIZ considering that China's proclamation of the ADIZ was a unilateral measure that directly challenged regional security, but also the application of customary international law (Hsu, 2014). At the regular annual Cabinet meeting in 2017, the Japanese Ministry of Foreign Affairs proposed the Blue Paper in which it expressed deep concern over the unilateral acts of China in the disputed area of the East China Sea. On the other hand, a spokesman for the Chinese Ministry of Foreign Affairs rejected Japanese objections, reiterating that China has undisputed sovereignty over the Senkaku/Diaoyu Islands and that it has the right to take all "public service activities" that are "reasonable and legitimate" (PRC Ministry of Foreign Affairs, 2017). In this way, an obvious political imbalance was created that caused further tensions between the two countries in the disputed area of the East China Sea (Zhang, 2017, pp. 1, etc.; Bendini, 2014, pp. 20, etc.; Morris, 2017).⁴

³ Following the conclusion of the Agreement of 18 June 2008, along with the above-mentioned disagreement between China and Japan, the problem of South Korea's economic rights in relation to gas sources in the northern region of Asunara was also at the forefront. In addition to the above, South Korea is fighting China along the Socotra Rock offshore on which a Korean science base was built. China believes that the building of the base has violated sovereign rights in its exclusive economic zone.

⁴ "The dispute's importance lies in its potential to redefine the balance of power in Asia. China is testing both Japan and the US, and is increasingly irritated by the 'security belt' that Washington

UNSUCCESSFUL ATTEMPTS OF JAPAN AND CHINA TO REGULATE TERRITORIAL DISPUTES IN THE EAST CHINA SEA

Japan ratified the 1982 United Nation Convention of the Law of the Sea in June 1996. After that, Japan adopted the amended Law on the Territorial Sea and the Contiguous Zone, as well as the Law on the Exclusive Economic Zone and Continental Shelf, which were supplemented by procedure for implementation (Law of the Sea Bulletin, 1996). It also established an exclusive economic zone around the disputed Senkaku/Diaoyu Islands. China ratified 1982 United Nation Convention of the Law of the Sea 1996. In the ratification declaration, China confirmed its sovereignty over the territories which have been mentioned in the 1992 Law on the Territorial Sea and the Contiguous Zone that included the disputed Senkaku/Diaoyu Islands (Contemporary Laws of the People's Republic of China, 1992, pp. 124-126). At the same time, China declared the precise location of straight baselines, which is important to delineate the Territorial Sea and the Contiguous Zone. According to the Chinese view, the straight baselines connect base-points on the mainland coast and the outermost coastal islands (Reisman & Westerman, 1992; Choon-Ho, 1993, pp. 3-14; Wang & Pearse, 1994, p. 442). In the Law it is set that the territorial sea extends 12 nautical miles from these baselines and from offshore islands. China's declaration of sovereignty over the Senkaku/Diaoyu Islands does not mean an evidence of sovereignty over a continental shelf or exclusive economic zone extending from the features. Given to this, the baselines for the Territorial Sea including the baseline for the disputed Islands will be announced at a future date. Otherwise, in the international law of the sea, straight baselines must be drawn to satisfy several requirements: they must not depart from the general direction of the coast; the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters; they not be drawn to and from the low-tide elevation, and shall not cut off the territorial sea of another state from the high seas of an exclusive economic zone (Handbook on the Delimitation of Maritime Boundaries, 2000, p. 6). Given these conditions, it is clear that Japan did not want to agree with the Chinese determination of baselines. Both States claim their exclusive economic zones extending 200 nautical miles from its coasts. China claims its exclusive economic zone on the basis of its continental shelf, which extends beyond Japan's declared area. From topographical, geomorphologic

and its allies have set up around the Chinese coastline. Japan's confrontation with China is also radically changing Tokyo's stance. As the country most wary of China's growing economic and military power, Japan has gradually adopted 'hedging' policies – preparing for the eventuality that China's rising economic, political and military power becomes a security threat. Japan's 'pacifist' constitution has recently been reinterpreted to allow Japan to lift the ban on 'collective self-defence', permitting Tokyo to assist allied countries under attack“.

