国際武器移転史　第 10 号 2020 年 7 月
＜目　次＞

明治大学国際武器移転史研究所編

『国際武器移転史』第 10 号の刊行によせて

横井　勝彦
国際武器移転史研究所長

『国際武器移転史』第 10 号をお届け致します。

本誌もなんとか 10 号に到達することができました。2015 年の創刊以来、年 2 回発行のペースで、偶数号は第 8 号まですべて刊行日を 7 月第 3 週としてきましたが、今回は第 4 週にずれ込むこととなりました。今年は 23 日・24 日と祝日が続いた関係もありますが、それだけではありません。やはり、コロナ禍の影響で、投稿者、査読者、本誌編集委員会、印刷会社、そして明治大学の関係方面の方々に、いつも以上のご無理をお願いすることとなってしまったという事情があります。

日本も含め世界の多くの大学が新型コロナウイルスの感染拡大防止のためにオンライン授業の導入を余儀なくされ、現場の教職員はその対応に連日追われてきましたが、この間、研究の面においてもメール、ズーム、ウェビナーなどを活用したオンラインの多角的な取り組みが続けられてきました。コロナ禍を理由に安易に延期、中止、自粛を決定するのではなく、新たな次元のより多角的でより国際的な研究活動のスタイルが模索されつつあります。本研究所もポスト・コロナ時代の新たな研究活動スタイルを追求しつつ、研究のさらなる発展を目指していくつもりでおります。

さて、今回の第 10 号には、日本語論文 1 本、英語論文 5 本を掲載することができました。巻頭の溝辺論文は、21 世紀の核廃絶運動をも視野に入れて、1960 年代にアフリカでの国際会議に参加した日本人平和運動家の報告や記録類を独自に辿り、その時代のアフリカにおける核廃絶運動の成果と日本への影響を詳細に分析しています。

第 2 論文から第 4 論文は、本研究所の研究叢書 3 竹内真人編『ブリティッシュ・ワールドー帝国紐帯の諸相ー』（日本経済評論社、2019 年）の続編を企画している研究プロジェクトが昨年末に開催した国際セミナーの成果です。第 2 論文（Rachel Bright）は「イギリス帝国における移民問題」、第 3 論文（Felicity Barnes）は「白人自治領経済圏における文化通商問題」、第 4 論文（Andrew Dilley）は「帝国・コモンウェルスの政治経済学」を論じており、いずれも「ブリティッシュ・ワールド」論の議論の批判的な深化を目指しています。

第 5 論文と第 6 論文は、本研究所の研究叢書 4 榎本珠良編『禁忌の兵器ーパーリア・ウェ

ポンの系譜学ー』（日本経済評論社、2020 年）に、第 1 章（Miloš Vec）「国際政治学者の失敗ー古典的戦争法における未完のプロジェクトとしての兵器違法化ー」と第 4 章（Ido Oren and Ty Solomon）「『大量破壊兵器』概念の歴史化」として、すでに日本語翻訳版が掲載されていますが、本書は全体として先駆的な国際的・学際的な共同研究の成果であり、広く世界に発信するためにさし当り英語論文２篇を本誌に掲載した次第であります。

いずれの執筆者も、パンデミック襲来という未曾有の環境にもかかわらず、今回の第 10 号の刊行にはきわめて好意的に対応していただきました。危機的研究環境にあるからこそ、国際的な研究ネットワークの総力を結集して、後進の研究者のためにも、発信する研究の質と量を維持する。今回はその重要性に多くの皆さんからご賛同いただきました。心より厚くお礼申し上げます。

2020 年 7 月 27 日

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論 説

脱植民地化期の西アフリカ・ガーナが主導した核兵器廃絶運動と日本の平和運動
～3名の日本人による経験を通して～

溝辺　泰雄*

The Influence of Ghana-led Anti-nuclear Weapons Campaigns on Japanese Peace Movements in the Early 1960s
～ An Analysis through Experiences of Three Japanese ～

By YASU'O MIZOBE

During the era of decolonization, Kwame Nkrumah, the first Prime Minister of newly independent Ghana, hosted several international conferences calling for the abolition of nuclear weapons. Tomi Kora, a former female councilor in the Japanese House of Councilors , attended the Conference on Positive Action for Peace and Security in Africa in 1960. Additionally , Shinzo Hamai, then mayor of Hiroshima City, and Ichiro Moritaki, then chairperson of the Japan Confederation of Atomic and Hydrogen Bomb Sufferers Organizations, along with Tomi Kora participated in the Accra Assembly for World Without the Bomb in 1962. Their experiences in Ghana were recorded in the newsletters of peace movement organizations and newspaper articles published in Japan at the time. However, previous research on the history of peace movements and Japanese-African relations has not discussed these documents. Therefore, this paper elucidates the impacts of Ghana-led anti-nuclear weapons campaigns in the early 1960s on Japanese peace movements.

1　はじめに

本稿の目的は、20世紀中葉の脱植民地化期の西アフリカ・ガーナにおいて展開された核兵器廃絶運動について、同国で複数回開催された核兵器廃絶に係る国際会議に出席した日本人による記録等に基づき検討することにある。アフリカの脱植民地化期にあたる1950年代後半から1960年代にかけての時期は、東西冷戦の緊迫化に伴う核軍拡競争が過熱化した時期でもあった。核戦争の脅威に対し、欧米やアジア、日本でも核兵器廃絶を求める声が高まったが、その動きはアフリカにおいても例外ではなかった。1950年代後半にフランスが公表したサハラ砂漠での原爆実験計画は、核兵器に対するアフリカの人々の

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不安を一気に高め、大陸各地で抗議運動が展開された。なかでも、サハラ以南アフリカで最初に独立を果たしたガーナの首相（1960年からは大統領）であったクワメ・ンクルマは、アフリカの核兵器廃絶運動を主導し、核兵器の廃絶を求める国際会議を複数回主催した。

とりわけ、フランスが1960年に強行実施した仏領アルジェリア内のサハラ砂漠における原爆実験をうけて、ンクルマは2つの国際会議（1960年の「アフリカの平和と安全保障のための積極行動会議」と1962年の「爆弾なき世界のためのアクラ会議」）を開催し、欧米諸国による核爆弾実験への抗議と核兵器廃絶へ向けての国際運動体の創設を模索した。そしてこれらの会議のうち1960年の「積極行動会議」には高良とみ（元参議院議員・女性平和運動家）、1962年の「アクラ会議」には高良に加え、浜井信三（広島市長）、森瀧市郎（広島大学教授・日本原水爆被害者団体協議会［日本被団協］理事長）が日本から招待され、彼らは非同盟諸国や欧米から集まった平和運動家や研究者、技術者、政治家、ジャーナリストらと共に、西アフリカのガーナで核兵器廃絶に向けての討議に参加していたのである。

これら2つの国際会議については、第二次大戦後の世界各地における核廃絶運動を広範に検討したWittner［1997］に加え、アフリカ系アメリカ人による反核・平和運動を検証したIntondi［2015］においても比較的詳細に検討が加えられている。特に後者はアフリカ系アメリカ人が日本への原爆投下を「有色人種への無差別虐殺」として認識し、アジア・アフリカの反核運動と積極的に連帯した事実を「アクラ会議」にも言及しつつ検討している。しかし、いずれの研究も、ンクルマによる反軍拡競争の検討や、欧米とアフリカ、欧米とアジア、さらに欧米起源の国際運動という枠組みから戦後の核廃絶運動を検討しているものの、アフリカで展開された核兵器廃絶運動を同時代の日本人の視点を通して考察する視点は提示されていない。

一方、20世紀中葉以降の日本アフリカ関係に関する研究は、川端（編）［1994］[1)]や、森川［1988］およびMorikawa［1997］によって分析され、学術分野に関しても川端、北川、栗本［2013］によって戦後日本のアフリカ研究の展開が跡づけられている。さらに、近年においてはSono［1993］やAdem［2006］、Lumumba-Kasongo［2014］などアフリカの研究者による研究も蓄積されている。しかし、20世紀中葉のアフリカで展開された核兵器廃絶をめざす取り組みに日本人が関わった事実を取り上げる研究は、これまでのところ確認できていない。さらに第二次大戦後の日本と世界の反核運動を網羅的に考察した佐藤［1984］や和田［2014］による研究においても、アフリカにおける核兵器廃絶運動につい

