- Editor's Comments -

This final edition of *Dialogue, e-Journal* for 2009 offers an array of topical engagements with the political philosophies of Plato and Gray, the reception of the Responsibility to Protect (R2P) in South-East Asia, and the challenges faced in measuring the data of human trafficking. In the first article, Elliott Johnson from Newcastle University (UK), interrogates the dichotomies between ethical monism and value-pluralism through the work of Plato and John Gray respectively. After outlining the philosophical background of the conflict between monism and pluralism, Johnson identifies aspects of Plato's *Republic* that are compatible with the pluralism of Gray's thought. He argues that the monist/pluralist dichotomy is essentially unhelpful and advocates a philosophical continuum between monism and pluralism. Catherine Drummond then examines the relationship between the Association of Southeast Asian Nations (ASEAN) – which has traditionally adhered to a strict notion of non-interference – and the doctrine of the Responsibility to Protect (R2P). She argues that there has been an increase in the region's acceptance of security policies and practices that support the notion that states have a primary responsibility to protect their people. While this evinces a normative shift toward the underlying premise of R2P, there remains ongoing tension between reorienting traditional notions of national security and prioritising the needs of individuals which represents a challenge for efforts to move towards a greater acceptance of R2P in South-East Asia. In the last featured article, Erin O'Brien looks at attempts to address the problem of human trafficking. She details the number of difficulties legislators in Australia and the United States face when attempting to determine how many people are the victims of human trafficking. These problems include an array of definitional, statistical and political issues and O'Brien argues that because of these problems, human trafficking policies are often misled.

In our book reviews section, we have an extended review essay by Julie Connolly from the University of Queensland. Connolly examines Clive Hamilton's version of a post-secular ethics in *The Freedom Paradox* by focusing on his comments regarding depression. Hamilton justifies a post-secular ethics by reference to the increasing numbers of those who suffer depressive illness which, for him, indicates that the fabric of society is frayed. While Connolly finds that this is not an unsympathetic account of depression, the problem centers on how the particularity of individual suffering is lost amidst the generalised causes of depression that Hamilton identifies. George Karavas then examines the account of Robert W. Cox given by Andrew Leysens in *The Critical Theory of Robert W. Cox*. This book examines whether Cox is a 'fugitive', that is, someone situated outside categorisation in traditional schools of thought in International Relations (IR), or whether Cox is a 'guru', a highly influential pioneer. Leysens argues that there is no link between Coxian Critical Theory (CCT) and the Frankfurt School but only coincidental similarities. Karavas argues that such a conclusion appears to serve Leysens' interest in disassociating CCT from post-positivism.

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I would like to here welcome you all to the new joint-editors of *Dialogue, e-Journal* for 2010, George Karavas and Connie Duncombe. George Karavas is a Ph.D student in the School of Political Science and International Studies and is researching critical and post-colonial theory. Connie Duncombe is a Ph.D candidate in the School of Political Science and International Studies and her thesis focuses on representation and foreign policy. All articles, papers, essays and books reviews should be sent to George Karavas (g.karavas@uq.edu.au) or Connie Duncombe (c.duncombe@uq.edu.au). Caitlin Sparks will continue as Press-Copy Editor for 2010. I would here like to take the opportunity to thank both Samid Suliman, for his work as Book Reviews Editor, and Sally Barber, for her work as an Editor of *Dialogue* in 2009 and wish them all the best in the future.

If you are interested in attending committee meetings, being part of the committee, or in anyway wish to take part in the various activities associated with *Dialogue, e-Journal* please contact George Karavas or Connie Duncombe. We welcome any comments or feedback in the form of letters to the editor, article replies, or any other general suggestions, which should be sent to the aforementioned email addresses.

Finally, I would like to once again thank all of our anonymous referees for their commitment to this journal. Without their time and support this publication would not be possible. I would also like to thank all our contributors who have ensured that *Dialogue, e-Journal* remains an absorbing reference point for all those interested in the broad field of political science.

Shannon Brincat,
17 December, 2009

The *Dialogue, e-Journal* team for 2010:

Editor: George Karavas (g.karavas@uq.edu.au)

Editor: Connie Duncombe (c.duncombe@uq.edu.au)

Press-Copy Editor: Caitlin Sparks (c.sparks@uq.edu.au)

Plato's *Republic* and Gray's Value-Pluralism: A False Dichotomy?

By Elliott Johnson[1]

Abstract

One of the most strident dichotomies in political thought is that between Platonic ethical monism and Grayan value-pluralism. The former seems to claim that only one way of life can ever be good, while the latter argues that there are many forms through which one can flourish. I argue, however, that this simplistic account fails fully to account for the nuances within both schemas. I engage philosophically with the two key works of Plato and Gray: the *Republic*[2] and *Two Faces of Liberalism*. After outlining the philosophical background of the conflict between monism and pluralism in Plato and Gray, I identify aspects of the *Republic* which are commonly held to be archetypes of ethical monism, namely the 'Good', the *Kallipolis* and the rule of the philosopher, and attempt to demonstrate their compatibility with the apparently pluralistic aspects of *Two Faces of Liberalism*. The argument I develop suggests that, fundamentally, aspects of value-pluralism remain prominent within Plato, and aspects of ethical monism remain prominent within Gray. I suggest that it is difficult and, perhaps, unhelpful to maintain the dichotomy, and propose instead that we regard the two theories as part of a single philosophical continuum between monism and pluralism.

Introduction

The identification of the good as a Form[3] by Plato in the *Republic*[4] appears to necessitate ethical monism. That is, the Good is singular and homogeneous in nature, at least in its true state. A seemingly natural inference from this is that there can be only one way to live a genuinely 'good' life - one which participates[5] in the Form of the Good. John Gray, on the other hand, grounds his philosophy in value-pluralism. This amounts to the belief that

> There are many forms of life in which humans can thrive. Among these there are some whose worth cannot be compared… The most fundamental value-pluralist claim is that there are many conflicting kinds of human flourishing, some of which cannot be compared in value. Among the many kinds of good lives that humans can live there are some that are neither better nor worse than one another, nor the same in worth, but incommensurably – that is to say,

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[1] School of Geography, Politics and Sociology, Newcastle University, UK.

[2] When referring to the *Republic*, I use the Grube/Reeve (1997) translation. For references to all other dialogues, I also use those in Cooper, ed. 1997. *Plato: Complete Works*.

[3] For a discussion of the nature of Forms, or 'Ideas', and the Form of the Good in the *Republic*, see the section entitled 'The Platonic Good and Grayan Flourishing'. Also see Penner (2006, 234-262) for a general introduction to Platonic Forms. A more specific discussion of the Good is included in (Irwin 1977, 224-226). For an analysis of the theory in all of Plato's dialogues see Moravcsik (1992, 55-92) and Melling (1987, 96-124).

[4] *Republic* (VI: 505a, 508d-e).

[5] I will discuss Plato's system of 'participation' (μέθεξις) and its impact on Platonic pluralism in sub-section titled 'Participation', but for a general discussion see Moravcsik (1992, 71-74, 130-167).

differently – valuable. Even so, there may be good reasons for preferring some incommensurable goods over others (Gray 2000, 5-6).

He argues that there is no one outstanding value which promotes the greatest level of 'flourishing'[6] amongst all humans in all circumstances. Each individual, or, more usually, group may hold different values; for example, honour, friendship and honesty. However, experience appears to demonstrate that, despite following differing values, these groups can still 'flourish', even if that is achieved in seemingly distinct ways. Therefore, no value can be said abstractly to be the most effective in achieving flourishing in every circumstance or situation. If individuals accept what Gray terms the 'truth of pluralism' there need be no conflict between these peoples. As Gray puts it: 'Where such ways of life are rivals, there is no one of them that is best. People who belong to different ways of life need have no disagreement. They may simply be different' (Gray 2000, 5).

The mere suggestion that Gray and Plato, with such apparently disparate positions on the nature of the good and just, could share some common ground seems, prima facie, unlikely. Indeed, Gray[7] (2000, 4) views value-pluralism as a critique of Platonic monism, claiming that:

> Ancient pluralism found few echoes in Greek philosophy. The founders of European ethical theory were monists. Neither Plato nor Aristotle was in any doubt that one way of life was best for humankind. Whether the good for humans was finally one, as Plato imagined, or many, as Aristotle was sometimes ready to admit, the best kind of life was the same for everyone – even though they never doubted that it could be lived fully only by a few leisured Greek males. In this classical view, conflicting judgements about the human good are symptoms of error. For the founders of European ethical theory, as for the Christians who came after them, conflicts of value were signs of imperfection, not a normal part of ethical life.

This notion is apparently confirmed by the 'other perspective' of Plato, in the *Republic*, with his indisputably high opinion of philosophers:

> Until philosophers rule as kings or those who are now called kings and leading men genuinely and adequately philosophize, that is, until political power and philosophy entirely coincide, while the many natures who at present pursue either one exclusively are forcibly prevented from doing so, cities will have no rest from evils, Glaucon, nor, I think, will the human race. (*Rep*. V: 473c-d)

However, in this paper I argue that the society which Plato creates for his utopian city, the *Kallipolis*, is not monistic. I base this view on the fact that not everyone in the polis is a philosopher as not all have the innate ability to philosophise

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[6] For a discussion of 'flourishing' in Gray see the section entitled 'The Platonic Good and Grayan Flourishing'.

[7] The progenitor of value-pluralism, Isaiah Berlin (1969, 167-172), is similarly dismissive of Plato, claiming that he rejected the idea that groups with different values could co-exist.

and, therefore, rule. In reality, Plato appears perfectly willing to accept Gray's (2000, 6) 'fact of pluralism'. In his utopia, he outlines three classes: the money-making artisans; the spirited auxiliary guardians; and the rational philosopher guardians (*Rep.* IV: 434c). This is roughly a *macrocosmos* to his *microcosmos* of the ideal soul, which is constituted by the appetitive, the spirited and the rational parts. Similarly, I argue that Gray cannot logically hope to present himself as a pure pluralist, so long as he is willing to use such terms as 'flourishing' in the way he does.

With these challenges to the traditional perspectives of both thinkers in mind, I wish to examine Plato's pluralistic tendencies; to demonstrate the manner in which these are encapsulated in the *Kallipolis*; and to show how this ideal system can be perceived as an example of Grayan *modus vivendi*; that is, a system in which individuals or groups with different and sometimes conflicting values, can co-exist. This will also necessitate an examination of Gray, investigating whether he can claim that there is no meta-value of good, if indeed he does so. I shall accomplish the investigation in three ways. Firstly, I will examine the nature of the Good for both Plato and Gray. This will develop into a discussion of the system of interaction between immaterial Forms, and their corresponding material objects; as Plato terms it, 'participation'. Secondly, I will investigate the heterogeneous four virtues of the soul, the way that all are said to contribute to the good, and how they correspond to the city. Finally, I will expound the plurality of the *Kallipolis*, and show, with reference to 'justice', how this system can be utilised as an example of *modus vivendi*. This will be put into context through a discussion of the degenerate forms of government discussed by Plato, in books eight and nine, and why they simply cannot be justified, sustained or regarded as 'good'. Before this, however, I need to make several qualifications.

Firstly, I do not intend to argue that Plato and Gray belong to the same ethical lineage. They are genealogically distinct, as Gray himself emphasises (2000, 4). I simply wish to demonstrate that there are aspects in each schema which are compatible and can be discussed in similar terms. There are also possibilities for both to inform – particularly normative – aspects of the other. Secondly, I focus primarily on Gray as an exemplar of a more 'comprehensive' value-pluralism. While I use 'value-pluralist/m' to refer to Gray's schema, many of the points I make are applicable to the genre of value-pluralism found in such thinkers as Berlin, Raz and Crowder. There are points at which I refer to these other thinkers where Gray is silent on aspects of Plato's theory. I hope that this leads to an opening up, and development of, not only Plato's thought but also that of Gray and other pluralists. Part of the reason for this focus is that I do not wish my analysis to follow the same line of reasoning as that of the likes of Griswold (1999), [8] who attempts to demonstrate not only that Plato saw pluralism as beneficial but also that he propagated liberalism and democracy, apparently implicitly, as the systems best equipped to deal with perfectionism.

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[8] Similar arguments, though generally more focused on Socrates' dialectical style, are outlined by Smith (2000). Wallach (2001) provides arguments which can be used against both Griswold and Smith.

I agree with Griswold (1999, 105) that much of Plato's schema can be described, 'following Rawls', as 'perfectionism', and indeed this will form the basis for much of my argument; value-pluralism being fundamentally perfectionist. As Griswold (1999, 105) argues, perfectionism, as described by Rawls, is '…a teleological theory, namely, one in which the realization of human excellence is taken as the good'. Here, it is Plato's conflation of the good and the just which determines his perfectionism. He regards justice as the apparent aim of all humans, being a prerequisite for actualising the Good, and the soul's natural state (Vlastos 1978, 66-95). Indeed, there are arguments that Plato considers justice to be not simply a prerequisite of actualising good, but also good in itself.[9] Despite this, I choose Gray as a pluralist who, almost uniquely, believes liberalism to be only one form of *modus vivendi* appropriate only to certain circumstances. Griswold believes that the kind of schema and societal structure proposed by Plato, typified by the *Kallipolis*, are 'objectionable propositions' (Griswold 1999, 109) and that it is impossible to argue that he could have thought that 'a totalitarian, soul-crushing political regime did justice to the human condition' (1999, 109). He seems to think that it is as unjust for the philosophers to be forced to rule, as it would be for the other classes. He also cannot believe that Plato would promote a city in which the majority were not balanced enough to rule themselves and were intrinsically unjust. He openly describes the polis as 'inegalitarian and illiberal' (1999, 115). Griswold's replacement theory hinges on the idea that the *Kallipolis* was never intended by Plato to be a real world system, that the decline of the systems, starting in Book VIII (*Rep*. VIII-X), demonstrates that the *Kallipolis* is unsustainable, and that it was only ever intended to be a 'polis-in-speech' (Griswold 1999, 114). He claims that the 'first best regime is unavailable' (1999, 115) and that the '*second* best regime' could not possibly imitate the 'unobtainable ideal' (1999, 116). Liberalism and democracy, he argues, provide the best possible alternative, citing a Socratic quotation (Griswold 1999, 116) that claims

> Because it contains all kinds of constitutions on account of the license it gives its citizens... it looks as though anyone who wants to put a city in order, as we were doing, should probably go to a democracy. (*Rep*. VIII: 557d)

The allowance for the philosopher to rule, instead of being ruled, and to philosophise even outside of government is argued by Griswold to be a reason to look at liberal democracy as a viable starting point for a *Kallipolis*. While I agree with his conclusion of Platonic perfectionism, and that the self-interest of self-perfection is also conducive to community perfection, I find his argument that Plato sees self rule as the only way to achieve this open to great criticism, some of which I will elucidate in the paper. His flagrant disregard of the *Kallipolis* on the grounds that it could never be fully actualised is similarly problematic, as it is, nevertheless, an embodiment of Plato's ethics.

With these qualifications in mind, I shall now discuss the nature of the 'Good' for both Plato and Gray.

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[9] See Mabbott (1978, 61-62).

The Platonic 'Good' and Grayan 'Flourishing'

For Plato, unlike many modern philosophers, the Good is an objective, almost tangible 'thing' - a Form. We, or at least Socrates, can therefore make some inferences about its nature. The Forms, for Plato, are not part of our 'sensible world'. Instead they exist in a higher, more 'real' 'intelligible world', perceptible only through dialectic and pure intellection. They are homogeneous, atemporal paradigms or universals.[10] Plato discusses the Forms in the *Phaedo*,[11] a middle dialogue, and *Parmenides*[12], a late dialogue, in which he apparently admits only Forms of mathematical, aesthetic and ethical qualities. However, in the *Republic* (X: 596a-597d), he takes the leap of allowing for all objects and ideas to have a generic, immaterial Form, providing the example of tables and beds. Forms are discussed and described in several dialogues, including those mentioned, in often disparate and even conflicting ways. This has led to a great deal of controversy about which schema Plato really intended. For my purposes, I shall focus on the account in the *Republic*, as this relates most directly to my current concerns.

While the Good is a Form, or at least Form-like, it is separate from the rest, and 'higher' in some way. Its relationship to the other Forms seems almost causal. In the *Republic*, before the allegory of the cave, he uses the Sun[13] as an analogy for the Good. While it is perceptible only to the most perfect philosopher like the rest of the Forms, it seems to exist above them as well. The objects outside the cave represent the 'lesser Forms', while the Sun, that is the Good, causes both their being known and their existence. As Socrates puts it, just as the Sun creates life and allows it to be seen,

> you should also say that not only do the objects of knowledge [the Forms] owe their being known to the good, but their being is also due to it, although the good is not being, but superior to it in rank and power (*Rep*. 509b).

However, while the Form of the Good exists separately from the rest, its characteristics can similarly be perceived within the sensible world, even if that is, instrumentally, as a result of other Forms.

For Gray, ethically, an objective good exists, though perhaps not in such a distinct form. While groups may pursue differing, and perhaps conflicting, values, he still appears to regard 'flourishing' almost as a measuring stick for lives (Gray 2000, 21). If there is no meta-value of 'good' or 'flourishing', there can be no discussion of a particular life as being 'good' or producing 'flourishing'. I contend that there is reason to believe that Gray's schema requires simply that one follow a value which leads one to flourish. Which value this turns out to be depends on environment and circumstance.

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[10] Whether the Forms are universals or paradigms has proved a great source of controversy with many implications, and I discuss this, briefly, later.

[11] *Phaedo* (74a-75d, 100c-101c).

[12] A description of, together with arguments for and against, participation is present throughout the *Parmenides*.

[13] *Republic* (VI: 507b-509c); (VII: 514a-520a, 532a-532d).

The condition of flourishing is employed vaguely and without explicit definition. In certain places it is granted a functional value, as with 'justice'[14] for Plato. However, in others, it is used to denote success or a psychological condition akin to that of utility. It is often difficult to elicit how Gray understands his claim that different societies are 'flourishing' or 'thriving' (Gray 2000, 21). The most logical possibility is that he equates this to the pertinence of chosen values to 'circumstance',[15] and the individual's/group's subsequent success in their application. In certain cases we may be able to comprehend our circumstances and make informed choices as to which values to adopt. We may, in the case of a conflict between justice and friendship in a relationship, be able to decide upon a course of action which we hope will maximise the good and minimise the bad (Gray 2000, 36). In this way, our judgments on the values we adopt and those we reject are 'practical, not logical' (Gray 2000, 54) nor 'arbitrary'. 'Our histories and circumstances, our needs and goals, may give good reasons for different choices' (Gray 2000, 36). Elsewhere, Gray's explanation of this is generally implicit and, as such, is difficult to pin down. While a 'good' life can seemingly be achieved through adopting values pertinent to circumstance, Gray also cites another form of choice.

