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Culture**



**Politicus.** *Fostering a Community of Scholars.*

## **Politics, Language, and Culture**

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# Land Acknowledgement

*The Arts & Science Undergraduate Society (ASUS) acknowledges that Queen's University is situated on Anishinaabe and Haudenosaunee territory. As an institution, ASUS has benefited from colonization in its destructive nature. Our complicity has allowed us as both individuals and an organization to have and provide the opportunities that have made up our traditions for our now 130 years of existence. We are committed to learning more in a goal of allyship in standing in solidarity with Indigenous persons, and dismantling systemic racial and ethnic discrimination, and other forms of oppression, in and beyond our roles at Queen's to work towards a truly inclusive campus.*

*Further, as we engage in academic theory and debate, Politicus must recognize the ongoing legacies of colonial oppression that continue to affect our world and the study of politics today. Politicus is committed to seeing the growth of equity-seeking voices within our realm of academics, and beyond.*

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# Foreword

Dear Valued Readers,

It is with great pleasure that *Politicus* presents this year's *Special Issue: Politics, Language, and Culture*. In partnership with the Department of Language, Literature, and Culture student council at Queen's, we bring you five fantastic pieces of research exploring how politics influences and is influenced by the most central pillars of society. Language and culture touches everything in daily life and it is imperative that we grow to understand how they interact with the political realm. In the spirit of discovering more of the world around us, we aim to highlight political perspectives that often go underexamined. We were blown away with the originality and creativity of all the submissions we received for this Special Issue and would like to thank everyone who had the courage and ambition to put their work out into the world.

We would also like to give a huge thanks to our editorial board and copy editors. Through many late-night meetings and independent work, these dedicated peer reviewers ensured that this publication and each piece within showcases the amazing undergraduate research conducted by students of politics and culture alike. We would like to thank our marketing team, who went above and beyond to promote *Politicus* and its publications. Special consideration also needs to be given to our Equity, Diversity, Inclusion, and Indigeneity (EDII) Directors, who ensure integrity and mindfulness remains at the core of everything we do. In addition, we would like to thank our partners at ASUS, specifically Academics Commissioner Alicia Parker and Deputy Academics Commissioner Alli De Jong, without whom this journal could not exist.

Special shout out to Goldie Majewski and Terri Matheson at the LLCU DSC for their partnership in this publication is also due. Finally, we would like to thank our professor reviewers, Dr. Jennifer Hosek, Dr. Margaret Maliszewska, Dr. Jeremy Wildeman, Dr. Colin Farrelly, and Dr. Poulomi Chakrabarti. Their expertise provides us with the insight and credibility needed to make this publication thrive.

As the last few years have made abundantly clear, politics does not exist in a vacuum. Our knowledge as scholars and awareness as people strengthens when we are exposed to work that innovates across disciplines. We encourage our readers to investigate how politics touches different aspects of their lives in our local and global communities. *Politics, Language, and Culture* is dedicated to everyone who made this publication possible. Happy reading!

Our very best,

Caitlyn Jenkins & Madelyn Scheid,

*Politicus* Co-Editors-in-Chief 2022-2023





# The Mandates of Damocles: Politics, Post-Colonialism, and UNESCO World Heritage

*Christina “Chris” Brown*

## Introduction

To an institution like UNESCO, the modern era is a double-edged sword. On one hand, contemporary technologies for research, excavation, and preservation are ever improving, facilitating the continued enactment of the agency’s mandates around the world; as global communication improves, so too can the understanding of global heritage. On the other hand, a new world promises new priorities, and new states whose objectives and perspectives may not align with the agency’s principles. Nor is a holdover institution promised the same place of power in the new order that they once held in the old one. Founded in the 1940s, the United Nations and its subsidiary councils, UNESCO in particular, were initially designed to work within a much smaller definition of internationality than what the world looks like today: at ratification, UNESCO was only signed by 51 constituents. Under this narrow scope of engagement, “since it was created by [the Euro-West]... the western states, especially the US, felt justified in using UNESCO to further their political interests and purposes” (Dutt 44). These origins invite a colonial bias whose persistence in UNESCO functionality complicates the entity’s efforts globally. By employing the principles of colonial deconstruction, UNESCO’s

colonial foundations reveal an aging institution whose ability to succeed in an increasingly post-colonial landscape is called into question. This essay considers the sociopolitical discussions, contentions, and complications surrounding World Heritage Designation as the status is prescribed by the United Nations Educational, Scientific and Cultural Organization, known as UNESCO. The prevalence of empire and imperialism as the dominant state of world order has greatly diminished over the past century. That said, the notion of post-colonialism is new and inconsistently applicable to the modern political landscape. Colonial deconstruction encourages a critical perspective with regards to institutions whose foundational circumstances took place in sociocultural contexts that are no longer maintained, but whose structures and tenements have not necessarily been reconstructed to accommodate for that growth. Holdover entities whose functionality were initially designed to suit colonial hegemony often struggle to navigate modern-day sociopolitical considerations. Through the examination of prominent heritage locations such as Jerusalem, Stonehenge, and the Sites of Japan’s Meiji Industrial Revolution, the tumultuous position of UNESCO’s World Heritage Designations today become apparent. More specifically, the institution

requires and accommodates specific political circumstances that are not inherent to sociopolitical phenomena and can only be guaranteed in a colonial landscape; in the absence of that guarantee, many protections and benefits characteristic of UNESCO World Heritage designation are not available to these locations.

This analysis begins with an exploration of UNESCO as a colonial institution and expands upon the interpretation of post-colonialism in terms of the United Nations' current political landscape. The discord between these structures is examined first in the Old City of Jerusalem, and the conflicting political entities whose administrations and populations have claimed contesting authority over the site. The second case study explores the challenges to navigate shifting priorities and objectives within the heritage management community, exemplified in infrastructural disputes around England's prehistoric site of 'Stonehenge, Avebury and Associated Sites'. Later, we consider the precariousness of heritage and historical revisionism at the sites of Japan's Meiji Industrial Revolution, where cultural advancement is celebrated while war crimes are erased, to the opposition of involved members of the international community.

### **Theoretical Framework: Colonial Deconstruction**

This paper employs a colonial-critical lens in its analyses, examining colonial institutions in their roles as such, and calling to consideration their effectiveness and applicability in an

increasingly post-colonial world. This framework, Colonial Deconstruction, identifies colonialism-based biases and presumptions within authoritative and administrative entities, and analyzes their continuing impact upon the efforts and objectives of that entity. As the cultural arm of the United Nations, founded predominantly by the Euro-West in a time of continued Euro-Western hegemony, the United Nations Educational, Scientific and Cultural Organisation is unquestionably one such entity. Political phenomena still active at the time of UNESCO ratification include the Doctrine of Discovery and British authority in Mandatory Palestine, both of which have been repealed or condemned repeatedly in the intervening decades (Dunbar-Ortiz 2014; Romann & Weingrod 1991, 16-19).

For the purposes of this paper, the definition of post-colonialism may be specified to refer to the political engagements and conversations involving nations and states who were previously party to a colonial arrangement, be that as colonizer and colony/colonies, as interchanging or overlapping colonial authorities, or as two or more states with a shared experience of colonization under a third party. This definition does not require that relations between the party communities be unequivocally emancipated from one another in terms of society or culture; instead, it establishes that the states in question are legally responsible for their own political presence and administration as they relate to heritage management, as with the case studies explored in this paper. It is in such circumstances, where colonial

powers are no longer unquestionably in charge, that entities like UNESCO can be found ill-befitting their self-appointed role as neutral global institutions.

UNESCO's colonial framework is summarized in three primary components: unquestioned authority, unfettered access, and unimpactful opposition. The institution's foundational mandates takes these factors as a given, and indeed presumes their ubiquitous applicability upon anything that UNESCO may consider as "the best that humanity has to offer" in terms of international cultural heritage (UNESCO "75 Years" n.d.).

Unquestioned authority refers to the administrative claims laid upon a geographic location and sector. It requires a given territory to be under the sovereign political authority of an exclusive entity without heard contestation. France's claims to authority over Paris, for example, are uncontested, and therefore any UNESCO efforts to be made within the city are the responsibility of the French state to nominate and to implement. In regions where this authority is not so cleanly established, where there is no single dominion, third parties like UNESCO cannot apply their mandates, as they depend upon state self-nominations to identify sites of global heritage (UNESCO "World Heritage List Nominations" n.d.). After unquestioned authority comes unfettered access, which for the purposes of this paper is the ability of figures of power to impose action or policy upon a territory at will. In a colonial landscape, colonial powers are regularly in a position to do this, and as an

extension of their authority, colonial entities and institutions share in the privilege. A post-colonial framework, however, has the potential for discord between the colonial holdovers and the contemporary administration, even in situations where that administrative authority is centralized. UNESCO today is not guaranteed the sort of prioritization and alignment of objectives that it held at its inception, which can complicate the projection of sites that carry UNESCO designation (Dumper & Larkin 2012). Distinct from unfettered access, UNESCO's colonial framework also relies upon unimpactful opposition. In order for decisions to be carried through, the decisionmaker must either wield the ability to enact the requisite measures, or have some kind of guarantee from the enactor that the necessary steps will be taken. In a colonial context, this is often done through sociopolitical incentives such as reprimand, threat of force or elimination, or embargo, among others (Larkin & Dumper 2009; Hughes 2020). Post-colonially, that power dynamic does not carry the same prominence or prevalence; colonial organizations like UNESCO lack the ability to implement their mandates without the support of the state; pushback "expose[s] UNESCO's legal frailties and vulnerable dependence on member states [sic] financial support and goodwill" (Larkin & Dumper 2009, 17).

### **Case Study: Israel, Jordan, and the Old City of Jerusalem**

Complications in the effectiveness of UNESCO World Heritage have often been exemplified in the Middle East, particularly

since the Six-Day War of 1967, when the state of Israel annexed the West Bank. This is a swath of territory that lies just short of the Mediterranean coastline and includes such notable cities as Jericho, Bethlehem, Hebron, and the Old City of Jerusalem. Conversations surrounding the authority of this area, and Old Jerusalem in particular, are culturally and ethnically charged; the city is central to Jewish, Islamic, and Christian traditions, and contesting parties have been fighting over control of the Holy City throughout its history.

UNESCO's reliance upon the compliance of member states in order to enact its mandates, leaves the entity at odds in what scholars have coined the "Jerusalem Problem" (Romann & Weingrod 1991, 6). The UNESCO World Heritage List, for example, invites party states to "submit nomination proposals for properties on *their* territory" (UNESCO "World Heritage List Nominations" n.d., emphasis author's). Under the turn-of-the-century British Mandatory administration, this caveat would not be cause for any sort of complication. Jordan's 1950 annexation of the West Bank, however, was only recognized by two nations (Iraq and the United Kingdom), and Israel's 1967 annexation was widely condemned as null. In the decades since the 1949 armistice agreement, there has not been a governing body able to lay an uncontested claim upon the Old City of Jerusalem, and therefore there is no singular entity who may provide the authorization and investments necessary to ratify the site while allowing UNESCO to maintain its supposed neutrality.

An attempt to inscribe the Old City anyways took place in 1981, when UNESCO inscribed the site of 'Old City of Jerusalem and its Walls' to the World Heritage List. The issue was that the nomination was put forward by Jordan at a time when Jerusalem and the West Bank was under the annexation and functional authority of Israel, and Israel enjoyed the support of the United States of America. Israel refused to acknowledge the nomination – they in fact were not yet party to the World Heritage Convention – and the affair strained relationships between UNESCO and the US, which at the time was the agency's primary funder (Larkin & Dumper 2009).

Under the British-colonial dominion over the West Bank, international agencies were not often faced with this sort of sociopolitical inconsistency. Jerusalem was a religiously, ethnically, and ideologically divided city under British Mandate Law, and citizen councils were often boycotted by residents, but the administration was centralized, and decisions were ultimately made unilaterally (Romann & Weingrod 1991, 19). As a colonial institution, UNESCO is incapable of establishing its mandates without a clear indication of who is in charge; in a city like Jerusalem, where the global heritage is uncontested but the modern population is divided, it is incapable of apolitically implementing its designations.

By virtue of its own stipulations, UNESCO is incapable of acting upon the heritage management priorities of the Old City of Jerusalem without politicizing itself.