1）同著には19世紀から1990年代初頭までの日本アフリカ関係について、歴史と政治、経済、開発分野からの18の論考が掲載されている。

て言及されていない。

しかしながら、20世紀中葉のガーナで開催された複数の国際会議に日本人も参加し、アフリカやアジア、ラテンアメリカ、欧米からの参加者とともに核なき世界を目指す連帯を構想したという事実は、20世紀後半の核兵器廃絶運動の国際的展開と日本の平和運動との関係を考察する上で重要な検討対象となり得るであろう。

そこで本稿は、ンクルマが主催した1960年の「積極行動会議」と1962年の「アクラ会議」を事例として、同会議が開催に至る背景とその特徴について、3名の日本人参加者（高良、浜井、森瀧）による報告や記録をはじめとする、筆者が2016年から実施した調査[2)]で得られた資料に基づいて概観し、20世紀中葉のアフリカ（ガーナ）における核兵器廃絶運動と日本の平和運動家との接点について検討することにしたい。

2　脱植民地化期のガーナが主導した核兵器廃絶運動

(1) フランスによるサハラ砂漠原爆実験への抗議

第二次世界大戦後に深刻度を増した冷戦対立に伴う核兵器軍拡競争は、核戦争の勃発に現実味を与え、世界各地で核兵器廃絶を求める動きが活発化した。日本では第五福竜丸事件をきっかけに全国規模で反核運動が巻き起った。1955年8月6日には「第一回原水爆禁止世界大会」が広島で開催され、翌9月には原水爆禁止日本協議会（原水協）が設立された。

欧米でも一般市民が参加する様々な組織が結成された。イギリスでは1957年に「核兵器廃絶のための全国評議会（National Council for the Abolition of Nuclear Weapon Tests: NCANWT）」が設立され、同組織は翌58年に「核軍縮キャンペーン（Campaign for Nuclear Disarmament: CND）」として再組織化された。アメリカでも1957年に「核政策正常化のための全国委員会（National Committee for a Sane Nuclear Policy: SANE）」が設立され、デモや集会等を通して多くの人々が加熱する核軍拡競争に対して反対の意思を表明した。

一方、同時期のアフリカでも核兵器の脅威に対する抗議運動が展開された。そのきっかけとなったのは、フランスによるサハラ砂漠での原爆実験計画であった。1957年にフランス政府は、激しい植民地解放闘争が続くアルジェリア領内のサハラ砂漠で原爆実験を

2）本調査は、2016-18年度科学研究費補助金・基盤研究（C）「日本アフリカ関係史から見た20世紀中葉の核兵器廃絶運動の国際的展開に関する研究」（研究代表者：溝辺泰雄・研究課題番号：16K03096）の期間中に、広島平和記念資料館情報資料室、広島大学文書館、広島市公文書館、ニューヨーク公立図書館ションバーク黒人文化研究センター、ガーナ国立公文書館、ケニア国立公文書館、英国図書館セントパンクラス本館において実施した。

実施する計画を発表した[3]。「青いトビネズミ（Gerboise Bleue）」と名付けられたこの原爆実験計画を、依然として多くの地域が植民地統治下におかれていた当時のアフリカの人々は、フランスによる植民地主義・人種主義の象徴として受け止めた[4]。

1957年にサハラ以南アフリカで最初の政治的独立を果たしたガーナの首相であったクワメ・ンクルマは、ガーナ独立の翌年（1958年）の4月に首都アクラで開催された「アフリカ独立諸国会議」での演説において、次のようにフランスの原爆実験計画を批判した。

> 世界中の数億の人々と同じように、我々は核兵器実験に関わる全ての列強諸国に対して訴えます。放射能の風は国境線を知りません。いわゆる平時になされているこれらの核実験こそが、我々の存在を何よりも脅かしているのです。しかし私たちが耳にすることは何でしょうか。［核実験禁止を巡る］米ソ首脳会談の開催が予想されているまさにこの時に、サハラ砂漠を核兵器実験の舞台として利用しようという計画が立案されているといいます。我々はこの提案を激しく糾弾し、我々の大陸がそのような目的に用いられることに強く反対します。我々は国際連合に対し、我々の安全に対するこの脅威を停止するようを訴えます[5]。

ンクルマはその後も、フランスによる原爆実験阻止のため外交活動を積極的に展開した。植民地主義の撲滅と全アフリカの独立を第一に掲げる彼の外交政策において、現地住民の同意も得ず、植民地領内で一方的に原爆実験を実施しようとするフランスの態度は到底受け入れられるものではなかったのである。

フランスによるサハラ砂漠での原爆実験計画に対する反対運動には、欧米の平和活動家たちも参加した。なかでも、イギリスの平和活動家であるA. カーターとM. スコット、アメリカ人平和主義者のA. J. マステ、アフリカ系アメリカ人活動家のB. ラスティンとB. サザーランドらは「サハラ抗議隊（Sahara Protest Team）」を組織し、アルジェリアでの原爆実験を阻止することを試みた[6]。フランスの植民地であるアルジェリア領内にはフランス政府の許可がないと直接入ることができないため、彼らは実験に反対の立場を取るガーナから自動車に分乗して北上し、サハラ砂漠を越えてアルジェリアのレガンヌに設置された実験施設に乗り込み、実力で実験を阻止する計画を立てた。ガーナ政府の全面的な支援

3）Wittner［1997］pp.265-266.
4）Intondi［2015］p.51.
5）Kenya National Archives（KNA）, MAC/CON/196/4.
6）「サハラ抗議隊」については、20世紀中葉のパンアフリカニズムと黒人権利運動の文脈から分析したオールマンの研究が詳しい。Allman［2008］pp. 87-92.

を得てアクラを出発した「サハラ抗議隊」であったが、ガーナの北部国境を越えフランス領オートボルタ（現在のブルキナファソ）領内に入った際に、フランス当局によって身柄を拘束され、当初の計画を実現することができなかった[7)]。

こうした反対運動にもかかわらず、フランスは1960年2月13日にアルジェリアの核実験施設で初めての原爆実験を強行した[8)]。実験の実施を受けてアフリカ各地からの抗議が噴出した。例えば、エジプトは実験直後にアラブ連合とモロッコと共同でフランス政府に対する抗議声明を発表した[9)]。ンクルマもフランスの実験に対して抗議を表明し、ガーナ国内におけるフランス企業の資産凍結を決定した[10)]。

（2）1960年の「アフリカの平和と安全保障のための積極行動会議」

フランスが原爆実験を強行した1960年は、旧フランス領植民地を中心に17か国が独立を果たした「アフリカの年」であった。しかし、その一方で、北アフリカではアルジェリアの独立戦争が激化し、南アフリカでもアパルトヘイト政権が同年3月に人種隔離政策に反対する群衆に対して警官隊が無差別に発砲し、69名が死亡、180名が負傷するという事件（「シャープビル虐殺」）が起きるなど、アフリカの脱植民地化の流れに逆行する動きが各地で顕在化し始めていた。

こうした状況下において、さらなる実験を止めるにはアフリカ諸国および諸植民地の統一行動が必要と判断したンクルマは、同年4月に「アフリカの平和と安全保障のための積極行動会議（Conference on Positive Action for Peace and Security in Africa）」をアクラで開催した[11)]。この会議に日本から唯一参加した元参議院議員で平和活動家の高良とみは、開会日の様子を次のように記録している。

> 開会第1日のアクラの公会堂には原爆のキノコ雲の図が壁一面に書かれ、「積極行動−パン・アフリカ」の標語が入口にも門柱にも見られた。「原爆帝国主義反対」が合言葉として、あらゆる印刷物に書かれて配布された。開会式には在任外交団はじめ政党、

7）なお、イントンディは「サハラ抗議隊」の活動について、その計画段階からアフリカや欧米のメディアに取り上げられたことで、フランスの原爆実験に対する抗議運動に注目を集めることには成功したと位置付けている。 Intondi［2015］pp. 56-57.

8）最初の実験で爆破した原爆は、広島型の4倍の強さに相当するとされる強力な爆弾であった［CTBTOウェブサイト］。

9）Intondi［2015］p. 56.