In cases where reference to circumstance, whether environmental, cultural or social, is difficult, perhaps with competing pulls, we may be led to 'radical choice'. By this Gray means that we 'choose the kind of life we mean to have' (Gray 2000, 65) though not necessarily the one we will have in reality. Gray associates this second form of choice with modern, pluralist societies, where the competing and contradictory demands of life, and unpredictable contingencies of choice, make initial, practical decisions impractical. These decisions concern both the selection of values and the application of values. That is, individuals will, on occasion, be unable to decide whether to pursue justice or friendship without reference to some arbitrary, subjective prejudice. On other occasions, individuals will be unable to know which action will maximise their chosen value or even recognise that their interest lies in the good of flourishing. In all such cases, choice is bereft of reason or rationality. It is instinctive. Often, radical choice may simply be a point of entry into an unknown circumstance. It is assumed that when knowledge of the circumstance increases, so too does the possibility of practical reason. If our instinctive 'radical' choices do not produce optimal flourishing within a circumstance, we have reason to alter our original choices and adopt different values (Gray 2000, 59-60).

While Plato and Gray may disagree about whether the good can meaningfully be discussed separately from its 'existence' in the 'sensible world', both seem to agree that there is an objective measure by which to evaluate lives. The Good being a Form for Plato, however, necessitates an explanation for how 'goodness' exists within the sensible world. This is 'participation'.

Participation

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[14] See the section on Platonic justice under the subheading 'virtues'.
[15] Jones refers to this as 'contingencies of time and place' (2006, 198).

The system of 'participation'[16] explains the relationship between material objects and their characteristics and corresponding immaterial Forms. That is, the method by which material things from the 'sensible world' can interact with their archetypes, or universals in the 'intelligible world'.

The system enables the Forms, which are indivisible, immaterial, and above all, singular, to appear in a multiplicity of concepts and material objects, as is clearly necessary in order to explain plurality in the material world. The *Parmenides* contains the most detailed metaphysical examination of participation, and the Forms as a whole, while also casting the most doubt over the theory. Without entering into a detailed discussion of participation, it is sufficient to say that Plato wishes to claim that the Forms can retain their unity, as universals or paradigms, while also explaining their presence in the pluralistic sensible world. He argues that objects show characteristics of Forms by partaking in them, without actually taking some of their essence or the Form existing directly within the object. In the *Republic*, the analogy of the Sun suggests that the Good almost reflects itself and the shadow of the other Forms onto, and into, the sensible world. This highlights the possibility that many things in the material world can participate in one Form. Indeed the system itself requires that no one thing has a monopoly over access to the Forms. The Forms cannot exist directly within an object, as they then cease to be Form-like; that is, indivisible, atemporal, homogeneous and immaterial. This allows for many sensible things to exist which display the same Form characteristics. In the *Symposium*, one theory which emerges from Socrates' discussion with Diotima of Mantinea (201d-212c) is that in order for one to access the generic Form of Beauty, one must perceive them in many material objects, in a quasi-inductive process. There is no explicit reason for 'Good', which is, in fact, usually associated with the Form of Beauty, or 'Value', to be exempt from this. Indeed, even if it were to be argued in monistic style that only the philosopher lives a truly good life, this still could not account for the plurality of good lived by the plurality of philosophers.

This can be expanded onto an even larger scale. The archetypal Forms in themselves, as separate entities, may be singular. However, it necessarily follows that a plurality of Forms exists in order to explain the different aesthetic and ethical qualities present in the sensible world and even within the intelligible world itself. There may only be one Form of the Good but, as Socrates acknowledges, since it is necessarily the case and an integral part of his schema, there are also Forms of Beauty, Large, Tall (*Phaedo* 102e) Unique, Plurality/Multitude (*Parm*. 129b-e) and so on. Indeed the system of participation is specifically designed to cope with the apparent co-existence within material objects of differing Form characteristics. The Form of Plurality may even be said to hold a vital role in this system.

As I have mentioned, I do not intend to defend the merits, or investigate the vagaries of the system of participation. It is only necessary for my argument that Plato believed in a system through which some form of plurality in values is accounted for and accepted. However, there is one area of controversy which needs to be discussed. There has been a long running debate about whether the Forms describe universals, as

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[16] For a general discussion of Platonic participation see Moravcsik (1992, 71-74, 129-167).

seems to have been intended originally by Socratic 'Ideas', or whether they are paradigms. If they are universals, then participation necessarily entails that the Form characteristics present in the sensible world are identical, in practice, to those of the Forms themselves. For example, if there are many men all participating in the Form of Man, it is difficult to believe that Plato could argue that they didn't all partake equally. In contrast, if the Forms are paradigms, then the system would admit of degree. For example, one could display a characteristic of 'quite tall', while the Form displays simply a perfect Tallness. In relation to the current discussion, if the Forms are regarded as universals then the classes, if properly ordered and partaking in the Good, would display an equal amount of that Good. However, if they are paradigms, with the sensible goodness subject to gradation, then this allows for the classes to be evaluated.

While not providing positive argument for value-pluralist tendencies in the *Republic*, the system of participation does not prohibit plurality. Indeed, it may necessitate it, even within a system which proposes the presence of the objective Good. If he hopes to retain logical credibility, Gray need have no quarrel with the concept of a singular Good.

Value-pluralism is not a form of relativism. As far as Gray is concerned, 'ultimate human values' are not relative or subjective. Rather, they are 'objective but irreducibly diverse' (Gray 1995b, 1) and are the grounding for human life. As Jones (2006, 190) states, value-pluralism is a philosophical model 'rooted in objective human needs and interests' with flourishing as their ultimate desire or appetite. There are certain similarities between this perfectionist aspect of value-pluralism and Millian utilitarianism.[17] Indeed, Gray sees the revision of happiness into flourishing as the logical consequence of the 'potential infinity' of good lives engendered by different values which may, or may not, promote or acknowledge happiness:

> Common experience and the evidences of history show human beings thriving in forms of life that are very different from one another. None can reasonably claim to embody the flourishing that is uniquely human. If there is anything distinctive about the human species, it is that it can thrive in a variety of ways. (Gray 2000, 21)

Gray's theory cannot stand without a concept of a meta-value of good or 'flourishing'. Without this concept, the 'truth', or 'fact', of pluralism would simply disappear. The only method by which Gray can perceive that many societies flourish in many different ways is to evaluate them in terms of this meta-value. This meta-value, however, can be incorporated into life in a number of different ways through dedication to a number of different values. Gray believes that we must accept that the best we can hope for is a good life which seeks to minimise evil and maximise good pragmatically. This requires that we live by values that compliment, rather than

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[17] It has sometimes been argued that Plato has Utilitarian tendencies (Mabbott 1978, 57-65). Despite received opinion claiming the *Republic* to be eudaimonistic, the reliance on happiness that this necessitates is, in my opinion, too contentious. In the *Kallipolis*, even the philosopher kings are said to require persuasion or even coercion in order to perform their duty (519c-e).

confront, environmental circumstance. The values remain incommensurable, but the goods and level of flourishing they produce differ according to circumstance. Therefore, so long as the frame of reference is identical, it is possible to rank lives against each other according to the pertinence of the values and the level to which they are actualised (Gray 2000, 42).

To illustrate this, Gray (1996, 154) cites the example of 'Asian immigrants in Western liberal cultures, many of whom have done better than their host populations by any standard apart from that which invokes peculiarly Western ideals of autonomy and individuality'. Their values have, in this particular circumstance, led to greater flourishing than the liberal values of Westerners which may have precluded the acquisition of more valuable goods from other sources and engendered evils alien to the migrants. Therefore, while the values involved are incommensurable, the lives are not; one gleans a greater amount of the good from its set of values than the other. However, the values which are pertinent to one environment may be completely alien to, and injurious in, another. Hence, 'It is easy to understand that polygamy might be right and monogamy wrong in the societies from which the Old Testament comes, while monogamy could be right and polygamy wrong in modern times' (Gray 2000, 55-56).

Gray's examples of values are relatively vague. He could never provide a complete, concrete list, as, through experience of societal plurality, there seems to be an indefinite number of them. In Plato, if we were to equate these values to 'value-Forms', a similar outcome may result. Forms, at least in the *Republic*, may logically include all of those discussed by Gray. Friendship, obedience, respect, piety and efficiency all exist within our world, and therefore, at least in the *Republic*, must exist in the intelligible world. It is not these values which are evaluated as being good, bad or indifferent; it is their application in life. Indeed, Plato provides an example of this early in the dialogue. In the nascent stages of the attempt to define Justice, Socrates sums up Cephalus' suggested definition, inspired by Simonides, as 'speaking the truth and paying whatever debts one has incurred' (*Rep*. 331c). Socrates' challenge centres on the inherent conflict between certain values. He argues that

> Everyone would surely agree that if a sane man lends weapons to a friend and then asks for them back when he is out of his mind, the friend shouldn't return them, and wouldn't be acting justly if he did. Nor should anyone be willing to tell the whole truth to someone who is out of his mind. (*Rep*. 331c)

What emerges most strikingly from this is not the challenge to this definition of acting justly, but, in fact, a 'value-pluralist' empirical observation. Here, just as in Gray's world, we find values, namely friendship, equity and truthfulness, all of which conflict. Friendship would usually require that one be equitable and truthful with one's friends. However, in the situation posited, circumstance requires that one cannot. Just as for Gray, the values are of incommensurable worth. Both produce goods in distinct circumstances, and it is circumstance which enables evaluation.

For Gray, when deciding which values produce the greatest good, most individuals are on an even playing field. For Plato, however, the philosopher rulers

find this to be an easier task. With their access to the world of the Forms, not only are they able to understand the Good, they also have the capacity to understand which values best suit their environment and, therefore, the way to live the best life according to their circumstance. This would leave other groups at a disadvantage, almost having to guess how to live their 'good' lives. In Gray's terms, the philosopher would always be able to make informed choices, while the other classes might generally have to rely on instinctive decision making with parallels to 'radical choice'. I do not believe that Plato would argue that these choices are necessarily bad, despite the absence of reason. Plato seems sufficiently consequentialist to regard the value of choices to be dependent upon the goods achieved by their implementation.[18] So long as the auxiliaries and money-makers ended up in their appropriate social positions, reason would have no independent value in their choices. However, reason would be of value in maximising the ends appropriate to each aspect of the soul. That is, reason would enable a philosopher to recognise that the value of honour would not be best served by leadership. Here, reason acts as a natural corrective to instinct in those unable to recognise the good.

A similar situation may exist for Gray. In his more culturally diverse world, some still have an advantage. If a Westerner were suddenly to find himself in the Papuan rainforest or the Kalahari Desert, it is likely that he would find it difficult to flourish or thrive as fully as the locals. Initially, at least, it is likely that his ignorance of circumstance would ensure that some decisions were grounded in instinct or prejudice. These radical choices would be bereft of reason. However, over time it is possible that he would have the capacity to develop knowledge of circumstance and be able to adopt new, pertinent, values to suit the new circumstances, perhaps sacrificing possible values of honesty and pacifism. Similarly, if Papuan tribesman or Kalahari Bushmen found themselves in the West, they would be unable to flourish without adaptation and would have to rely on radical choice to survive – whether or not they are able to recognise the good of flourishing. There are cases in which migrants' values are naturally suited to a new circumstance, as in the case of Asian immigrants to the West (Gray 1996, 154). However, contra Plato, this need not mean that they possess immanent faculties of reason above and beyond those of other humans. Rather, it suggests that a group of individuals with fundamentally similar (basic/biological) needs, and a fundamentally similar end (flourishing), have, in part by chance, inherited a series of values appropriate to a particular circumstance.

At first, such emphasis on contingency and radical choice seems to drive a wedge between Plato and Gray. Success in Gray can be bereft of reason whereas, in Plato, it is clear that the philosophers, with their well-ordered souls, encapsulate the best life. The philosophers, as I argued above, have the natural advantage of being able to experience the Forms. They therefore have the 'best natures' (*Rep.* 431c) because they are best able, in their ideal state, to choose a life that produces good from their surroundings. They can therefore maximise their goods, minimise their 'bads' and, perhaps, have the potential to flourish most easily or fully. While Gray appears to reject arguments grounded in immanent differences, there are aspects of his

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[18] I return to the implications of radical choice for the non-philosopher classes in the section on 'The Dialectical Forms of Government'.

work which suggest socially constructed individual differences in reason. For Gray, there is a sense in which some may be able to flourish more than others through knowledge of the truth of pluralism. In this, the value pluralist - for example Gray - could be equated to a philosopher ruler. Because he has knowledge of the 'truth of pluralism', he is less likely to seek conflict with those who have chosen a different life. While the source of this enlightenment is unclear, it is apparent that immanent differences are rejected. However, the consequence of the differences - immanent or derived - seems similar.

In order for *modus vivendi* to be effective, it may be necessary for value pluralists to demonstrate the truth, and value, of pluralism to those who might otherwise come into conflict. With clear parallels to the activity of the philosophers in the *Kalipolis*, Jones (2006, 96) asks:

> How then should the value-pluralist respond to the possibility that ways of life that he identifies as good may be ways of life that find one another unacceptable? His most obvious option, qua value-pluralist, is to disabuse the bearers of those ways of life of their objections to one another. In other words, his most obvious recourse is to lead them out of their caves and inform or remind them of what the world is really like. Once they are dragged into the external world of value pluralism, they will see that their condemnation of others' forms of life is misplaced. That will solve by dissolving the problem of toleration, or it will if people can be induced to take their corrected conceptions of the world with them when they return to their particular ways of life.

I attempt to give substance to the apparent parallel between the philosophers and the value pluralists in a study of the dialectical forms of government below. Here, however, I shall concentrate on the consequences of revelation.

Jones (2006, 96) highlights the problem that if one were to bring those in conflict to the truth, they might then find their life unliveable. Devout monotheists may find it difficult, if not impossible, to return to worship of a God who, if existent at all, is certainly only one of many. For Gray, these lives may be based on 'illusion'[19] (Jones 2006, 196), but can still contribute to flourishing. That is why Gray believes that the truth of pluralism may have to be hidden, with most believing their life, through self-delusion, to be better than another. As Jones (2006, 196) argues, for Gray, 'a world in which everyone was persuaded of value-pluralism might not be a better world.'[20]

For Plato, a similar problem arises. There is nothing in nature to guarantee that the money-makers and auxiliaries would instinctively follow the philosopher ruler. Indeed, it seems unlikely that they would without systemic, societal or cultural

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[19] Gray claims that 'Humans cannot live without illusions' and that 'Illusion is our natural condition' (2003, 29, 81).
[20] See Gray (2000, 136-137).

intervention.[21] While Gray might deal with this through a split level view of the world (Jones 2006, 196), with the truth of pluralism acting as a subconscious to the conscious of their own morals, Plato posits a solution of almost reinventing a cultural history to which all would refer. This is the noble falsehood.[22] In this system, not only is each citizen exposed to the truth of pluralism, with a mythical reason not to pursue just the role of the philosopher, but all are also given the guidance they need in order to perform the task to which they are best suited.

Virtue

Metaphysically, the adoption of multiple value-Forms by individuals within Plato, as discussed above, is one way of equating his schema to Gray's. Another area discussed within the *Republic*, and one which allows another potential analogical discussion is that of virtue and its division.

The division of the Soul in the *Republic* and, subsequently, the *Kallipolis*' citizenry, is based on the sub-division of virtue.[23] Plato decides that there are four virtues in total: wisdom, moderation, courage and justice.[24] The first two correspond to the predominant characteristic of two of the classes: wisdom to that of the true guardian philosopher rulers and courage to the spirited guardian auxiliaries. Moderation, while distributed amongst the entire citizenry, seems to affect the money-making artisans most. The last virtue, justice, provides the greatest insight. He claims:

> So what kind of virtue is left, then, that makes the city share even further in virtue? Surely, it's clear that it is justice.… We stated, and often repeated… that everyone must practice one of the occupations in the city for which he is naturally best suited.… It seems, then, that the power that consists in everyone's doing his own work rivals wisdom, moderation, and courage in its contribution to the virtue of the city… Meddling and exchange between these three classes, then, is the greatest harm that can happen to the city and would rightly be called the worst thing someone could do to it… And wouldn't you say that the worst thing that someone could do to his city is injustice?... Then, that exchange and meddling is injustice. (*Rep*. IV: 432b-434c)

Justice, then, is necessarily dependent on a pluralistic system. Justice cannot exist as a concept without distinct characteristics to balance. The first three virtues are good values in some sense, in that together they contribute to the meta-value of the Good.[25] One may infer a hierarchy with wisdom at the top. However, this may only be as a result of wisdom being required by the ruling class.[26] Indeed, Plato claims simply that

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[21] The degenerate forms of government (*Rep*. VIII-X) demonstrate this.

[22] *Republic* (II: 382a ff.); (III: 414d-415c).

[23] The process of virtue analysis takes place throughout Book IV. For more details on virtue in the *Republic* see Irwin (1977, 195-200).

[24] In *Protgaoras* (330b) he adds a fifth, namely, piety/holiness.

[25] See *Republic* (VI 504d-505e) and Irwin (1977, 224).

[26] As I stated earlier, the philosopher king is seemingly in no better position than the others to achieve happiness, as governance necessitates that he cannot satisfy his appetite for knowledge indefinitely (*Rep*. 519c-e).

the philosopher class is the only one that is fit to rule. He does not state that they would be a better soldier or, indeed, money-maker.[27] All of the virtues are necessary, and all perform incommensurable tasks, though perhaps some are more beneficial in the Platonic environment than others. Indeed, while the class which corresponds to wisdom, the philosopher, rules in the *Kallipolis*, it still has to be in balance with the rest. While the guardians would exert control over the others, this is simply because they are the only class which possesses knowledge of the truth and, therefore, the correct way to go about life. As I have previously argued, this may mean that the philosopher kings posses a more concrete knowledge of how to flourish using their value. The other classes, without the help of the philosophers, may have to resort to radical choice.

In his good *polis*, it seems perverse to say that those who cannot philosophise are simply bad. They perform necessary societal functions which, among other things, allow the philosopher kings to philosophise and rule. This is demonstrated by the very existence of a corresponding dominant part of the soul in each group. Plato does not claim that these lives or aspects of the soul are bad. Rather, the different groups are each living good lives because they are being just, if not in a psychological then at least a civil sense;[28] that is, abiding by what they are good at, and leaving those who are fit to, to philosophise. As Plato claims, 'we aren't all born alike… each of us differs somewhat in nature from the others, one being suited to one task, another to another' (*Rep.* II: 370a). However, despite their necessity, Plato does clearly attempt at least some ranking of virtues. In terms of reason, one could argue that since virtues are used instrumentally to actualise the Good, it is much more likely that this will perform its function, having such a direct correlation to the meta-value. Similarly, for Gray, while such values as friendship and truth may often be incommensurable, one such as peace, which corresponds quite often to flourishing, may be given some primacy. Indeed, as Jones (2006, 191) states 'As a general position, value-pluralism admits of degree. We may recognise that values can be incongruent and incommensurable but hold that they exhibit these properties only rarely.' For Plato, although reason is so often best in terms of actualising the Good in the sensible world, something like honour may be required in order to force the philosophers to return to the cave instead of staying in the world of Forms, which seems perfectly rational in order to pursue their value, wisdom.