and geological point of view, the continental shelf of the East China Sea is the continuity and underwater natural prolongation of the Chinese continent. The continental shelf of the Chinese continent ends at the Okinawa Trough. China holds that the Okinawa Trough, which does not follow the Japanese coast closely, proves that the continental shelves of China and Japan are not connected, and that the Okinawa Trough serves as the natural boundary between them. Based on that approach, which allows claims up to 350 nm from the coast, China claims an area which extends from its coast up to the Okinawa Trough, which is within the 350 nm limit (Zhu Fenlang, 2006).⁵ China's continental shelf on this way represent an area which is extending throughout the natural prolongation of its land territory to the outer edge of the continental margin, i.e., presumably to the Okinawa Trough (Gao, 1991, p. 199; Prescott, 1987; Prescott, 1992, pp. 25, etc.). China argues that the Okinawa Trough as a *back-arc basin* delineates the edge of the continental margin and that the axis of the Okinawa Trough thus serves as the boundary between the continental shelves of the two States (Jianjun, 2010, pp. 145, etc.).

Japan disputes the Chinese interpretation and considers that the Okinawa Trough basically cannot be construed to be a natural border. It argues that the Okinawa Trough is just an incidental depression in a continuous continental margin between the two States. In essence, Okinawa is sitting on the continental shelf. For this connotation, Japan cited the International Court of Justice's precedent in the Case Concerning the continental shelf (Libya vs. Malta) where the Court concluded that if there is a fundamental discontinuity between the continental shelf areas between adjacent States, the boundary should lie along the general line of the fundamental discontinuity. Japan claims that the continental shelf boundary should be the line equidistant between the undisputed territories of the two countries. It argues that the continental shelf should extend only to 200 nm. It estimated that the exclusive economic zone of both sides overlaps because the width of the East China Sea is less than 400 nm and therefore the median line drawn through the overlapping area westward of the disputed Senkaku/Diaoyu Islands should be the maritime border. Japan promulgated 200 nm of the exclusive economic zone from the straight baselines. It applies the median line method of delimitation, i.e., the line every point of which is equidistant from the nearest point on the baseline of Japan and the nearest point on the baseline from which the breadth of the territorial sea pertaining to the foreign coast which is opposite the coast of Japan. Japan's proclamation to the west and north of the Senkaku/Diaoyu Islands left unclear. The extent of overlap is unknown because China and Japan have not published

⁵ "The continental shelf between China and Japan is 325 nm in width at maximum, 167 nm at minimum and 216 nm in average, which objectively causes partial overlap of the continental shelf and the exclusive economic zone of the two countries, and leads to conflicts between the two sides in their claims to the sea area".

maps or specified exclusive economic zone with coordinates of the limits of their claims in the East China Sea.

In 1998, China promulgated the Exclusive Economic Zone and Continental Shelf Act, which did not mention any specific geographical areas. However, this Act opens the door for settlement with Japan on the basis of international law and in accordance with the principle of equity. On the other side, Japanese Law on the exclusive economic zone and continental shelf gives the possibility for both sides to stipulate boundary which may be agreed as a substitute for the median line. However, as long as a border is not agreed upon by both sides, for China the disputed area is therefore between the Japanese-proposed median line and the Okinawa Trough, and for Japan it is the overlapping area of the 200 nm exclusive economic zone.

APPLICABLE RULES OF INTERNATIONAL LAW FOR REGULATION OF UNSETTLED TERRITORIAL DISPUTES IN THE EAST CHINA SEA

The delimitation of sea areas has always had an international aspect (*International Court of Justice Reports*, 1951, p. 132). It cannot be dependent only upon the will of the Japan and China as expressed in its municipal laws which established their exclusive economic zones and continental shelf (Oda, 1995, pp. 312, etc.). Territorial overlapping claims of China and Japan require maritime boundary delimitation. In principle, the validity of the delimitation with regard to other States depends upon international law. The determination of maritime boundaries is governed by international law that has evolved and progressive development as reflected in the 1982 United Nation Convention of the Law of the Sea (Convention on the Law of the Sea, 1982, pp. 3, etc.). According to the 1982 United Nations Convention on the Law of the Sea, which prevails over the 1958 Geneva Conventions on the Law of the Sea, one of the two applicable rules for delimiting maritime boundaries in the East China Sea is possible. The first one begin from interpretation of article 76 which defines a coastal state's continental shelf as comprising the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The paragraph 6 of the same article 76 provides that, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nm from the baselines from which the breadth of the territorial sea is measured. China adheres to this rule of the natural prolongation of land territory, holding that the East China Sea continental shelf is the natural extension of the Chinese continental territory. The Chinese continental-shelf claim extends all the way to the

axis of the Okinawa Trough (about 350 nm from the China coast), enclosing in essence all of the oil potential and resources in the East China Sea.