10）*The New York Times*［14 February 1960］.

11）同会議におけるンクルマの演説と決議文の全文は次の文書に収録されている。‘Positive Action Conference for Peace and Security in Africa, Accra, 7th to 10th April, 1960’, KNA, MAC/CON/196/3

> 内外の新聞記者をはじめ男女有権者が門から階上階下をうずめ約300の代表団の座る席もないぐらいにつめかけた。ことにアフリカの婦人たちの色彩あざやかな大柄模様の着衣と大きな頭巾とは、重量豊かな図体と共に会場に目立っていた。一般の婦人たちは大きい上衣のような布を来賓の通る道に敷いて、その上をふませるようにし、著名なアフリカ各国のリーダーが来る度に大声で「ヤイヤイヤイヤアイ！」というふうに叫んで歓迎の意を講堂に響かせ派手な無邪気さに溢れている。[12)]

会議を主催したンクルマは開会式でのスピーチで、実験を強行したフランス政府の判断を、核実験の停止を模索する米ソをはじめとする核保有国の動きに反するものであると批判した上で、アフリカ諸国の反対に耳を貸そうとしないフランス政府の動きを止めるためにアフリカがとり得る方策を次のように述べている。

> フランスの核実験に対するこれからの積極的直接行動は、たとえば実験地域へ集団行進するという非暴力的形態で実施することができるでしょう。たとえ一人も実験場に辿りつけなかったとしても、アフリカ各地からそして海外からやってきた数百人の人々が、投獄や逮捕される危険を冒してまで、アフリカを分割する人工的な境界線を越えようとする努力は、ドゴール政権を除くフランスの、そして世界中の人々が無視することができない抗議行動となるでしょう。我々は忘れてはなりません。この有害な放射性降下物は、これまでも、そしてこれからも決して、植民地主義が我々の親愛なる大陸を恣意的、人工的に分断している境界線を配慮したりはしないのです。[13)]

日本から出席した高良は、4つの分科会の内の「『サハラ、テスト反対』方法の委員会に他の英、仏、独、印、スウェーデン代表と共に投票しない技術顧問として」[14)] 議論に参加した。自らの参加について高良は「日本のヒロシマ、ナガサキ、ビキニの経験とその資料は［ママ］はるばる持参したため深く感謝され、日本人が永く苦しんだことと、全国民の反対運動のあることは、昨年広島へ出席したアクラ市長からも感謝された」[15)] と記している。

4日間に及ぶ議論の末、「積極行動会議」の第一委員会が提案した9項目からなる決議文

12）高良とみ［2002a］135頁。
13）Nkrumah［1960］p. 4.
14）高良とみ［2002a］136頁。
15）高良とみ［2002a］136頁。

が採択された。その決議文は、フランス政府がサハラ砂漠で原子爆弾を爆破したことは「戦争行為（an act of hostility）」であり、「アフリカ人民の主権と尊厳の侵害」であると宣言した上で、国連において緊急会合を開催すべくアジア・アフリカの全独立国が速やかに行動する旨が記されている。また、決議文の最後では、さらなる核実験を世界のいかなる地域においても実施させないよう世界の世論を動員するために、世界各地の人々に核実験の真の危険性を教え、啓蒙するための専門家を派遣することをアジア・アフリカの全ての国々に求めた[16]。

この会議の全日程に出席した高良は、「[同会議に] 出席しての感想は、地域の日本大使が口を揃えて言うように『アフリカの動向によって、今後の世界は左右されるだろう』の一語につきる。わたくしはさらにそれに加えて言いたい、『今後のアフリカに注目せよ』と」[17] と書き記している。その上で、当時、社会主義共和制への移行を目指していたンクルマが自らの政治的求心力拡大のために同会議を利用しているのではないかという西側メディアの批判に対して、次のように否定している。

> ガーナの首相エンクルマ（Nkrumah）が闘志満々で来るべき新憲法制定のための選挙と大統領への選出をねらってのスタンドプレーのために、今回の会議を招集したのだろうとの西欧側のうがった批評は少々ならず「的はずれ」だと言わざるを得ない。その証拠に新興国ガーナ政府といえども、近隣、遠方にもなかなか手ごわい敵対的な競争相手をもっているので、そうそうエンクルマの一人舞台を許すほど生やさしい状態ではないようだ。[18]

会議終了後の4月24日の消印で笠信太郎（当時朝日新聞論説主幹）に宛てた手紙で、高良は次のようにアフリカの核兵器廃絶運動にアフリカ系アメリカ人が積極的に関与していることと先述の「サハラ抗議隊」について次のように言及している。

> リトル・ロック以来の黒人牧師マーティン・ルーサー・キング氏の代理がアクラにも数人来ていました。アメリカとアフリカとは密接に交流しています。ことに非暴力抵抗のガンジー主義者、アメリカのA・J・マステやマイケル・スコット牧師たちが、インドのガンジストと一緒にアフリカで「非暴力、抵抗者訓練所」を造って養成して

16）MAC/CON/196/3: ‘Resolution on the French Atomic Tests in the Sahara’.
17）高良とみ［2002a］133-4頁。
18）高良とみ［2002a］134頁。

います。サハラ現地へ這入ろうとした一群は25名で、フランス婦人もフランス牧師も、アクラの黒人[ママ]も半数以上いますので、またそのうちに現場へ入るでしょう。[19)]

さらに、この会議に出席して感じた脱植民地化期の新興アフリカ諸国の存在感の高まりについては「黒人［ママ］（及び後進地域全体の半植民地）諸民族の独立が八月のナイジェリアをはじめ次々に数を増してゆくと、遂には国連の中で29ないし30カ国となり、その共同投票は正に国連と世界強国の運命をも左右する日も遠くはないでしょう」[20)]と指摘した上で、「ことにアフリカ諸邦が日本の対ライ病、医学、製薬、機械器具を切望している状況を見ると、後進国援助の中でも日本の果たし得る役割の大きいことに驚異を感じます」と日本が果たすべき役割について所見を述べている。

1960年の「積極行動会議」は、フランスの原爆実験に対するアフリカ諸国主導の強い抗議表明の場であったとともに、第二次大戦後の吉田内閣による対米追従外交政策に抗し、一貫して「アジア連帯に連なる自主外交」活動[21)]をすすめてきた日本人の平和主義者である高良が、アフリカで湧き立つ平和を希求する運動と接点を持ったという点で、アフリカ

【図1】「積極行動会議」の期間中に実施された昼食会の様子を報じるガーナの主要紙『デイリー・グラフィック』の記事（右端の女性が高良とみと思われる。記事によると、この昼食会には「サハラ抗議隊」を率いたM.スコットも同席していた。）

AT THE PARTY

* Finance Minister K. A. Gbedemah (at the head of the table) at a luncheon party he gave at his Accra residence in honour of some of the delegates attending the conference of positive action for peace and security in Africa. First on the left sits Mrs Adelaide Gbedemah. The guests include Mr Tom Mboya, Kenya's nationalist leader and the Reverend Michael Scott, leader of the Sahara protest team.

［出典］*The Daily Graphic*（Ghana）, 4th April 1960.

19）高良とみ［2002b］139頁。
20）高良とみ［2002b］139-140頁。
21）高良留実子［2002］434頁。

が主導する核兵器廃絶運動と日本の平和運動が結びつく端緒–その線は極めて細いものであったかもしれないが–としても位置付けることができるのではないだろうか。

(3) 1962 年の「爆弾なき世界のためのアクラ会議」

ガーナをはじめとするアフリカ諸国が主導する一連の切実な抗議にもかかわらず、フランスはサハラ砂漠での原爆実験を続行した[22]。フランスの原爆実験実施を受けて、1959年より一時的に核実験を中止していたソ連が1961年に水爆実験を実施し、それに対抗する形でアメリカが1962年に大気圏核実験を再開する事態に至った。

こうした状況に直面したンクルマは、欧米諸国に対する批判を強め、1961年7月4日のガーナ 国民議会において、自らの提唱する「積極的中立主義」の立場から核軍拡に反対することの重要性を次のように説いた。

> 核戦争のみならず核戦争の止むことのない脅威に基づく政策は、狂気と愚行、絶望の政策であると私は確信します。世界のいたるところに、深く、しかし言葉にはならない平和への願いが存在します。こうした世界の人々の気持ちを全力で主張するために力を尽くすことは、積極的中立主義政策を支持する諸国の義務であります。[23]

同年、ンクルマは核兵器廃絶に向けてのさらなる国際会議の開催に向けて準備委員会を設置し、翌1962年6月21日に「爆弾なき世界のためのアクラ会議（Accra Assembly for the World Without the Bomb）」をガーナの首都アクラで開催した。この会議には43の国と植民地から専門家とオブザーバーを含め130人[24]が参加した【表3】。8日間に及ぶ会期中、参加者たちは5つの委員会に分かれて核軍縮に関する諸問題について討議した【表1】。

22）1960年から翌61年にかけてアルジェリアのレガーヌ実験場で大気圏内核実験を4回実施したフランスは、1961年からは同国南部のエッカーに場所を移し、1966年までの間に13回の地下実験を実施した。Bergkvist and Ferm［2000］p. 14.