The pluralist interpretation of the virtues is given further credence by Plato's analysis of the soul in *Timaeus*. Here, he emphasises the necessity of the jobs that the other, 'less rational', parts of the soul perform. Johansen (2000, 105) argues that the description of the soul in the *Timaeus* differs from that in the *Republic* only in 'emphasis'. He claims that while the parts of the soul are analogous, if not identical, to those in the *Republic*, Plato is here attempting to demonstrate that instead of them 'having desires that contrast with the desire of reason for truth and wisdom [they] rather [have] desires which themselves serve a rational end'. The spirited part cooperates with reason, and carries out its orders, and the appetitive part has

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[27] He does, however, claim that they can enjoy some of the satisfaction of the other parts of their soul, in a way that the other classes cannot enjoy knowledge (*Rep.* 582a-b).
[28] See Kamtekar (1998) for a thorough discussion of virtue in relation to the non-philosopher.

necessary desires so that the whole may live. Indeed, 'the appetitive part has a perception of rational commands which is mediated through the images projected by the intellect on to the liver.' The appetites for wisdom and for food 'are both rational desires in the sense that they are desires for our real good.' Similarly, he argues that

> the *Republic* by no means always presents the lower parts of the soul as being in conflict with the intellect. The argument to show that the individual will be happy only if all parts of the soul are harmonized under the rule of reason surely presupposes that the lower parts of the soul are fundamentally able to co-operate with ends that have been determined by reason (Johansen 2000, 105-106).

On this model, reason has to be in control, as in the just soul of the *Republic*. This, as I have explained, need not be a stark divergence from Gray. Reason is simply best suited to being in control. However, the soul is necessarily[29] embodied, at least for now, and therefore has to have desires that are necessary to keep the body alive. The less rational parts of the soul are therefore used as an intermediary with the body for this very purpose. Indeed, they absorb affections, desires and perceptions, and the resulting rectilinear motions, to allow the rational part to pursue reason less hindered and to retain 'divine' circular motions.

Up until this point, I have discussed Platonic theory in the *Republic* more as a way of demonstrating the pluralistic tendencies in Plato's metaphysical ethics. Now I shall discuss the value-pluralist application of the *Kallipolis* as a *modus vivendi*.

The 'Kallipolis' as a Grayan 'modus vivendi'

Gray would find great difficulty in accepting the notion of utopian city to suit all societies. This is especially true if, as in the *Kallipolis*, the ideal disregards local environmental circumstance and tradition.[30] Indeed, much of his argument focuses on criticism of the Western liberal belief that people of all cultures can coexist simply because of putatively intrinsic 'shared' values. Liberalism, and its values of autonomy, individuality and freedom, 'embody only one way of life among many', 'are in no sense underwritten by history and have no claim to embody the permanent interests of the species' (Gray 1996, 157, 158). Value-pluralists recognise that 'universal values are realised in a variety of different ways in different cultures' (Raz 1998, 204).

For Gray (1996, 158), the truth of this statement is demonstrated by the persistence of non-liberal orders against the teleological prophesies of Mill and Marx, and the efforts of liberal 'missionaries' to inculcate liberalism in pre-modern regions. Such Enlightenment activists are not merely wrong; they actually harm non-liberals by refusing to accept the plurality of good lives (Gray 1996, 154; 1997, 91-92). Moreover, they demonstrate that their attachment to liberal values is independent 'of their contribution to personal well-being and even – sometimes – in competition with

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[29] See Johansen (2000) for his discussion of what is entailed by the term 'necessary' in this dialogue.
[30] Plato solves this by replacing old traditions with the noble falsehood.

it' (Gray 1996, 142). Gray argues that the error these individuals make, is to believe that some values are intrinsically more valuable than others when they are, in fact, 'incommensurable; that is, they are not comparable by any rational measure' (Gray 1995b, 1). They each contribute to good lives in different ways, and it is impossible to consider, for example, whether justice is intrinsically more valuable than friendship (Gray 2000, 42).

Despite this, there may be more value to elicit from the *polis*. Although Gray would argue that it cannot be prescribed to all societies, it may be one example of *modus vivendi*. That is, a method of co-existence for people who follow different, and sometimes conflicting, values. It is especially effective, as *modus vivendi*

> entail[s] a population's possessing and recognising common institutions through which they can negotiate compromises between their different values and interests. The more successfully these institutions provide for negotiation and compromise, the better the modus vivendi. (Jones 2006, 192)

In the *Kallipolis*, there are three different classes. During wartime, it could not be guaranteed that the money-making class would be provided with the necessary commodities and trading system in order to produce goods. These raw materials may be required by the auxiliaries for weapons or supplies. Indeed the money-makers may even be forced to abandon production of monetarily valuable goods in order to create the weapons required by the auxiliaries. Both classes are pursuing their goals based on their values, but neither may desire to help the other. In Plato's '*modus vivendi*', this is catered for. The acceptance of the noble falsehood by the populace should mean that all already understand the importance of cooperation. For the safety of the society, the money-makers may need temporarily to divert their efforts away from pursuing their own form of flourishing in order to aid another's, and that of the society as a whole. With rulers able to understand objectively what is better for the society (that is, the option which produces the most good while avoiding the most bad, i.e. the majority losing out on their flourishing) the system is able to continue, progress, and flourish. Similarly, Gray claims that:

> The aim of *modus vivendi* cannot be to still the conflict of values. It is to reconcile individuals and ways of life honouring conflicting values to a life in common. We do not need common values in order to live together in peace. We need common institutions in which many forms of life can coexist. (Gray 2000, 5-6).

Taken in this frame of reference, it is also possible to account for the received opinion of the philosopher rulers living the 'best' life. Gray's value-pluralism, as I have stated, can account for different levels of flourishing, so long as the frame of reference is identical, according to the pertinence of the values and the level to which they are actualised. For example, within the *Kallipolis*, the philosopher may sometimes perform the most important tasks, according to the environmental requirements. In this circumstance, he may be said to have flourished most fully. This may generally be the case within the *Kallipolis* and its necessary requirements. However, while Plato attempts to ensure that the philosophers always perform at their best, and are

intrinsically suited to doing so, it seems likely that there may occasionally be a 'bad' philosopher Indeed he even claims that a 'golden' individual can produce someone of 'silver' character. This seems to show, with Plato's focus on eugenics in mind, that even philosophers may have some imbalanced immanent characteristics that can be passed on. In this situation, the philosopher would somehow not be balanced, and perhaps even pursue the wrong values for his role. It seems perverse that Plato could call this 'unbalanced' philosopher better than a 'perfectly' balanced auxiliary.

For Gray, the *Kallipolis* could only ever be suited to a particular situation - perhaps the one envisaged by Plato in Classical Greece. However, there are value-pluralists, such as Crowder (2002), who do regard certain political settlements as legitimate in every situation. Crowder argues that liberalism is the system best placed to allow and encourage individuals to pursue as many values for the good as possible, while protecting against those which nurture the bad. Here, the desire to encourage pluralism is not accompanied by a plurality of political orders. Indeed, Crowder's societal monism does not necessarily preclude the possibility that philosophers are best placed to define the boundaries of pluralism. If pluralism is good only insofar as it enables individuals to pursue a path to flourishing which is appropriate to their characteristics and circumstances, it follows that reason may be an extremely important aspect of governance. The *Kallipolis*, while perhaps not permitting individuals to follow as many values as Crowdian liberalism, certainly allows individuals to pursue those values which best suit their personal and environmental circumstances. Logically, it may be difficult for Crowder to argue that this does not allow individuals to follow as many values as possible without deleterious effects. As Plato claims:

> can't we confidently assert that those desires of even the money-loving and honour-loving parts that follow knowledge and argument and pursue with their help those pleasures that reason approves will attain the truest pleasures possible for them, because they follow truth, and the ones that are most their own. (*Rep*. 586d-e)

In a communitarian society, such as the *Kallipolis*, harming the society is analogous to harming oneself in a liberal system, and vice versa. In Millian liberalism, the state is obliged to intervene only when individuals harm others and when that harm outweighs the harm of intervention. In Plato's organic society, self-harm is almost as deleterious to others as oneself because it leads to societal disintegration. This societal deterioration forms the basis for much of the latter part of the dialogue, and also provides opportunity to discuss why this may similarly be deleterious for the value-pluralist.

The Dialectical forms of Government

Late in the *Republic*, Plato discusses the various political systems employed by *poleis*. Plato favours aristocracy, as this is the basis for his *Kallipolis*. This denotes a society in which those who are best suited to rule do so. He proceeds to describe the system and corresponding soul type of timocracy/timarchy (that is, a system of class based on honour accruement), which develops into oligarchy which, in turn, is

widened into democracy and, finally, degenerates into tyranny (*Rep*. VIII-X). His apparent ranking of the four systems - all of which are unsustainable - with timocracy at the top, and tyranny at the bottom, seems to demonstrate a fundamental rejection of 'non-ideal' forms of society. This apparent ignorance of diversity of circumstance is the fundamental source of Gray's objection to Platonic thought. However, Gray bases his theory on experience of a modern, pluralist world. Plato, writing from a more monistic historical circumstance, still aimed, along with Gray, to ensure that individuals and societies pursue values and lives most fitting to their circumstance. In Greece philosophy was often viewed as important, and the region acted as the seat of learning for the Western world. Not only this, but, as Plato claims, only the philosophers were seen to possess the necessary knowledge of the truth to be able to lead. Such a belief seems, even attitudinally, extremely similar to Gray's belief that it is only the value-pluralist who is able to intervene in conflict and monist cultures due to his knowledge of the truth of pluralism. However, it may be that circumstance leads value-pluralists to the truth, just as 'ideal' circumstances lead philosophers to rule.

In the *Kallipolis*, the philosophers are in control because circumstances most befit their values and needs; that is, the pursuit of knowledge, bravery and honesty. In the timocracy, however, Plato claims that those who love honour necessarily gain control. In the democracy, decision making power is spread even to those who have no interest in the good of the *polis*, and, in the tyranny, the tyrant has all power, is usually simply physically the strongest, and despises the selflessness of the philosopher. These societies have completely unjust compositions. Those who have no fitness to rule gain power through social discord, and the former philosopher rulers are left to sophistry, poverty and even death, as with Socrates in the Athenian democracy. These societies show the least level of flourishing according to circumstance. Interestingly, the situation that arises from this is one in which not only the philosophers but also the other classes suffer. It is in this that radical choice comes to the fore.

The timocrat, who loves honour, has made a 'radical choice' to fulfil his desire and actualise his value by ruling, rather than, say, by defending those who need it; for example, by becoming an auxiliary. Perhaps he thinks that his new position gives him the greatest possibility for performing acts which accrue honour, or that he might simply force his subjects to give him what he desires. Instead, he becomes hated because of the wealth and possessions he accrues and he loses both respect and power. Circumstance determines his course of life to be different to that which he chose. He does this because he cannot perceive the Good, and the true philosopher is no longer in a position to provide him with guidance. For both Plato and Gray this kind of radical choice, as I have previously stated, is sometimes good and sometimes bad - it is simply unpredictable. For Plato, it is bad when someone makes a decision to become something to which they are not suited. He claims:

> I suppose that when someone, who is by nature a craftsman or some other kind of money-maker, is puffed up by wealth, or by having a majority of vote, or by his own strength, or by some other such thing, and attempts to enter the class of soldiers, or one of the unworthy soldiers tries to enter that of the judges and guardians, and these exchange their tools and honors, or when the same person

tries to do all these things at once, then I think you'll agree that these exchanges and this sort of meddling bring the city to ruin. (*Rep*. IV: 434b)

However, that is not to say that they would always do this, with individuals usually choosing professions to which they are best suited. Gray faces a similar problem, but claims that circumstance, and reason which allows individuals to judge this, usually dictates that people abandon their radical choice if it is contradictory to their situation. Indeed, he even states that 'radical choices occur as crises in ethical life, not as normal episodes within it' (2000, 65). Such crises, for Plato, are very often deleterious and should be avoided through the construction of an ideal state governed by reason. Operating in a world in flux, Gray argues that, so long as *modus vivendi* are governed by the truth of pluralism, individuals will be able to work through their crises by interaction with circumstance. For Plato on the other hand, this is only the case if the philosopher, who almost has a monopoly on reason, is able to inform others.

Conclusion

In this paper I have attempted to demonstrate that while there are fundamental distinctions between the schemata of Plato and Gray, there are many key areas in which ideas are shared. Neither thinker is an unalloyed ethical monist or pluralist. Gray undermines his pluralism by appealing to a monist meta-value or condition of 'flourishing'. Conversely, Plato undermines his monist belief in the ideal state by upholding the necessity for distinct and incommensurable parts of the soul, city and virtue. He does not propose the notion that only philosophers exist in a utopian *polis*, and sees at least some good in the activities of other members of the society. The philosophers do have some sort of advantage. They hold a value which is most likely to lead to flourishing and are able to perceive the Forms and so judge what is good according to their relevant value and circumstance. Gray also discusses immanent aspects of the individual, though less explicitly, and clearly feels that the value-pluralist is less likely to come into conflict with a clear concept of the truth of pluralism. The key distinction seems to lie in the thinkers' respective notions of what is uniquely human. While Gray's concept of human nature is malleable and almost indefinable, though perhaps with some shared fundamental characteristics based on needs, Plato's is clear. What is uniquely human is rationality, though this is not what is entirely human. As Plato accepts, humans still necessarily have other parts - the spirit and the appetite - and these are by no means intrinsically bad.

The *Kallipolis* demonstrates a society which may seem problematic to Gray, with the philosophers able to judge and prescribe how to live good lives. However, it is actually a system in which the majority are able to follow their own values to the maximum allowable extent without major conflict, discord, or civil breakdown. With an agreement, justified through the noble falsehood, that the philosophers should be in control, the truth of pluralism would be enforced even on those who disagreed, with the result that no one should be able to claim outright that their role is the most important or good. While Raz, Berlin and Crowder may have difficulties with such an aristocratic system, they cannot deny that the majority are able to follow their own values with as little hindrance as possible.

Gray and Plato undoubtedly see certain areas of ethics very differently. However, the fact that both are clearly 'situationalists', believe pluralism, in some sense, to be beneficial, and see values instrumentally as a method of actualising the good, demonstrates that the categories of monism and pluralism are not as distinct as Gray, at least, would like to claim.

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Non-interference and the Responsibility to Protect: Canvassing the Relationship between Sovereignty and Humanity in Southeast Asia

Catherine Drummond

Abstract

The Association of Southeast Asian Nations (ASEAN) has traditionally adhered to a strict notion of non-interference, yet since the late 1990s the principle has begun to evolve in a flexible way. The transformation reflects an increasing regional acceptance of human security oriented policies and practices that support the notion that states have a primary responsibility to protect their people. This recognition is illustrative of a normative shift away from the traditional understanding of state sovereignty and towards an acceptance of sovereignty as responsibility, which is the underlying premise of the Responsibility to Protect (R2P). Yet a meaningful embrace of R2P necessitates reorientating the traditional national security paradigm to prioritise the needs of individuals, a realisation towards which ASEAN does not move with much enthusiasm. However, this paper argues that an emerging flexibility on non-interference has allowed the protection of individual human rights to grow in leaps and bounds in comparison to where the Association was a decade ago, providing the platform from which to launch efforts to move towards a greater acceptance of R2P in the region.

Introduction

There is an ostensible tension between the normative entrenchment of non-interference in Southeast Asia and the potential for R2P to legitimate actions that may constitute "interference." Such views are prefaced on the assumption that R2P and non-interference are antithetical because of the perceived tension between individual human rights that R2P seeks to uphold, and the primacy of state sovereignty that non-interference operates to preserve. Overcoming criticism levelled at the endemic association of R2P with the erosion of state sovereignty is crucial in stimulating political will on the part of Southeast Asian states to embrace R2P, allow the principle to be correctly understood, grow as a regional and international customary norm and make a meaningful contribution to defending humanity.

This paper will look at the origins and development of both R2P and the norm of non-interference and reasons for their perceived opposition. It will then examine the evolution of a flexible understanding of non-interference and the corresponding inclination to accept sovereignty as responsibility, before assessing prospects for ASEAN's continued move towards a greater embrace of R2P.

The Responsibility to Protect

Origins and Development

At the turn of the 21st century a global movement was underway to alter the normative architecture of the state system. The building systemic tension between the preservation of state sovereignty and the protection of populations from gross violations of human rights gained

momentum in the wake of the Rwandan genocide and came to the fore in Kosovo in the late 1990s. In the months immediately following NATO's controversial intervention, then United Nations Secretary General Kofi Annan challenged the international community to reconcile the two foundational aspects of legitimate statehood – sovereignty and the protection of fundamental human rights (Annan 1999). The International Commission on Intervention and State Sovereignty (ICISS) responded to the challenge by producing a report aimed at illustrating that the relationship between sovereignty and humanitarian intervention was complimentary, rather than contradictory. Building on the previous work of Francis Deng on internally displaced persons, the ICISS developed the concept of 'sovereignty as responsibility' and argued that the state has a primary responsibility to protect its populations, and where it is unable or unwilling to do so the responsibility to protect would be borne by the international community (International Commission on Intervention and State Sovereignty 2001: (xi)).

This concept of R2P — that sovereign rights entail sovereign responsibilities to safeguard populations from grave abuse — was subsequently endorsed by the Report of the Secretary General's High-level Panel on Threats, Challenges and Change 'A More Secure World: Our Shared Responsibility' in 2004 (2004: 66), and adopted again by Secretary General Annan in his 2005 Report 'In Larger Freedom: Towards Security, Development and Human Rights For All' (2005: 35). After much intensive deliberation and refinement of the ICISS formulation of R2P and on its repackaging by the High-level Panel and Kofi Annan, the majority of the world's states unanimously accepted the principle at the World Summit in 2005, endorsing paragraphs 138-139 of the Outcome Document (High-level Plenary Meeting of the 60th Session of the United Nations General Assembly 2005: 31).[1] Current Secretary General Ban Ki-moon has identified the consensus on R2P to rest on three pillars that form the foundations of the obligations accepted by the heads of State at the World Summit:

> (1) the responsibility of the state to protect its own population from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement;

> (2) the commitment of the international community to assist states in meeting these obligations; and

> (3) the responsibility of United Nations Member States to respond in a timely and decisive manner, using Chapters VI (Pacific Settlement of Disputes), VII (Action with Respect to Threats to the Peace), and VIII (Regional Arrangements) of the UN Charter as appropriate, when a state is manifestly failing to provide such protection (2008: 1).

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[1] Some proponents of R2P who are of the opinion that the Outcome Document watered down the concept of R2P seek to salvage some of the virtues of the ICISS formulation. It is not within the scope of this article to explore the debate on the best conceptualisation of R2P. For commentary on the differences between the concept advocated by the ICISS, High-level Panel and Secretary General, and that adopted in at the 2005 World Summit see Bellamy 2009: 66-97; Bellamy 2008: 623-624; Bellamy 2006: 164-169; Wheeler and Egerton 2009: 123-128. Yet it should be remembered that the authority, meaning and scope of the international consensus on R2P is grounded in Paragraphs 138 to 140 of the World Summit Outcome Document.