To enact and enforce protections at the site, they must pick a side and hope they are both able and amenable to the work UNESCO wants done; to avoid discord within the agency's constituents and the international community as a whole, they must forfeit the city. As a colonial entity designed for colonial circumstances, UNESCO has created a requirement for a colonial style of authority – one whose borders and territory remain uncontested – to speak on the site's behalf. In the post-colonial setting of Jerusalem and its many claimants, that singular authority is not available, and UNESCO is left at an impasse of its own design.

### **Case Study: Stonehenge and the A303**

UNESCO's precarious positionality is not exclusive to the Old City of Jerusalem, nor even to the Middle East; the entity faces difficulty in enforcing its mandates worldwide. Changes in approaches, capabilities, priorities, and attitudes within the domestic entities responsible for the logistical custodianship of world heritage sites can drastically impact the reception and impactfulness of UNESCO and its principles.

Despite not having been subjected to the colonial authority of another state, and in fact having been the colonizing force for much of the world instead, England also provides a point for consideration, namely in terms of unfettered access. The UNESCO-inscribed site of Stonehenge, a prehistoric collection of standing stones in Salisbury, has been reintroduced to the UK and international news cycle multiple times over the last twenty years, most notably for

conversations surrounding the nearby major road. Highway A303 extends the length of the site and is notable for being “a 24-hour roaring traffic jam” (Kennedy 2004). Discussions began in 2004 to identify solutions to the congestion, a process in which UNESCO has had some input. The prevailing solution has been replacing the aboveground road with a buried carriageway extending approximately 3 kilometers, to mitigate the A303's visual interruption of the Stonehenge environment. Theoretically, this would also address congestion by speeding up traffic, as those travellers inclined to slow down and marvel would be diverted underground.

The endeavour has raised numerous concerns among various international bodies, UNESCO chief among them (UNESCO 2018). As explained by Prof. David Jacques to *The Guardian's* Gwyn Topham and Steven Morris, building the proposed tunnel risks the destruction of thousands of buried artifacts at the site, upon which archaeological excavations are still underway. Not only this, but the tunnel creates excess modern infrastructure within the heritage site, as both of the aboveground entry points are within the UNESCO designation's confines; on its West end, the tunnel also turns into a further kilometer of aboveground road. Whilst Historic England (previously under the name English Heritage) and the National Trust maintain that the projects are a net positive change to the site, professional analyses of the site and projected construction have warned of “substantial harm” to the cultural heritage, landscape, and visual impact around Stonehenge” (Topham & Morris 2020).

These considerations were insufficient to sway planners towards a longer tunnel segment, citing claims that the adjustment could not be financially justified.

The UNESCO World Heritage Committee objects to the plans in their current incarnation, insisting that while the tunnel remains the best option for continued site preservation, the “proposed tunnel length remains inadequate to protect the OUV [Outstanding Universal Value] of the property.... It is regretted that for such an iconic World Heritage property, the argument persists that the perceived benefits of a longer tunnel do not outweigh the costs” (UNESCO 2021). Per public reporting to date, these objections have not led to any changes in the A303 project plan. Historic England and Highways England ostensibly intend to proceed with the planned three-kilometer tunnel and adjacent aboveground carriageway, despite warnings that it may place Stonehenge, Avebury and Associated sites on the list of UNESCO World Heritage Sites in Danger, or ultimately lead to the site’s total removal from the UNESCO World Heritage List.

For as much as the potential loss of UNESCO designation is an influencing factor, the agency’s input at Stonehenge has been heard and, ostensibly, overruled. Being a colonial entity entails that UNESCO was created by decision-making body to be a decision-making entity itself; by contrast, it has been relegated as a secondary consideration at Stonehenge. This is a testament to the entity’s increasing lack of control over the World Heritage scene.

As the global political landscape

expands into post-colonialism, colonial institutions are stripped of their places of privilege: UNESCO’s principles and perspectives continue to stray further from requirements, or even expectations or guidelines, and develop into suggestions, becoming easier and easier to dismiss altogether when the state’s priorities lie elsewhere. The discordance between what UNESCO wants done and what the receiving state is willing to do is exacerbated as the disagreement between an agency with prestige and a nation with power, and a prehistoric site is held in limbo as a result.

### **Case Study: South Korea, Japan, and the Meiji Industrial Revolution**

In various examples, UNESCO faces challenges at every stage of the World Heritage inscription process. In this third case study, we examine contentions about the status itself as it relates to UNESCO’s Sites of Japan’s Meiji Industrial Revolution and other involved members of the international community. In 2015, UNESCO heard a nomination from Japan to award the Sites of Japan’s Meiji Industrial Revolution with a World Heritage Designation. Shortly following, UNESCO heard an outcry from the Republic of Korea about the nomination due to Japan’s erasure of forced labour at the constituent sites during the Second World War.

South Korea’s concerns originate from the absence of any mention as to how the sites maintained their operations after the Meiji era; during the war, seven of the component sites were run using “the forced labour of as many as 60,000 Koreans,” and that the sites thereby “represent a historical

wound, not a milestone” (Kirk 2015). The sites were recommended to the World Heritage List under the ministry of the late Prime Minister Shinzo Abe, whose political policy has long been recognized as nationalistic historical revisionism (Park 2021). The nomination is further complicated with the understanding that Japan is one of the agency’s largest financial contributors (Haime 2022).

UNESCO took these factors under advisement in its considerations of the sites, leading to its ultimate resolution that Japan’s nomination be given conditional inscription to the World Heritage List. The country was then expected to establish an “interpretive strategy for the presentation of the property,” to ensure that the full history be publicly known and available to tourists and visitors. As noted by media, researchers, and UNESCO itself, however, Japan’s adherence to these requirements has been lackluster. The Industrial Heritage Information Centre (IHIC) is not within proximity to any of the Meiji Industrial Revolution sites in question and is therefore plausibly unavailable to the tourist population for whom it was intended (Kirk 2015). The information available is strictly in audio-visual format, without any written materials (brochures, maps, pamphlets) as are available for other components of the sites; and the content of the available materials actively undermines the acknowledgments being made, for example by including isolated testimonies claiming that the abuses and forced labour did not happen (McNaught 2020, 76; UNESCO 2021, 3).

UNESCO’s ability to implement changes at the Meiji Industrial Revolution sites is severely hindered by Japan’s vested interest in circumnavigating them. The country’s forays in revisionist history seek to reconstruct their own colonial heritage as unproblematic at worst and nonexistent at best; by using the World Heritage designation to do so, UNESCO is found in a precarious situation. They are left courting Japan’s favour and financial support, without entertaining the erasure of documented and globally-recognized war crimes and labour abuse, nor without risking the ire of invested members of the international community such as South Korea or the People’s Republic of China. UNESCO’s original status as a colonial institution intimates a position of authority and determination, but it does not maintain that prestige in post-colonial landscapes. Very few decision-making abilities lie at the sole discretion of the agency, and it lacks the resources necessary to obligate member states into compliance. As one of UNESCO’s major financial resources, Japan is in a unique position to instill obligations upon the agency instead; the country has in the past leveraged their funding to incite the desired reaction from UNESCO (Haime 2022). This sort of imbalance is an upset to the dynamics within which UNESCO was designed to operate; UNESCO’s authority is limited to reporting upon decisions, without any of the executive power necessary to see to their resolutions’ implementation, while still maintaining the same share of responsibility for the state of the sites that they did under colonial circumstances.

## **Conclusion**

As has been explored, colonial institutions are poorly positioned to navigate post-colonial interactions; more specifically, UNESCO is ill-equipped to accommodate the modern post-colonial political landscape within which many heritage discussions happen.

The principles of UNESCO's World Heritage List were established with the tenements of colonial power in mind; they presume the presence of unquestioned authority, unfettered access, and unimpactful opposition. As various states move away from this political framework, UNESCO is left in limbo; the agency's tenements no longer hold the impactfulness they were designed with, but there is no entity of global heritage custodianship available to succeed them. In Jerusalem, UNESCO cannot apply its mandates because there is no single state administration available to ratify or implement them. At Stonehenge, the agency's desires for the site have gone unrealized because they are not privileged as they used to be within the domestic state. Finally in Japan, the nation's interest in UNESCO World Heritage designation conflicts with their disinterest in adhering to UNESCO requirements.

UNESCO World Heritage is a prominent designation throughout the international community, but the entity responsible for it is not designed to navigate the modern dominant political landscape. It was designed by colonial powers to be an extension of their power, an apolitical entity to reinstate social and cultural hegemony through the concept of global heritage. As Richard Hoggart succinctly states, "these –

the concept of a neutral international civil service and the commitment to objectivity and the free exchange of ideas – are the two nice fictions on which UNESCO rests" (Hoggart 1978, 57). As the times change, so too does UNESCO's role within the international community. Countries divide and reunite; peoples agree and disagree; laws are followed and rewritten. The world is progressing into a state of post-colonialism through which colonial holdover entities may not be able to follow. UNESCO has found itself with the double-edged blade of post-colonial politics swinging above its head, a Sword of Damocles overseeing every future move of an agency that may or may not succeed in its navigations.

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# Banned Books, Censorship, and the Importance of Critical Education

*Cayleigh Pratt*

## Introduction

Political theory is characterized by the struggle between individual liberty and authority. A critical manifestation of this conflict is the limitations placed on free speech and expression. Freedom of speech is a political principle that supports the freedom of an individual or group to articulate their opinions and ideas without the threat of retaliation, censorship, or legal sanction (Brink 2001). In modern discourse, this is often used interchangeably with an individual's right to freedom of expression. In a legal and technical context, freedom of speech refers to information and ideas in any medium (Brink 2001). According to author Eric Berkowitz, book banning is the most widespread form of censorship in the United States (Berkowitz, 2022). In this case, the primary target of such bans is literature created for children and young adults (Berkowitz 2022). Those in favour of banning, fear that children will be swayed by its contents, which they regard as potentially dangerous. These groups commonly fear that controversial publications will present ideas, raise questions, and incite critical inquiry among children that parents, school boards, political groups, or religious organizations are not ready to address or that they find inappropriate (Berkowitz 2022). The issue of banned books is particularly interesting because although its application may seem

polarizing, it is done by opposite sides of the political spectrum for the same reason; to control the narratives and ideas that are taught to youth and eliminate ones that do not align with their respective ideology. This essay will focus on the historical and contemporary censorship of books, specifically towards school-age children in the United States and its relation to freedom of expression. I will begin by explaining John Stuart Mill's stance on censorship, as explored in his work *On Liberty*. John Stuart Mill remains the prominent classical voice in political theory on the question of censorship. His ideas influence and inspire many of the modern perspectives on this issue. Then, I will provide a case study of the censorship of books by the major contemporary political parties. Next, I will present an alternative to censorship and argue the importance of critical literacy education in conjunction with Martha Nussbaum's *Not for Profit*. Nussbaum's work is relevant to the question of book banning because it offers a modern perspective on the application of Millian principles and highlights the practical implications of censorship. Ultimately, I will argue that the censorship of books in the United States contradicts Mill's views on liberty and hinders the achievement of democracy, preventing children from eventually becoming full political persons. In this case, political personhood describes

one status as a person with the agency and autonomy to make competent political decisions, such as voting, voicing opinions, or lobbying.

### **Exposition of Mill's *On Liberty***

Mill's seminal work, *On Liberty*, aims to explore the fundamental question of how much power the government can rightly exert over individual lives, with significant emphasis placed on the infringement of free speech. Mill was a strong advocate for free speech, believing that liberty should exist within every subject matter so that individuals can have "absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral or theological" (Mill 1859). To protect this freedom, Mill strongly rejects the censorship of speech. He does so for four main reasons. Firstly, a censored opinion might be true. Secondly, even if false, a censored opinion might contain part of the truth. This is because nobody has the right to deprive others of the experience of hearing an opinion and determining its worth for themselves (Mill 1859). He equates the assumption that a divergent opinion is false with assuming one's infallibility (Mill 1859). Note that these two reasons are only instrumentally valuable and cannot be used to justify the censorship of opinions that are known to be false (Brink 2001).

Thirdly, even if false, a censored opinion would prevent true opinions from becoming dogma. To illustrate this, Mill references the decline of organized religion over the course of history. Without a need to

argue over its truth and fight for it to be accepted by dissenters, believers lose interest in talking about their own beliefs. Further, believers no longer question the beliefs of others because they do not see a need to defend their beliefs (Mill 1859). Therefore, the opinion has become dogma. Fourthly, unchallenged dogma will lose its meaning. As the need to prove the meaning of the opinion is lost, the meaning of the opinion is also lost (Mill 1859). It is reduced to mere words, rather than a manifestation of real meaning (Mill 1859). The latter two reasons against censorship are based on deliberative values. This concept regards argumentation and dissenting opinions as important factors in political processes and progress.