The second equally applicable rule safeguarded in the 1982 United Nations Convention on the Law of the Sea for delimiting maritime boundaries, such as in the East China Sea, is by reference to the coastal States respective exclusive economic zones. Article 57 of the 1982 United Nations Convention defines a coastal State's exclusive economic zone as an area which not extending beyond 200 nm from the straight baselines from which the breadth of the territorial sea is measured. Japan and China are two States with opposite coasts, and the body of waters between them is less than 400 nm in all. The width varies from 180 nm at the narrowest points to 360 nm at the widest. It is 1,300 km (or 702 nm) in length from north to south. The exclusive economic zones present a weighty overlap problem, because these areas beyond and adjacent to their territorial sea, are subject to a specific legal regime established by the unilaterally promulgated act which is not the entire in conformity with the 1982 United Nation Convention.

The 1982 United Nations Convention contains identical provisions dealing with the delimitation of the exclusive economic zone and delimitation of the continental shelf. Hypothetically a solution is given in accordance with article 74 and article 83 of the 1982 United Nations Convention which set the delimitation of the maritime zones (exclusive economic zone and continental shelf) between Japan and China as the States with opposite coast. In compliance to these rules, the delimitation should be effected by agreement on the basis of international law, as referred to in article 38 of the Statute of the International Court of Justice (Oda, 1969, pp. 373-401; Encyclopedia of Public International Law, 1995, pp. 305-312).

First and foremost, States are bound to apply equitable principles as part of international law to balance up the various considerations which it regards as relevant in order to produce an equitable solution. The goal of achieving an equitable solution when establishing the delimitation of both of the continental shelf and of the exclusive economic zones requires the application of customary law (International Court of Justice Reports, 1993, p. 59.). Essentially, customary international law and the 1982 United Nations Convention on the Law of the Sea require an equitable result. There is the logically prior question of whether it will be an equitable solution if the continental shelf and the exclusive economic zone share a common maritime boundary. From the recent case law, there is a trend towards the delimitation of a single maritime boundary for all the overlapping zones between opposite and adjacent States. Most States would regard this as a pragmatic and workable solution. Whether the boundary of the continental shelf areas and the boundary of the exclusive economic zone have to be identical depend quite simply on the result of delimitation. Few principles of delimitation may be applied under the condition of equitable principles. The first one is proportionality which is based upon the relationship between the lengths of the relevant coasts of States

whose maritime zones have to be delimited, on the one hand, and the area of maritime space to be allocated to each of the parties by the delimitation, on the other. The second one is the principle of distance which is not opposed to the principle of proportionality, *a contrario*, both principles are complementary and both remain essential elements in the process of delimitation (International Court of Justice Reports, 1985, p. 13.). Application of equitable principles, including abstention from refashioning nature, non-encroachment by one party on areas appertaining to the other, respect due to all relevant circumstances and the notions that equity (*ex aequo et bono*), which does not mean equality have to be referred on occasion of the delimitation of maritime boundaries between Japan and China (International Court of Justice Reports, 1982, p. 18). In the absence of an equitable solution, the Japanese unilaterally drew a median line, which is rejected by China on the ground that it is giving in favour of Japan. The median line not only turns into the Chinese side but also turns to the west to enclose the disputed Senkaku/Diaoyu Islands on the Japanese side of the line. Japan considers all waters east of this unilaterally drawn median line to be Japanese territory. China argues that the delimitation should be effected only by agreement, and that agreement through consultation takes precedence over the equidistant line principle. Its representatives pointed out, that the median line or equidistance line is only a method in the delimitation of the sea, which should not be defined as the method that must be adopted, still less as the principle for the delimitation (Fenglan, 2006). The delimitation of the sea should follow the fundamental principle, i.e., the equitable principle. In some cases, if equitable and reasonable results in the delimitation may be achieved by using the method of median line or equidistance line, States concerned can apply it by agreement (Blake, 1987, pp. 111-118; Birnie, 1987, pp. 15-37; Charney, 1994, p. 227).