The United Nations Security Council has unanimously reaffirmed the principles agreed upon at the World Summit in Resolutions 1674 (2006) and 1894 (2009) on Protection of Civilians in Armed Conflict and in Resolution 1706 (2006) on the Reports of the Secretary-General on the Sudan. Secretary General Ban has vowed to make translating R2P from 'words to deeds' a cornerstone of his leadership (2007: 1), undertaking an extensive investigation into operationalising R2P with the assistance of his newly appointed Special Adviser on the Responsibility to Protect, Edward Luck. His report, 'Implementing the Responsibility to Protect' was issued in January 2009 and presented to the General Assembly for its consideration on 21 July 2009 (2009: 1-33). The General Assembly convened an informal interactive dialogue followed by a plenary debate which produced a clear commitment to the responsibilities articulated at the World Summit and heralds a new focus on the implementation of the norm (Global Centre for the Responsibility to Protect 2009: 5-9).

Conceptual Ambiguities and Southeast Asian Responses to R2P

Despite numerous commitments to R2P, both in Southeast Asia and other regions across the world, uncertainty remains as to what the R2P principle actually means and how it ought to be invoked in practice. Such conceptual ambiguities have fuelled scepticism among states and academics alike about the potential for R2P to threaten traditional norms of sovereign equality, territorial integrity and non-interference (Evans 2008a: 290-296; Evans 2008b: 55-76). Controversially, the 63rd President of the General Assembly, Father Miguel d'Escoto Brockmann of Nicaragua, even used his opening and closing statements to the General Assembly Debate on R2P in July 2009 to question whether R2P could potentially 'unravel the United Nation's credibility' by subverting the 'consecrated cornerstone values enshrined in the United Nations Charter and international law, such as the principles of sovereignty and non-intervention' (2009: 1).

The Southeast Asian region in particular has been a vocal proponent of further clarification of the principle in light of its historical deference to conservative notions of sovereignty and non-interference. Malaysia has expressed the strongest concerns about the potential for R2P to legitimise unilateral intervention, criticising the 'seemingly illogical steps' in R2P's formulation that attempts to hold states liable for 'negligence of failure of due diligence' in preventing the incitement or commission of genocide and mass atrocity crimes (Zainuddin 2009: 4). Further, the 2005 Malaysian chair of the Non-Aligned Movement's Coordinating Bureau, of which all ASEAN Member States are a party, has argued that R2P is in essence a 'reincarnation of humanitarian intervention' which remains illegal under international law (Bellamy 2006: 152). Viet Nam, one of the most adamant supporters of a strict understanding of non-interference remains deeply cautious (Nguyen Duy Chien 2005: 21-22; Asia-Pacific Centre for the Responsibility to Protect 2009a: 27; Asia-Pacific Centre for the Responsibility to Protect 2009b: 57-59), and has joined Malaysia in calling for further deliberation on the principle by the General Assembly (Nguyen Dy Nien 2005: 22; Asia-Pacific Centre for the Responsibility to Protect 2009a: 27; Asia-Pacific Centre for the Responsibility to

Protect 2009b: 33-35). Indonesia has also noted the need for further clarification of the principle and its application pertaining to enforcement measures (Yudhoyono 2005: 5).

The differing levels of support for a principle with such potential to undermine the Association's founding norm of non-interference explains why ASEAN has issued no official statements on R2P. Despite repeated assurances from Secretary General Ban Ki-moon (2008:1; 2009: 15-22) and other advocates (Evans 2008b: 75-104) that the core focus of R2P is on prevention and capacity building rather than military intervention, many still feel that any move towards altering the traditional notion of sovereignty and allowing for potential infringements of the norm of non-interference would be met by stark hostility from the Southeast Asian region (Katsumata 2003: 104-106).

The Norm of Non-Interference

Origins and Development

ASEAN's strict adherence to the norm of non-interference is characteristic of an institutional culture of regional security management that aims to avoid confrontation while maintaining control of conflicts among states. This so called "ASEAN way" is premised upon the prioritisation of the preservation of ASEAN's unity which is seen as essential for further integration to become a meaningful driving force in the shaping of the region's evolving security architecture.

The essence of the principle of non-interference[2] is the belief that each Member's domestic affairs are no-one else's concern. This notion has credence in international relations to a degree, however the embrace of the concept by Southeast Asia is unparalleled. The principle of non-interference is the sacrosanct cornerstone of intra-ASEAN relations. It is pervasive in all key documents including the founding Bangkok Declaration of 1967 (ASEAN 1967: Article 2(7)[3]), the 1971 Zone of Peace, Freedom and Neutrality Declaration (ASEAN 1971: Preamble) and the 1976 Treaty of Amity and Cooperation, which enshrines the guiding principles of the Association as maintaining 'mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations, the right of every State to lead its national existence free from external interference, subversion or coercion [and] non-interference in the internal affairs of one another' (ASEAN 1976: Article 21).

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[2] It is prudent to distinguish between "non-interference" and "non-intervention." While both denote non-consensual involvement in the affairs of another state, intervention suggests action of a more aggressive and forceful nature. Interference connotes a broader continuum of involvement that would *include*, in extreme, coercive intervention.

[3] However, it should be noted that the Bangkok Declaration does not explicitly refer to non-interference. Rather it recognises the need to strengthen regional bonds and cooperation in the promotion of peace and stability through abiding respect and adherence to the principles of the UN Charter, which, by virtue of Article 2(7) preserves the right to non-intervention 'in matters which are essentially within the domestic jurisdiction of any state.'

The Association's stringent adherence to non-interference can be understood in light of the instability that characterised the geopolitical history of the region prior to ASEAN's establishment in 1967. The process of decolonisation began for most Southeast Asian states from the mid 20th century.[4] The principle of non-interference presented an opportunity for states to concentrate on domestic matters and consolidate their newly acquired nationhood status while avoiding the risk of having to entertain destabilising external interference (Katsumata 2004: 243). This was particularly pertinent in a climate where the dominant understanding as to the most effective way to create a politically strong and economically prosperous state involved the subjugation and postponement of individual human rights for the greater good of the nation's development (Narine 2005: 469). By the mid 1960s numerous ongoing territorial disputes, internal communal strife, secessionism and a lack of socio-political cohesiveness in most Southeast Asian states had led to endemic regional insecurity (Katanyuu 2006: 826). This was further compounded by the mutual distrust and suspicion that arose from the most divisive of regional conflicts during the 1950s and 1960s, the *Konfrontasi*.[5] In opposing the creation of an independent Malaysia, Indonesia and the Philippines sponsored low level military incursions into Malaysian territory and gave subversive groups training and support in an effort to destabilise the nascent nation (Katanyuu 2006: 826-827). Overwhelming concerns for domestic stability and national security that arose during this period were further reinforced by Vietnam's invasion of Cambodia in 1979, great power intervention during the Cold War and the divisive effect of communism on the region. With a history of foreign colonial intervention and occupation fresh in mind, and an unstable and subversive regional political environment, non-interference paved the way for new relations premised upon mutual respect for one another's sovereignty, territorial integrity and national security. The wider framework of the "ASEAN way" of diplomacy characterised by consensus-based decision making and voluntary adoption of regional decisions operated to preserve the principle of non-interference. The success of the principle of non-interference in creating stability and security among states within the region has allowed for significant cooperation and solidarity,[6] which in turn has solidified non-interference as a guiding and seemingly intractable feature of Southeast Asian politics.

Scope and Strict Adherence

For the first thirty years since inception, ASEAN adhered quite strictly to a broad understanding of non-interference. Despite the fact that ASEAN has never made any attempt to define what actually constitutes "interference," regional relations prior to the late 1990s allows "interference" to be construed as a continuum of involvement in the domestic affairs of states

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[4] Indonesia and Viet Nam gained independence in 1945, the Philippines in 1946, Myanmar in 1948, Cambodia in 1953, Laos in 1954, Malaysia in 1957, Singapore in 1965 and Brunei Darussalam in 1984.

[5] An Indonesian word for confrontation.

[6] Building regional solidarity and encouraging cooperation among ASEAN states is a prominent aim of all key ASEAN documents, with areas for cooperation specifically being set out in the Declaration of ASEAN Concord. See *Declaration of ASEAN Concord* (ASEAN 1976). See also the ASEAN website for details on extensive regional cooperation in the areas of peace and security, economic, socio-cultural and technology (ASEAN 2009a).

that ranges from the mildest of political commentary to the extreme of coercive military intervention.

Historically, ASEAN has refrained from discussing the domestic affairs of states in Summits, ministerial meetings and auxiliary forums. This has been one of the primary appeals of ASEAN in attracting cooperation of states with appalling domestic rights conditions such as China in its multilateral security forum, the ASEAN Regional Forum (ARF) (Simon 2008: 272). Instead such agendas have focused on peace and security, economic growth, social and cultural development, the provision of technical assistance and development of the region as a whole. Even moves to expand the good offices of the Chair of the ARF were rejected due to concerns it could lead to interference in the domestic affairs of Member States (Simon 2008: 281). ASEAN states have also traditionally refrained from criticising or condemning each other, even in the face of gross human rights violations, for fear that making intra-ASEAN criticism acceptable would undermine the unity and stability of the Association. ASEAN's refusal to comment or criticise saw Member States remain silent in the face of the brutal military campaign that followed Indonesia's invasion of East Timor in 1974, where over the course of a decade approximately 200,000 people died (Narine 2005: 478). However, no example is a clearer demonstration of the Association's fidelity to the principle of non-interference from the 1970s to early 1990s than ASEAN's united decade long condemnation of, and stance against, Viet Nam for its intervention in Cambodia in 1979 that halted the genocidal regime of the Khmer Rouge. The Association even went as far as to organise international opposition to Viet Nam's occupation and was a driving force in ensuring Cambodia's seat at the UN was kept for Pol Pot and the Khmer Rouge until 1992 international supervised elections (Narine 2002: 49-52). This case also demonstrates the Association's consistent and steadfast abhorrence, prior to the late 1990s, of non-consensual military intervention that violated foundational principles of sovereign inviolability, territorial integrity and non-interference. While ASEAN leaders have never denied the legitimacy of the Security Council in authorising interventions to address threats to international peace and security, this is the only form of legitimate intervention they recognise. Yet, from inception to the 1990s, ASEAN's adherence to strict non-interference ensured the Association was not a loud voice in calling for the exercise of this power in relation to international events. Instead, ASEAN has traditionally preferred sustained efforts at quiet diplomacy, occurring behind closed doors and away from the spotlight of ASEAN forums (Ramcharan 2000: 80-81).

Perceived Opposition of R2P and Non-Interference

Roundtable consultations in the Southeast Asia in the past few years suggest that the regional institutionalisation of non-interference limits the extent to which ASEAN states can embrace R2P (Responsibility to Protect Engaging Civil Society 2008: 18; Locke and Ladnier 2002: 3; Katsumata 2003: 104-106). Such views are reflective of a perceived struggle between the individual human rights that R2P seeks to uphold, and the primacy of state sovereignty that non-intervention operates to preserve. The crux of the debate is what Alex Bellamy identifies as

a contest between traditional sovereignty and sovereignty as responsibility (2009: 33).[7] On the one hand, the principle of non-interference is premised on traditional Westphalian understandings of sovereignty that prioritise inviolability, equality, territorial integrity and the right to exclude external actors from a state's internal affairs (Krasner 2002: 9). Yet it remains grounded in the fundamental right of self determination of a group of people, and does not prioritise the protection of individual human rights above concerns of the state (Bellamy 2009: 15-19; Morada 2006: 61). R2P, on the other hand, is premised upon the evolving concept of sovereignty as responsibility.[8] It stipulates that state sovereignty is essentially derived from individual human rights. Accordingly, the state has the primary responsibility to protect its citizens and if it fails to do so, the Security Council may authorise intervention to restore the conditions necessary for effective sovereign protection of individual rights (Bellamy 2009: 19). R2P is thus 'an ally of sovereignty, not an adversary' and by assisting states to meet their core protection responsibilities, it seeks to strengthen rather than weaken sovereignty (Ban Ki-moon 2009: 7-8; International Commission on Intervention and State Sovereignty 2001: 13-14).

Despite rhetorical arguments, in practice ASEAN states have been reluctant to freely champion human rights out of concern for the preservation of traditional state sovereignty. This understanding of sovereignty has been the historically dominant conceptualisation in the region and requires a presumption against military intervention, but not necessarily interference as broadly as ASEAN conceives it. The fact that R2P contemplates non-consensual military intervention, even if only in worst case mass atrocity scenarios, explains the initial recoil of ASEAN states at the mere suggestion of a principle that involves not only the potential sanctioning of intervention, but by logical extension the tolerating or even encouraging of a number of measures that fall below intervention on the scale of what constitutes interference.[9]

Evolution of Flexible Non-Interference

Notwithstanding such regional caution, there are indications that ASEAN has accepted a more flexible interpretation of the principle of non-interference. It is a transformation that reflects a move away from traditional sovereignty towards accepting sovereignty as involving inherent protective responsibilities. It is thus also a step towards embracing R2P.

Since the late 1990s ASEAN has permitted increasing levels of political commentary, diplomatic pressure and external mediation efforts in relation to domestic affairs of some of its Member States. Such moves resulted, in part, from the growing recognition that non-interference was an ineffectual basis for addressing challenges that transcended national borders, a typical characteristic of emerging threats of the late 20th century.[10] ASEAN's paralysis in the face of the

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[7] In this debate, sovereignty as responsibility has also been articulated as individual sovereignty (Annan 1999b: 49-50).

[8] Francis Deng and Roberta Cohen made this argument in the course of their work on IDPs in the early 1990s.

[9] For instance this includes concerns raised by Eli Stamnes for the potential of prevention measures encapsulated by the first pillar to "interfere" with the domestic policies of states (2009: 87).

[10] This is an argument commonly made by rationalists (Katsumata 2004: 239-241; Narine 2005: 478).

1997 financial crisis which crippled East Asian economies, and the Indonesian haze of the same year that produced trans-boundary atmospheric pollution, were two such events that served as catalysts for the reconsideration of the norm as a basis for international relations (Narine 2005: 478).

At the same time, a post-Cold War global normative rise in the consciousness of human rights prompted the conditioning of legitimate political and economic relationships on meaningful commitment to addressing internal issues of human rights concern. The expansion of ASEAN to include Laos, Myanmar, Cambodia and Viet Nam in 1997 and 1998 incorporated states whose harsh domestic policies were perceived by some of the founding Members to undermine the international stature of the Association (Simon 2008: 269). Hiro Katsumata argues that years of strict adherence to non-interference and a failure to criticise Members for their human rights abuses damaged ASEAN's international reputation and compelled the Association to seek ways to address domestic issues of concern in its newest Member States (2004: 245).

ASEAN's relations with Myanmar, in this regard, serve as the most pertinent illustration of the Association's gradual move towards a more flexible understanding and application of non-interference. With the prospect of Myanmar's inclusion in ASEAN in the late 1990s, concerns were raised over the possibility that membership would extend legitimacy to the ruling junta whose mass human rights abuses and violent suppression of the main opposition party, the League for National Democracy (NLD), had earned it international condemnation (Ramcharan 2000: 66). Further disquiet was expressed regarding the potential ramifications for ASEAN's external relations, particularly with the EU and the US who staunchly opposed Myanmar's admission, boycotting ASEAN meetings and warning Burma's admission would complicate political and economic relations (Ramcharan 2000: 66; Katanyuu 2006: 842). Previous attempts at "constructive engagement" with Burma, premised on the genuine conviction that economic and political cooperation was more productive than punitive measures in encouraging improvement in the country's internal situation, was a complete failure, and proved both embarrassing and politically damaging for ASEAN (Ramcharan 2000: 66-67, 70, 73-74).[11] Yet the fact that Myanmar was still admitted to the ASEAN in July 1997 illustrates that the Association had not moved far in testing the water of a more flexible principle of non-interference.

While the broader normative movement towards the rise of human rights served as the undertow, Myanmar's continued resistance to reform provided the immediate catalyst, with Thailand as the driving force, for more overt attempts to introduce a flexible notion of non-interference. As a strong supporter of liberal values and individual rights, Thailand had been greatly inspired by the global normative shift, remarking that '[i]t is essential that Members do

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[11] The desire for positive interaction was further fuelled by the perceived need to remove Myanmar from China's sphere of influence characterised by the close political and economic relationship between the two regimes, and incorporate Myanmar in moves to integrate all ten Southeast Asian states into one geopolitical entity achieving 'complete regionalism' (Ramcharan 2000: 65).

their utmost to make themselves acceptable in the eyes of the international community' (*The Nation* 2000; Katsumata 2004: 248-249). More directly compelling, however, was the extent to which Thailand had been affected by Myanmar's political volatility by virtue of its close proximity. Issues such as cross-border drug smuggling and skirmishes, substantial flows of refugees and economic migrants into Thailand fleeing human rights abuses and declining economic conditions, as well as terrorist style hijackings and seizing of government buildings in Thailand by Burmese refugees had seriously affected Thailand's national security, complicated its economic recovery after the financial crisis in 1997 and undermined social stability in the country (Katanyuu 2006: 829).

In recognition that Thailand would continue to be affected by Burma's internal political instability unless the situation improved, in July 1998 Thai Foreign Minister Surin Pitsuwan proposed a reinterpretation of the principle of non-interference in the form of "flexible engagement" to allow for open and frank discussion of internal affairs of states that had trans-boundary effects (1998: 1). He argued that 'ASEAN Members perhaps no longer can afford to adopt a non-committal stand and avoid passing judgement on events in Member's countries' (Pitsuwan 1998: 1), acknowledging that if ASEAN failed to address ongoing challenges of globalisation and interdependence, the Association's credibility and capacity to promote and protect its interests would erode. Unsurprisingly the proposal was rejected by Myanmar and all other ASEAN states, with the exception of the Philippines, for fear that to countenance intra-ASEAN criticism and interference would promote mistrust, resentment and foster the instability that divided the region prior to ASEAN's establishment (Katanyuu 2006: 830; Narine 2005: 480; Ramcharan 2000: 79). The Indonesian Foreign Minister stated that 'we can talk about certain problems like transnational crimes, but if you start talking [about] how a country must run affairs like…democratizing, or … human rights, then you are getting into trouble' (Powell 1998). After an extensive debate "flexible engagement" was replaced with "enhanced interaction," a watered down compromise that allowed individual states to *comment* on their neighbour's domestic activities if they effected regional concerns but reaffirmed the Association's commitment to the principle of non-interference (Narine 2005: 480). Yet this was still the first step towards a more flexible understanding and application of non-interference.

Despite formal rejections of intra-ASEAN criticism, some ASEAN states appeared to be moving towards a more accommodating notion of non-interference. 1998 marked the first instance of ASEAN states openly speaking out against a neighbour's human rights transgressions when the Philippines and Indonesia criticised Malaysian Prime Minister Mahathir Mohamad for sacking and jailing Deputy Prime Minister Anwar Ibrahim (Katsumata 2004: 244; Acharya 1999: 430; *The Nation* 1998). However, the gains of this public criticism for more flexible interpretations of the principle of non-interference were not realised. In retaliation the Malaysian government, indicating it would not tolerate public condemnation of its actions, questioned the legitimacy of the Indonesian government and raised the possibility of blocking Filipino and Indonesian workers from employment in Malaysia, cancelled security exercises with the Philippines military and even suggested it might support Malaysian insurgency in the Philippines (Narine 2005: 480).