Mill only rejected freedom of speech with one exception: the harm principle. Mill states that the only instances in which liberties can rightfully be restricted are ones that cause harm to another person or other people (Mill 1859). However, Mill's definition of harm is indeterminate. Speech can be used in a number of ways in order to harm someone physically, financially, or socially. For instance, the harm principle could be applied to defamation, blackmail, false advertising about commercial products, advertising dangerous products to vulnerable groups, and securing truth in contracts. The harm derived from these acts is more easily proven than implications in which the victims are caused emotional or indirect harm. These types of harm are generally exemplified through harmful speech based on one's membership of a given group, such as their race, gender, or sexual orientation (Brink 2001). This can cause emotional

distress to those who are the target (Brink 2001). Further, it can cause harm to affected individuals indirectly. Speech that promotes harmful stereotypes can perpetuate oppressive attitudes which can lead to instances of violence, discrimination, and mistreatment (Brink 2001). However, these consequences are harder to correlate with specific instances of hate speech and there are no objective measures for what constitutes speech as harmful rather than merely offensive (Brink 2001).

### **A Case Study: The Censorship of Books In America**

In the 17th century, books were censored through burnings. In 1650, *The Meritorious Price of Our Redemption* was challenged and promptly burned by the Puritan government (Berkowitz 2022). This event is considered the first book burning in America, commencing a long history of censorship in the United States (Berkowitz 2022). Since then, tens of thousands of books have been challenged or banned by school boards, libraries, and government agencies (American Library Association 2021). In the last forty years alone, 11,300 books have been banned in some capacity (American Library Association 2021). According to the American Library Association, there are a plethora of reasons for censorship, including the material containing or being: cultural insensitivity, racism, sexism, offensive language, homosexuality, sexually explicit content, political or religious viewpoint, and/or unsuited for a specific age group (2021). Of these, the most commonly challenged

materials are reported to be sexually explicit, contain offensive language, or are unsuitable for the target age group (American Library Association 2021). The censorship of books has been a polarizing issue within American society for centuries. Democrats and Republicans alike have encouraged the challenge and removal of various works. Therefore, this is not only an issue between ideologies but within. With members of both opposing political parties supporting and condemning the practice. The following sections will highlight some examples and the general reasons for challenging and banning books by organizations associated with each of the two major political parties.

#### *Censorship by Democratic Organizations*

Some of the most commonly banned books in America are done so by Democratic organizations. This is usually done out of concern for the promotion of harmful or hateful content. For example, *To Kill a Mockingbird* by Harper Lee and *Of Mice Men* by John Steinbeck are annually cited as two of the most challenged books nationally (American Library Association 2021). Both are challenged for their use of racial slurs and the former is additionally challenged for its positive portrayal of a white savior complex and negative perception of the Black experience (American Library Association 2021) and the latter for its use of racist stereotypes (American Library Association, 2021). Both are criticized for their negative effect on readers, particularly those of colour (American Library Association 2021). Additionally, books may be challenged if

they do not portray an accurate account of social issues. A recent addition to the list of most challenged books is *Stamped: Racism, Antiracism, and You* by Ibram X. Kendi and Jason Reynold. The novel was recently banned because it contains selective storytelling incidents and does not encompass racism against all people (American Library Association 2021). Democratic efforts to ban books such as those mentioned are done so out of protection for the mental and emotional well-being of readers. These examples characterize the American Democratic ideology which values the promotion of equality and the elimination of oppression such as racism, sexism, homophobia, and colonialism against minority groups (Democratic National Committee 2022).

### *Censorship by Republican Organizations*

Books are often challenged or banned by Republican organizations when they challenge traditional values, particularly political or religious values. With regards to political dissonance, *Speak* by Laurie Halse Anderson was banned, because it was thought to contain a political viewpoint (American Library Association 2021). Additionally, both *All American Boys* by Jason Reynolds and Brendan Kiely and *The Hate U Give* by Angie Thomas were banned and challenged because they were thought to promote antipolice views and contain divisive topics (American Library Association 2021). Each of these books contained a dissenting opinion from what those in charge of the curriculum believed. Further, religion is also a major reason for

censorship within Republican groups. *George* by Alex Gino was challenged, banned, and restricted due to its LGBTQIA+ content, conflicting with a religious viewpoint, and not reflecting “the values of the community” (American Library Association 2021). Even the Harry Potter series by J.K. Rowling is consistently challenged within heavily religious regions as it is believed that it encourages a fascination with the occult — esoteric, often outside the purview of religion, supernatural beliefs and behaviours (American Library Association 2021). These examples reflect the American Republican ideology which places importance on traditional values such as religion and respect for law enforcement, encouraging restrictions on things that contradict said values (Republican National Committee 2022).

### **Applying Millian Principles to Book Banning**

To reiterate, Mill condemned censorship for four main reasons: a censored opinion might be true; even if false, a censored opinion might contain part of the truth; even if false, a censored opinion would prevent true opinions from becoming dogma; and unchallenged dogma will lose its meaning (Mill 1859). These ideas can be applied to banned books. With regard to the first two principles, this is especially applicable as many of the aforementioned banned books are works of fiction; these books do not claim to be taken as fact, but rather intend to highlight a general experience or present overarching themes and ideas. They are not necessarily valuable

nor are they lauded for their accuracy. This is not to say that accuracy of historical events is not an important aspect of literary integrity, but rather to address the limitations of this, especially when stories are inspired by anecdotal or personal experiences. Moreover, some authors deliberately use ‘wrong’ opinions in order to present a commentary on an issue. Some of the most challenged books are satirical, such as George Orwell’s *1984* and *Animal Farm* (American Library Association 2021).

Next, exposure to controversial ideas helps reinforce true opinions and maintains the meaning of true opinions. When faced with a contradictory opinion, readers have two choices; they can accept a new opinion or they can defend their original position. Both require engagement with the opinion and result in a stronger opinion. Without this engagement, opinions go unchallenged, becoming stale. For example, Kurt Vonnegut’s *Slaughterhouse-Five* is one of the most challenged books in America for its explicit content and anti-war views (American Library Association 2021). When engaging with this book, American students can either defend their country’s military involvement, calling upon historical and contemporary examples of its benefit. Contrarily, they can question the notion of war when presented with reasons as to why it is unnecessary. Banning books assume that such an issue lacks nuance and has a ‘right’ answer. Instead, books are a tool to inform either side of the debate, providing theoretical and anecdotal evidence in order for readers to make an informed decision. This elasticity is the very meaning that Mill

believes is essential to the preservation of true opinions.

### **The Importance of Critical Education**

The greatest dilemma with banning books is that it attacks a symptom of the problem rather than the problem itself. By censoring this content, especially for young children, students are deprived of the academic opportunities needed to engage with material critically and arrive at their own conclusion about its merit. Without exposure to banned books, students are unable to consider and engage in perspectives that may not meet the status quo. Thus, their education is limited to a singular viewpoint. Instead of banning books, parents, schools, libraries, government agencies, and other related organizations should adopt a more critical approach to literary education.

Martha Nussbaum’s *Not For Profit* connects such education to a stronger democracy. By teaching children to think critically, analyze complex ideas, and form their own decision on the merit of a work, they can develop skills that will turn them into better political citizens (Nussbaum 2016). For instance, if presented with a controversial book, reading it allows students to form their own opinions rather than accepting what they are told by adults with different experiences and ideas. When these children grow up, they will be more likely to form independent thoughts about political candidates and policies (Nussbaum 2016). In regions where governments are elected democratically, the institutions of a country will be stronger because they will be chosen by a moral critical Populus

(Nussbaum 2016). Additionally, reading books on subject matter regarding oppression can help children become more tolerant of those who are different from them. Later, they will be able to make more conscious decisions about politics that do not affect them directly, as they have gained a better understanding of the structures of oppression. Although issues of racism, sexism, and homophobia are deplorable, they remain a reality. Sheltering children from these instances will only reinforce oppressive structures as it erases or minimizes the experiences of oppressed groups.

Mill's ideas closely align with the promotion of critical education as an alternative to censorship. In *On Liberty*, Mill expressed that when society or government attempts to silence unpopular opinions to protect the status quo, they risk hurting themselves in the process (Mill 1859). By censoring an opinion society loses the opportunity to discuss an idea that might be true or an idea that could aid in improving society. Even if this opinion is proven not to be true, silencing it prevents society from discussing and determining why it is false and how this discovery supports the truth of other opinions.

For instance, by banning *Of Mice and Men*, readers will not have to think about why the racist stereotypes it contains are false. Without critical analysis, people are more likely to uphold such harmful ideas. According to Mills, discussion of diverse opinions is necessary for a society's health because it helps prevent it from adhering to opinions and customs

automatically instead of truly understanding them (Mill 1859). This includes being open to hearing criticism of accepted opinions, which helps people discover hidden truths that can improve their lives. Nussbaum also encouraged argumentation because it requires individuals to critically assess what they believe in order to argue it.

Without such discourse, people are much more susceptible to peer pressure (Nussbaum 2016). Mill believes it is one of humanity's chief virtues that people are capable of changing and adapting when a better mode of living is presented to them, but even this can only be achieved if people are free to discuss their mistakes, gain firsthand experience with them, and hear arguments in favour of diverging opinions (Mill 1859). By banning books instead of allowing for discussion and argumentation, all of the critical thinking required for these discussions is nullified. All in all, the banning of books goes against Millian principles, suppresses the formation of critical thought, and infringes upon individual liberties.

### **A Response to the Strongest Objection and Alternative to Bans**

The strongest argument in favour of censorship is formed from the same notion from which Mill's harm principle derives; if content can harm someone, then the government can rightfully intervene. Thus, if the content of a book can harm someone, then it can rightfully be banned. For instance, Mark Twain's *The Adventures of Huckleberry Finn* has been the subject of

controversy since its initial publishing for its crude depiction of racism and use of racial slurs that can have a negative impact on readers (American Library Association 2021). Such content can be particularly detrimental to readers who have faced trauma or oppression, especially on the basis of membership to a group. Moreover, there are fears that in the absence of critical education, the views expressed in a book, like *The Adventures of Huckleberry Finn*, may be accepted as truth.

Instead of censoring books in order to protect readers from harm, the content of a book should be made known so that the reader can make a fully informed decision about whether they want to read it. For example, content warnings can be used to allude to challenging content in a book. Institutions that would otherwise ban books such as schools and libraries should focus on providing accurate and overt content warnings. For instance, *The Adventures of Huckleberry Finn* would have warnings that it contains depictions of racism, racial slurs, violence, slavery, alcoholism, and child abuse. Any reader who does not feel comfortable reading about those topics can make such a decision with full knowledge. Further, students should have the option to opt-out of reading any books for which they feel could cause them harm with no academic penalty. With these changes in place, any reader who may be disturbed by the contents of a book will be aware of such content before even reading it and be able to exercise their own autonomy. This will eliminate many of the common reasons for censorship as it will promote a culture of choice about content. In this way, choosing

not to read something will be just as much of a critical act as engaging with the content directly, therefore promoting a more critical approach to education in either case. In this situation, readers will be just as protected from harmful content without having their liberty infringed upon or being deprived of the opportunity to make critical decisions.

## Conclusion

In *The Picture of Dorian Gray*, Oscar Wilde wrote “the books that the world calls immoral are books that show the world its own shame” (1890). Ironically, this book has been widely banned for sexual and homoerotic content and was used to convict its author of homosexuality (American Library Association 2021). As demonstrated by the Democratic and Republic National Parties, censorship is done to prevent readers from exposure to disagreeable content for lack of an ability to explain it or object to it. In this way, controversial books highlight the shortcomings of leaders and their immediate reaction to censor opposing opinions. The censorship of books in the United States exemplifies the political struggle between individual liberty and government liberty. This issue is one that defies party lines and permeates modern discourse. It is related to the works of modern political theorists like Martha Nussbaum and foundational political philosophers such as John Stuart Mill; both of whom would condemn it. In this essay, I have highlighted specific instances of censorship, provided an alternative to the current paradigm, and rebutted the strongest objection against my side. All in all, the

challenging and banning of books not only contradicts the beliefs of Mill by suppressing individual freedom but also opposes the beliefs of Martha Nussbaum by hindering education and the culmination of political personhood.