The question of delimitation of the maritime border between Japan and China in the East China Sea obviously is common with a dispute over the sovereign rights to the Senkaku/Diaoyu Islands. China and Japan argue that they have inviolable sovereignty over the Islands. The disagreement over the evidence of the territorial sovereignty can be summarized as follows. China argues that the Senkaku/Diaoyu Islands were part of its territory until April 17, 1895, when they were ceded to Japan after losing a war. The Chinese contend that the islands should have been returned under the terms of Article 2 of the San Francisco Treaty of 1951. Therefore, according to China, whatever happened after April 1895 cannot detract from China's longstanding claim? Japan bases its case on the contention that the islands belonged to no country (*terra nullius*), until January 1895, when they were incorporated into Japanese territory by a cabinet decision. It argues further that since that time, Japan has maintained continuous and effective control of the islands, and therefore what happened before January 1895 cannot diminish Japan's sovereignty. For the purpose of this analyse it will be important to clarify whether these islands allow the holder

State to claim an exclusive economic zone and a continental shelf. Actually, the Senkaku/Diaoyu Islands territories administered by Japan are also claimed by China. The Senkaku/Diaoyu Islands consist of five uninhabited islets and three inhospitable rocks, located just about 120 nm southwest of Okinawa. They are situated at the edge of the East China Sea's continental shelf fronting the Okinawa Trough to the south. The depth of the surrounding waters is about 100-150 meters, with the exception of a deep trough in the continental shelf just south and east of the islands that separates them from the Ryukyu Islands. According to article 121(3) of the 1982 United Nations Convention of the Law of Sea, rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf. Japan and China agree that the islands generate the right to a 12 nm territorial sea and to a 12 nm contiguous zone, but whereas China applies article 121(3) and thus denies the islands the right to an exclusive economic zone and continental shelf, Japan upholds such argues. It means that Japan holds that the features are islands and are therefore entitled to have the continental shelves and exclusive economic zones. It thus uses them as base points for its continental shelf and exclusive economic zone claims in the East China Sea. If Japan's interpretation of the 1982 United Nations Convention of the Law of the Sea is accepted, then it can claim up to an equidistant line with China. If China is given the title to the islands under such conditions, it could claim a continental shelf up to the Okinawa Trough, and an exclusive economic zone to an equidistant line with the nearest undisputed Japanese island. Otherwise, both countries would have an overlapping continental shelf and exclusive economic zone claims extending from their nearest undisputed territory. China has not taken yet an official position on whether the Senkaku/Diaoyu Islands are a rock or an island, which means that only in the latter case could the islands be entitled as an exclusive economic zone. The reply to the question of ownership of the Senkaku/Diaoyu Islands is a prerequisite for pending to an agreement over the delimitation of the maritime border between Japan and China.

EVENTUAL SOLUTIONS FOR REGULATION OF TERRITORIAL DISPUTES IN THE EAST CHINA SEA

In accordance with the United Nations 1982 Convention on the Law of the Sea, the delimitation of the sea should be conducted first through consultation and by agreement between parties concerned. It means that in the delimitation of the East China Sea the choices of the parties concerned should be respected to the greatest extent (Ryjouk, 2017). As long as Japan and China can reach an agreement, any method of the delimitation, provided it can be accepted by the parties concerned, is reasonable. After years of dispute over gas fields in the East China Sea, Japan and China have reached an agreement, with both sides announcing it on

18 June 2008. The agreement was made in a spirit of understanding and cooperation. In the current agreement, the two countries agreed to stand the border issue for the time being and promised to refrain from unilaterally exploiting the disputed areas until a resolution was found. The new agreement affects two of the disputed gas fields: Shirakaba/Chunxiao and Asunaro/Longjin. In the case of the Shirakaba/Chunxiao field, which China has already started to develop, Japan has been invited to invest in its development. As for the Asunaro/Longjin gas field, China and Japan have agreed on establishing a joint development zone. The agreement represents a milestone in the improvement of bilateral relations between China and Japan (Stamm, 2008). Regarding delimitation of their maritime border, Japan and China are free to adopt whatever delimitation line they wish, whether that line is based on political, economic, geographic or any other kind of consideration. On the basis of the rule, the land dominates the sea; Japan and China have the liberty to point out particular potential solutions for delimitation of the “inherited” maritime zones (continental shelves and exclusive economic zones). In fact, it means that Japan and China should be obliged to determine the existing facts on the basis of the rules of international law which are fundamental for the delimitation of maritime border of States with opposite coasts. In order to achieve an equitable solution, Japan and China should take a wider consideration of all facts, principles and rules within the context of general international law. It anticipates the principle of equidistance or different equitable principles of delimitation (historic titles or other special circumstances such as the geographic configuration, geomorphologic and geological factors of the seabed and subsoil, economic factors, political and security factors, environment, presence of third States, etc.). In the near future, Japan and China should make every effort to negotiate a solution on a common boundary line for both the exclusive economic zones and continental shelves. Such boundary lines between Japan and China are crucial for East Asian security. Joint development and exploitation of fish, minerals, and hydrocarbon resources depends very much on the two regional powers. If no agreement is reached within a reasonable period of time, Japan and China should resort to the conciliation procedures provided for in Part XV of the 1982 United Nations Convention. Either State then may resort to compulsory procedures provided for in the Convention by submitting the dispute to the International Court of Justice, the International Tribunal for the Law of the Sea or to the International Arbitration (Dimitrijević, 2011, pp. 68-77; Soons & Schrijver, 2012, p. 5).