Emerging humanitarian norms further stretched the boundaries of non-interference when the possibility of external international intervention was put on the table in the wake of the mass killings by Indonesian militias that followed East Timor's 1999 referendum favouring independence. Viet Nam opposed any external involvement, fearing NATO's recent intervention in the Balkans was setting a pretext for unilateral armed interference in the affairs of developing states (Narine 2005: 478-479). Malaysia, on the other hand, once an ardent advocate of strict non-interference and vocal opponent of humanitarian intervention (Narine 2005: 479; Bellamy 2006: 152), evinced a change of thinking about interfering to alleviate human suffering by voting against a draft Security Council resolution condemning NATO for its armed intervention in Kosovo, and participated in the International Force for East Timor (INTERFET) (Asia-Pacific Centre for the Responsibility to Protect 2009b: 33). Additionally, the Philippines joined Thailand in welcoming and participating in INTERFET which was eventually reluctantly accepted by Indonesia following US threats to veto the extension of World Bank loans, which would have potentially crippled the Indonesian economy so soon after the financial crisis (Locke and Ladnier 2002: 5; Bellamy 2009: 147-148).

More striking and collective moves towards a flexible understanding of non-interference began in December 2003 with the Forum on International Support for National Reconciliation in Myanmar ('Bangkok Process'). This was an unprecedented event in which ASEAN invited Myanmar and other influential global actors to collectively discuss, openly for the first time, the internal political developments in Burma (Simon 2008: 272; Katanyuu 2006: 831-832, 839).[12] It formed part of a larger Thai plan of "forward engagement" aimed at promoting democracy and reconciliation in Myanmar (Katanyuu 2006: 830-831). The participation of ASEAN states previously more inclined to cling to strict non-interference, indicated most had come to accept the view gaining credence in Southeast Asia that some events inside a country's borders could not strictly be described as internal affairs. Malaysia, once the junta's most ardent advocate, feeling personally betrayed by the regime's underlying resistance to repeated efforts at engagement particularly with regards to the UN envoy and top Malaysian diplomat Razali Ismail, remarked that Member States could not 'allow non-interference to shield' the deteriorating situation in Burma (Katanyuu 2006: 837). Similarly, Indonesia indicated that states could not 'claim gross violations of human rights as a domestic matter' and that such issues ought to be discussed at the ASEAN level (Katanyuu 2006: 840).

Tensions between ASEAN and the international community continued to rise in light of Myanmar's projected ASEAN Chairmanship in 2006. To allow Rangoon to take the Chair would afford the ruling regime legitimacy through exerting greater influence on ASEAN agendas, taking regional initiatives and hosting a series of meetings bringing together prominent world leaders, whose attendance would imply recognition of the junta's rule, and thus solidify the regime's grip on the country (Katanyuu 2006: 842). International opposition was made bluntly clear when the EU cancelled scheduled economic and financial ministerial meetings with

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[12] Myanmar participated in the forum because the meeting was not intended to criticise the junta and Rangoon was keen to reduce the pressure from ASEAN and the international community.

ASEAN in 2004 and the US Secretary of State Condoleezza Rice declined to attend the 2005 ARF held in Laos (Katanyuu 2006: 842-843). ASEAN stood to lose tremendously in economic terms during what was still a period of economic recovery from the financial crisis somewhat interrupted by the tsunami disaster and the bird flu epidemic (Katanyuu 2006: 843). To preserve ASEAN's strength as a collective trading bloc and to ensure positive economic prospects, it needed to maintain close relationships with its major partners, particularly the US who represented the largest source of foreign direct investment in the region (Simon 2008: 284). Moreover, the continued participation of the EU and the US in the ARF and Post Ministerial Conferences was perceived as crucial in solidifying ASEAN as a driving force in maintaining peace, stability and security in the region (Katanyuu 2006: 843).

These factors compelled ASEAN in 2005 to take its first ever collective action against a Member State for dissatisfaction with its internal situation in calling for Myanmar to forego the Chairmanship (Katanyuu 2006: 835-836; Simon 2008: 272-273). The Inter-Parliamentary Myanmar Caucus established in November 2004 to call on Burma to bring about change and democratic reform (itself symbolic of the acceptance of political commentary and regional involvement in domestic affairs) was instrumental in applying the pressure that eventually compelled Burmese officials to give up the Chairmanship in July 2005 (Katanyuu 2006: 839; ASEAN 2009b). Yet ASEAN went further and at the 11th ASEAN Summit in December 2005 signalled a clear and formal departure from strict non-interference by collectively openly criticising and condemning the domestic situation in Burma and resolving to send a delegation to investigate the situation (Badawi: 2005; Simon 2008: 273; Katanyuu 2006: 839). Further, Indonesia's abstention in 2007 from voting on a Security Council resolution to impose economic sanctions on Myanmar for its continuing human rights abuses also indicates a changing conception of the principle of non-interference, and reflects the growing recognition that sovereignty can no longer be used as a shield for violations of fundamental human rights (Asia-Pacific Centre for the Responsibility to Protect 2009b: 26).

By the 13th annual Summit in November 2007, ASEAN was content to profess that it had an 'extensive and open discussion' (Loong 2007) on Burma, accepting terms of interference that it was starkly opposed to nine years earlier. The Summit also marked the adoption of the new ASEAN Charter which embodied a compromise between formal recognition of the traditional principle of non-interference and mechanisms for the achievement of new aspirations that involve the application of a more flexible notion of non-interference. Article 1(7) commits Member States to the protection of human rights and, for the first time, democracy (Association of Southeast Asian Nations 2007: 4). These were both issues historically outside the region's conventional political discourse but are now clearly recognised as areas of legitimate regional concern. Indonesia, who was initially cautious about relaxing non-interference, has expressed regret that ASEAN discussions often 'shy away' from such difficult issues in deference to the principle of non-interference and welcomed the inclusion of human rights and democracy in the Charter (Asia-Pacific Centre for the Responsibility to Protect 2009b: 22-23; Wirajuda 2006). Consensus-based decision making was once the defining feature of ASEAN decision making for it protected Members from interference at the discretion of the majority, reinforcing the principle

of non-interference. However, Article 21(2) of the Charter preserves the more recently adopted ASEAN-minus-X method of voting to allow dissenting states to opt out of collective decisions. Not only does this prevent one state from prejudicing the progress of the organisation, it allows ASEAN to make collective decisions regarding one state in particular, a feat the Association was historically not prepared to do.[13] It must be acknowledged that Article 21(2) provides for ASEAN-minus-X voting only on economic commitments. Yet the formalisation of a flexible method of voting still signifies progress towards an evolving notion of interference in economic affairs, and has the potential to encourage such flexible voting option on political matters in the future.

Moving Towards Accepting Sovereignty as Responsibility

Southeast Asian states recognise the tension between traditional conceptions of sovereignty and the need to protect people in humanitarian crisis situations (Locke and Ladnier 2002: 1; Morada 2006: 61). Through the appreciation of the importance of democracy, human rights and the necessity of dealing with oppressive regimes such as in Myanmar, ASEAN has allowed the principle of non-interference to evolve in a way that reflects regional receptivity to a human security agenda that includes R2P (Korean National Commission for UNESCO 2004: 265). Southeast Asian states are moving away from the traditional notion of sovereignty and towards accepting sovereignty as responsibility. In vocally condemning the use of traditional sovereignty as a shield for perpetrators of mass atrocity crimes, Singapore is among those who acknowledge that 'narrow notions of sovereignty no longer hold today' (Jayakumar 2005). Similarly, in recognising the need for a consensus, the Philippines have even called for reconciliation of R2P with the principle of non-interference (Asia-Pacific Centre for the Responsibility to Protect 2009b: 40; Romulo 2005).

The clearest illustration of this normative shift is the fact that all ten ASEAN states have accepted the 2005 World Summit Outcome Document, which explicitly sets out and endorses the Responsibility to Protect.[14] Additionally, statements from ASEAN Member States at the General Assembly Debate on R2P in July 2009 provide encouraging re-affirmations of the

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[13] Article 21(2) also stipulates that the ASEAN-minus-X formula may only be applied where there is a consensus to do so. Considering this, it is unlikely that a state would vote in favour of the ASEAN-minus-X method where the Association is considering making a collective decision in relation to that state. However, a collective decision in the absence of the state of concern, by reason of a boycott or other objection to ASEAN proceedings for whatever reason, is an entirely possible scenario consistent with the application of the provision.

[14] As the General Assembly adopted the Outcome Document by consensus, there were no votes for or against. However, no state objected to the Outcome Document, indicating they all accepted or at least acquiesced, to the articles contained therein. Brunei, Indonesia and the Philippines have explicitly affirmed their support for R2P. Malaysia has tentatively welcomed the principle, but expressed caution about its potential to encourage intervention for humanitarian purposes in situations which are not threats to international peace and security. Singapore has no official stance on R2P, yet is vocal in refusing to allow sovereignty to be a shield for perpetrators of mass atrocity crimes. Thailand voiced support for R2P in 2005, but has not been a strong proponent of the principle in subsequent years. Cambodia, Laos, Myanmar and Viet Nam have welcomed or acquiesced to the World Summit Outcome Document, but have not specifically endorsed R2P. See generally Asia-Pacific Centre for the Responsibility to Protect, *The Responsibility to Protect In Southeast Asia*, 2009.

responsibilities enunciated at the 2005 World Summit and evince a clear shift in focus from the need to obtain a normative consensus on R2P, to a commitment to its operationalisation (Bui The Giang 2009: 28-29; Davide 2009: 10-12; Menon 2009: 6-8; Minn 2009: 7-8; Natalegawa 2009: 7-8; Zainuddin 2009: 3-5). Following this debate the Global Centre for the Responsibility to Protect has concluded that the greatest positive shift in favour of R2P since 2005 has from the Asia-Pacific region—a region in which Southeast Asia plays a principal role (2009: 10). Most ASEAN states are constructively engaged in dialogue about the implementation of R2P. Others have acquiesced to the concept, but noting some concerns are not actively contributing to the ongoing debate about its implementation (Asia-Pacific Centre for the Responsibility to Protect 2009b: 66).[15] The region is keenly interested in international assistance for state owned development and capacity building initiatives to effectively respond to and resolve precarious conflicts before they deteriorate into one of the four R2P crimes (Asia-Pacific Centre for the Responsibility to Protect 2009b: 68-71). Naturally, Southeast Asian states are more inclined to support the first two pillars of R2P— upholding the state's responsibility to protect and accepting or supporting international assistance — as they do not overtly contemplate non-consensual interference, and also because such policies that promote increased levels of development and commitment to international norms attract foreign investment, promote healthy economic and political relationships with important external actors and serve to consolidate the international reputation of both ASEAN and its individual Member States.

However, regional collaboration on issues such as curbing the trade in small arms and light weapons, development initiatives, an early warning humanitarian disaster centre and increased humanitarian cooperation between ASEAN and the UN (Asia-Pacific Centre for the Responsibility to Protect 2009b: 68-71), is couched in language that supports the protection of the Southeast Asian people but lacks specific reference to R2P. This may be indicative of concerns that even some international assistance measures aimed at building preventive capabilities may be construed as unnecessarily interfering in the region (Stamnes 2009: 87). Eli Stamnes argues that in order to safeguard the political utility of R2P arising from its exclusivity in extreme cases, perhaps the lack of direct R2P emphasis is the most appropriate way to move forward with preventive measures in the region, because at least the initiatives aimed at protecting individuals are still being put in place (2009: 78). The extent to which regional policies are directed towards the needs of the Southeast Asian people is reflected in recent efforts at integration premised on the building of an ASEAN Community composed of three pillars (security, economic and socio-cultural). Aspirations to create 'One Caring and Sharing Community,' to quote one of the recent ASEAN Summit themes (Macapagal-Arroyo: 2007), reflects an increasingly human security driven and people orientated approach with immense potential to encourage the growth of R2P constituencies.[16]

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[15] Cambodia, Laos, Brunei and Thailand chose not to give statements at the General Assembly Debate in July 2009.

[16] It should be acknowledged that some commentators doubt the extent to which recent ASEAN efforts at regional integration — particularly the adoption of the ASEAN Charter in 2007 — truly elicits a substantive move towards a 'people-centred' organisation (Morada 2009: 188-190). However, an examination of Southeast Asian integration and its significance for participatory regionalism is outside the scope of this paper.

ASEAN is operating on an understanding of sovereignty that draws on aspects of the historically guarded notion of traditional sovereignty, and the newer concept of sovereignty as responsibility. The Association has not evolved far enough to completely discard the traditional national security paradigm in favour of one that elevates human protection based on relatively new R2P principles on which there is limited knowledge, understanding and proper conceptualisation within the region (Responsibility to Protect Engaging Civil Society 2008: 9; Evans 2008b: 54). With the emergence of a potentially divisive new value system, ASEAN would view organisational cohesion as paramount. Moving slowly with the adoption of mechanisms that institute new norms and retaining traditional principles as far as possible would be preferable to remove potential discomfort for states less receptive to the new concepts. Younger ASEAN Members, such as Myanmar, Viet Nam, Cambodia and Laos, are still concerned with consolidating statehood, have not moved towards democracy as far as some of the original ASEAN Members and prize the protection from external oversight that non-interference affords. Additionally, in light of the rich diversity of the historical experiences, socio-cultural, economic and political systems of countries in the region, it is expected that Southeast Asian states would resist attempts to substantially move away from traditional norms that have allowed for regional cohesion, stability and helped construct a regional identity (Narine 2002: 31). Yet the evolution of a flexible norm of non-interference has allowed the constituency for human security orientated policies to grow substantially in comparison to where the region was a decade ago, providing the foundation on which a greater acceptance of R2P can be built.

Potential for ASEAN to Evolve Towards Greater Embrace of R2P

It must be recognised that at some level, R2P will involve actions which ASEAN states would classify as illegitimate interference. Some may argue that the fact that ASEAN states still adhere to non-interference, even in its flexible conceptualisation, limits the extent to which the region can fully embrace R2P. Yet it is not necessary for Southeast Asia to completely let go of non-interference in order to fully embrace R2P. Indeed it is unlikely the region will ever readily acknowledge the need to relinquish the time honoured principle. Since its inception, ASEAN has accepted the legitimacy of the Security Council to authorise interventions under its existing mandate to maintain international peace and security. Hence, there is scope to argue that if ASEAN's conception of non-interference is flexible enough to embrace Security Council resolutions to respond to increasingly broadly defined, humanitarian-oriented threats to international peace and security, then so too could the Association support the same actions taken under the R2P framework to protect vulnerable populations from mass atrocity crimes. This would see R2P develop in a way that is consistent with the evolving conception of non-interference.

If the African Union (AU) serves as any example, there is real potential for ASEAN to continue on its progressive path moving towards an increasingly flexible notion of non-interference and inching towards the full embrace of R2P. African states in the era of the Organisation of African Unity (OAU) had a track record of denouncing regional initiatives involving the use of force, insisting on the primacy of non-interference and sovereignty

inviolability (Aning and Atuobi 2009: 93; Bellamy 2006: 158). However, the adoption of the AU Constitutive Act in 2000 marked a shift from 'non-interference to non-indifference,' (Murithi 2009: 95; Ahmadou 2007)[17] with the inclusion of Article 4(h) that provides for military interventions in Member States in response to humanitarian concerns and for the purpose of the protection of civilians from genocide, war crimes and crimes against humanity. Indeed it is the *only* international treaty containing such a right of intervention (Kioko 2003: 807-808).[18] The unprecedented step of the AU in embracing a responsibility to protect, reflects a regional willingness to take meaningful action on human rights and civilian protection, and the recognition that effective, collective responses were necessary to address growing trans-boundary challenges (Murithi 2009: 95). Moreover, African states were in agreement on the need to promote and consolidate African unity, to strengthen and revitalise the organisation to enable it to play a more active role in ensuring regional peace and stability (Kioko 2003: 810).[19]

The same sentiments are currently evident in Southeast Asia, with some of the philosophical bases for cooperation under the new ASEAN Charter being the observance of and respect for human rights, democratic governance, further integration of the Association and a need to effectively and collaboratively address transnational challenges. Due to ASEAN's preference for incremental change, it is unlikely that ASEAN will take a stronger interventionist stance or assume a supranational character in the immediate foreseeable future. Yet the AU serves as an example that it is possible for regional norms and values to evolve to support increasing commitments to human protection. The first step is accepting that sovereignty entails the responsibility to protect one's people, an understanding which ASEAN is clearly moving towards.

Conclusion

Southeast Asia has evolved from a region characterised by suppression of the masses under authoritarian style regimes that remained tight lipped and indifferent to the potentially catastrophic affairs of its neighbours, to an increasingly open collection of states coming to terms with a commitment to human rights, democracy, the rule of law and effective regional security management. The evolution of a flexible norm of non-interference reflects the growing acceptance that sovereigns have a responsibility to and are accountable to their populace and peers, illustrating a broader normative shift towards more meaningful engagement with R2P principles.

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[17] However note Bellamy's concern with the practicality in implementing Article 4(h) (2006: 157-159).

[18] It has been argued that there is some tension between the AU and the Security Council regarding legitimate authority (Aning and Atuobi 2009: 103-105).

[19] However, unlike Southeast Asia, African states had been witness to gross and massive human rights violations, such as those that occurred in Uganda and the Central African Republic during the 1970s and Rwandan in 1994, where the OAU stood idle, prevented from intervening due to the primacy of non-interference and Westphalian state sovereignty. This goes some way to explaining the AU's far more advanced embrace of R2P, and their having undertaken to play a more active role in ensuring regional peace and stability through civilian protection orientated interventionist activities in Burundi, Darfur, Somalia, Comoros and Zimbabwe as well as actively supporting other peace operations around the continent (Murithi 2009: 106).

The transformation of the concept of non-interference to allow for full embrace of R2P is a development that will take a substantial amount of time. Yet the wheels are in motion for progress in the right direction. The trends suggest a normative shift in ASEAN that, though not a sea change, may be a seedbed for states actively engaging in the protection of populations from the most egregious of human – and human driven – suffering.

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Dark Numbers: Challenges in measuring human trafficking

Erin O'Brien

Abstract

Over the last decade nations around the world have renewed their efforts to address the problem of human trafficking, following the introduction of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. In Australia and the United States, legislators sought to quantify and characterise the human trafficking phenomenon, seeking to answer the question — how large is the problem of trafficking? This article explores the attempts of legislators in Australia and the United States to determine how many victims are trafficked into their countries, highlighting the significant uncertainty that still surrounds data on human trafficking. The challenges researchers face in measuring human trafficking are also explored. These challenges include disputes over the definition of a trafficking victim, the limitations of research using sampling to measure the trafficked population, and the mischaracterisation of the trafficking problem as a result of politicisation of the trafficking debate and a focus on trafficking for sexual exploitation versus other forms of labour. This article argues that in the absence of reliable data on trafficking, policy is often informed by misleading or false information.

Introduction

In 2000 the United Nations adopted the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, sparking renewed efforts by nations to explore and address the human trafficking phenomenon within their borders. In Australia these efforts initially took the form of an *Australian Crime Commission Joint Parliamentary Inquiry into the Trafficking of Women for Sexual Servitude* in 2003 and 2004 leading to the passage of the *Criminal Code Amendment Act 2005*. In the United States, congressional hearings held between 1999 and 2004 contributed to the development of the *Trafficking Victims Protection Act 2000* and subsequent Reauthorization Acts.