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# The Reinforcement of Israel's Ethnic Constitutional Order: The Impact of Israel's Nation-State Law on Regime Change Dynamics

Mavis Wu

## Introduction

Israel is a deeply divided society. It is also a deeply *hierarchical* society – with hierarchies at both the ethnonational level and the ethnoclass level.<sup>1</sup> Israeli sociologist Sammy Smooha argues that from the very outset of *Israel's Declaration of Independence* in 1948, there has been an ethnic hegemony of the Jewish ethnonation in Israel (Waxman and Peleg 2020, 191). This ethnic hegemony is a consequence of the commitments expressed in *Israel's Declaration of Independence*, which have led to the formation of political arrangements and legal structures designed for the domination of Jewish interests over non-Jewish interests. The ethnic hegemony of the Jewish ethnonation has enabled the consolidation of a regime that Peleg has coined an *ethnic constitutional order* (Peleg 2007, 193). This regime has produced cataclysmic consequences for the Palestinian population residing within Israel proper, the Gaza Strip, and the West Bank for the many decades since 1948.

The purpose of this paper is to consider *the regime change dynamics* of Israel's ethnic constitutional order and to therefore question whether current factors

are conducive to a regime change. To answer this ongoing consideration, this paper will analyze the implications of a significant development in Jewish-Arab relations: the Knesset's passing of *Basic Law: Israel as the Nation-State of the Jewish People* in July of 2018. This paper seeks to understand how the passing of Israel's Nation-State Law has impacted regime change dynamics, and hence – the sustainability of Israel's ethnic constitutional order. Ultimately, it will be argued that Israel's Nation-State Law has impacted regime change dynamics in a way that has *further enforced* the ethnic constitutional order in Israel.

To demonstrate the validity of this argument, this paper will be structured as follows. First, there will be a clarification of the meaning of the term 'ethnic constitutional order', followed by a rationale for the paper's usage of this term as opposed to 'ethnocracy'. Following this, a theoretical framework will be proposed by discussing what Peleg posits are the five *most significant factors that might produce a regime change* in a society defined by an ethnic constitutional order. Finally, there will be an empirical discussion of Israel's

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<sup>1</sup> For the purposes of this paper, ethnoclass distinctions will not be examined – instead,

hierarchies at the ethnonational level will be sole focus of this paper.

Nation-State Law – where the contrasting perspectives debating the Law’s implications for regime change dynamics will be evaluated.

### **Clarification of the Term ‘Ethnic Constitutional Order’**

Ethnic constitutional order is a term coined by Peleg to depict regimes characterized by a deeply divided society and ethnonational hierarchies. Peleg had deliberately coined this term as conceptually distinct from the term ‘ethnocracy’ as a means to “better understand the relations between majorities and minorities in hegemonic situations” (Peleg 2007, 193). Whereas ethnocracy posits that “the practices of the state and its associated elites” reproduces hegemony (Yiftachel 2006, 36), the term ethnic constitutional order broadens the meaning of hegemony “beyond a political arrangement designed to benefit one ethnic group, and beyond a foundational legal structure or a constitutional document and tradition” (Peleg 2007, 193). In addition to these *political* and *legal* dimensions of hegemony, the term also includes a *cultural* dimension and a deep *psychological* dimension to the meaning of hegemony. Thus, Peleg’s conceptualization of an ethnic constitutional order conveys the notion that hegemony is not a state-centric phenomenon which can only be reproduced through political and legal dimensions. Instead, hegemony can also be reproduced through a polity’s internalization of ideational factors such as “the dominant group’s language, culture, and traditions” (Peleg 2007, 193). This

allows for a more fruitful understanding of majority-minority relations.

### **Rationale for the Usage of the Term ‘Ethnic Constitutional Order’**

Peleg’s conceptualization of ethnic constitutional order conveys the notion that “such an order is, above all, highly dynamic” (Peleg 2007, 194). On the contrary, Yiftachel’s conceptualization of a hegemonic regime as an *ethnocracy* is much less dynamic. This is because Yiftachel’s conceptualization of ethnocracy posits that the most critical elements of hegemonic power reside in *structural bases* such as demography, violence, territory, economy, law, and culture. By undermining the cultural and psychological dimensions of hegemony while emphasizing the structural bases of hegemony, the conceptualization of ethnocracy becomes more susceptible to structural determinism and is consequently much less dynamic.

Therefore, the dynamic nature of an ethnic constitutional order allows for better theorizing on regime change dynamics; on the other hand, the designation of a regime as an ethnocracy “leaves little room for an empirical examination of the regime” (Peleg 2007, 194). Since the purpose of this paper is to identify the factors which might be conducive to regime change in deeply hierarchical societies, the conceptualization of an ethnic constitutional order is more useful than ethnocracy.

### **Theoretical Framework**

Peleg identifies five factors likely to determine the dynamics of regime change in deeply divided societies with an ethnic constitutional order. The first factor is the *balance of power* between the dominant ethnic group and the subordinate groups. Although the demographic balance of the regime is a crucial variable determining the balance of power, it is not “in and of itself, a single determinant of majority-minority relations” (Peleg, 198). Peleg argues that elements of *dimensionality* also affect the balance of power, for if the balance of power is multi-dimensional – i.e., not limited to advantageous demographic balance, but also advantages in economics, political and military assets, and education – the balance of power would be more clearly in favor of the dominant group. Overall, it is posited that when the dominant group has full control of the polity, they may not feel compelled nor inclined to accept changes in the polity’s ethnic character (Peleg 197).

The second factor is the *intensity and effectiveness of international pressure*. Peleg argues that due to globalizing forces – especially when distinct ethnic groups are engrossed in hostilities – there has become a newly acquired legitimacy for interference in domestic conflicts (Peleg 201). Nonetheless, it is recognized that international intervention is contingent on the *inclination* of outside forces to intervene, as not all conflicts become principal to the concerns and interests of the international community. (Peleg, 201). Peleg proposes three situations which might generate inclination for outside intervention: i) a country might intervene when the conflict concerns the ethnic condition of people who

share with it the same “nationhood,” ii) regional organizations might intervene if the country in question has aspirations of establishing special relations with these organizations iii) the international community might intervene to “defend the rights of a minority in an extreme situation of persecution” (Peleg, 202). However, it is argued that outside interference is rarely effective at transforming ethnic constitutional orders unless there is a situation where “outside powers have self-evident legitimacy in interfering in what otherwise might appear to be an internal matter” (Peleg 203).

The third factor is the *determination of the dominant group to hold on to its exclusive power*. This factor encompasses the dominant group’s resistance to *internal* and *external* pressure. As such, this third factor is closely related to the second factor of international pressure. The distinction between the two is that the second factor alludes to the opportunities and threats posed to the dominant ethnation. However, this third factor alludes to the *attribution* of those opportunities and threats by the dominant ethnation. It is ultimately this attribution of opportunities and threats that determines “the willingness of the dominant group to sustain penalties to maintain the ethnicized character of its state” (Peleg, 204). Furthermore, Peleg argues that cultural dimensions greatly influence how the dominant ethnation attributes internal and external pressures. Thus, cultural dimensions such as “linguistic and cultural institutions, the invention and cultivation of legends and narratives, and the establishment of educational institutions”

are all relevant factors to consider when evaluating the dominant group's *will* to hold on to its exclusive power (Peleg, 204).

The fourth factor is the *compromising proclivity within the political elite*. This refers to whether the dominant group's ruling elites' overall policy gravitates more towards accommodationist or exclusivist policies. Whereas an *accommodationist state* recognizes its own diversity, thus forming structures and adopting policies to integrate diversity into its political arrangements, an exclusivist state adopts policies designed to enhance the power of the dominant ethnonation (Peleg, 205). Peleg argues that although this analytical distinction between accommodationism and exclusivism is useful, in practice, the two tend to live side-by-side within one polity. The political elite of most contemporary states implement a combination of accommodationist and exclusivist policies – contemporary Israel included. The question thus becomes the extent to which the dominant group's ruling elites will gravitate towards either policy approach.

The fifth and final factor conducive to regime change is *the capacity of the system to engineer political change*. This refers to the political system's potential with regards to partaking in innovative political engineering, improving interpersonal relationships, and preventing bloodshed and other types of political instability (Peleg, 206). Overall, Peleg argues that political reform is inherently unlikely in ethnic constitutional orders because that tends to “undermine the very logic of these ethnic

regimes” (Peleg, 207). Nonetheless, Peleg identifies certain political conditions which may increase a country's capacity to initiate political reform – some of these factors being “a long tradition of incremental reforms in the interest of compromise,” and “massive unending violence [...] and widespread feeling within the polity that only political settlement can lead to peace and stability” (Peleg, 207)

### **Basic Law: Israel as the Nation-State of the Jewish People**

The Nation-State Law was narrowly passed by the Knesset, Israel's parliament, on July 19, 2018. Since then, there has been a proliferation of scholarly debates pertaining to the *implications* of the Nation-State Law on Israel's ethnic constitutional order. Some scholars have defended the Nation-State Law as “purely declarative and symbolic, with little, if any, practical consequences” (Waxman and Peleg 2020, 186). Other scholars have emphasized the communicative and expressive functions of the Israel Nation-State Law – which they argue has informed belief structures among citizens, and thereby restricted other potentially envisioned options apart from an ethnic constitutional order. Finally, some scholars argue that the Nation-State Law has substantive implications for Arab-Jewish relations, especially regarding the future of the West Bank.

The notion that the Nation-State Law is purely declarative and symbolic, and that it has no implications on Israel's ethnic constitutional order, is categorically

incorrect and has little basis in reality. Instead, through demonstrating the validity of the *communicative* and *expressive* functions of the Nation-State Law, as well as the validity of its substantive implications, it will be argued that the Nation-State Law significantly impacts regime change dynamics in a way that has *further reinforced Israel's ethnic constitutional order*. This paper will present and evaluate each of the scholarly perspectives mentioned above.

### **The Israel Nation-State Law: Declarative and Symbolic**

Abraham Bell is an Israeli legal scholar who defends Israel's Nation-State Law by arguing that it has *no implications* for reinforcing Israel's ethnic constitutional order. To make this claim, Bell argues that the clauses of the Nation-State Law are largely symbolic and "purely declarative" (Bell, 249). To support this claim, he argues that the Law's clauses stating that basic principles, the symbols of the state, the capital of the state, languages, etc. are simply "declaring what is already known: that Israel is a Jewish state" (Bell, 249). Furthermore, it is argued that the Nation-State Law merely ratified the existing situation and was thus a "needless" declaration that did nothing more than restate the obvious commitments of the state. To make this claim, Bell elicits the 'Ingathering of the exiles' clause, which he argues is merely a constitutional reinstatement of the 1950 Law of Return.

He then proceeds to argue that the Nation-State Law is *not legally enforceable*. He argues that since the Nation-State Law has not *explicitly* "established supremacy of any ethnicity" nor has it *explicitly* demoted any Israeli citizens to second-class citizenship, the clauses of the Nation-State Law are not legally enforceable. Furthermore, he claims that the Law's lack of legal enforceability means that it has no legal or political implications for the polity (Bell, 248).

### *Evaluation of Bell's Argument*

This perspective put forward by Bell is representative of legal scholars who analyzes laws through a *traditional legal framework*. This analytical framework evaluates the impact of laws based on their *legal* implications. Therefore, Bell's argument is already deficient at the outset, as he completely neglects the *cultural* and *psychological* dimensions of Peleg's model of regime change dynamics. In doing so, Bell fails to recognize that there are extralegal implications of the Nation-State Law – namely, cultural and psychological implications – and that these implications will impact regime change dynamics.

Furthermore, even if Bell's premise that the Nation-State Law is purely declarative is accepted, his argument has another major flaw: it makes a groundless connection between *declarative function* and *legal non-enforceability*. Bell argues that because the Nation-State Law is declarative, it follows that it produces no legal implications. However, he has failed to

provide any evidence to support this claim. In a subsequent subsection, it will be demonstrated that the ostensibly declarative and symbolic clauses of the Nation-State Law have in fact led to *substantive* implications for the Israeli-Arab minority.

By defending the Nation-State Law as purely declarative and symbolic, Bell has failed to accurately consider the following dimensions relevant to regime change dynamics: *political, legal, cultural, and psychological*. Furthermore, Bell's argument that declarative laws have no legal implications is insufficiently supported; hence his argument that the Nation-State Law has no implications for reinforcing Israel's ethnic constitutional order is categorically incorrect.