23）Boaten［1962］p. vii.

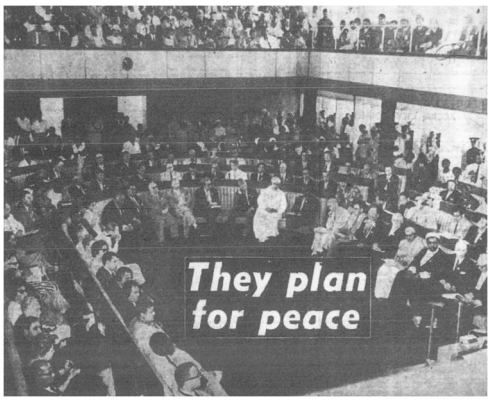
24）内訳は、参加者（participants）107名、専門家（experts）10名、オブザーバー（observers）13名であった。Mayfield［1963］pp. 168-169.

【表1】「アクラ会議」の5つの委員会[25)]

第一委員会	国際的緊張関係の低減
第二委員会	軍備縮小プロセス
第三委員会	既存の軍事用核物質の平和的利用への移行
第四委員会	軍備縮小に伴うもしくはそれから生じる経済的諸問題
第五委員会	軍備縮小と飢餓、疾病、無教育、隷属という基本的諸問題

「アクラ会議」の事務局長であったF.B.ボアテン[26)]によると、同会議にはいくつかの特徴があった。まず同会議は、政府間ではなく市民が参加する会議であった。すなわち、全ての参加者はたとえ政治家や官僚であったとしても自らの国家を代表するのではなく、一人の個人として参加することとされた。さらに、参加者の旅費や宿泊費を含む同会議の全ての費用はガーナ政府が同国の軍事予算の1.5%を割り当てることで負担した。

【図2】アクラ会議開会日の議場の様子



［出典］*The Daily Graphic*（Ghana）, 22 June 1962.

【表3】が示す通り、非同盟諸国からの参加者が多くを占めていたが、元アメリカ国連代表のJ. J. ワズワースや1959年にノーベル平和賞を受賞したたイギリスのP. ノエル=ベイカー、核軍縮キャンペーンの創設者の一人で英国国教会の聖職者であるJ. コリンズなど、イギリスとアメリカからそれぞれ10名を超える学者や平和活動家、政治家等が参加しただけでなく、ソ連や東ドイツなどの東側諸国からも複数の学者や原子力専門家が出席した。

さらに着目すべき点は、同会議の開催に複数のアフリカ系アメリカ人が重要な役割を果たしたことである。インドンディが指摘するように、多くのアフリカ系アメリカ人にとって、核軍縮運動を含む平和運動は、彼らがアメリカで立ち向かっていた黒人解放運動と密接に関連しており、世界に脅威を与えている核兵器の問題は人種主義と植民地主義に基づいていると彼らの多くは認識していた[27)]。20世紀前半のアメリカにおける黒人権利回復運動の中心人物であったW.E.Bデュボイスは、日本がポツダム宣言受諾を公式発表する前日の1945年8月14日に『シカゴ・ディフェンダー』紙に寄稿したコラムの冒頭において、

25）Secretariat of the Accra Assembly［1962］p. 4.
26）Boaten［1962］p. vii.
27）Intondi［2015］p. 5.

日本のアジア侵略について批判的な立場を明確に示しつつも、アジア太平洋戦争の根底には人種問題が存在していたとの認識を次のように記している。

> アメリカの黒人たちは皆、日本との戦争を快く思ってこなかった。なぜなら、この戦争は異なる人種の民族間の戦争、ヨーロッパとアジアの間の戦争だったからである。そして、この戦争を引き起こした根源的な衝動は、一方には、白人の利益のために黄色人種を支配しようという一世紀に及ぶヨーロッパの決意があり、他方に、ヨーロッパ人に対して劣等としてみなされ扱われてきたことに対するアジア人の恨みがあると我々は確信せざるを得ない。[28)]

また、アフリカ系アメリカ人の詩人であるラングストン・ヒューズは、1945年8月18日付の『シカゴ・ディフェンダー』紙に寄稿したコラム[29)]において、架空の知人「シンプル」との会話として原子爆弾が日本に投下されたことについて次のように記している。

> 「もう人種関係の話をするのはうんざりだよ」と私の無邪気な友人（Simple Minded Friend」は言った。
> 「俺もだよ」と私は答えた。「じゃあ人間関係の話をしよう。」
> 「それについての心配って言えば...」とシンプルは言った。「あの新しい原子爆弾をみんなが互いに落としあったらもう俺たちに人間関係なんてなくなっちまうってことだよ。数マイルの範囲で人を殺しちゃうんだから、俺の人間関係なんて−もちろん俺自身も−あっという間に消されちゃうぜ。」
> 「誰もお前には落とさないよ」と私は言った。「俺らは遠くのアジアで落としてるんだよ。」
> 「けどさ、アジアがこっちに落とし返さないのかい？」とシンプルは尋ねた。
> 「日本人はおそらく原子爆弾を持ってないよ」と私は言った。
> 「じゃあなんで俺らはドイツに落とさなかったんだい？」とシンプルは私に問い詰めた。
> 「わかんないよ」と私は答えた。「多分V-Eデーまでに完成しなかったんだろ。」
> 「おい！違うだろお前」とシンプルは言った。「お前はよく知ってるはずだ。奴ら（They）はただあれを白人に使いたくなかっただけだろ。ドイツ人は白だ。だから奴らはヨーロッ

28）Du Bois［1945］.
29）Hughes［1945］.

パで戦争が終わるのを待って、色付きの人間（colored folks）に試したんだ。ジャップ［ママ］は色付き（colored）だからな。」

さらに、「全米有色人種地位向上協会（NAACP）」の事務総長であったW. ホワイトや「パンアフリカニストのアフリカ問題評議会（Pan-Africanist Council for African Affairs）」の会長であったP. ロウブソンは、第二次世界大戦終戦直後から新聞記事や演説等を通して、アメリカが製造した原子爆弾の原料にベルギー領コンゴ（現コンゴ民主共和国）産のウランが使用されていたことを指摘し、アメリカの政府と企業がウランの軍事使用を通してアフリカを植民地統治するヨーロッパ帝国主義から利益を得ていることを強く批判した[30]。

【図3】ガーナの夕刊紙『イヴニング・ニューズ』に掲載された「アクラ会議」参加者の顔写真（左列の一番上にC. ジョンソン、左から3列目の上から2番目に浜井信三の顔写真が掲載されている。）

［出典］*The Evening News*（Ghana）, 21st June 1961.

このように黒人権利回復運動を主導するアフリカ系アメリカ人の知識人たちの間では、すでに第二次大戦終戦直後から、原子爆弾が日本に対して使用されたことを人種主義との関連で捉え、その原料が植民地統治下に置かれていたアフリカのコンゴ産であったことを植民地主義との関連で認識する立場が一定程度共有されていた。そのため、フランスがアルジェリアで原爆実験を強行したという事実は、彼らにとっても人種主義と植民地主義を象徴する容認できない横暴であり、先に触れた「サハラ抗議隊」のみならず、アクラ会議にも複数のアフリカ系アメリカ人が参加した[31]のである。

30）Kinchy［2009］p. 295.