Throughout the Parliamentary Inquiry and Congressional hearings, legislators struggled to answer a key question — how large is the human trafficking problem? Disputes over the number of victims plagued efforts to formulate a consistent estimate of the trafficking problem at the time, and continue to perplex researchers and legislators.

This article explores the attempts of legislators in Australia and the United States to establish a credible estimate of the size of the human trafficking problem, specifically within their own nations, drawing upon records of the Parliamentary and Congressional hearings identified above, as well as interviews conducted with key witnesses from these hearings, representatives of organisations with an ongoing interest in human trafficking, and government officials.

Firstly, this article outlines the estimates that were offered to legislators during the Australian Parliamentary Inquiry and Congressional hearings, charting changes in estimates over time and highlighting the figures that have been adopted for use in

government studies and reports. Secondly, the article explores the challenges researchers contend with when attempting to provide consistent and comparable data on the scope of the human trafficking problem as a result of differing definitions. The definitional disputes explored here include the differentiation between a 'smuggled' and a 'trafficked' person, and the ambiguity in the definition of a trafficking victim contained within the *United Nations' Trafficking Protocol 2000*. Thirdly this article outlines the limitations researchers face in attempting to sample the trafficking population in order to estimate the size of the problem. Lastly, the ways in which the phenomenon of human trafficking can become mischaracterised through the politicisation of the data collection process and a focus on trafficking for sexual exploitation for other forms of forced labour is considered.

This article concludes by arguing that a perpetuation of false statistics is a damaging consequence of the persistent ambiguity surrounding human trafficking data. This leads to policy that is often informed by unreliable information and can result in damaging policies that harm migrant women and fail to address the entirety of the human trafficking problem.

Estimating the scope of the problem

The scope of the problem of human trafficking is consistently disputed amongst government departments, non-government organisations and international agencies. The United Nations Office on Drugs and Crime, tasked with monitoring the world's response to human trafficking, declared in the 2009 *Global Report on Trafficking in Persons* that the magnitude of the problem of trafficking on the international scale is still 'one of the key unanswered questions' (UNODC 2009, 12). The International Labor Office has also reported difficulties in establishing a robust estimate on the number of trafficking victims (ILO 2006, 16). Despite persistent ambiguity in the estimates of the number of trafficking victims worldwide, witnesses to the Australian Inquiry and US Congressional hearings attempted to quantify the problem.

Australian estimates

During the *Australian Parliamentary Inquiry into the Trafficking of Women for Sexual Servitude* several organisations made an effort to identify how many trafficking victims were brought to Australia annually. Project Respect first identified an estimate of up to 1,000 trafficking victims in Australia. Despite arguing that there was a need for greater research and indicating that it was the role of the Australian Federal Police, and not Project Respect, to offer a national estimate on the problem, Project Respect Director Kathleen Maltzahn declared that, 'we think that 1,000 women at any one time is a reasonable number' (*APJC* 18 November 2003, 38)[1]. She also indicated that a

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[1] Australian Parliamentary Joint Committee references will be abbreviated to *APJC* (to indicate a hearing of the Australian Parliamentary Joint Committee), *APJC Submission* (to indicate a Submission to the Parliamentary Joint Committee), or *APJC Report* (to indicate the final report of the Parliamentary Joint Committee).

contact of the organization, police officer Paul Holmes, had suggested that he would be surprised if the number was as low as 1,000 (*APJC* 18 November 2003, 39).

The Scarlet Alliance and Sex Workers Outreach Project offered a competing estimate on the scope of the problem in Australia, drawing on evidence from 'organisations in every state outreaching to virtually every workplace that advertises, which is the majority of the sex industry' (*APJC* 25 February 2004, 19). Their submission reported an estimation that 'there are less than 400 sex workers entering Australia in any one year on a contract, the majority of whom knowingly consent to the work (*APJC Submission 27*, 2003). They argued that while it is difficult to know the exact number of trafficked women, they estimated that of the approximately 300 to 400 women who enter Australia each year;

> our organisations know of only 10 individual cases over the last 10 months to two years where the women themselves have indicated that they were deceptively recruited, they did not know they were going to work in the sex industry, or the conditions of their employment varied to such an extent that they were very unhappy with the circumstances and attempted to leave the workplace.
>
> (*APJC* 25 February 2004, 19).

In addition to compiling this estimate from the Alliance's outreach networks, they also drew upon Department of Immigration and Multicultural Affairs figures from 1996-1997 reporting a detection of a total of 21 sex workers operating illegally. It is unknown how many of these women experienced coercion or deception associated with their arrival into Australia and subsequent work in the sex industry. The Scarlet Alliance commented that the figure of 21, 'Hardly represents a problem of the scale the community might imagine' (*APJC Submission 27*, 2003).

Other witnesses challenged the Scarlet Alliance's estimate that trafficking victims represented only a very small proportion of migrant women working in the sex industry. Detective Senior Sergeant McKinney declared, 'I think we are naïve if we say there would not be 100 [trafficking victims] in Australia at any one time' (*APJC* 25 February 2004, 37), though this estimate is obviously significantly lower than the 1,000 figure provided by Project Respect.

Government agencies demonstrated greater reluctance than non-government organisations (NGOs) when pressed to provide an estimate on the overall scope of the problem. Offering evidence in her role as the Sex Discrimination Commissioner for the Human Rights and Equal Opportunities Commission, Sally Moyle was willing to estimate that the majority of human trafficking worldwide was for the purposes of sexual exploitation, however she seemed reluctant to commit to definitive statistics, blaming the lack of agreement on the overall scope of the problem. 'I think internationally the various percentages are 80 to 90 per cent for sexual exploitation of women and 20-odd per cent for labour exploitation that may engage men as well. Again, I do not think that is something anybody can really definitively decide' (*APJC* 25 February 2004, 60). The Australian Federal Police were also reluctant to estimate

the scope of the problem. John Lawler, the Acting Deputy Commissioner at the time, declared that, 'The AFP would prefer that the figures that we present to the committee are sustainable figures based on evidence and solid information. We have solid, sustainable evidence and information to support 14 victims that have come to notice for slavery and sexual servitude' (*APJC* 26 February 2004, 4).

The final report of the Inquiry reflected the disagreement evident in the hearings regarding the scale of the overall problem. The Committee avoided declaring their own estimate of the size of the trafficking problem in Australia. However, the report did agree with the stance of Project Respect to some extent, quoting Kathleen Maltzahn and confirming her belief that, '"It is a significant enough problem that we need to take it seriously. I do not think it is just a few aberrations that we are finding"' (Maltzahn in *APJC Report* 2004, ix). They also demonstrated some acceptance of the perspective of the Scarlet Alliance, noting that there is a distinction between women who had been trafficked using coercion or deception, and women who had come to Australia voluntarily to work. They also acknowledged that there were doubts about how large this first group actually was (*APJC Report* 2004, 10).

Overall, the committee indicated that there was a lack of consensus among the witnesses at the hearing about the scale of the actual problem and agreed that there are still enormous challenges in correctly quantifying the problem of trafficking. They indicated that, 'Recognising these problems, the Committee is cautious in attempting any definitive conclusions in this respect' *(APJC Report* 2004, 20). They resolved that the uncertainty regarding the overall scope of the problem and trends influencing trafficking had two outcomes: 'this uncertainty underlines the continuing importance of the ACC's [Australian Crime Commission's] intelligence gathering and analysis role for informing the Australian government's response to the problem' and 'this uncertainty also poses problems for Australian policy' (*APJC Report* 2004, 22).

The magnitude of the problem in Australia still remains largely undefined, with recent reports continuing to rely on the range identified at the 2004 Parliamentary Inquiry. A report prepared for the Australian Parliament identifies the higher estimate of between 300 and 1,000 trafficking victims brought to Australia annually (Phillips 2008, 3). However, it also calls this figure into question, noting that between 1999 and 2005 only 133 cases of suspected trafficking were referred to the Australian Federal Police, with just 10 prosecutions taken forward by the Department of Public Prosecutions (Phillips 2008, 9; 14).

United States estimates

In the initial US Congressional hearings leading to the development of the *Trafficking Victims Protection Act 2000*, the figure most often cited as the number of trafficking victims brought into the United States each year was 50,000. Theresa Loar, Director of the President's Inter-Agency Counsel on Women put forward that, 'It is estimated that there are over 1 million women and children trafficked every year, over

50,000 into the United States' (*House* 14 September 1999, 14)[2]. This estimate of 50,000 was most likely drawn from research conducted by Amy O'Neill Richard on behalf of the State Department, in which she declared that, 'government and non-governmental experts in the field estimate that out of the 700,000 to two million women and children who are trafficked globally each year, 45,000 to 50,000 of those women and children are trafficked to the United States' (O'Neill Richard 1999, 3). Initially the 50,000 figure remained unscrutinised, though the worldwide estimate of 1 million was challenged by Dr Laura Lederer of the Protection Project. She testified that 'UNICEF is estimating that 1 million children are forced into prostitution in South-East Asia alone and another million worldwide' (*House* 14 September 1999, 38).

This disparity was recognised by members of the Committee, with Representative Faleomavaega expressing disbelief that the State Department's figures differed so greatly from Lederer's, stating that, 'If they don't even have the accurate figures, how can they possibly declare a policy that is accurate and correct' (*House* 14 September 1999, 47-48). Despite this questioning, the figure of 50,000 trafficking victims brought into the US each year remained unchallenged, and was repeated by Senator Brownback in a Senate hearing on trafficking in early 2000 (*Senate* 22 February 2000, 2). Although the estimate initially only referred to women and children trafficked into the US, it became the estimate quoted in the hearings in reference to all victims trafficked into the United States. At the Senate hearing in April of 2000 , Paula Dobriansky, US State Department Under-Secretary retained the 50,000 figure, but relied on a slightly lower figure of 700,000 victims of trafficking worldwide each year. (*Senate* 4 April 2000, 22).

Over the next few years, however, the 50,000 figure has been progressively downgraded. In 2003 the then-Director of the Office to Monitor and Combat Trafficking in Persons (also known as the TIP Office) John Miller declared that, 'We now estimate that this modern-day slavery also includes 18,000 to 20,000 victims who enter the United States annually' (*House* 29 October 2003, 58). By 2004, the figure was downgraded even further, with Senator Russell D. Feingold telling a Senate hearing on trafficking that 'Estimates of the number of people trafficked in the United States each year range from 14,500 to 17,500' (*Senate* 7 July 2004, 5). This lower figure also appeared in a Department of Justice Report produced in early 2006 (Newman 2006, 5), though in that same year US Attorney General Alberto Gonzales reduced the estimate further, suggesting that government estimates of between 15,000 and 20,000 victims each year may have been too high (Washington Post 2007: A1).

Sister Dougherty, testifying on behalf of the United States Conference of Catholic Bishops (who sub-contracted much of the US Government's funding for support for victims of trafficking) bemoaned the ongoing changes in the estimates of the scope of the trafficking problem:

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[2] References from United States Congressional hearings will be abbreviated as either *House* (to indicate a Congressional Hearing in the US House of Representatives) or *Senate* (to indicate a Congressional Hearing in the US Senate).

It is interesting to me that in 1999, the study that was put out by the State Department — I think it was commissioned by the CIA of Amy O'Neill Richard as an independent researcher — that study that was behind the passing of the law said 50,000 people. And 2 years later, we drop from 50,000 people to 20,000 people, and now we have dropped from 20,000 people to 17,000 people being trafficked into the United States.

<div align="right">(Senate 7 July 2004, p.30).</div>

While Sister Dougherty believed that the numbers were being underestimated, even these downgraded estimates have been challenged due to the relatively small numbers of victims identified over the last decade. Feingold argues that 'even with a well-trained law enforcement and prosecutorial system, less than 500 people have been awarded T visas, the special visas given to victims in return for cooperation with federal prosecutors' (Feingold 2005: 30). This demonstrates that either prosecutions are failing to stop traffickers, or that the scale of the problem is not as large as first estimated. Only 1,362 victims have been identified between 2000 and 2007 (*Washington Post* 2007: A1). This substantial disparity between the estimated and identified number of victims was so stark that the Bush administration hired a public relations firm, Ketchum, to assist in the effort to 'find' victims. (*Washington Post* 2007: A1).

Challenges in measuring human trafficking

In both Australia and the United States, the process of determining the scale of the trafficking problem has been fraught with inconsistencies, competing claims and unproven estimates. The ambiguity surrounding estimates of the trafficking problem is caused by many challenges researchers face in attempting to measure this phenomenon. These challenges include differing definitions of a trafficking victim, limitations in the identification of victims and sampling selections for studies, and a narrow focus on trafficking that skews the data towards an over-representation of sexual exploitation.

- Definitions

It is extremely difficult to build a comprehensive picture of human trafficking worldwide due to inconsistent definitions. The way in which each nation defines the crime of trafficking and characterises trafficking victims has a direct impact on the collection of data about the crime, undermines the comparability of international data (Aromaa 2007, 20), and calls into question the reliability of statistics available concerning trends in human trafficking. The UNODC identifies definitional disputes as problematic for measuring trafficking due to the resulting differences in legislation. The definition of a trafficking victim informs the legislation adopted by each nation, and can have a substantial effect on the way in which data is collected in each country. The UNODC believes that as a result of differing legislation, it is difficult to find comparable research on human trafficking because the data is 'clearly affected by the existence, scope and moment of entry into force of such legislation' (UNODC 2009:

18). In addition to differing national definitions, two key definitional disputes greatly undermine the validity and comparability of trafficking data — the dispute over the difference between smuggling and trafficking, and the dispute over the meaning of the term 'exploitation of prostitution of others'.

Smuggling versus trafficking

Being able to distinguish between a person whose illegal entry into another country has been facilitated by a third party (typically referred to as a smuggled person), and those who have been transported forcibly or faced with exploitative and coercive conditions in return for their transport (typically referred to as a trafficked person) (Laczko 2007, 40) is a problem that plagues law enforcement officials, prosecutors, policy-makers and researchers. Kelly (2002, 14) argues that legal definitions create unhelpful distinctions when a realistic picture indicates more overlap. 'The boundaries between help, facilitation, smuggling, trafficking and exploitation are not as clear as many conceptualisations imply' (Kelly 2002, 14). Research for the International Office for Migration (IOM) describes the exploitation of migrant labour as a 'continuum of experiences rather than a simple either/or dichotomy' (Anderson and O'Connell Davidson 2003, 9). National definitions describing 'trafficking victims' occupy many different stages along this continuum with definitions often based on the severity or type of exploitation experienced by migrant workers. The IOM research suggests that 'The precise point along this continuum at which tolerable forms of labour migration end and trafficking begins will vary according to our political and moral values' (Anderson and O'Connell Davidson 2003, 9). The differentiation between trafficked and smuggled people is further complicated by disputes over the consent of the trafficking victim. Carrington and Hearn (2003) warn against the exclusion from the trafficking definition of migrant women who have consented to working in the sex industry in Australia as, 'many women who believe they are migrating (legally or illegally) to work in the sex industry nevertheless find themselves victims of sexual servitude and slavery and other forms of exploitation such as debt bondage' (Carrington and Hearn 2003, 7).

In Australia, the Parliamentary Inquiry Committee Members certainly showed a wish to understand whether estimates on the scale of the problem were operating under a definition that included all smuggling victims, or only those who, under Laczko's definition, could be more accurately defined as trafficking victims due to the use of coercion and deception in the circumstances of their arrival in the destination country. Committee member Sercombe asked Project Respect, 'You are not including in the estimate women who may be here on, say, a student visa or a fraudulently obtained visitors' visa who have not been deceived? Or are you including all women?' (*APJC* 18 November 2003, 39). Maltzahn declared that the estimate covered women under the UN definition who 'have been either deceived about the conditions or subjected to threat, violence et cetera. If women are just in the sex industry and they have breached their visa conditions, we really do not care' (*APJC* 18 November 2003, 39).

The Chair of the Committee, in discussing the scope of the problem with the Australian Federal Police representative, stated,

> I think the Scarlet Alliance were suggesting that the number of people they had dealt with was a figure closer to yours, while Project Respect were saying that they thought it was several hundred. It was interesting that HREOC [Human Rights and Equal Opportunities Commission] thought that the two were just debating the parameters of the question in terms of the contract and whether they knowingly went into a contract understanding that it was for sexual prostitution or whether they were led to believe they were going into restaurants or bars where choice would be exercised. Your 14 [identified victims] would be where there is clear evidence they were misled about the nature of the contract, so I think that is part of definitional terms.
>
> (*APJC* 26 February 2004, 5).

This implicit definition from the Committee members of the Inquiry of a trafficking victim as only one who has been deceived is distinct to many of the approaches of campaigners in the United States, who argue that all migrant women who are in the sex industry could fit the United Nations definition of trafficking for the purposes of sexual exploitation. In Australia, this was also evident with some organisations widening their definition of trafficking victim. The Australian Chapter of the International Commission of Jurists argued that,

> the particular vulnerability of women and girls in developing countries to offers of employment in rich countries like Australia means that agreements to procure their services in the entertainment or sex industry can seldom be considered as agreements entered into by equals. Rather, they are frequently the result of coercion or deception, or even of sheer desperation.
>
> (*APJC Submission* 8, 2003, 3).

This submission subscribes to the view that all migrant sex workers are vulnerable by their nature, and therefore under some form of coercion regardless of the individual circumstances of their arrival and work in Australia.

In the United States, however, Congressional representatives did not demonstrate the same degree of interest in clarifying whether or not estimates incorporated only those who had experienced force, fraud or coercion, or those who could be, according to Laczko's definition, more accurately described as a 'smuggled person'. Congressman Chris Smith, a leader in the creation of the *Trafficking Victims Protection Act 2000*, did recognize that there was some confusion about the definition of a trafficking victim in regard to research from Europe, stating, 'it is unclear how many of those are by force or some form of coercion are there' (*House* 29 October 2003, 105). However, Smith saw this lack of clarity only as a problem for the researchers, and not a limitation on using the data to inform policy.

Many other countries still do not attempt to differentiate between a smuggled person and a trafficking victim when collecting data on illegal immigration. Laczko

reports that, 'In many countries it is still common to mingle data relating to trafficking, smuggling and irregular migration' (Laczko 2007, 40). This makes it very difficult to compile accurate, comparable data that can be used to support an estimate of the trafficking problem worldwide, or to measure the progress of individual nations in dealing with the problem.

'Exploitation of prostitution of others'

An additional challenge in establishing uniform definitions to compare trafficking data comes from the ambiguity contained within the UN Trafficking Protocol itself regarding the trafficking of people for prostitution. This is not a problem that is encountered when defining trafficking for other forms of labour. Fergus (2005) notes that 'whilst "forced labour, slavery and servitude" are defined in international law, the phrase "exploitation of the prostitution of others or other forms of sexual exploitation" is not. As a result, there is much debate as to the interpretation of this last phrase.' (Fergus 2005: 5). Sullivan (2003) argues that this definition within the UN Protocol causes great confusion:

> On the one hand, the Protocol would appear to penalize all third parties who use force to obtain labour, including sexual labour. On the other hand, the Protocol may also apply to non-forced or even overtly consensual activities that are seen to fall into the realm of "sexual exploitation". It is certainly not clear whether prostitution and other commercial sexual practices are always to be regarded as "exploitative".
>
> (Sullivan 2003, 81).