### **The Israel Nation-State Law: Communicative and Expressive Functions**

Palestinian legal scholar Fady Khoury argues that the most harmful implications of the Israel Nation-State Law are *psychological* (Khoury 2018, 4). This subsection will first present Khoury's brief theoretical discussion on the communicative and expressive functions of law. Second, it will be examined what Khoury posits is the most harmful psychological implication of the Nation-State Law. Following this, it will be argued that this psychological implication impacts regime change dynamics in a way that has further reinforced Israel's ethnic constitutional order.

#### *The Function of Law*

Khoury begins his argument with a brief theoretical discussion on the function of law in a polity. He argues that besides law as a socializing agent, law also has *communicative* and *expressive* functions. *Communicative* in the sense that the law "manifests an official collective state of mind" and "reflects the beliefs and attitudes" of a polity (Khoury 2018, 2). *Expressive* in the sense that the law informs the belief structures of a polity and determines a polity's "horizon of imagined alternatives with regard to life and the social order" (Khoury 2018, 1). Applying Khoury's theoretical discussion to Israel's Nation-State Law, it is evident that the Nation-State Law – even its ostensibly symbolic and declarative clauses – has important communicative and expressive functions, which impacts regime change dynamics in a psychological dimension.

#### *The Psychological Harms of the Nation-State Law*

In the empirical portion of Khoury's article, he exclusively focuses his discussion on the Nation-State Law's first clause: *Basic principles*, which declares that Israel is the homeland of the Jewish people, and that the Jewish people have a 'unique' right to self-determination. Khoury argues that analyzing the Nation-State Law in consequentialist-legal terms fails to "capture the totality of the harms inflicted by it" (Khoury 2018, 3). He argues that the "real danger" imposed by this Law are not its legal implications per se, but its *psychological implications*. He argues that while harmful legal implications may be limited by the judiciary, the same cannot be

said about the psychological implications of the Law (Khoury 2018, 4). Khoury argues that the most harmful psychological implication of the Nation-State Law is the polity's internalized reinforcement of Jewish hegemony, whereby the collective consciousness of the Israeli majority accepts its domination over minority groups as a normal and natural order (Khoury 2018, 4).

### *The Communicative and Expressive Functions of the Basic Principles Clause*

Khoury proceeds to discuss how the communicative and expressive functions of the Basic principles clause have enabled this harmful psychological implication. The Basic principles clause serves a communicative function by communicating to Israelis that citizenship is not the decisive factor for sovereignty: ethnoreligious criteria is. This is meant to serve as a signal to the state's citizens, who make up its demos, which in Israel is namely the Israeli-Jews (Khoury 2018, 3). The Basic principles clause thus communicates a harmful exclusionary belief of the collective state of Israel: that only Israeli-Jews constitute Israel's demos. Khoury argues that the communicative function of the clause eventually enables the Law to acquire *expressive functions* – whereby the Law begins to inform the belief structures of the Israeli polity. It is argued that the harmful psychological implications of the Law can mainly be attributed to these expressive functions. This is because when the Law begins to inform the belief structures of the Israeli polity, Israeli citizens will start to *internalize* the beliefs and attitudes

communicated by the Nation-State Law. Since the Basic principles clause essentially communicates the polity's belief in Jewish hegemony, the polity's internalization of this belief poses a deep psychological dimension to Israel's ethnic constitutional order.

### *Evaluation of Khoury's Arguments*

Khoury demonstrates that the ostensibly symbolic and declarative Nation-State Law has a much deeper psychological impact, as it not only communicates Israel's collective belief in Jewish ethnic hegemony but also informs the Israeli polity's belief structures in a way that limits their ability to imagine an alternative to an ethnic constitutional order. While Khoury takes a clear stance on the psychological implications on the Nation-State Law, he downplays its substantive implications, arguing that “the immediate legal impact of the Law remains unclear, primarily due to its somewhat abstract language” (Khoury 2018, 2). As the succeeding subsection will discuss, several scholars disagree with Khoury's claim, arguing that the Nation-State Law has substantive legal implications for the Israeli-Arab minority.

### *Impact on Regime Change Dynamics: Diminished Compromising Proclivity Within the Polity*

Relating this to Peleg's model of regime change dynamics, Khoury's perspective is consistent with the argument that the Nation-State Law has impacted regime change dynamics in a way that has

*further reinforced* Israel's ethnic constitutional order. Considering Khoury's emphasis on the Nation-State Law's *psychological implications*, Khoury would likely argue that the Law most significantly impacts regime change dynamics by diminishing the *compromising proclivity within the polity*.

The Nation-State Law's reinforcement of Jewish hegemony has cultivated a belief structure that has limited the horizon of imagined alternatives apart from an ethnic constitutional order. As the Knesset's passing of the Nation-State Law signals a further ideological shift away from liberal democracy, this has arguably informed the Israeli polity's belief structures in a way that has restricted their imagination of liberal democracy as an alternative regime order. Furthermore, the Nation-State Law's expressive function facilitates the Jewish majority's internalization of their dominance over minority groups as normal and natural. As a result, this internalized belief of Jewish hegemony among the majority is likely to promote a more exclusivist posture rather than a more accommodationist one. Therefore, passing the Nation-State Law will likely *diminish* the compromising proclivity within the Israeli polity to transform its ethnic constitutional order.

### **The Israel Nation-State Law: Substantive Implications**

Waxman and Peleg argue that the Nation-State Law not only reinforces the psychological dimensions of Israel's ethnic

constitutional order, but also has *legally substantive* implications for reinforcing Jewish hegemony. As such, they would disagree with Khoury's claim that the legal harms of the Nation-State Law are unclear and "could be managed and limited by agents of legal implementation" (Khoury 2018, 4).

To demonstrate the validity of their claim, Waxman and Peleg demonstrate how Clause 7 of the Nation-State Law: the Jewish settlement, could have major substantive implications by providing legal grounds for future illegal Jewish settlements and the complete annexation of the West Bank. Clause 7 states that "the state views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation." Waxman and Peleg argue that this clause could be interpreted by the High Court "as allowing the establishment or maintenance of Jewish-only communities." In this sense, the Nation-State Law "could serve as a legal justification for the state to establish communities and even towns for Jews only" (Waxman and Peleg, 189). Furthermore, Waxman and Peleg caution that Clause 7 could be legally interpreted by the courts as prevention from allowing Arabs to purchase homes and settle within Jewish communities, thus promoting further economic inequality in Israel. Waxman and Peleg proceed to discuss how this clause could even have substantive implications in areas beyond Israel's sovereign territory – namely, in the West Bank. Since the Nation-State Law makes use of the traditional Jewish name for the Land of Israel: "Eretz

Yisrael,” which includes the entirety of the West Bank, Waxman and Peleg argue that Clause 7 “also lays the legal groundwork for a formal annexation of parts of the West Bank” (Waxman and Peleg 2020, 197).

### *Impact on Regime Change Dynamics: The Balance of Power between Groups*

Relating this to Peleg’s model of regime change dynamics, Waxman and Peleg would likely argue that the Nation-State Law impacts regime change dynamics by shifting the balance of power even further towards the dominant Jewish ethnonation.

According to Peleg, the demographic balance between a dominant and a subordinate group within an ethnicized polity is a crucial factor determining the balance of power (Peleg 2007, 197). Peleg notes that while ethnic constitutional orders with demographic hegemony, where the dominant group has at least 85 percent of the population, might be a “pacifier” in conflictual intergroup relations, orders with ‘demographic prominence’, where the dominant group is between 65-84 percent of the population, tends to have more conflictual intergroup relations (Peleg 2007, 198).

According to the Israel Central Bureau of Statistics, the demographics of Israel on the eve of 2021 was estimated at 9,291,000 residents – of which 73.9% are Jews, 21.1% are Arabs, and 5.0% others. This categorizes Israel as a polity with demographic prominence. Considering that the Nation-State Law may provide legal grounds for promoting illegal Jewish

settlements to the detriment of denying Palestinian rights to their land, the Law would have a substantive impact on Israel’s demographic balance, potentially enabling Israel to achieve demographic hegemony, thus shifting the balance of power even further towards the dominant Jewish ethnonation.

### **Conclusion**

According to Peleg, the sustainability of an ethnic constitutional order has *political, legal, cultural, and psychological* dimensions. Therefore, to effectively theorize on the factors conducive to regime change, it is necessary to examine the political, legal, cultural, and psychological implications of new developments in Arab-Jewish relations. This paper has examined the *legal* and *psychological* implications of the Knesset’s passing of the Nation-State Law in 2018. While the Law’s main *legal* implication is that it provides legal grounds for illegal Israeli settlements, thereby denying Palestinian rights to their land, its main *psychological* implication is that it informs the collective consciousness of the Jewish majority to accept its hegemony over minority groups as a normal and natural order. This will significantly impact regime change dynamics, as it not only shifts the *balance of power* further towards the dominant Jewish ethnonation, but also diminishes the *compromising proclivity within the polity* to accommodate minority groups. These shifts in regime change dynamics have worked to reinforce the sustainability of Israel’s ethnic constitutional order.

## Implications for Further Research

This paper has addressed two of the five factors that Peleg has identified are the most conducive to regime change in societies dominated by ethnic constitutional orders – the balance of power, and the compromising proclivity within the polity. To improve theorizing on the sustainability of Israel’s ethnic constitutional order, further research needs to be conducted to account for the remaining three factors in Peleg’s model of regime change dynamics.

To account for the factor of international pressure, it could be useful to examine the extent to which outside forces have been inclined to intervene in Israel’s ethnic conflict. To account for the determination of the dominant group to hold on to its exclusive power, it may be useful to examine the *cultural dimensions* of Israel’s ethnic constitutional order, such as considering how ethnic identity is reinforced through educational institutions and the cultivation of legends and narratives. To account for the capacity of the system to engineer political reform, it could be useful to broaden the scope of analysis beyond the Nation-State Law to consider other illiberal laws that have been enacted in recent years. Regardless of these additional considerations to regime change dynamics, the significance of the Nation-State Law for reinforcing Jewish hegemony is irrefutable.

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# Thai Karen: Negotiating Identity in a Changing Thai State through Socio-Political and Socio-Economic Discourses

*Reagan MacMillan*

## Introduction

The Mekong region in Southeast Asia is known as one of the most biologically diverse areas in the world, and is recognised as a hotspot of cultural and linguistic diversity. The Karen are one of the multiple ethnic groups situated across the Mekong region. They have inhabited the Northern-most provinces within current Thai borders centuries before the Thai. Karennic-speaking peoples have resided within current Thai borders since the early eighteenth century, the majority being located in the Northern-most provinces along the Thai-Burmese border. Karen villages are often composed of large matrilineal village clusters, which are often in secluded areas isolated from the Thai. The Karen have hence retained many traditional and culturally distinct ways of life with which they identify strongly.

However, the arrival of colonial Thai settlers has had a distinct impact on Karen identity. Since the 1950s, the Karennic-speaking peoples' perceived and self-defined identities have shifted as a direct result of colonial Thai government policies. The Hill Tribe policy is an example of this. It was made by the Thai state with the intent to create a modern and culturally homogenous nation-state within Thailand

(Laungaramsri and Delang 2003; Hayami 2006; Delang and Keyes 2003). The policy utilized ethnic classification to shift the

identity of the Indigenous peoples in Thailand, labelling them as the ethnic 'Other.' The Karennic speaking peoples' territoriality and identity in relation to their land hence shifted, being labelled by the state as Burmese migrants. However, the global movement towards Indigenous rights allowed the Thai Karen to achieve recognition of indigeneity and regain territoriality.

In this essay, I will demonstrate how the Thai state manipulates the perceived identity of Thai Karen through the implementation of the Hill Tribe policy and how the Thai Karen have resisted such imposed stereotypes and asserted their own identity. First, the Thai Karen's citizenship status within Thai borders and resulting stereotyped identity have changed from migrant, ethnic 'other' to a culturally distinct Indigenous people of Thailand. Secondly, the Thai state-imposed policies on Hill Tribe subsistence and land usage led to environmental conservation discourses between cash-oriented and subsistence-oriented farming, which Thai Karen have used to promote their cultural identity and

traditional ways of cultivation. Finally, the implementation of Ethnic and Eco-Tourism in Hill Tribe communities have resulted in a situation in which Thai Karen identity is asserted by the Karen locals while simultaneously being commodified and pressured by the NGOs and Tourism Authorities of Thailand (TAT).