SUMMARY

Based on the previous analysis, it is clear that there are serious differences between Japan and China regarding the determination of sovereignty over the Senkaku/Diaoyu Islands which is a preliminary issue for the delimitation of the

sovereign rights of the two States in the East China Sea. In this respect, the following differences are crucial.

Although China and Japan agree that the possession of sovereignty over islands entails the right to a territorial sea of up to 12 nautical miles and up to 12 nautical miles on the contiguous zone, they disagree about the possibility of declaring the exclusive economic zones and the continental shelves. On the one hand, Japan supports China's position towards a consistent application of Article 121 (3) of the 1982 United Nations Convention on the Law of the Sea, which stipulates that the possession of cliffs and rocks in which people cannot live and where it is not possible to develop independent economic life does not entail the right to declare the exclusive economic zones and continental shelves. On the other hand, Japan does not consider that the Senkaku/Diaoyu Islands cannot have their exclusive economic zones and the continental shelves. By this approach, Japan basically confirms that the Senkaku/Diaoyu Islands are viewed as islands, and not as cliffs or rocks whose status by law must not entail the right to proclaim those seas. If such a Japanese interpretation of the 1982 United Nations Convention on the Law of the Sea is accepted, then Japan could ask that the delineation with China in the East China Sea goes by a central line or a line of equal distance. However, in the event that it is established that China has sovereign rights over the Senkaku/Diaoyu Islands, it could require the establishment of its continental shelves all the way to the Okinawa Basin and the proclamation of its exclusive economic zone on a line of equal distance with the closest Japanese island in respect of which there is no dispute. In the case of *a contrario*, both States would retain territorial aspirations on the continental shelves and the exclusive economic zones of the other that overlap and stretch from their nearest territories that are not disputed. Since China has not yet taken an official stand on whether the Senkaku/Diaoyu represents rocks or islands for it, the issue of sovereignty over the disputed sea area will be a preliminary legal issue that needs to be answered before any agreement on territorial delineation in the East China Sea (O'Shea, 2012).

It is clear, therefore, that China and Japan (including Taiwan but also others coastal states such as South Korea which have territorial claims in the East China Sea), must resolve their territorial disputes peacefully, without coercion, intimidation, threats, or the use of force, and in a manner consistent with the rules and principles of international law codified in the 1982 United Nations Convention on the Law of the Sea, and also contained in customary international law (O'Rourke, 2017). Achieving a legally sustainable solution to sovereignty over the Senkaku/Diaoyu Islands through a peaceful settlement of the dispute foreseen in Article 287, Part XV of the 1982 UN Convention includes the overcoming of Sino-Japanese relations that are burdened by mutual misunderstanding, nationalist animosities, and geopolitical and historical rivalries. After all, it is a prerequisite for overall

regional stability and the achievement of a higher level of freedom and rights related to the international law of the sea (Drifte, 2008, 2014).⁶

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⁶ In the past decades, Japan and China have refused to bring the dispute before the International Court of Justice. This negative attitude suggests that the solution must be sought through a political dialogue that will require a positive atmosphere in the negotiations and a strong leadership that will lead to constructive relations and respect for mutual national interests.