This ambiguity in the definition arose as a result of strong disagreement during the Protocol negotiations over the legitimacy of prostitution. The term 'exploitation of prostitution of others' was intentionally left undefined in order to move on from a debate over prostitution that could have derailed the negotiations, and enable individual nations to choose how to address the issue of the legitimacy of prostitution (Gallagher 2001, 986).

Ongoing disputes about the definition of the 'exploitation of the prostitution of others' constrains research due to the confusion over and politicisation of this definition. Abolitionists argue that there should be no distinction between prostitution and trafficking (Raymond 2002, 492) while others argue that not all prostitution is exploitative and instead should be viewed as legitimate work (Kempadoo 1998, 5). The International Organization for Migration (IOM) has recognised that while the term 'exploitation of the prostitution of others' remains undefined in international law, 'This makes it virtually impossible to specify who has or has not been "trafficked" into the commercial sex trade without becoming embroiled in the more general debate about the rights and wrongs of prostitution — a debate which is both highly polarized and hugely emotive' (Anderson and O'Connell Davidson 2003, 7).

One of the results of this ambiguity is that the term 'trafficking victim' is often applied too willingly to individuals or groups who would not identify themselves as

such, or would not be identified as a trafficking victim according to many national definitions. In particular, some campaigners often group all migrant sex workers under the category of 'trafficking victims' because they do not recognise a distinction between 'free' and 'forced' sex work (Doezema 2002, 21). As a result, women working in the sex industry are not viewed as being at different points along the continuum discussed above, nor are they differentiated as either a 'smuggled' or 'trafficked' person. Abolitionists believe that by virtue of being a foreign worker in the sex industry, they automatically fit the definition of a trafficked person. This belief resonates with the point of view of the Australian Chapter of the International Commission of Jurists noted earlier, though is at odds with the perspective of organisations such as the Scarlet Alliance and Project Respect, who both draw a distinction between migrant women who experience coercion, intimidation and exploitation in the sex industry, and those who don't (*APJC* 18 November 2003, 39; *APJC* 25 February 2004, 19).

The conflation of smuggled and trafficked women has certainly been evident in the discussion of victims of trafficking in the Netherlands. Several abolitionist organisations such as the Coalition Against Trafficking in Women (Raymond interview 2008; Jeffreys interview 2008) and Equality Now (Kirkland interview 2008) argue that approximately 80 per cent of women have been trafficked into the Netherlands since the sex industry was decriminalised. The Dutch National Rapporteur reports that although the number of trafficking victims identified has risen in recent years, it certainly does not constitute 80 per cent of the sex industry (Dutch National Rapporteur 2007, 47). This difference in estimates most likely occurs as a result of a refusal by most abolitionists to distinguish between sex workers who have migrated, possibly illegally, from other countries, and women who have been transported to the Netherlands and forced into sex work through threats, intimidation and debt bondage.

In Australia, the Parliamentary Inquiry recognised that how the sex industry was perceived had an influence over the research. In the final report the Committee confirmed their belief that the differences in the statistics offered by organisations, particularly the Scarlet Alliance and Project Respect, were borne of differing definitions. They acknowledged, however, that the definitional differences emerged mostly as a result of the way in which the sex trade and migrant sex workers were viewed by those conducting the research. The final report declared that, 'Resolving these questions in many ways comes down to the fundamental question of the legitimacy of the sex trade' (*APJC Report* 2004, 22).

In the United States, the recognition of a dispute over the definition of the 'exploitation of prostitution' was less explicit. Representatives did acknowledge a competing view about the legitimacy of the sex industry (*House* 29 November 2001, 1), however this was not linked to discussions about the estimates being offered on the size of the trafficking problem.

- *Research limitations*

Definitional disputes are not the only factor that influences the validity of data on human trafficking. One of the key reasons researchers are unable to determine the scope of the trafficking problem lies in the limitations of research methods. There are significant limitations on the ability of researchers to produce reliable sampling data on human trafficking, and research is often misrepresentative as it is skewed towards political or institutional priorities.

Researchers find it very difficult to produce valid sampling data that is representative of the phenomenon of human trafficking due to the hidden nature of the crime. Di Nicola (2007) argues that trafficking victims belong to a 'hidden population' and believes that 'Statistically speaking, it is not possible to define a sampling frame for a hidden population' (Di Nicola 2007, 53). Although this challenge has not prevented attempts to calculate the scope of the problem and measure the influence of variables, it is clear that there are still dramatic limitations on the ability of researchers to produce reliable statistics. Due to this hidden nature, some researchers rely on prosecution data and samples drawn from those who have come into contact with the criminal justice system. In Australia and the United States information is collected on the number of visas granted for victims of trafficking, as well as the prosecutions that result from trafficking investigations. However, the UNODC believes that an over-reliance on criminal justice statistics typically results in under-reporting of the crime (UNODC 2009, 25). Many trafficking victims never come into contact with law enforcement. This is in part because they are often reluctant to report crimes or seek assistance due to 'the fear of retaliation by traffickers or deportation authorities' (Kangaspunta 2007, 30; Di Nicola 2007, 56; Dutch Rapporteur 2007, 5). Even if they do come into contact with law enforcement, often criminal justice statistics refer only to the number of prosecutions, or convictions, on trafficking offences, which excludes the number of trafficking victims who may have interacted with law enforcement on matters that did not lead to criminal charges. Prosecutions are often not forthcoming as potential witnesses are deported from the country before they can assist, or victims are unwilling to cooperate with law enforcement due to the lack of protection and support they are offered (Carrington and Hearn 2003, 3).

Researchers have also reported difficulties in obtaining truly representative statistics on the number of trafficking victims in each country due to the misleading categorisation of cases. Laczko (2007) and Kangaspunta (2007) believe that under-reporting occurs when crimes are not properly categorised as trafficking cases and are instead prosecuted as people smuggling or other crimes associated with trafficking. Laczko argues that, 'Here the problem is not so much a lack of data, but a failure to fully interpret and analyse statistics which may be relevant to understanding trafficking in persons' (Laczko 2007, 4).

Typically sampling is an effective way to extrapolate a small pool of data to predict the size and characteristics of a wider phenomenon. However, it is difficult to draw valid conclusions about human trafficking when, as shown above, it is very challenging to establish a reliable sample. It is also difficult to project the size of the wider population from samples that might be reliably constructed. In order to accurately predict the scope of the problem of trafficking, it is necessary for

researchers to determine the ratio between the total number of trafficking victims and the number of victims who come into contact with law enforcement or service providers (from whom samples are typically drawn). The Dutch National Rapporteur on Trafficking refers to this as the 'dark number' of cases that remain unreported (Dutch Rapporteur 2007, 5). Laczko (2007, 39) argues that this ratio remains unknown due to the hidden and illegal nature of the crime. Researchers are certainly aware that there is a substantial gulf between the estimates of the number of human trafficking victims and reported cases (Putt 2007, 3) however without being able to accurately predict the ratio between reported and unreported cases, it is extremely difficult to predict the full scope of the problem, even if reliable sampling could be achieved.

- *Mischaracterisation of human trafficking*

In addition to the challenges researchers face in establishing samples that will help to accurately predict the total size of the problem, there are also concerns about the ways in which researchers draw conclusions about the nature of trafficking. Data on trafficking can become skewed due to both politicised data collection, and a primary focus on trafficking for sexual exploitation instead of all forms of forced labour. While the limitations on sampling typically suffer from an under-reporting of the crime of trafficking, the skewing of data can result in the over-reporting of certain types of trafficking, often resulting in the mischaracterisation of the nature of trafficking.

Politicised data collection

ILO researchers believe that the most reliable data is produced by national police forces in conjunction with service organisations and international agencies which come into direct contact with trafficking victims. However most domestic assessments of the problem are typically produced by 'unofficial sources' — academic researchers and non-government organisations (ILO 2006, 10). As demonstrated above, it is necessary to look beyond criminal justice data. This does not, however, guarantee more reliable and comprehensive information, as one of the weaknesses of relying on other sources is that many of the organisations producing data on trafficking victims are influenced by politics. The legitimacy of prostitution has been, and still is, the topic of much heated debate. Organisations that work with victims of trafficking and provide advice to decision-makers on policy are expected to have a position on the legitimacy of prostitution, especially in the United States where the Anti-Prostitution Pledge[3] has polarized the subject. Therefore, when NGOs collect and analyse data, there is a risk that political interests will influence outcomes. (Di Nicola, Orfano, Cauduro and Conci 2005). Ann Jordan, former Director of the Global Rights Initiative Against Human Trafficking, believes that the preferencing of abolitionist organisations

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[3] In 2002 the President of the United States introduced *National Security Presidential Directive 22* (more commonly known as the Anti-Prostitution Pledge), which restricts Government funding only to those groups who pledge that they will not use government funding to 'promote prostitution'. The Directive states that, 'Our [the US Federal Government's] policy is based on an abolitionist approach to trafficking' (*National Security Presidential Directive 22*, 16 December 2002).

to carry out research as a result of the Anti-Prostitution Pledge has led to the production of data that cannot be trusted. 'The fact is the US research [funding] has gone to all of these abolitionist folks and we know what the conclusions will be before it's even written' (Jordan interview 2008). Nina Vallins from Project Respect believes that the politicised nature of the debate over prostitution and trafficking will typically result in biased research. She says, 'It is a highly politicised field, which can certainly influence how questions are framed, how research is interpreted' (Vallins interview 2008).

The skewed data produced by some NGOs also occurs for reasons that are not political. Di Nicola argues that survey samples of trafficking victims often suffer from 'severe selection bias' because the nature of the service provided by the agency has an impact on the type of victims who use the service. 'If the sample is selected from, say, victims who come into contact with the judicial system during the prosecution of their traffickers, these victims will have specific characteristics reflecting the institutional view of the problem' (Di Nicola 2007, 59). Similarly, organisations that provide services only to a specific group of people will obviously only record data on that group. Kangaspunta (2007) argues that many cases of trafficking involving men for forced labour are overlooked in data collection because, 'Many victim support organisations provide services only for women and child victims. So it could be assumed that the number of male victims particularly trafficked for forced labour is under-estimated' (Kangaspunta 2007, 30).

This phenomenon of statistical data skewing towards the interests of service agencies is not new. Ronald Weitzer argued a decade ago that data on prostitution and related activities often offered only a sample of women who experienced the most exploitation and victimization in the industry because these were the women who most frequently came into contact with the police or contacted service agencies who recorded data (Weitzer 1999, 84). Due to the way in which the data is collected, it remains very difficult to produce a random sample of trafficking victims which can be accurately assumed to represent the population of trafficking victims.

Jordan also believes that much of the research on human trafficking is unreliable because the methodology for collecting the data cannot be replicated. She says, 'The only numbers I have any confidence in are the ILO's numbers in their forced labour report and the only reason I have any confidence in them is because they are quite explicit about their methodology. Somebody could go out and replicate it' (Jordan, interview, 2008). Melissa Ditmore from the New York Urban Justice Centre Sex Workers' Project agrees that there is a concern about the validity of research where the methodology is unclear (Ditmore interview 2008). She particularly calls into question research conducted by Melissa Farley (2004) which is relied upon as evidence by several abolitionist campaigners including Equality Now (Kirkland interview 2008), and the former Director of the TIP Office (Miller interview 2008).

The validity of research from NGOs has also been questioned in Australia. Janelle Fawkes from the Scarlet Alliance has questioned the research report presented by Project Respect during the Australian Parliamentary Inquiry. Project Respect's

'One trafficking victim is one too many' report (2004) estimated that there were at least 300 victims of trafficking for sexual servitude in Australia by asking interviewees to indicate how many people they knew who had been affected by trafficking. Fawkes says:

> So those first people then referred to a group of people they thought might have been, or they knew who may have been affected by the issue … So let's say that there were five people in that workplace and each one of those five people referred to knowing five people. Then that makes 25 people. So actually the methodology was flawed for this type of research. And a lot of researchers were saying that. But that research has gone on to inform policy in Australia.
>
> <div align="right">(Fawkes interview 2008)</div>

However, Scarlet Alliance also faces limitations on their ability to conduct research. Both organisations rely on the willingness of brothel managers and owners to grant access to sex workers in order to provide support services. This places an inevitable restriction on the extent of research into exploitation in the sex industry in Australia.

Focus on sex trafficking

One of the most common ways in which the data about human trafficking has become skewed is towards a focus only on trafficking for sexual exploitation versus trafficking for other forms of forced labour. While a focus on this terrible crime is certainly necessary, this often results in the skewing of data to over-represent the number of victims trafficked for prostitution. For example, Feingold (2005) argues that despite a great deal of public and political attention placed on trafficking for sexual exploitation, ILO estimates indicate that approximately only 10 per cent of the victims of forced labour in Asia are trafficked for prostitution (Feingold 2005, 26). The skewing of data has occurred for several reasons. Firstly, in many countries trafficking legislation deals exclusively with sexual exploitation (Kangaspunta 2007, 30) and anti-trafficking measures introduced by governments typically focus on sex trafficking and not forced labour (Phillips 2008, 11). In addition, nations often focus their efforts exclusively on addressing trafficking in women and children, and ignoring the trafficking of men for forced labour. Feingold (2005) notes that 'Men are excluded from the trafficking statistics gathered in Thailand because, according to its national law, men cannot qualify as trafficking victims' (Feingold 2005, 26). This legislation has now been altered to include men in the definition of a trafficking victim, however attitudinal change has been slow in many countries to recognise a wider group of people who are vulnerable to trafficking.

The possible over-representation of victims trafficked for sexual exploitation versus other forms of labour is also a result of an institutional focus on sex. Di Nicola (2007) argues that, 'it is above all trafficking in women and girls for sexual exploitation that has caught the interest of academia. This may be because international and national political debate and the media concentrate on this sector' (Di Nicola 2007, 52). This is further exacerbated through the distribution of government funding for services. Most governments have prioritised funding for victims of

trafficking for sexual exploitation (Di Nicola 2007, 66) over victims of trafficking for other forms of forced labour, resulting in a statistical representation that indicates the majority of victims are trafficked for prostitution.

The focus on sex trafficking versus other forms of labour was identified as a problem during the Australian Parliamentary Inquiry. The Scarlet Alliance questioned the validity of the Government's focus on sexual servitude over other forms of forced labour, arguing that laws to regulate the sex industry:

> …single out one industry and target that one industry for the incidence of illegal migrant workers … Sex servitude offences appear to single out sex work as an occupation where women are sexually exploited. Scarlet Alliance contends that in the context of sex work it is the labour of some sex workers which is exploited.
>
> (*APJC Submission 27*, 2003)

Conclusion

Over the years since the introduction of the United Nations Protocol on Trafficking legislators in Australia and the United States have been faced with the difficult task of quantifying the problem of human trafficking. In the context of all the challenges faced by researchers in establishing a clear picture of the problem of trafficking, it is not surprising that much ambiguity remains. This ambiguity emerges as a result of disputes over the definition of a 'smuggled' versus a 'trafficked person', and uncertainty surrounding the conflation of prostitution and trafficking within the UN Protocol's definition. The real size of the trafficking problem remains ambiguous as a result of the significant limitations on research due to the challenge of establishing a reliable sample of the population of trafficking victims. The nature of human trafficking also remains largely ambiguous due to the skewing of data as a result of the politicisation of research and a focus on trafficking for sexual exploitation versus other forms of forced labour.

This persistent ambiguity causes substantial problems for legislators, who inevitably make policy on the basis of unreliable or unsubstantiated information. Anne Gallagher, Advisor on Trafficking at the Office of the UN High Commissioner for Human Rights, warned the Australian Parliamentary Inquiry that the use of poor quality data was widespread in policy-making on trafficking. She argues that, 'Rather than acknowledging or confronting these inadequacies, much contemporary trafficking research unquestioningly accepts and promulgates unverified data' (*APJC Submission 23*, 2003). The unfortunate result of the ambiguity surrounding human trafficking data is most often the perpetuation of poorly researched, unrepresentative, or misleading statistics that fill the void left by researchers who are unwilling to make estimates or predictions based on research that is unreliable. Policy is then informed by flimsy estimates, drawn from unsubstantiated newspaper claims, or research that does not carefully articulate the definitions and methodology that inform the study.

Di Nicola argues that, 'Especially when taken from the media, research may be anecdotal or based on stereotypes, and the validity of sources may be difficult to control' (Di Nicola 2007, 54). Some organisations may even have an interest in supporting false statistics, even when they are aware that these estimates may have been exaggerated or inflated. Di Nicola suggests that this occurs because sometimes 'the main goal of those presenting these numbers is to feed figures to the press or to provide politicians with "inflated" figures, the purpose being to induce them to divert resources and to increase their efforts in the "war on trafficking"' (Di Nicola 2007, 61).

This perpetuation of false statistics is clearly evident in human trafficking debates. Figures mentioned in passing in hearings in the United States have become accepted as the truth until evidence failed to support them. There is agreement on both sides of the ideological divide that a deficit in research can lead to the perpetuation of false statistics. Raymond argues that, 'The lack of quantitative data and the enormous difficulties in producing accurate assessments of trafficking have resulted in many commentators repeating statistics from groups or governments that are often extrapolations from other crime contexts or unverified numbers' (Raymond 2002, 492). Jordan noted that even the United Nations relies on repeated statistics. 'There's some big UN number that was just somebody speaking at a UN conference and that became the UN numbers' (Jordan interview 2008). John Miller also agreed that despite 'thousands of articles' on the topic of trafficking, they 'mostly quote each other' and as a result 'in terms of the modern phenomenon [of slavery] I think we know less' (Miller interview 2008).

The use of misleading or unreliable data as the basis for legislation on human trafficking has the potential for damaging consequences. While the full impact of human trafficking legislation in Australia and the United States is yet to be measured, there are two potential harms that could, in particular, emerge from an over-focus on trafficking for sexual exploitation versus trafficking for other forms of labour. The possible over-representation of sex trafficking cases within the wider population of human trafficking may result, firstly, in policies that lead to the harassment and mistreatment of all migrant sex workers. Recently sex workers have reported negative experiences as a result of 'rescue raids' undertaken by non-government organisations operating under the banner of 'saving' trafficking victims. Busza (2004) reports that raids of this type in Cambodia forced women into custody where they later had to 'bride their way out' of either prison or forced rehabilitation centres before returning to sex work (Busza 2004, 243). In the United States efforts to address sex trafficking have veered towards a focus on the entire sex industry with the introduction of the *Trafficking Victims Protection Reauthorization Act 2005*. More commonly referred to as the 'End Demand Act', the legislation introduces measures designed to achieve a reduction in demand for commercial sex including increased funding to law enforcement to support raids on brothels (*Trafficking Victims Protection Reauthorization Act 2005*, 11).

A second possible outcome of the over-representation of trafficking for sexual exploitation may also be the limited focus on trafficking for other forms of labour

exploitation. As noted above, several nations still recognise only trafficking for sexual exploitation in their legislation, relegating trafficking into the agricultural, garment, manufacturing and domestic service industries as crimes associated with labour exploitation or people smuggling as separate offences. This could prevent researchers and legislators from gaining an accurate picture of the true nature of human trafficking.