31）アクラ会議公式の論文選集に記載されている出席者一覧によると、アメリカからの参加者は合計22名（専門家4名とオブザーバー8名を含む）であり、そのなかで筆者が現時点で確認できている限り、少なくとも9名（【表3】で太字と下線で示している人物）がアフリカ系アメリカ人であった。さらに、独立直後から会議前年の1961年まで、参与としてンクルマの政策立案に関わったアフリカ系アメリカ人の人類学者のクレア＝ドレイクも、同会議に「アフリカ革命とアクラ会議」と題した論文を寄稿している［Sc MG 309/22/6］。なお、W.E.Bデュボイスも同会議には出席していたが、すでにガーナに活動の拠点を移していたことから、ガーナからの参加者として登録されており、その他J. メイフィールドなど組織委員会に

アクラ会議の開会日に演説をおこなったデュボイスは、人類にとっての唯一の希望は平和であり、「原子力と戦争は平和を不可能にするものである」と聴衆に訴えた[32]。オブザーバーとして同会議に出席していた「アフリカ系アメリカ人遺産協会（African American Heritage Association）」の当時の会長であったC. ジョンソン[33]も世界の人々は平和を希求しており、原子力は軍事目的に用いられるべきではないと主張した[34]。また、同じくオブザーバー参加のS. ジェイムズは、自らが企画した「平和のための人質交換（Peace Hostage Exchange）」の活動計画を同会議において発表した[35]。さらに、黒人至上主義運動（Black Power Movement）の中心人物の一人である作家のJ. メイフィールドに至っては、ンクルマに協力するためにガーナ に移住し、同会議の準備委員会及び大会事務局の一員として、論文集の編纂を担当した[36]。

3　日本人参加者から見た「アクラ会議」

(1)「アクラ会議」に参加した日本人

さらに先に触れたとおり、同会議には日本からも前参議院議員で平和運動家の高良とみと広島市長の浜井信三、広島大学教授で日本被団協理事長の森瀧市郎の3名が参加した[37]。浜井と森瀧の地元である広島の主要紙『中國新聞』の1962年6月1日号は、2人がアクラ会議の組織委員会からの招待状を受諾したことを報じた上で、彼らのコメントを短く掲載している。そこで森瀧は「平和な世界建設のための世界共同体倫理について提案したい。またこの機会にシュバイツァー博士に会って教えをこいたい」と述べ、浜井は「原爆がいかに悲惨なものか視覚に訴えるのがもっともよいと思うのでスライドを持っていく」と述べている[38]。

森瀧は6月10日に広島で開催された日本被団協第8回代表理事会において、アクラ会議への自らの参加について以下のように提案している。

参加していた者も上記の9名には含まれていない。

32）*The Evening News*［23 June 1962］.

33）彼女は「アクラ会議」終了後も、アフリカの植民地解放とアメリカの公民権運動に関する書簡をンクルマとの間で複数回やりとりをしている。1964年9月23日の書簡でンクルマは、「アフリカの解放のための闘いは継続されなければなりません。なぜなら、アフリカの解放は、世界中の黒人（black man）の解放であるからです」と述べている［RG/17/1/178］。

34）Intondi［2015］p. 58.

35）*The New York Times*［23 June 1962］。なおこの計画は、米ソによる核戦争に対する抑止策として、米ソ双方の一般市民を「人質」として交換するというものであった。

36）Mayfield［1963］.

37）なお、当時の新聞報道によると、同会議には湯川秀樹も招待されていたが、同氏は参加を見送っている。中國新聞［1962年6月16日］。

38）中國新聞［1962年6月01日号］。

「バクダンなき世界のための会議」又は「民間人による軍縮会議」とよばれるこの会議は、ガーナのエンクルマ大統領が英国のコリンズ僧正に相談して、民間の自由にものを考えられる立場の人を百人集めて開かれることになった。日本では、湯川博士、高良とみ女史、浜井広島市長と私とが招待されている。アジア、アフリカがイニシア［ママ］をとって、米・ソ両大国に対し自由な立場でものをいえる会議として期待できる。私の場合は被爆者であり、被爆の実相を訴えることによって討議の内容を深めることに尽したい。又英語版“生きていてよかった”をエンクルマ大統領に、日本被団協として寄贈し、南アフリカ［ママ］一帯の平和運動に活用してもらい、原水爆禁止、軍縮のための声を高めたいと思う。[39)]

森瀧の提案に対して、関東・甲信越地区代表委員の行宗一は「この会議は重要であり、森滝理事長がえらばれたことは被団協として愉快なことである。特に餞別として五万円を差し上げたいと思う」と述べ、森瀧の参加は「全員賛成」で決定された[40)]。

同年6月15日、広島を離れる両氏のために県知事をはじめ「広島市の幹部職員や平和運動家など約百人がつめかけ」、「折リヅルのレイをかけられた」両氏は、「バンザイに送られて元気に」羽田空港に向けて出発した[41)]。

広島市長である浜井の参加が決定したことについて、同会議事務局メンバーであったアフリカ系アメリカ人作家のJ. メイフィールドは、1960年5月30日付のガーナの夕刊紙『イブニング・ニューズ』に寄稿したコラムで次のように期待感を表している。

広島市長浜井信三氏のアクラ会議への参加表明は、日本人が意図的な原爆攻撃の唯一の被害者であることをあらためて我々に想起させる。. . . . ここアクラに集うことになる、浜井氏とその他多数の著名な会議出席者たちが、過去17年間我々に忸怩たる思いを強いてきたものよりも、より健全な道を世界の政治家や科学者たちに指し示すことができることを望んでやまない。[42)]

39）『被団協連絡』第50号、7頁。
40）『被団協連絡』第50号、7頁。
41）中國新聞［1962年6月16日］。また、アクラ会議への浜井の出席は当時の広島市の広報誌にも記載されており、出張に係る日程は「6月15日広島発、17日羽田発北極まわり、（途中ロンドンで一泊）20日アクラ着。アクラ発7月4日、10日頃東京羽田着」とされている。『広島市政と市民』1962年8月号、7頁。
42）*The Evening News*［30 May 1962］.

また、浜井の自伝によると、ンクルマも大統領官邸で浜井と面会し、「折鶴の会[43]」が制作した折り鶴で作ったガーナ国旗を浜井から手渡されると、「目をうるませて『遠くまでわざわざ出席していただいて、会議に一層の光彩を添えることができたことを心から感謝します』」[44]と告げたという。

アクラ会議における浜井と森瀧の演説は、メイフィールドが編集したアクラ会議の論文集に掲載されている[45]。第三委員会に出席した森瀧は自らの報告において、戦争による破滅的な被害を引き起こしてきた「力の文明」に代えて、人類は「愛の文明（civilization of Love）」を希求すべきであると主張した[46]。森瀧はアクラ会議への出席のためにアフリカを訪れた経験によって、開発途上地域と経済発展地域との間の経済的格差問題と平和問題との間に密接な関連性があることを強く認識させられたことを、後に著した自らの回顧録において振り返っている。その上で、彼は東西両陣営による核軍拡競争を批判し、「もし、共存を求めて東西が融和し、核軍備競争をやめることができたら、そしてもし、そこに費やされている莫大な資材・エネルギー・科学技術の努力が『南』の飢餓・病気・窮乏・文盲の解決に向けられたならば、『南北のアンバランス』の大半は解消されるであろう」と指摘している[47]。

森瀧が主張した東西両陣営の対立解消の呼びかけは、同会議における浜井の主張とも共鳴していた。浜井は閉会前日の夕食会の際、イギリスの核軍縮キャンペーンの創設者の一人でありアクラ会議の開催計画にも参与したジョン・コリンズから、「会議の発言は、どうしても国の立場や思想に左右されがちだが、その点、広島市民の考え方は、体験から来たもので明らかにそれを超越したものと思う。明日の最終日には一つ広島市長のあなたから、一言発言してもらいたい」と依頼され[48]、最終日に短い演説をおこなった。冒頭で、原爆の「罪悪を目撃し体験した広島市民」の代表として「この機会に広島のその後の状況を報告することは、私の義務」であると述べた浜井は、投下後17年経った当時においても依然として原爆症で苦しむ人々が多数存在する状況を紹介し、国連主導で核廃絶を早急に実現させるべきと主張した。その上で、「いまわれわれ人類は、沈みかけている同じ