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Duško DIMITRIJEVIĆ

NEREŠENA TERITORIJALNA PITANJA U ISTOČNOM KINESKOM MORU

Apstrakt: U poslednjoj deceniji, Kina, Tajvan i Japan intenzivirali su teritorijalne zahteve u području Istočnog kineskog mora nad ostrvima koja Kina naziva Djaoju, Tajvan Djaojutaj a Japan Senkaku (u daljem tekstu: Ostrva Senkaku/Djaoju). Zbog sve vidljivije eskalacije u međusobnim odnosima koja proizlazi iz različitih stanovišta priobalnih država u pogledu delimitacije granica isključivih ekonomskih zona i epikontinentalnih pojaseva, gde nijedna strana ne želi da napravi ustupke drugoj strani, primena međunarodnog prava čini se neizbežnim mehanizmom za prevazilaženje teritorijalnih sporova. Ovo tim pre, jer u slučaju da se sporovi ne reše mirnim putem i uz primenu međunarodnog prava, sasvim je izvesno da će u perspektivi doći do zaoštavanja odnosa između priobalnih država. Uz navedeno, može doći i do jačeg uplitanja SAD, koja, kao velika sila, može iskoristiti postojeću situaciju za ojačavanje sopstvene geostrateške pozicije i vojnog prisustva, a potom i za osiguranje sopstvenih geo-ekonomskih interesa u globalnoj utakmici za energetske resursima sa kojima je ova pomorska regija prilično bogata. Otuda je neophodno da sve strane u sporu ulože dodatne napore da postignu rešenja u skladu sa pravilima i principima međunarodnog prava, koji, po svemu sudeći, predstavljaju optimalnu garanciju za postizanje trajnijeg mira i sigurnosti u ovom delu sveta.

Ključne reči: Istočno Kinesko more, teritorijalni sporovi, Senkaku/Djaoju ostrva, delimitacija, Japan, Kina, Tajvan, međunarodno pravo.

AMBASSADORS FORUM

100 YEARS OF THE BALFOUR DECLARATION -A BLOOD-DRENCHED CENTENARY¹

H.E. Mr. Mohammed K. M. NABHAN,
Ambassador Extraordinary and Plenipotentiary of the State of Palestine in Serbia

This week, the Palestinian People mark 100 years since the Balfour Declaration was issued on November 2, 1917. On that day, the United Kingdom's Foreign Secretary Arthur Balfour addressed a letter to Lionel Walter Rothschild, a figurehead of the British Jewish community promising the land of Palestine to the Zionist Federation.

As the late Palestinian academic Edward Said described it, the Balfour declaration was made: "(a) by a European power, (b) about a non-European territory, (c) in a flat disregard of both the presence and the wishes of the native majority residents in that territory, and (d) it took the form of a promise about this same territory to another foreign group."

The Balfour Declaration continued with a British Mandate of Palestine 1922-1948. The Jewish settlers who came from Europe in the period between the two World Wars intended as planned by the Zionist movement to create their own "pure Jewish state" despite the will of Muslim and Christian majority (94%). British colonial rule helped the Jewish immigrants to settle in Palestine and provided support to the Zionist militias by training them and supplying them with arms. Concomitantly, British colonial rule repressed Palestinian movements who opposed British policies which were exemplified by its crushing of the remarkable national strike of 1936.

We the Palestinian People see The Balfour Declaration as the precursor to the 1948 Palestinian Nakba (catastrophe), when the Zionist militias forcibly expelled more than million Palestinians, perpetrating horrific massacres and destroying more than five hundred towns and villages and the Jewish state has been established in more than three quarters of the total area of Palestine. More than two-thirds of the Palestinian people, Christians and Muslims, were expelled. Families, children and old

¹ Lecture of H.E. Mr. Mohammed K. M. NABHAN, Ambassador Extraordinary and Plenipotentiary of the State of Palestine in Serbia, was held on 2nd November 2017 in Institute of International Politics and Economics.

people were forced to take refuge in the neighboring countries carrying nothing but a horrible suffering and hope that they will return one day to their home.

The Organization of United Nations founded camps for them at the fringes of Arab capitals and towns.

In spite of suffering, affliction and miserable life in those camps, Palestinians did not lose hope to return to their home.

When Palestinians woke up from the enormity of the shock they started to struggle to retrieve their rights. All freedom fans and justice advocates have supported them in that. The Organization of United Nations has recognized their rights and brought out hundreds of resolutions that imply them.

In 1967, Israel occupied the rest of the Palestinian territories and expelled hundreds of thousands of Palestinians.

After more than a quarter of the century and many wars, an agreement was signed by the Palestinian Liberation Organization and the Government of Israel in 1993, which contains reciprocal recognition, and a declaration of principles implying the withdrawal of the Israeli army from the towns of West Bank and Gaza Strip as well as starting the negotiations concerning the final status after five years from the date of agreement in order to reach the result of establishing the Palestinian state on the whole territories that Israel occupied in 1967.