As decision-makers continue to legislate to prevent trafficking, prosecute traffickers and protect victims of trafficking, it is essential that efforts are made to avoid basing legislation on information that is simply repeated rather than reliable.

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- Review Essay -

Depression and sturdy moral foundations: A review of Clive Hamilton's post secular ethics

Clive Hamilton, *The Freedom Paradox: Towards a post secular ethics***. Allen and Unwin: Sydney, 2008. pp 288. $35.00 AUD IBSN 9781741755077 (Paperback).**

It may seem odd to take Hamilton's comments on depression as a point of departure for this review of his post-secular ethics. According to the index the subject is mentioned four times in the text. But the location of these comments at the beginning and end of the argument suggests the centrality of the experience for his endeavour. Hamilton's attempt to articulate a post-secular ethics is justified with reference to the increasing numbers who experience a depressive illness because this indicates the fabric of society is frayed. So too, I would suggest, does the number of homeless and the near extinction of the hairy nosed wombat. With this analysis, however, Hamilton implies that contentment is a collective achievement and depression signifies a social problem for which the bio-medical manifestation provides evidence. At the conclusion of the book, Hamilton returns to his theme in order to suggest that the post-secularly ethical self will have transcended depressive characteristics, in particular the self-absorption which characterises depressives. I quote:

> Depression is marked by above all a mood of powerlessness, an inability to take control of one's life, and is expressed in not only feelings of desolation but in the failure to mobilise one's rational capacities to find a way out of the morass (p223)

Although intuitively plausible, there is a lot in this statement that I object to. I do not contend that Hamilton attempts to misrepresent or demonise the depressed. Nor that his is an entirely unsympathetic rendition of some of the key characteristics of depression. But Hamilton evokes power, the antithesis of which is oppression not mental illness. He juxtaposes rationality with depression, forgetting that the depressive may well have the measure of circumstance yet the analysis be inflected with melancholy and cynicism. Indeed depression may well be the antidote to the self-deception and *akrasia* that Hamilton decries as impediments to inner freedom. This is the substance of my criticism. Hamilton erects his post-secular ethics on a flimsy foundation, despite the rhetorical devices he employs. The depressed self haunts his analysis and he would do better to incorporate rather than disregard it.

Depression is distinct from unhappiness. Generally understood as a pervasive mood disorder characterised by differing levels of somatisation, depression is an increasingly common diagnosis. Perhaps this does mean our society is sick. Hamilton certainly seems to think so. He is not the first public intellectual *cum* academic philosopher, who

references depression as a touchstone for social critique. He is certainly not the first to identify the corrosive influence of avarice and craven consumption. He is not the first to suggest that we cannot buy happiness. His analysis of the shortcomings of contemporary society, designated by the neologism *affluenza*, is not without merit or genealogy. In his most recent contribution, however, Hamilton offers little by way of social critique and instead develops an account of ethics, a post-secular ethics that reflects his discontent with consumer capitalism and its insidious infiltration into our inner-most selves.

Hamilton makes the bold argument that his analysis is continuous with a Kantian tradition whereby ethics, freedom and happiness are subsumed under the one umbrella; distinguished conceptually, but nonetheless mutually imbricated. This profound and audacious idea has practical consequences. We can find both freedom and happiness via the practice of ethics. Most contemporary philosophers attempt to weave these strands of experience together with reference to either the perspective of justice or that of community. According to the perspective of justice, happiness looks utilitarian. Ethics pertains to social actions that are consistent with maintaining liberty. Respect and tolerance obtain priority as a means of regulating social interactions that are conducive to as many people as possible pursuing their own conception of what is good whilst not harming others. If this is ethical action, it looks to promote happiness by not unduly interfering with each others' objectives, promoting the type of co-operation that will enable us to achieve individual goals. This tradition is familiar, bequeathed to us by liberal humanism and firmly rooted in present political and judicial institutions. The perspective of community takes issue with the individualism of this justice, arguing that ethics, freedom and happiness must be firmly grounded in solidarity. These are communal not individual goals. While there is scope for individuality, in our pursuit of freedom and happiness, our practice of ethics, we are highly dependent on each other.

Justice and community have collaborated to mark out the territory of significant debates within ethics. At times combative and at others mutually informative, justice accuses community of conservatism, clinging to values and practices that make us feel safe, while community contends that justice sacrifices the quality of our moral lives on the alter of fair process. Hamilton, however, chooses an alternative path and attempts to ground ethics and freedom in a concept of self, thus he must do battle with that self's propensity to be depressed, deceptive or otherwise irrational. To understand why this the case, means exploring the type of self that Hamilton suggests is moral. First it must be understood that this self bears little resemblance to any given human individual, it is not characterised by idiosyncrasy. According to Hamilton the moral self emerges at the point (in or beyond time or space, I am unsure) that the individual self is fully enveloped by an Absolute and egoism dissipates. Here the protective function of depression to preserve the integrity of the self that is felt to be disintegrating may well prove problematic. Despite the seeming self-absorption of depression, in this condition the self is lost. I am not certain whether the trauma caused by this loss precedes depression or is just symptomatic of the condition, but I tend to think depression is a defensive, if

unreconstructed, response to such losses: complete loss precipitates suicide. In contrast, Hamilton's loss of self is not purposeless and I would suggest is continuous with a number of extant religious traditions which recommend the ecstasy of absorption within an Absolute, the ultimate if temporary liberation from the shackles of the flesh.

Hamilton's Absolute is not specifically montheistic deity. Hamilton reconstructs Immanuel Kant's famous distinction between phenomenon and noumenon or, in lay terms, appearance and essence as the central epistemological intuition that guides his argument. In brief, the argument looks like this: human perception is limited. Nonetheless, it is via the infelicities of perception that we construct a shared understanding of the world and attribute meaning to our own lives. According to Hamilton, however, our perceptions of the world do not exhaust its content. There is such a thing as essence not directly accessible by concentrating on or observing the world. Rather through practices like meditation, which entails the gradual dissipation of our sense of selves, we can access this metaphysical or spiritual Absolute. This is the hardest part of Hamilton's argument to understand.

In some philosophies the fact that we can perceive the world differently is an argument for scepticism leading to moral relativism. How we can possibly know the truth of things if these things appear differently to different people? You say terrorism, I say revolutionary struggle. Without a firm foundation for truth to properly adjudicate arguments, we do best to tolerate competing ethical positions, forestalling judgement in favour of curiosity. Knowing that we are fallible creatures it is best to detach from strongly held convictions lest they be proved the product of self-serving delusions like cultural superiority. Hamilton need not accept this argument because he maintains that beyond appearance is a fixed essence, perhaps not directly accessible to us, but there nonetheless. Relativism is thereby forestalled via ontology. Moreover, in contemplation of this essence, self serving delusions gradually fall way. The barriers that we have established between subjects and objects, selves and others begin to blur until we understand the continuity of all things.

In some ways this is a very appealing argument. We do not need to renege on tolerance and yet we can locate a firm moral foundation for any intuition that the world needs more compassion. More than this Hamilton's argument promises an existential remedy to the anomie of market capitalism. Ethics need not terminate with fair process, bereft as it is of motivational power and spiritual resources. Contemporary motifs like self discovery have a place in Hamilton's metaphysics without the trappings of the self-help industry. Hamilton is sensitive to existential and psychological suffering. Indeed this yearning for something more out of life, which is so skilfully manipulated by advertising, and perhaps evident in the increase in the incidence of depression, is recruited by Hamilton as he develops his argument. He suggests that the pursuit of incidental pleasure is ultimately joyless. He does not construct arguments for a duty to live a meaningful life. He suggests that it is a necessity if we are to achieve both freedom and happiness.

At this point his argument departs from contemporary reworkings of Kantian ethics, which employ Kant's discoveries regarding the structure of rationality to erect a system of rights and responsibilities that would provide for a just society. Hamilton's introduces us to Schopenhauer. Known most for his pessimism, Hamilton's Schopenhauer uses the existence of the strivings mentioned above (to realise something more) as evidence of an implicit knowledge of noumenon, which in turn struggles for phenomenal manifestation. There are alternative analyses – psychoanalytic, for instance – of this sense of lack that permeates subjectivity promoting us to search, achieve or despair. Hamilton, however, is not content with dour conclusions about the ultimate purposeless of human life. Instead he contends that we can find meaning in life, the precursor to happiness, by attaining inner freedom, which requires some measure of disregard for momentary evocations of desire. In this way our phenomenal strivings for meaning manifest *essence*, at least when they are not sidetracked by momentary gratifications through consumption.

This is an interesting, if complicated, argument. The relationship between phenomenon and noumenon comes together in the interior of the human psyche. Hamilton does not posit the existence of a soul. Nonetheless, there is some kind of knowledge outside of consciousness but resident in experience to which we can have access by disposing of egoism and which will provide freedom, meaning and thereby happiness. This seems a tall order for an undefined capacity which is distinct from rational reflection. It is perhaps evidenced in the imaginative achievements of great artists, and as Hamilton readily admits has the capacity to be a "destabilising" force, even "life-denying" (p234). Here I detect some confusion. The purified self that contains this so-called essence – or at least has access to it through ecstatic encounters with noumenon - seems no longer tethered to the body or the community. Interestingly, both depressive and manic selves are similarly so. In other words, the arch-nemesis of Hamilton's post-secular self is characterised by a shared tendency to absorption, sometimes beyond rationality, returning me to my initial theme about the centrality of depression for his analysis.

To clarify I concur with Hamilton's critique of the ethical desert of consumer capitalism. He is right to suggest that freedom, if it is to remain certain of its justification, must mean something other than a choice between vacuous alternatives in the supermarket aisle. Likewise, meaning in life cannot be jettisoned without socially corrosive repercussions. But the means by which Hamilton attempts to revivify ethical discourse is unconvincing, even if it is an original interpretation of his chosen philosophical luminaries. I do not think that Hamilton's advocacy of a "considered will" against the tides of conformity requires the spurious spiritualism that pervades his analysis. A considered will is not equivalent to psychic integration with an Absolute self, purified of localised longings in favour of an awareness of universal contingency and continuity. A considered will is more likely the product of deep engagement with the specificities, not generalities, of life and those who inhabit the social world we share. Idealism's flaw has always been a lack of attention to particularity. Twentieth century social thought, when it was not exposing

the limits of human rationality as applied to politics, struggled with disruptions to the generalising pretensions of the Enlightenment when confronted with very particular suffering. This hard-learned lesson, often traced to realising the moral implications of the Holocaust, is missing in Hamilton's discussion.

In Hamilton's book the particularity of individual suffering is lost amidst the generalised causes of depression that he identifies. This is of interest in a book that is ultimately about individual responsibility for one's experience of the world, including one's suffering. His is a timely reminder of the significance of our responsibility for our own well-being given circumstances from war to global warming that could otherwise make the topic, ethics, seem moot and a cause for existential despair. What Hamilton fails to do in his exploration of the philosophical foundations of individual responsibility is consider the hardship, potential depression, entailed in such considerations. In brief, Hamilton's recommended antidote to *akrasia* – some kind of critical self-awareness obtained via communion with the Absolute – is not easy to achieve. Like the self-help genre he subtly criticises, with its undaunted optimism in the face of rampant social injustice, Hamilton's analysis could do with a helping of politics.

A friend once cautioned me that reviews often reveal what the reviewer would have done with the subject matter rather than reflect on the adequacy of the attempt within it own terms. Respecting the author's vision when the text touches on such deeply personal issues will always be difficult and I am not sure that I have been successful in this instance. But on finishing Hamilton's book I was somewhat disappointed that he bypassed the more tricky elements of the melancholic trends that animate his erstwhile hopeful discussion. It was almost as if a central part of the human condition went missing halfway through his reflections, and further incorporation of what I will call our depressive potentiality would in fact strengthen the arguments and perhaps provide recourse other than spirituality to the troubles he perceives.

***The Freedom Paradox* is available in Australia from Allen and Unwin for $35.00 (paperback).**

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Julie Connolly,
School of Political Science and International Studies
University of Queensland

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- Book Review -

Anthony Leysens, *The Critical Theory of Robert W. Cox: Fugitive or Guru?* New York: Palgrave Macmillan, 2008. pp 184. £55, ISBN 978-0-230-22479-7 (Hardback).

Prefacing *The Critical Theory of Robert W. Cox* is a view of Cox as the fugitive, situated outside categorisation in traditional schools of thought in International Relations (IR), and Cox the guru, a highly influential pioneer cast misleadingly in a field to which he does not belong. With this in mind, the book takes its cue from the wide recognition of Cox's work, or as it is referred to in the book, Coxian Critical Theory (CCT), and what Leysens sees as an incorrect association of CCT with Frankfurt School perspectives and contemporary Critical theorists such as Andrew Linklater, Richard Ashley and Mark Hoffman. Leysens embarks on a threefold task, beginning with an interrogation of claims that CCT clearly belongs to the 'Critical Turn' in IR. The second task is to review how insights from scholars influenced by CCT illustrate how key themes have continued to demonstrate explanatory and analytical strength. It is the third task that exhibits a more ambitious undertaking, in which Leysens develops a Coxian theoretical framework in order to create a dialogue between two contrasting schools of thought in International Political Economy (IPE). These include an American school associated with deductive-nomological approaches and a British school representative of critical interpretive approaches.

To address these tasks, the book is divided into six chapters. Chapters two and three deliver insights into the experiences and influences that shaped key theoretical concepts in CCT. By exploring the time Cox spent during his career at the International Labour Organisation (ILO), we can see how this experience helped shape his ideas on the possibilities for systemic change. During this time Cox developed his ideas on positivist forms of generating knowledge in terms of considering the relationship between methods of conducting research and the possibility of transformative change beyond the status quo. In the third chapter CCT is analysed through a detailed reading of key concepts, including Cox's understanding of historical materialism, the concept of hegemony as derived from Gramsci, and conceptions of world order. An assessment of social forces through the modes of social relations of production and concepts from more recent work on the study of civilizations is also undertaken.

Following the chapters articulating the influences and concepts of CCT, Leysens begins an analysis of Frankfurt School perspectives and contemporary Critical theorists. Chapter four is an introduction to the variety of perspectives within the Frankfurt School, contextualised by the impact of World War Two and the relocation of the '*Institut fur Sozialforschung*' (Institute for Social Research) to the United States (US). The plurality of views between theorists helps emphasise a less cohesive view of perspectives within the school in addition to a focus on the efforts of some scholars to overcome the restrictions of positivism. Underpinning this chapter is an argument by Leysens that the Frankfurt School did not purely advocate the

abandonment of positivism; instead, the School argued against the inherent prioritisation of positivism as the dominant form of knowledge generation. Through this viewpoint, Leysens argues that Critical Theory during the 1930s attempted to act as a bridge between "positivistic" and "humanistic" approaches to knowledge production, making the implicit suggestion that this is a project worth salvaging in the contemporary period. Chapter five introduces the work of four prominent scholars in Critical theory including Linklater, Ashley, Hoffman and Mark Neufeld. Emphasis is given to how such contemporary theorists draw on influences of the Frankfurt School scholars such as Jürgen Habermas more explicitly than Cox. By the final chapter, Leysens reviews the influence of CCT through the work of theorists such as Andreas Bieler and Stephen Gill, arguing that CCT should be associated with an emerging school of neo-Gramscianism. At the end of this chapter, Leysens turns to the task of developing a Coxian theoretical framework that might bridge empiricist and interpretive approaches in IPE.

The primary focus of the book is directed towards the issue of demarcation. Addressing this question instigates a fresh interpretation of Cox's views on theory and epistemology that leads to a reconsideration of his understanding of Realism and positivism. On Realism, Leysens argues that Cox is specifically critical of the neo-Realism of Hans Morgenthau and Kenneth Waltz. It is the casting of Realism as a purely problem-solving theory that Cox sees as being in the interest of maintaining a status quo favourable to the major powers of the international system. Leysens reminds us that Cox is associated with perspectives of New Realism that engage a field of enquiry outside of the status quo to focus on change and transformation. This position confirms his debt to traditional Realists such as E.H. Carr, demonstrating a rejection of the ahistorical version of neo-Realism. From this position, Cox's views need not be incompatible with Critical Theory. With regards to positivism, Leysens engages the definitive association of CCT with post-positivist approaches through the distinction between problem-solving and critical theory. Leysens points out that this distinction need not imply Cox regarded these as mutually exclusive and therefore did not reject all forms of positivism. Cox finds positivist approaches can still provide valuable insights on observable phenomena in human behaviour, provided such methods were set within historical limits.

In the final chapter of the book Leysens takes on the goal of bridging two contrasting schools of thought in IPE, the majority of which follows the theme of demarcation generated by earlier chapters. Dedicated to investigating the influence CCT on various scholars, the chapter also clarifies how CCT is part of the emerging school of neo-Gramscianism. The analysis of these issues culminates with the claim that CCT can provide a critical empiricist approach which helps the discussion to proceed with the task of creating a bridging framework. For Leysens, achieving this task hinges on the question of how to disassociate CCT with post-positivism in order to bring empiricists and critical interpretivists together. There is some description of how this might be done as revealed through other scholarly efforts combined with contributions from Leysens, however the possibility of this task returns the issue interpreting CCT.

The conclusion of the book invites reflection on Leysens interpretation of CCT that appears as an effort to demonstrate the existence of a critical empiricist approach based on a selected reading of CCT, Frankfurt School perspectives and Critical theorists. Placing CCT closer to neo-Gramscian approaches can be considered more appropriate but in considering the author's broader motivation of distinguishing it completely from Critical Theory, it is worth remembering how one author taken to task in the book defines this school. Devetak (2001: 156) argues that Critical Theory can be defined by a devotion to emancipatory politics and freedom from forms of domination together with the use reflexive theory. In addition, Critical theory is defined as welcoming a variety of eclectic influences including Aristotle, Foucault, Gadamer, Hegel and Wittgenstein (Devetak 2001: 155). On both these accounts CCT fits this categorisation – an observation underpinned not only by the extensive list of similarities discussed by Leysens as existing between CCT, Frankfurt School and Critical theory approaches, but also by the emphasis on Cox's eclectic list of influences.

For all the similarities between CCT and the Frankfurt School and Critical theory, Leysens argues, "the attempt to link Cox to Habermas and the Frankfurt School does not rest on solid foundations but on coincidental similarities" (Leysens 2008:122). As Leysens discussed similarities between Max Horkheimer's distinction between critical and problem-solving theory and by CCT, such a conclusion appears to serve the authors interest of disassociating CCT from post-positivism more than being astute observation. Leysens further emphasises how CCT does not view problem-solving and critical theory as mutually exclusive, however this does not automatically imply that each is mutually beneficial. Stating that equality exists between both approaches enables Leysens to argue for a Coxian critical empiricist approach depending on a reading that eschews post-positivism. Whether scholars will agree on this interpretation remains to seen in addition to whether those on both sides of the divide between critical and interpretivist approaches will give equal merit to each other's methods. *The Critical Theory of Robert W. Cox* is nonetheless an interesting read on the influences and the affinity of interests between all scholars discussed and further evidence of the valuable contribution of Cox's work to IR.

Anthony Leysens, *The Critical Theory of Robert W. Cox* is available through Palgrave Macmillan for £55 (Hardback).

George Karavas,
School of Political Science and International Studies
University of Queensland.

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