### **The Nation-State and the Hill Tribes: Thai Karen and territoriality**

Before the creation of the Hill Tribe group, the Thai divided the tribal communities into two categories: the civilized *khon paa* (or *chaw paa*) and the wild uncivilized *kha*. Both terms were distinct from the *muang*, the Thai people of the city-state. The Karennic-speaking peoples were referred to as *Yaang* and were further subcategorized based on visual aspects of their culture, such as their location, place of derivation, and clothes. Thai Karennic-speaking peoples did not use these terms themselves; instead, they called themselves by their own names – *Pgagayaw* for Sgaw Karen, *Phloun* for Pwo Karen, *Pao* for Taungthu, etc., which all mean ‘human beings’ in their spoken Karennic variety (Laungaramsri and Delang 2003). The terms Karennic-speaking peoples used to identify themselves contrasts the names given to them by the Thai, who saw their identity as a form of ‘otherness’ associated with their visual differences rather than as individual peoples. The *Yaang* were perceived by the Thai as peaceful, morally

upright nature-lovers, and overall, more civilized than other tribal communities. These stereotypes, although unethical in nature, provided the Karennic-speaking peoples a consistent external identity which they could utilize when dealing with the Thai.

However, the identity attached to the Karennic-speaking peoples in Thailand underwent a rapid shift in the 1960s, enacted by the Thai government’s goal of constructing a homogenous nation-state within Thailand’s borders. In 1959, the Thai government implemented the Hill Tribe Policy, which classified the border-dwelling tribal groups in the North under a new umbrella term, *chaw khaw*, or Hill Tribe. This labelled them as ethnic and migrant minority groups within Thai borders, replacing and grouping the outdated ‘civilized’ *chaw paa/khon paa* and ‘uncivilized’ *kha* hierarchical terms and ethnic groups under this umbrella term (Hayami 2006; Laungaramsri and Delang 2003). The Thai state recognizes nine of Thailand’s tribal groups as composing *chaw khaw*: the Karen, the Hmong, the Lisu, the Akha, the Lahu, the Yao, the Kamu, the H’tin, and the Lua, each with new externally imposed names (Laungaramsri and Delang 2003; Kaewnuch 2010). By classifying these culturally distinct groups as ethnically “other” against the normative, dominant “self” of non-Indigenous Thai citizens, the state was able to install a stronger sense of Thai identity within the nation-state while simultaneously vilifying the *chaw khaw*.<sup>2</sup>

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<sup>2</sup> (Laungaramsri and Delang 2003) The term *chaw khaw* was created as an antonym of *chao rao*, or ‘us people’. Therefore, the ‘other’ status was quite

literally embedded in the term that translates as ‘them people.’

This caused a huge stigma and hostility towards the Karen from the Thai majority.<sup>3</sup>

The new image of the Hill Tribe peoples as ethnically non-Thai was reinforced by popularizing the idea that they are immigrants from neighbouring territories (Hayami 2006). The title *Kariang*, or Karen, was adopted by independent Thai and Burmese states to represent all Karennic-speaking peoples within the Mekong region as a singular ethnic minority (Hayami 2006). The only basis for this grouping was their usage of a common Karennic language. However, the Karennic-speaking peoples within each of these states identify strongly with their distinct spoken Karennic dialects and with having unique and distinctive practices and beliefs.<sup>4</sup> The *Kariang* situated in Thailand were established as Burmese migrants by the Thai state, despite their precedence within current Thai borders (Delang and Keyes 2003; Laungaramsri and Delang 2003). Most Karen communities consider themselves Indigenous to Thai territories, and the new *Kariang* title removed their connection to their land from their identity.

Furthermore, the status of Karen as Burmese refugees raised fear and unease in the Thai people. In a meeting discussing the Hill Tribes in relation to national security, the former Secretary of the National Security Council, Prasong Sunsiri, announced one of the threats posed by the Hill Tribe peoples to the state's national security was their migratory behaviour

(Laungaramsri and Delang 2003). Since the late twentieth century, the number of Burmese Karen refugees at the Thai-Burmese border has drastically increased, fleeing the Christian Burmese Karen uprising. As the state-imposed title *Kariang* groups together Thai Karen and Burmese Karen, the Thai masses feared that Karen in Thailand would also launch a separatist movement from the Thai government. Thai media's focus on Burmese Karen refugees also further standardized the Karennic-speaking people as non-Thai, which further confirmed their non-indigeneity (Delang and Keyes 2003). The Burmese Karen were hence depicted as the 'real' Karen, from which the Thai Karen originated. The allegation that Thai Karen is synonymous to Burmese Karen therefore shifted their previous external identity and marginalized them as a 'migrant' people associated with rebellion who posed a threat to Thai nationality.

The state's denial of Thai Karen's indigeneity results in Thai Karen being declined citizenship, regardless of whether they were born in Thailand (Delang and Keyes 2003). Furthermore, the Thai Karen's status limited their ability to engage with socio-political issues and their access to resources. The government's policy therefore held control over both perceived status, and their ability to self-represent.

The global movement toward Indigenous peoples' recognition in the 1980s challenged the Thai states' representation of

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<sup>3</sup> (Hayami 2006)The previous kha groupings became vulnerable to hostility in particular, as it basically demoted them to the same grouping as the *chaw paa/khon paa*.

<sup>4</sup> These varieties of Karennic language are often referred to as dialects, although they are more often than not mutually unintelligible.

the Thai Karen as migrants and non-citizens within Thai borders.<sup>5</sup> In 1988, an Asian Indigenous Peoples meeting took place in Chiang Mai, where the attendees agreed upon a specific definition for Indigenous peoples. The meeting concluded Indigenous peoples are those “indigenous to conquered territory, and who differentiate themselves from other sectors of the ruling class, and who maintain their language, religion, customs and worldview” (Hayami 2006). The Thai government’s subsequent recognition of Thai Karen indigeneity legitimized Thai Karen existence within Thai borders defined them as separate from Burmese Karen. Their status was further legitimized as the Thai state introduced a Hill Tribe population registration system, which allowed individuals living in recognized areas to register for citizenship.<sup>6</sup> Their Indigenous status put them in a position of more power and a relationship on a more stable footing for the Thai Karen to actively use socio-political discourses and fight for their rights to their culture, traditions, and land.

In summary, the Thai state’s attempt to homogenize and isolate the Hill Tribe peoples destabilized the perceived identity of Thai Karen peoples. Discourses on their territoriality and indigeneity within Thai borders became the sites of identity shifts caused by the Hill Tribe ethnic classification, depriving them of their right to their land and identity. However, the Thai

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<sup>5</sup> (Delang and Keyes 2003) The movement towards indigenous peoples recognition was also being pushed by external forces; The UN designated 1993 as the year of Indigenous Peoples, and the following decade as the Indigenous Peoples Decade.

Karen peoples' recent recognition as Indigenous peoples challenged these stereotypes and legitimized their existence within Thai borders. The Thai Karen have since identified themselves as an ethnic group whose “distinctive cultural and linguistic practices together with their competence to situate themselves in sophisticated ways within a Thai world” have enabled them to separate themselves from Burmese Karen ethnonationalism and reclaim their identity (Delang and Keyes 2003).

### **Tradition vs. Modernity: The Karen within Subsistence and Environment Discourses**

The Hill Tribe Policy implemented in 1959 drastically shifted the Thai Karen peoples’ identity tied to their subsistence practices and land rights within the forests. These policies were designed to allow the state to encroach on their land and to assimilate the highlands peoples into the national economy. The state justified the outlawing of traditional Hill Tribe subsistence practices by vilifying these practices as threatening the environment and national security. The tension between the Karen and the Thai government led to environmental conservation debates around cash-oriented vs. subsistence-oriented farming, debates that Thai Karen have used to promote their traditional, subsistence-

<sup>6</sup> (Kaewnuch 2010) The Hill Tribe registration system was difficult to qualify for. Many of the papers required – proof of employment, recommendation letter from a Thai citizen, proof of residence – were often inaccessible and not applicable to the living situation of Karen within their village clusters.

based ways of cultivation and legitimize their cultural practices and existence within their land.

Environmental conservation has become a major political concern of the Thai state as increasing industrial development results in alarming damage to natural resources (Laungaramsri and Delang 2003). A major cause of the destruction of Thailand's forests has been the expansion of rice land, a cash-crop grown to export in world trade which exponentially increased in production since the 1940s (Delang 2003). As most land within Thailand's territory is unsuitable for rice irrigation, the state began building roads and expanding into the more isolated areas inhabited by Hill Tribe communities. Additionally, the expansion of the logging industry resulted in significant deforestation within the Northern Hill Tribe areas. Tensions grew between the Hill Tribe peoples and the Thai state, whose colonial invasion limited the land available to them for their subsistence-oriented practices. Karen communities across the Northern provinces of Thailand practice horticulture, which includes cultivation of wet rice and various food crops, hunting, raising domestic livestock, and foraging.<sup>7</sup> Therefore, they rely heavily on their natural environment for their food supplies. The conflicts between the highland ethnic groups and the lowland Thai people only increased as the state's colonial intrusion into the forest continued.

Then, in 1959, The Thai state established the Hill Tribes Policy as a political move to attempt to reduce conflict between the high and lowland peoples while simultaneously legitimizing their encroachment in their land by controlling their traditional horticulture practices. The state released three policies: the outlawing of swidden technique, the outlawing of opium cultivation, and the introduction of cash crops for the lowland Thai market (Delang and Keyes 2003; Delang 2003). In effect, these policies functioned as an attempt to force Hill Tribe peoples to assimilate into the national economic structure to increase the state's production. The former Secretary of the National Security Council, Prasong Sunsiri, legitimized these policies by announcing that the traditional subsistence practices of Hill Tribe peoples pose a threat to Thailand's natural resources and environment.

The Karen's previous stereotyping as "morally upright" was altered as Sunsiri declared opium production to be a threat to the health and security of the Thai, vilifying the Hill Tribe communities who cultivated it. Highland peoples have historically cultivated opium poppies for trade and hard currency. (Delang 2003; Saihoo 1963). Despite the fact that many Hill Tribe communities including the Karen did not practice opium cultivation as their land was unsuitable, the banning of opium in the Hill Tribe Policy linked all Hill Tribe

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<sup>7</sup> (Sirisai et al. 2017) Note that hunting within the past few decades has been made illegal in many regions, resulting in a shift away from meat in their diet.

communities to the unethical security threat of opium production.

The Thai state further blamed the high deforestation rates on the Hill Tribe's swidden cultivation practices. Swidden cultivation was denounced as destructive to watersheds and the forests, resulting in an unsustainable style of horticulture. In addition, the portrayal of Thai Karen as a threat to Thai survival and resources depicted them as incompatible with the highland Thais. The Hill Tribe policies hence resulted in another identity shift, creating the mainstream normative image of the Karen as the destroyers of the forests, which directly contests their previous stereotypes as 'nature-lovers', to legitimize the state's control of their production.

The incorporation of cash crops in communities within the Hill Tribe Policy was posed as recompense for their loss of income from outlawed opium poppy production and as a substitute method for subsistence. The policy was intended to 'open up' the highland communities and assimilate them into the national economic structure, further allowing the state to profit from their labour. The development of the isolated regions in the North resulting from the state's colonial encroachment on their land made Hill Tribe communities more accessible, enabling the Karen to secure more links with urban neighbours. The 'opening' of the Hill Tribe communities resulted in a shift from being self-sustaining to becoming a part of the market, with many communities relying on subsistence agricultural farming and cash crops to earn their income (Sirisai et al. 2017). This

opening of the Hill Tribes resulted in greater moving away from traditional practices: industrialized food has replaced natural food cultivation and gathering the collection of natural foods, and industrial technologies such as insecticides and pesticides have been popularized (Sirisai et al. 2017).

Not all Hill Tribes responded positively to the transition from subsistence-oriented to cash-oriented production. Thai Karen peoples across Northern Thailand have demonstrated resistance to assimilation and have maintained many of their subsistence-oriented horticulture practices. The social structure of their locality result in a reluctance to deviate from collectivist traditions (Delang 2003). Thai Karen communities live in isolated matrilineal village clusters, which are the basis of their social identity and network, and hence feel a deep connection to their community and location. The endogamous and local marriage structure further strengthens their geographic ties, as individuals live their whole lives within their community. The close interconnectedness and isolation of Karen locality and social networks results in distrust in the external, especially as the Thai government encroaches on their land, which creates resistance toward a geographically dispersed social network (Delang 2003).