43）同会は、広島に投下された原爆に被爆したことが原因で、中学1年生で他界した佐々木禎子さんの死を悼み制作された映画「千羽鶴」の制作関係者らが中心になって1958年6月に結成された［広島平和記念資料館ウェブサイト］。

44）浜井［2011］289頁。

45）一方、筆者によるこれまでの調査において、同会議において高良が演説もしくは発言をおこなったことを示す記録は確認されていない。

46）Mayfield ed.［1963］pp. 136-144. なお、森瀧はこの立場を「戦後の私の思索と行動の道筋」であると位置付けている。森瀧［1991］5頁。

47）森瀧［1976］80-81頁。

48）浜井［2011］288頁。

船に乗っている。船が沈みかけているのに、その船の中でイデオロギーの論争をしたり、物の奪いあいをしていても何になりましょう。どうか、世界の人びとがいまこそ、広島や長崎の犠牲者の切なる叫びに、謙虚に耳をかされるよう祈ってやみません！」と訴えた[49]。

8日間に及ぶ議論の末、アクラ会議は「原則宣言」を採択した【表2】。その前文において、宣言の署名者たちは、「戦争、武力攻撃、拡大主義、力に基づく政策、冷戦と軍拡競争、軍国主義、外国支配、植民地主義、および、軍事的・経済的圧力は全て時代遅れ（outmoded）ある」ゆえ、戦争という概念を拒否する、と宣言した[50]。同宣言に基づく諸勧告は、同年8月24日にジュネーヴ軍縮会議に提出された。当時の報道によると、勧告の主な内容は、速やかに国連の監督下に軍縮協定実施に伴う技術問題検討のための専門家委員会を設置することと、国際軍縮機関要員の募集の即時開始などであった[51]。そして、翌1963年に同会議の最終報告書[52]が出版された。

【表2】アクラ会議の原則宣言（一部抜粋）[53]

(1)	世界の平和は不可欠である。
(2)	平和維持のためには、経済的、社会的、政治的そしてイデオロギー的に異なる体制の人々の間の積極的な平和共存の政策が不可欠である。
(3)	国家間の紛争解決の手段としての戦争は廃絶されねばならない−紛争は平和的手段によって解決されるべきである。
(4)	全ての人々と民族は民族自決の権利を有する
(5)	全ての人々と民族は、平和に対する脅威を構成し、富裕な大国による貧困国の内政に対する政治的、経済的干渉を引き起こす、経済的、社会的不均衡を除去するために、自らの経済的資源を利用する権利を有する。
(6)	全ての国家の内政に対するいかなる干渉もなされてはならない。
(7)	戦争は人類の共通の敵である。
(8)	大国の中の一国家や一国家集団が平和を確保するための問題解決を実現することはできない。国際間の安全保障と協力を実現させるための唯一存在する機関は国際連合である。

(2)「アクラ会議」に対する評価

「アクラ会議」について、参加者やメディアからそのあり方に関して批判的な意見も提示されていた。第一委員会に出席したノルウェーの平和学者ガルトゥングは、同委員会の報告書に留保付きで署名すると主張した。彼は同委員会において、「一つの委員会で議論

49）Mayfield ed.［1963］pp. 160-161；浜井［2011］288-9頁。
50）Secretariat of the Accra Assembly［1962］p. 8.
51）朝日新聞［1962年8月25日］。
52）Secretariat of the Accra Assembly［1962］.
53）Secretariat of the Accra Assembly［1962］p. 8.

するには対象が広範でまとまりがなく、議論が曖昧で一般的なものとならざるを得なかった点は大きな誤り」であったと指摘した上で、今後この種の会議を開催する場合は「出席した多数の専門家の知見をより良く反映できるように、より特定の話題に関するより詳細な議論を可能とするよう準備することを望む」と要望している[54)]。

また、同会議がンクルマ個人の政治的目的によって開催されたのではないかという批判も存在した。イギリスの『ガーディアン』紙はアクラ会議終了後の6月30日に、ンクルマが同会議を自己顕示と自らの政権浮揚のために利用したことに対して同会議の共同提案者であったJ. コリンズが不満を抱き、ンクルマとの間に確執が生じていたと報じている[55)]。

一方、同会議の全日程に参加したノーベル平和賞受賞者のノエル＝ベイカーは、イギリスの『タイムズ』紙に寄稿した記事において、ンクルマとコリンズとの間に対立があったとする『ガーディアン』紙の報道を完全に否定している。その上で彼は、ガーナ政府が軍事費の1.5%を割り当てて同会議の開催を実現させたことを称賛した上で、「私はこの会議がガーナ政府の名声を高めることを望んでいる」とンクルマの行動を評価した[56)]。

日本から参加した浜井も、同会議を主催したガーナ政府について「各国が国防費のわずかな一部でも平和達成のために使うなら、その金で武器を買うより遥かに安全な道が得られるということを、ガーナ政府が実行して見せた」[57)] と評価している。浜井は日本に帰国後の7月15日に日本の報道陣の取材に対し「条件さえ整えば来年は広島市で開催してもよい」と述べ、アクラ会議との継続的な協力関係の構築に意欲を示した[58)]。

森瀧は「アクラ会議」の参加後、中部アフリカ・ガボンのランバレネでシュバイツァーと面会し、ロンドンでラッセルと電話で意見交換をおこなった後に日本に帰国した[59)]。森瀧は8月7日に広島の平和記念会館で開催された日本被団協第七回総会において、アクラ会議の参加報告をおこなった[60)]。「代表理事、理事合計36組織50名・オブザーバー多数」[61)]が参加した同総会における森瀧の報告は同会の会報に3ページにわたって掲載[62)]されてい

54）Secretariat of the Accra Assembly［1962］p.135.
55）*The Guardian*［30 June 1962］.
56）*The Times*［3 July 1962］.
57）浜井［2011］287-8頁。
58）讀賣新聞［1962年7月16日］。
59）『被団協連絡』第51号、15頁。なお、『被団協連絡』の同号（9頁）には、森瀧が帰国直後の7月15日に東京で開催された被団協・関東甲信越ブロック会議に出席し、「シュヴアイッアー［ママ］博士を訪れた感激、アクラ会議の模様など」を報告したとの記録がある。
60）なお、この被団協での森瀧の報告とは別に、浜井と森瀧が1962年8月31日に広島の平和記念館において報告会を実施する旨の告知文が広島県労働組合会議の会報に掲載されているが、その報告会が実際に開催されたのかについては現時点では確認できていない。『広島県労通信』第28号、9頁。
61）『被団協連絡』第52号、3頁。
62）『被団協連絡』第52号、37-39頁。

る。その中でまず森瀧は、「アクラ会議」について「何といってもアフリカ、アジア、ラテンアメリカからの参加者がその主体となったところに大きな特色があり」、「いわゆる後進諸国や新興国の人々が主体となって世界の平和を守るあらたな力として世界に向かって大きな発言力をもつに至ったものというところに、最も注目すべき特色」[63]があるとした。その上で、ンクルマの開会演説を「一つの歴史的な演説」[64]として評価し、植民地主義の撲滅なくして世界平和の実現はないとするンクルマの主張を受けて、「私は民族主権と植民地主義とのかっとうの問題が今日の平和問題で占める地位を身に応えて実感させられました」[65]と報告している。さらに森瀧は、「アクラ会議」への参加を通して、「アフリカ、アジア、ラテンアメリカの新たな平和のエネルギーがほとばしり出る最初の発端を得て、世界平和を守る力としてあらたな力がはっきりと自覚されたということは、世界の平和運動の歴史にとってのみならず、大きく世界史の上で注目さるべき姿だと痛感しております」[66]と報告を締め括っている。

「アクラ会議」を国際的な反核運動が新たな段階に入ったことを示す重要な事例として捉える立場は、当時の日本の言論メディアのなかにも存在した。例えば現代評論社の『現代の眼』1962年9月号は、同会議を報じるイギリスの報道を紹介した上で、「かつて弱小国と云われた国々が、新しい中立の理想をかかげ、平和のための第三勢力の役目をはたそうとしている。そして、かつて自分たちをさげすんだ『誤れる大国』の手綱をひきしめようとしているのは、単なる歴史の進歩としてだけでは片づけられないことである」と解説している[67]。