Instead of that:

- Israel has not stopped erecting colonies which swallow the territories of West Bank.
- Israel erects winding roads for those colonies, which increase the area of confiscated territories.
- Israel has not stopped building the racist separating wall, which is snaking through the West Bank. It is a monstrous eight meters high wall made of concrete, the wall is an entire regime composed of razor wire, trenches, watchtowers, electric fences and ditches, fractionating Palestinian towns and villages in a merciless way, extirpating thousands of olive trees, grapevines, distorting the beauty of nature. Despite the fact that the International Court of Justice (9 July 2004) asserted that it is contrary to international law and that Israel is under obligation to discontinue construction of the Wall and dismantle those sections that have already been built forthwith, Israel continued establishing the Wall.
- Israel has not stopped killing and arresting Palestinians; therefore, there are more than 6,500 Palestinians in Israeli jails (among them 300 children and 57 women). Israeli occupation authorities arrested more than 1,000,000 Palestinians since 1948.

- Israel erects more than 500 checkpoints around and between the Palestinian towns. Some of those bunkers look like borders that Palestinians cannot pass without permissions from the Israeli army. Those checkpoints transform the life of Palestinians to an unimaginable daily suffering.
- The Israeli army launched three horribly devastating wars on the Gaza Strip targeting mainly civilians:
 - In 2008, 1,436 Palestinians were killed (410 children, 104 women, and 100 old men) and 5,400 injured, half of them were children.
 - In 2012, 162 Palestinians were killed (among them 42 children and 11 women) and 162 injured.
 - In 2014, 1,742 Palestinians were killed (among them 530 children and 302 women) and 8,710 injured. Also, 11 employees of UNRWA and 23 employees of ambulance teams were killed. 13,217 homes were demolished.
- Furthermore, two million residents in Gaza endure a worsening humanitarian situation after a decade of the Israeli blockade.
- Israel continues its Settlement policy and Judaization of Jerusalem attempting to change the Islamic and Christian features of the city and destroy its Arab identity.
- The Israeli Government has been practicing a racist policy via a system of institutionalized discrimination against Palestinians who managed to remain in their homes in the territory occupied in 1948.

WHY?

Hundred years passed from the Balfour Declaration, more than ten wars in the Middle East, hundreds of thousands were killed, and millions have become refugees, losses estimated at trillions of dollars - all that stems from the Balfour Declaration.

In the common Palestinian memory, Nakba and the whole tragedy that occurred to the Palestinian People after that is linked to the Balfour Declaration.

A question arises why the United Kingdom has not yet apologized for the Balfour Declaration?

Why the UK government does not listen to the voice of the Palestinian people who were victimized by this declaration and has been suffering for a hundred years, and the voice of those who have petitioned their government to apologize for the Balfour Declaration, the NGOs and solidarity groups turning out on the streets, advocating tirelessly for our rights as Palestinians?

It is time for the British government to do make concrete steps towards ending the occupation on the basis of international law and resolutions, including the UN

Resolution 194 concerning the rights of the Palestinian refugees, and recognizing the state Palestine within the 1967 border, with East Jerusalem as its capital.

Repudiating the legitimate rights of the Palestinian people would embed the apartheid system in Israel and perpetuates the conflict.

BOOK REVIEW

THE LAW OF REFUGEE STATUS

James C. Hathaway, Michelle Foster, *The Law of Refugee Status*, 2nd edition, Cambridge: Cambridge University Press, 2014, Pp. 773, ISBN: 9781107688421.

The issue of refugees is one of Europe's hot topics, on which many researchers are contributing from various angles and doctrinal backgrounds. Increasing numbers of migrant deaths in the Mediterranean prompted to the forefront old debates on asylum, jurisdiction, responsibility and burden sharing. International law is an instrument of refugee protection which is in no way perfect, but still offers the only adequate framework for humane dealing with this issue. The 1951 Convention Relating to the Status of Refugees (Refugee Convention) has inspired a plethora of state practice emerging from the interpretation by national courts of what is the earliest universal human rights treaty.

The book *The Law of Refugee Status* by James C. Hathaway and Michelle Foster is one of the essential texts on every refugee lawyer's bookshelf. Its second edition is dramatically revised from the first and includes all the transformation in international law that has occurred in the twenty-three years between the two editions. National courts have gained in prominence as they are called upon to interpret international norms and treaties. This heterogeneous body of law is influencing international affairs through the trans-judicial dialogue. The Law of Refugee Status is, however, not only a compendium of jurisprudence but rather a comparative analysis of interpretative variations of the refugee definition under the Refugee Convention.