Furthermore, the many-strandedness of Karen social networks means that people deal with others in multiple social contexts, which results in an intense pressure to conform to and maintain the proper Karen way of life. The Karen's strong interdependence within their close-knit

matrilocal village clusters result in a relative lack of social hierarchy and resource sharing within social networks (Hayami et al. 2003; Delang 2003); families within villages all share labour through work parties, and all food produced is shared collectively within communities through matrilineal households to ensure the communities wellbeing (Sirisai et al. 2017). Deviation away from collectivist subsistence-oriented horticulture towards individual cash-crops would isolate them from their communities.<sup>8</sup> The pressure of many-stranded social networks hence gives little room for individuals to abandon their ways. With the increasing development and ‘opening’ of rural highland communities, however, the Karen have established some level of cash-oriented subsistence and some involvement in the market; rather than fully embracing the new changes and rejecting traditional cultivation, Karen communities have incorporated cash crops alongside their traditional subsistence-oriented practices, therefore, retaining their identity and cultural values.

Although policies aimed at controlling the Thai Karen, the state’s ‘opening’ of Hill Tribe communities have also given the Thai Karen resources needed to challenge state policies and legitimize their practices within the political discourses on land usage and environment. The establishment of Thai schools in Hill Tribe communities taught the Thai Karen the language needed to engage with the Thai state. Additionally, the development of the

highlands has given them access to Thai media platforms and information, which they use to educate the Thai masses on their traditional ways of life (Delang and Keyes 2003). One of these platforms is the Northern Farmers’ Network, controlled by the Hill Tribe peoples, which advocates the Karen subsistence practices and resource management systems through the control of the Karen themselves (Laungaramsri and Delang 2003). In these ways, Thai Karen peoples have promoted their distinct cultures and demonstrated their ways of life as environmentally friendly, overall challenging state policies that restrict their traditional ways and cast them as a threat to the environment. The Thai Karen challenge state policies and nation-state, deploying resources garnered from the state’s attempt at assimilating them (Hayami 2006; Delang and Keyes 2003).

In conclusion, the implementation of the Hill Tribe Policy in 1959 was a political tool used by the Thai state to limit and control the Hill Tribe peoples’ traditional subsistence practices, to assimilate them into the national economic structure, and legitimize the Thai government’s power over their land. However, the Thai Karen have resisted assimilation into the overarching cash crop and market structure and have redeployed their newly available skills and resources to assert their identity and challenge state policies and stereotypes. The Thai Karen have negotiated their

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<sup>8</sup> (Delang 2003) Deviation from collective traditions sometimes result in economic sanctions, where exclusion from the community would result in an individuals’ inability to participate in work parties

and would therefore be unable to farm and make sufficient production. Hence, an additional pressure is placed on individuals to maintain collective subsistence crops.

identity on the contested terrain of environmentalism.

### **Tourism and Eco-Tourism: Commodification and Control of Culture**

As Karen activism in Thai media increased, their culture and traditions within environmental and subsistence discourses became a focal point of their identity. Their 'natural' way of life became romanticized and perceived as peaceful and relaxing compared to city life. Following a recent financial crisis, the Thai state saw the interest in the Hill Tribe peoples' cultures as an opportunity to make a profit through the implementation of Hill Tribe Tourism and Eco-Tourism. The new tourist industry, controlled by NGOs and the Tourism Authorities of Thailand (TAT), would provide a site where Karen locals could assert their identity and maintain their culture while simultaneously being commodified and controlled by the state. Tourism hence provides a political discourse where Karen identity is negotiated between Thai Karen locals and tourist authorities.

The establishment of Hill Tribe tourism (often referred to as Jungle Tourism) was a form of ethnic tourism, which turned their culture into a product for consumption (Hayami 2006). Hill Tribe tourism was originally controlled by small NGO enterprises, who advertised the highlands as remote and 'untouched' regions inhabited by 'authentic' culturally diverse peoples. The selling point was the commodification of "culture on display," where tourists could watch and participate in

various rituals and ceremonies performed by locals for the tourists. Other displays include cultural artifacts, such as their clothes and hand-made crafts. The NGOs authorizing the tourism made substantial profits; however, the locals living in transformed tourist destinations often received very little money from the private companies (Kaewnuch 2010). Many communities sold handcrafted items to tourists as souvenirs to make a profit, but this small income was insufficient to survive. Ethnic Hill Tribe tourism was deemed unsustainable as all proceeds went to private enterprises while the Thai economy sank (Kaewnuch 2010).

In the 1980s, eco-tourism was globally adopted as an alternative to ethnic tourism. In the 1990s, it became the official Thai state-sanctioned tourism in the Hill Tribe population (Kaewnuch 2010; Hayami 2006). The TAT marketed eco-tourism domestically to urban Thais who romanticized the 'simple' and eco-conscious life of the Northern Hill Tribe communities in the forests (Hayami 2006). However, the implementation of eco-tourism in the Hill Tribes transferred the power originally held by the NGOs to the state TAT institution. While ensuring tourist profits contributed to the national economy, this power also allowed the state more control over the Hill Tribe peoples' practices, culture, and land. In 1985, the first of many state-controlled national parks opened as a designated tourist area in the highlands, which further limited the land permitted for use by local Hill Tribe peoples for their subsistence practices. Locals are not allowed within the parks' borders and are incriminated for trespassing (Kaewnuch 2010; Hayami 2006). Eco-

tourism hence resulted in the intrusion and state delineation of land after 1985, particularly through the founding of national parks (Hayami 2006).

The Thai state founded Doi Inthanon National Park in 1972 in a Thai Karen community during a time of rapid change in their identity and means of existing. Due to pressures from the Hill Tribe Policy, the Karen locals in this region had begun to abandon some of their practices, such as swidden cultivation used for irrigated rice fields. The founding of the Doi Inthanon National Park increased external pressure for adaptation, as it made hunting and some foraging practices impossible, forcing Thai Karen villagers to rely on cash crop cultivation and irrigated rice fields.

In the late 1980s, the National Park shifted its focus to eco-tourism and community-based tourism, both designed to build environmental awareness among local Karen people and visitors and educate Thai people on the 'real' Karen people and denounce stereotypes. The park hired Karen local villagers with traditional knowledge to work within the National Park and make demonstrations with their traditional methods that they were incapable of practicing due to the intervention of the National Park. Additionally, they were put in charge of a village museum, where they displayed artifacts and lectured tourists on the traditional ways of Karen life. The Karen locals were thus in control of the knowledge, traditions, and elements of their culture that would be shared within the National Park, allowing them to assert their identity.

However, despite the platform given to Karen locals to assert their identity, the TAT applied pressure on them to present their culture in specific ways. The TAT pressured locals to maintain the 'authenticity' of their culture while simultaneously forcing them to alter their practices to better sell to tourists. Additionally, the Thai state neglected their promise to develop the surrounding rural highland areas and increase the locals' standards of living. The surplus of tourists staying in smaller Hill Tribe communities resulted in a restriction of resources, including clean water, available to locals (Kaewnuch 2010). The Thai state also avoided modernizing the villages, such as providing electricity, to avoid damaging the "rustic traditional life of the nature-loving Karen" (Hayami 2006). The state justifies their unwillingness to develop villages with eco-tourism by claiming it would jeopardize the 'authenticity' of their culture for tourists.

The issue of culture 'authenticity' and commodification within eco-tourism is a large site of identity negotiation between locals and the state. Eco-tourism provides a medium that aims to allow Karen communities to conserve their traditions, present themselves as they wish, and cultivate cultural pride in their identity. However, the commodification of their culture presents external pressures from the TAT that influence their identity and practices. Local communities are expected to maintain and perform their traditional culture while simultaneously adapting their practices into sellable products for tourists (Kaewnuch 2010). This results in a culture change to better package it as a commodity

and therefore shifts the peoples' identity. Many changes in rituals and ceremonies to better accommodate the commodification of cultural experiences result in a "staged authenticity," resulting in a loss of cultural meaning behind many rituals and practices. The commodification of culture can thus result in a loss of personal connection to their culture, feeling like a performer of their own life, and can result in a lack of privacy and autonomy as their life becomes tourist centred. Thai Karen peoples protesting state control of their land and practices had to avoid dressing in their traditional wear; otherwise, their protests would be construed as a tourist spectacle interesting (Hayami 2006; Kaewnuch 2010). They, therefore, had to let go and denounce their Karen-ness to avoid being commodified or ignored, seen as a theatrical event rather than a people protesting for their rights.

In conclusion, the implementation of eco-tourism in Thai Karen communities resulted in a site of identity negotiation. While the Thai state instilled eco-tourism to further control, limit, and benefit financially from Hill Tribe peoples, it also provided the Thai Karen with a platform by means of which they can assert their identity and maintain their cultural knowledge and traditions while educating the masses to denounce stereotypes. The state-sanctioned TAT also exerts pressure on locals to adapt their culture and practices to serve tourists. Tourism is a site in which Thai Karen identity is both externally influenced and self-asserted.

## **Conclusion**

In conclusion, the Thai Karen's identity has undergone drastic shifts in relation to the changing policies and attitudes of the Thai state. The Hill Tribe group and policies and tourism within Hill Tribe communities were established to control and restrict their cultural practices and create a stronger Thai nation-state. However, the state's interference and development of Hill Tribe communities provided the resources necessary for Thai Karen peoples to engage in sociopolitical discourses regarding environment, subsistence, indigeneity, and land usage and to fight for their rights. Since the 1960s, the Karen have used sociopolitical discourses on territoriality, environment, and subsistence, as well as tourism practices to assert their own identity, countering state and dominant media depictions and consistently fighting against their assimilation into the dominant Thai economy.

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# The Colonial Kitchen: Tracing the History of Curry in the Colonial World

*Julia Katharina Farkasch*

Curry is a label that refers to a global cuisine with recognized origins in the Indian subcontinent. It is a type of cuisine defined by a particular style and method of cooking that continues to change depending on the place and people preparing it. I will argue that by tracing the expression of curry through the “colonial kitchen” and placing it in the context of the Mughal conquest kitchen, curry can be defined broadly as a “cuisine” shaped by conquest, colonization, trade, and adaptive innovation. Contrasting the Mughal conquest and Portuguese “colonial kitchens” with the East India Company’s Anglo-Indian colonial kitchens and then the British Empire kitchens will help better understand “curry’s” evolution into an authentically global cuisine. Conquest and colonial kitchens reflected ruling elite preferences for particular types of Indian cuisine and ingredients. However, it was the adaptations made by cooks in these kitchens that created something new and authentic to them no matter if they were in England, Jamaica, Fiji or even Japan, or even if they used curry powder.

I will first examine how the Mughal invasion of India imposed a type of cuisine that was not indigenous to India but later became associated with Indian cuisine. This examination will help distinguish between what this essay terms as the Mughal “conquest kitchen” from the colonial kitchen

in order to challenge the idea of an authentic Indian cuisine. Indian cuisine is a fusion of a variety of influences, techniques, and ingredients; it is this fusion that will help to better understand how the Mughal conquest along with the Portuguese colonization and trade in India brought new ingredients and dishes that were adopted and adapted by local communities. Recognizing this fusion allows this paper to consider that the colonial kitchen can =not simply be defined as a form of “culinary imperialism” (Narayan 1995).

This paper will also examine curry’s origins as a label the British gave to all Indian food without consideration for local or regional differences and then to a particular variation centered around the “colonial kitchen” based on Indian spices and British tastes. It will also trace curry’s transformation and eventual migration around the world through colonial kitchens and “curry powder”, but in immigrant kitchens not solely defined by British colonization or tastes.

Foreign Secretary Robin Cook said in 2001 that “Chicken Tikka Masala is now a true British national dish” even though the dish is not authentically British or Indian. This poses the question of whether we can even consider a cuisine to be “authentic” (The Guardian 2001) Through its conquest

and colonial origins, new world produce, and global entrepreneurship, “curry” will be shown to be an adaptive global cuisine found in kitchens all around the world -not only colonial ones.