さらに、中國新聞社の『中國年鑑』昭和38年号では、1962年の平和運動が「かなり積極化した」とする具体的事例の一つとして、「アフリカのガーナ国アクラ市で六月に開かれた民間人軍縮会議」の存在が挙げられている[68]など、「アクラ会議」の存在は、被爆地広島のメディアにおいても、一定の認識を得ていたことが窺える[69]。

63）『被団協連絡』第52号、37頁。
64）『被団協連絡』第52号、38頁。
65）『被団協連絡』第52号、38頁。
66）『被団協連絡』第52号、39頁。
67）『現代の眼』第3巻第9号、84頁。
68）『中國年鑑 昭和38年版』、84頁。
69）なお、筆者によるこれまでの調査において、広島大学文書館に所蔵されている「大牟田稔関連文書」のなかに、アクラ会議におけるンクルマの演説全文の96枚に及ぶ手書きの邦語訳が含まれていることを確認している。「1962年6月21日アクラ会議（爆弾なき世界）開会式におけるエンクルマ・ガーナ大統領の演説」広島大学文書館［整理番号: OM050030270000］。大牟田稔は中國新聞社に入社後「一貫してヒロシマの諸問題と向き合った」人物とされている。大牟田［2009］41頁。

4　まとめにかえて

以上のように、1960年の「積極行動会議」に参加した高良や、1962年の「アクラ会議」に参加した浜井と森瀧はいずれも、ガーナでの体験を通して、脱植民地化期にあるアフリカの存在感の拡大と核兵器廃絶を求める確たる運動の存在を実感し、その動きが無視することのできないものであることを認識するに至った。高良や浜井、森瀧の経験は日本の新聞にも報じられただけでなく、森瀧らによる帰国後の報告によって、彼らの経験は日本の平和運動に関わる人々にも何らかの形で共有されたであろうことも確認された。

「アクラ会議」は1963年以降も毎年開催される予定であった。しかし、1963年以降、ンクルマ政権の経済政策の失敗などによる国内情勢の急速な悪化によって、2回目の「アクラ会議」が開催されることはなかった。一方、日本でもソ連の核実験に対する見解の相違による原水協の分裂に象徴される平和運動の政治化が顕在化したことにより、核兵器廃絶運動の影響力も限定的なものとなっていった。筆者による調査においても、3名の日本人の自伝や伝記等は除き、1963年以降「アクラ会議」に言及する日本側の資料の存在は確認されていない。

しかしながら、アフリカにおける核兵器廃絶に向けての取り組みは、「アクラ会議」の翌年に発足した「アフリカ統一機構（OAU）」が主導する形で継続されていく。翌1964年にOAUが採択した「アフリカの非核化に関する宣言（カイロ宣言）」において、アフリカ諸国は「国際連合の後援の下、核兵器を製造もしくは獲得しないための国際条約の締結に着手する用意があることを厳粛に宣言」した[70]。同宣言は翌65年の国連総会で承認され[71]、1996年のOAUによる「アフリカ非核兵器地帯条約（ペリンダバ条約）」の採択と2009年の同条約の発効へとつながることになった。

一方日本の状況は、1960年代後半以降の反核運動の停滞に加え、近年においても日本政府による「核兵器禁止条約」への不参加、さらに遅々として進まない東アジア地域の非核化の現状等に象徴されるように、アフリカにおける核廃絶の取り組みとその成果とは極めて対照的である。このような日本の停滞状況を生み出した諸要因の一端を究明するため、筆者は今後、同時期の日本の諸研究が「積極行動会議」や「アクラ会議」をはじめとするアフリカにおける核廃絶運動の萌芽期を目の当たりにした3名の日本人の経験を忘却するに至った要因や、彼らのアフリカでの経験がその後の日本やアフリカの核廃絶運動に与えた影響等についての検討を進めていく予定である。

70）OAU, AHG/Res.11（I）.

71）UN General Assembly, A/RES/2033（XX）.

【表3】アクラ会議の参加者[72]（*印は専門家、印はオブザーバーを示す）**

国籍	参加人数	参加者名
アフガニスタン	1	A. H. タビビ
アンゴラ	1	A. カシンダ
アルゼンチン	1	F. フェラーラ
ボリビア	1	A. セスペデス
ブラジル	2	M. Y. L. リニャレス、C. M. デ＝アルメイダ
ブルガリア	1	G. ピリンスキー
カナダ	2	C. S. バーチル、K. C. ウッドワース
チリ	3	A. リプシュッツ、L. オヘダ、 R. トミク
キューバ	1	A. N. ヒメネス
チェコスロバキア	3	J. フロマートカ、, V. ナップ、P. ウィンクラー
デンマーク	1	K. V. モルトケ
エクアドル	1	V. M. ズニーガ
イギリス	10+1**	S. O. アブドゥラ、J. コリンズ、A. グリーンウッド、J. ハート、R. R. ニールド、P. ノエル＝ベイカー、T. D. ロバーツ、J. ロートブラット、A. サラーム、W. ヤング、J. D. バーナル**
フランス	2	G. デッソン、H. マルコヴィチ
東ドイツ	1	G. ゲッティング*
西ドイツ	5	G. ブルクハルト、O. K. フレヒトハイム、H. ヘイドルン、H. クロッペンブルク、H. W. リヒター
ガーナ	6+3**	R. P. バッフォー、G. ビング、W. E. B. デュボイス、J. H. メンサー、E. C. クアイェ、I. Y. ウィルソン、S. アル＝ハッサン**、J. S. アミサー **、E. M. L. オディジャ **
ハンガリー	1	E. ジーク
インド	5	U. N. デバール、D. C. ラール、N. R. マルカーニ、S. ニーガム、S. M. シクリ
アイルランド	1	S. マクブライド
イタリア	4	L. バッソ、E. ボノーミ、G. フェルトリネッリ、C. グランディーニ
日本	3	浜井信三、高良とみ、森瀧市郎
ケニア	1	G. キアノ
マリ	1	M. ズボイェ
メキシコ	2	F. L. カマラ、E. G. ペドレロ
モロッコ	2	S. M. エル＝ファシ、M. A. A. エル＝ファシ
ナイジェリア	2	E. W. ブライデン、C. オビ
ノルウェー	2	V. オベール、J. V. ガルトゥング
パキスタン	4	H. アラーヴィ、A. K. ブローヒ、I. フサイン、S. K. H. カトラーク
ポーランド	1*	O. ランゲ*
ルーマニア	1	V. ノヴァチュ（Novacu）
セネガル	1	S. I. ニアス
シエラレオネ	3	バインバ3世、S. T. マットゥリ、I. T. A. ウォレス＝ジョンソン
ソマリア	1	W. J. F. シアド
スーダン	2	M. ベイリー、A. オベイド
スイス	4+1**	M. アーノルド、H. ブッフビンデル、K. デルベルク、J. ホール、W. クエンディッヒ **
チュニジア	3	A. アブデネビ、T. チェッリ、A. トリタル
アラブ連合共和国	3	I. H. アブデル＝ラーマン、N. G. バクーム、M. F. ガラール
アメリカ	10+4* +8**	G. A. ビーブ、**E. B. ディカーソン**、**C. B. グッドレット**、G. ハーシュフェルド、H. A. ジャック、J. メドロック、S. メルマン、**V. スペンサー**、G. ワトソン、R .ワトソン=ワット、**Z. ジョージ***、W. A. ヒギンボサム*、A. カッツ*、 J. J. ワズワース*、 **C. C. ハーヴェイ****、F. W. ハーリング**、**C. P. ホワードSr.****、**S. ジェームズ****、**C. ジョンソン****、 N. マミス**、E. マーティン**、**S. スパークス****
ソ連	4+4*	A. クージン、J. パレツキス、A. サディコフ、A. ツヴォルキン、V. A. フェドロヴィッチ*、F. I. コイェフニコフ*、M. A. ストウロワ*、J. M. ウォロンツォフ*
上ヴォルタ	1	J. キ＝ゼルボ
ヴェネズエラ	2	D. コルドバ、J. ヴィラヴェセス
ユーゴスラヴィア	3	L. モイソフ、J. スモーレ、I. シュペク

72）Mayfield ed.［1963］pp. 168-179に記載された名簿から筆者作成。なお、国名の掲載順は同資料に記載されたアルファベット順であり、太字と下線で示しているのは、筆者がこれまでに確認することができたアフリカ系アメリカ人の参加者である。

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Migration, Naturalisation, and the 'British' World, c.1900-1920

RACHEL BRIGHT*

Summary

This article explores the distinctly legal vagueness that underpinned citizenship and subjecthood in the British empire in the early twentieth century, drawing on examples from South Africa and Australia. Situating the administration of citizenship laws within a global context, this offers a revision of the current scholarship on the global 'color line'. The white 'color line' which developed within the British empire was less a shared legal system and more of a constant negotiation between different actors. Unlike other recent studies of citizenship and subjecthood, this is not an intellectual history. This, instead, is a close scrutiny of bureaucratic decision-making precisely because the system which flourished under British rule was designed to accommodate colonial discrimination by encouraging legal vagueness and executive privilege, allowing considerable space for official and unofficial influence. By focusing on liminal groups (Jews in South Africa and women in Australia), it illuminates how a 'British' world was constructed, who was included and who excluded from this process, and how this process unfolded, especially concerning issues of race and gender.