It might be said that the topic of refugees, notwithstanding its practical value, has still not attracted the proper attention from international legal scholars worldwide. One reason could be that the obligations under the Refugee Convention are typically embedded in domestic immigration and administrative law which are part of national legal scholars' field of study. However, the aim of the modern refugee policy is exactly to pull the refugee and asylum law from the remit of domestic immigration control and to bring it within the domain of international human rights protection.

The authors thread a very uneven ground then, as they delve into provocative discussions of many central international legal debates. They engage into a principled treaty interpretation and dissect the notion of trans-judicial communication, explore the Refugee Convention's definition through a human

rights lens by transposing human rights obligations across the treaty regimes and present a wide range of human rights violations in countries of origin and the ways in which the law regards them in time and space. The dynamics of refugee law, by the authors, reflects the changing frontiers of international and human rights law more generally, by changing the meaning of established institutes such as: extra-territorial jurisdiction on the high and territorial seas or in airport transit zones, persecutions that are based on grounds such as sexual orientation, deprivation of economic, social and cultural rights, responsibility under the doctrine of joint criminal enterprise. The authors note that this change is a consequence of the interpretation of rights drawn from the main universal human rights treaties onto the refugee definition of the Refugee Convention, but also because of a variety of interpreters on the international plane - the United Nations High Commissioner for Refugees (UNHCR), the European Court of Human Rights and an array of other international, regional, state and civil society actors. For international lawyers this shows how norms converge across the fragmented treaty regimes.

The problem for readers in the European region might be that the authors concentrate primarily on the Anglo-American jurisdictions and the wider community of Commonwealth states, considering the case law of the USA, the United Kingdom, Canada, Australia and New Zealand, and only to a lesser extent that of some member states of the European Union implementing the Refugee Qualification Directive.

The book is structured around the definition of the refugee from the UN Convention. There are seven chapters which represent seven issues that the authors identify as needing to be addressed by decision-makers prior to the recognition or denial of the refugee status in accordance with the Convention: alienage; well-founded fear; serious harm; failure of state protection; nexus to civil and political status; needing protection and deserving protection.

The authors criticize the lack in international law of a treaty-monitoring body that generates authoritative, fact specific and nuanced case law. The authors argue that, unlike other human rights treaty-monitoring bodies, the parameters of supervisory functions of the UNHCR as the guardian of the Refugee Convention fall short of the authority to mandate particular interpretations of the Article 1 refugee definition. The authors, therefore, insist on a principled treaty interpretation that requires international treaties to be applied in line with the provisions of Article 31 of the Vienna Convention on the Law of Treaties, with an emphasis on the humanitarian object and purpose of the agreement. The authors are of the view that the treaty interpretation should adapt to the nature of human rights agreements as instruments embodying individual and not state rights. Therefore, they do not look agreeably on the practice of departure of national authorities in their interpretation from the humanitarian objectives of the treaty.

To conclude, *The Law of Refugee Status* is a comprehensive and interesting book. It is very much in the spirit of our era since it deals with a controversial topic and it offers brave new insights and suggestions for the problems that this topic creates. The Refugee Convention remains the primary international legal mechanism for millions seeking protection from persecution. Therefore, members of the international community will continue to discuss and clash on its purpose and value through its interpretation. International lawyers that offer insights into the true paths of its interpretation, armed with this book in hand, will definitely come in handy.

Mihajlo Vučić

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Research papers should not exceed 6000 words including abstracts, references, acknowledgements and footnotes.

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A separate title page should be attached. This will be detached during the refereeing stage to maintain the anonymity of the author. The title page should include: The name(s) of the author(s); a concise and informative title; the affiliation(s) and address(es) of the author(s); the e-mail address of the author(s); the author(s) academic biography, up to 150 words, in the third persons. If the first author is not the corresponding author, this should be clearly indicated.

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(Dimitrijević, 2003, p. 33).

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EC. (2002). Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), Official Journal of the European Communities L201 37–47, 31 July (European Commission, Brussels).

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CIP - Каталогизacija y publikaciji
Народна библиотека Србије, Београд

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The REVIEW of International Affairs /
editor-in-chief Sanja Jelisavac Trošić. - Vol.
1, no. 1 (1950)- . - Beograd : Institute of
International Politics and Economics, 1950-
(Beograd : Donat graf). - 24 cm

Tromesečno.

ISSN 0486-6096 = Review of International
Affairs

COBISS.SR-ID 3154178

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