### **What is “Curry”?**

The one dish that defines Indian food is curry. Sengupta defines curry as a “generic term, curry designated a spicy stew of meat, fish, or vegetables, cooked in clarified butter or oil, with a wide array of dry roasted whole or ground spices, frequently involving onions, ginger and garlic” (Freedman et al. 2014). The origins of the word curry have been traced to what the Portuguese called “caril” or “carree” which itself is derived from the Tamil word for describing sauteed dishes with seasoning spices called “kari”. These terms form the basis for the English word for “curry”, but the word itself is a general term encompassing an amalgam of local and regional influences rooted in the Indian subcontinent (Freedman et al. 2014). If the term “curry” refers to an amalgam of dishes, then tracing the origins of these dishes becomes important for understanding how the colonial kitchen invention of curry rested on dishes that were not necessarily authentically Indian.

In a paper that traces the evolution of Indian Cuisine, Antani and Mahapatra explain how food in India was shaped by cultural, religious, ethnic, economic and ethnic-class factors in which access to ingredients was varied and complex (2022). They particularly emphasize how both Mughal invasions and European

colonization had dramatic influences on the way dishes were prepared, suggesting that the style and method of what defines a cuisine was continually evolving. Prior to the Mughal invasions, the caste system in India determined food culture and consumption. At around 1000 BC, the upper caste Brahmin priests adhered to a mainly vegetarian diet, whereas the lowest caste groups ate animal meat - a sign of inferiority and impureness which still continues to shape food habits in India today (Antani and Mahapatra 2022). This theme of a vegetarian or meat-supplemented diet would continue to impact both the conquest and colonial kitchens, revealing the way power was exercised by the rulers and the ruled.

### **The ‘Conquest Kitchen’**

Invasions from what is now Afghanistan brought naan and koftas, while the Islamic invasions of India after 700 AD brought India “culinary inspirations and innovations” (Antani and Mahapatra 2022, 4). Rulers from Humayun to Shah Jahan facilitated a “fusion of Central Asian, Persian, Arab, and Muslim culinary traditions” (Ku 2008). Kebabs, rogan josh and biryani are just some dishes that are considered to be authentically Indian but, like the term “curry”, the origins of these dishes can be traced from elsewhere yet adapted to local circumstances. The Mughals ruled Northern and Northwest India, and despite their less impactful domination of Southern India, ruling elites from Southern India did bring back recipes that were modified using different ingredients and methods of preparation. The Mughal conquest also brought widespread

rice consumption to India, creating a staple crop in India to this day; the identity of Indian cuisine cannot be considered without it (Antani and Mahapatra 2022, 10).

If the Mughal conquests shaped Indian cuisine as it is known today, then to contrast Indian cuisine with the colonial British “curry” kitchens is to assume the existence of a grounded Indian cuisine in comparison with an invented colonial abstraction. This is a false comparison that dismisses how the Mughals differentiated themselves from the conquered through food similarly to what the Imperial British Civil Service did through their colonial kitchens. Babur was said to have complained that food in Hindustan was awful, with there being “no good meat, grapes, melons, or other fruit” (Sen 2009, 21) Such a condescending attitude from an imperial power was countered by the vegetarianism of Buddhists and Jainists who did not eat meat for compassionate reasons, while the Hindu Brahmins condemned eating meat. This clash between the diet preferences of the ruling Mughals and their subjects would later be repeated under British colonization and exists to this day in India but, unlike the British Colonial kitchen, the Mughal conquest kitchen has shaped what we know as Indian cuisine today (Corichi 2022).

### **The Portuguese ‘Colonial Kitchen’**

The Portuguese colonial kitchen also shaped present-day Indian cuisine. Portuguese colonization and trade in India brought new ingredients and dishes that

were adopted and adapted by local communities. Beginning in 1498, the Portuguese introduced new products from the Americas and around the world into India, including potatoes, corn, tomatoes, chili pepper, peanuts, cashews, and kidney beans (Collingham 2006, 50). The influence on Goan cuisine was especially prominent by a melding of Portuguese and Indian ways of preparing food such as vindaloo dishes that combined chilis, a coconut-based type of vinegar, spices and meats such as pork, beef and chicken (Sen 2009, 22). The Portuguese described the broths made in South Indian dishes as “caril” or “carree”, derived from the Tamil word “kari” which described a blend of spices to make stir fried vegetable dishes (Collingham 2006, 115). It was under the British colonial kitchen that the term curry was invented as a generic term for describing any spicy dish, relative to British standards, that had thick sauce. No distinction was made as to what particular region or local place in India the dish came from (Collingham 2006).

If Indian cuisine was shaped by Mughal and Portuguese influences then why would the famous cookbook author, Madhur Jaffrey, state in her book *An Invitation to Indian Cookery* that the word “curry” was degrading to her and that, “if ‘curry’ is an oversimplified name for an ancient cuisine, then ‘curry powder’ attempts to oversimplify (and destroy) the cuisine itself” (Sen 2009, 60)? The suggestion by Jaffrey here is that the term “curry” created in British colonial kitchens, and then adapted by immigrant kitchens providing Indian curry throughout the former British Empire and then around the world, is inauthentic. To label the term

curry as an oversimplification, and curry powder as a means of destroying Indian cuisine, lacks historical context since there really is not an ancient authentic cuisine to be destroyed. What began as a generalized term that the British used to classify as Indian cuisine turned into a way of cooking made by Indians to suit British tastes and ingredients.

### **The British ‘Colonial Kitchen’**

The British Colonial kitchen origins can be dated back to December 31st, 1600, when Queen Elizabeth I granted the East India Company a charter for trade with the Indies. The company built trading posts along the Indian coasts and extended their trade networks inland so that when the company troops defeated the last of the Moghul forces in 1757, the company controlled large areas of India, even though it was subordinate to the British Empire (Sen 2009, 22). These merchants lived much like the native population, and East India Company officials referred to themselves as Indians, East Indians, or Anglo-Indians (Collingham 2006, 10). They spoke Indian languages, married Indian women, and had kitchens where local Indian cooks would prepare heavily meat-centered dishes that were well-spiced. One such hybrid dish that came out of Anglo-Indian kitchens was Mulligatawny soup. The cooks of the Madras region were unfamiliar with the British idea of soup but improvised by taking a watery broth and adding rice, vegetables, and meat to create something unique. Breakfast, lunch, and dinner for Anglo-Indians meant curry and rice, even though Indians chefs cooking their meals

would not have referred to their food as curry since they referred to different dishes by specific names (Collingham 2006, 115, 122).

What distinguished the Anglo-Indians from the Mughals and Portuguese and from all Indians no matter the region was the enormous amount of meat they consumed (Collingham 2006, 112, 125) This starkly contrasted them with vegetarian Indians but there was little sense of racial superiority amongst the Anglo-Indians who were there to make money (Sen 2009, 24). Collingwood asserts that hybrid Anglo-Indian cuisine never spread throughout the rest of India like the Mughul and Portuguese influences. A reason not explicitly emphasized by Collingham as a key variable is that the amount of meat consumed was not available, desired, or religiously allowed by the Indian communities the British resided within, thereby limiting the spread of this new hybrid curry cuisine.

The abolition of the East India Company in 1857 and the creation of an Imperial Civil Service in 1886 would widen the divide between the British and their Indian subjects. The Imperial Civil Service sought to redress the Anglo-Indian company merchants who had “gone native” by banning Englishmen from wearing Indian clothes as part of an overall policy to separate the British Rulers from the ruled-over Indians (Sen 2009, 30). The Imperial colonial kitchen enforced what it meant to be British by importing items like tinned salmon, cheese, jams, and herring from Europe in order to minimize the influence of Indian cuisine on their kitchens. English

food, especially tinned food, was preferable and, despite a lack of flavour, demonstrated the Britishness of the colonial officials who lived separate lives from their Indian subjects. The isolation was also imposed on the basis of racially discriminatory policies that considered the inferiority of educated Indians to be rooted in their vegetarianism, which made them weak and effeminate.

The Imperial kitchen would have even less of a likelihood of being adopted within India given the explicit racism of the imperial administration, but the Anglo-Indian colonial kitchen was brought back to Britain since these former company merchants loved their “curry” version of what Indian Food was to them. Early cookbooks provide recipes for the dishes served by former wealthy East India Company merchants, but it was difficult to acquire the particular spices from India; the first mention of a way to approximate the blend of spices that would become curry powder was in 1784, and by the mid-19<sup>th</sup> century most recipes for curries in British cookbooks required a pinch of curry powder (Collingham 2006, 137). The colonial kitchen had now migrated back to England to British kitchens where “curry” would undergo an innovation by pre-blending a variety of spices to create turmeric heavy curry powders that would not exist in any region of India where spices were freshly ground.

The Colonial kitchen was brought to wealthier British kitchens but by the 1870s curry became more accessible to the working classes. Spices became more accessible, but ingredients more locally

available in England that differed from those available in India were used as well. The ability of the working classes to access curry and make it at home also made curry more familiar, and when Bangladeshi immigrants offered curries to the working class at after hour Fish and Chip shops it became even more popular. Bangladeshi immigrants from the Sylhet region of the Indian subcontinent started opening their first restaurants in the 1920s and 1930s, but expanded further with increased immigration from the war for independence in 1971 between East and West Pakistan (Crossette 2007). Those Sylheti restaurateurs used curry powder and innovated to make the fast food production quicker, cheaper, and more familiar to customers who did not just want standard items like Fish and Chips. Over time, British customers became more adventurous and tried the curries, and even discovered that hot vindaloo paired well with a beer; thus, curry became a staple after a night out at the pubs (Collingham 2006, 223-226). Bangladeshi restaurant owners use curry powder to produce a variation on what is thought to be Indian curry and these Fish and Chip Curry houses again highlight that there is no such thing as authentic Indian food. For example, the innovativeness of curry as a cuisine comes through in the dish Chicken Tikka Masala when slightly dried out leftover chicken is prepared in a mixture of tomato sauce, cream, and curry spices (Noel 2019). The innovation for this dish is purportedly to have come from Glasgow, Scotland (Ackerman 2011).

## **A Global Cuisine**

Indian food is a living cuisine that has evolved, not just between England and India or through the melding of Moghul and Portuguese kitchens with local, regional Indian kitchens, but because of an Indian diaspora who took the cuisine to former British colonies where a variety of “curry” variations were adapted to local tastes and ingredients. The innovation of curry powder followed this diaspora and curry powders took on particular spice blends depending on where the immigrants found themselves. Indentured labour to the British took Indians and their culture around the world: Mauritius from 1843, British Guyana, Trinidad, and Jamaica from 1845, and South Africa and Fiji from the 1870s. Curry cuisine and its interpretation of Indian cooking left a huge mark on these countries’ food and cooking as well (Collingham 2006, 246). The adaptiveness of curry was not only limited to the diaspora, but curry powder variations also found their way to German and Japanese kitchens. The Japanese love curry, with stands in every train station and shopping mall in Japan selling karee raisu (curry rice). There are also noodle bars in Japan that sell kare udon (curried wheat noodles) as well as bread shops that offer a bread roll containing a blob of curry sauce (karee pan) (Collingham 2006, 242). Germany never conquered or colonized India, but in 1949 a German housewife combined ketchup, curry powder and Worcestershire sauce from British soldiers stationed in Germany to create a now traditional German street food called currywurst.

Curry is a global cuisine so versatile that dishes we may not even consider adding

curry powders and spices to, like German sausages, continue to push the boundaries of this global cuisine. Curry has transformed itself into a global dish shaped by conquests, colonies, and global immigration, so that “no two curry recipes are the same”, given that curry powder itself is a complex mix of many different herbs and spices which depends on the time, place and person making the curry (Datta 2021). Contrary to Jaffrey’s accusation that curry is an oversimplification attempting to destroy an ancient cuisine, this paper has argued that curry is authentic in the way that any other cuisine is authentic. Any cuisine taken out of its place of origin or altered from its original expression can no longer be considered authentic; curry is not rooted in any one place but is an authentically global cuisine that was shaped and continues to be shaped by globalization. Studying the history of curry in the colonial world and placing it within the context of the Mughal, Portuguese and British kitchen influences enables us to better understand curry and curry powder as shaping an authentic global cuisine, allowing for local expressions like the British national dish of Chicken Tikka Masala. Curry not only teaches us about a global dish, but it also teaches us about India’s global connections through every variation of the cuisine.

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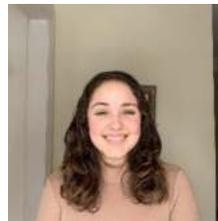
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