I Introduction

The flow of people, ideas and goods has been of central import in the scholarship of the British world. The question of what exactly was 'British' about a British world has remained elusive, however, as discussed by Andrew Dilley and myself elsewhere.[1] Today, I want to explore the legal, social and racial issues surrounding citizenship in the empire, and how these worked in practice in order to better answer this question.

This article examines this issue within two colonies: Australia and South Africa, exploring the degree to which the growing numbers of laws and bureaucracy meant to control migration and naturalisation shaped both the construction of a system of migration control, and how wider ideas of Britishness were constructed and imagined. This can help us better understand the power dynamics within empire, politically and socially, and the ways people imagined who belonged and who did not.

I situate this research within recent scholarship portraying the global history of migration control, especially during the nineteenth and twentieth century 'Age of Migration'.[2] Thanks

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1 Bright and Dilley, 'After the British World', pp. 547-568.

2 Torpey, *The Invention of the Passport*; Doulman and Lee, *Every Assistance & Protection*; Singha, 'The Great War and a "Proper" Passport for the Colony; Stepan, *'The Hour of Eugenics'*; Kraut, *Silent Travellers*; Donnan

to this recent scholarship, it seems impossible to dispute now that the development of our modern system of migration control, and the international laws which frame it, was a global process, and the US, Canada, South Africa and Australia were key to its development.

As settler societies dependent on migration, they were at the forefront of wanting to regulate that migration, to be able to distinguish between good and bad migrants. The creation of this system has been famously called by Lake and Reynolds the 'global color line', set up by European settlers who wanted to exclude Asian migrants from 'white' colonies. The 'color line' was the legislative framework created by white settler societies who wished to protect their privilege through excluding other 'colors' of people (a commonplace colloquialism at the time for other 'races') from a range of rights, including migration, citizenship, and suffrage.[3]

In showing us what these systems had in common, (namely a focus on white identity), the significant differences in practice have become obscured.[4] Laws can be interpreted in many different ways, however carefully worded. Part of my argument today is that such a focus on a white settler colonial world of exclusion ignores this, and ignores the distinctive British legal system which had developed. Settler colonies were not sovereign like the US, and had a significantly different legal tradition. Adam McKeown has described a migration system in the US where specialists created 'an orderly and impersonal procedure based on clearly stated law and scientific inquiry' which was 'applied equally to all migrants', even if those laws were fundamentally racist, sexist and classist.[5]

In contrast, within the British system, '"much is left to tacit understanding."'[6] Most laws have evolved over hundreds of years and involve a variety of quite contradictory precedents.[7] This vagueness has been particularly evident when it comes to any discussion of nationality: before 1948, there was no such thing as British citizenship. This meant that many of the ways it was decided who was British legally depended on common law, court decisions, and the individual interpretations of officials at any given time. Each part of the empire had their own legal precedent and their own naturalisation laws. Usually anyone born on British soil (including the colonies) was legally a subject of the Crown. The monarch would protect the subject in exchange for loyalty and possible military service. The only rights clearly defined for British subjects in Britain were the right to own land, inherit property, or sit in Parliament, but this male only affected the tiny number of subjects with property, and this did not automatically apply abroad or in the colonies, where different laws evolved. Citizenship did not exist, although the term was used frequently by contemporaries. The British state was hardly recognised in this relationship.

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and Wilson, *Border Identities*; Caplan and Torpey, eds., *Documenting Individual Identity*; Fairchild, *Science at the Borders*; McKeown, *Melancholy Order*; Lake and Reynolds, *Drawing the Global Colour Line*; Castles and Miller, *The Age of Migration*; Robertson, *Passport in America*; Breckenridge and Szreter, eds., *Recognition and Registration*; Bashford, ed., *Medicine at the Border*; Taylor, 'Immigration, Statecraft and Public Health'.

3 Lake and Reynolds, *Drawing the Global Colour Line*. They borrowed this term from W. E. B. Du Bois, *The Souls of Black Folk* (1903).

4 Bright, 'A "Great Deal of Discrimination Is Necessary"'; Bashford and Gilchrist, 'The Colonial History of the 1905 Aliens Act'.

5 McKeown, 'Ritualization and Regulation', p. 399; McKeown, *Melancholy Order*, pp. 268–291.

6 Henry Sidgwick, *Elements of Politics* (1891), p. 548, quoted in Bell, *The Idea of Greater Britain*, p. 103.

7 The best overview of the laws and precedents affecting naturalisation can be found in Karatani, *Defining British Citizenship.* See also Dummett and Nicol, *Subjects, Citizens, Aliens and Others*, pp. 3-4, 59; Dummett, 'The Acquisition of British Citizenship', p. 75; Clarke, 'Citizenship and Naturalization', p. 320; Muller, 'Bonds of Belonging', p. 32; Anderson, 'Britons Abroad, Aliens at Home'; Baldwin, "Subject to Empire', pp. 522–556; Fahrmeir, *Citizens and Aliens*; Kettner, *The Development of American Citizenship*; Kim, *Aliens in Medieval Law*; Sen, "Imperial Subjects on Trial'.

Adding to this mix was the fact that all colonial governments had the centuries-old right to naturalise aliens within the colony. Subjecthood anywhere in the British empire was always about declaring allegiance to the Crown - so people were either born under the Crown, and so had a 'natural' duty of allegiance to the Crown, or they could choose allegiance through the process of naturalisation. An alien migrant could be naturalised in Britain or in any colony, provided they met whatever local requirements existed, and local requirements varied considerably. For instance, in New Zealand, no residency was required before applying for naturalisation, while in Britain, an alien had to wait five years before applying.

Such legal vagueness and inconsistency caused little controversy until the early twentieth century. As universal suffrage and the welfare state spread, so the rights people associated (or wanted to link) with subjecthood became significant areas for debate. This particularly focused on what the relationship should be between being a subject and having rights, such as the right to vote or move freely within the empire. As migration and communication increased, the disparate ways these issues were addressed in different places also became more evident.[8] Canada's naturalisation act was unusual in specifically stating what rights were associated with local naturalisation (as in Britain, this largely related to property ownership and inheritance), but most other colonies had not directly addressed the matter at all, simply acting as if Britain's legal system applied in their colony (even when this was not clear).[9] For instance, Australia's Naturalization Act (1903) and Nationality Act (1920) did not specify how 'natural born British subject' was defined, nor did they make clear what the rights or duties were for any subjects, naturalised or 'natural born'. Such ambiguities could lead to considerable differences in practice.[10]

The general public most commonly assumed that subjecthood granted the right to travel anywhere unrestricted throughout the empire.[11] In practice, while British subjects were rarely prevented from entering Britain itself, British subjects were regularly prevented from travelling between different parts of the empire.[12] Indeed, while scholars have frequently depicted the rise of migration controls in the twentieth century as marking the death of laissez faire movements, recent revisionist scholars have recognised that such migratory openness was perhaps always more of an idea than a practice.[13] To take an example from my own research in South Africa, it was common for people naturalised in Britain to be excluded. In 1911, a 'Mr and Mrs Otto were refused admission because Mr Otto was indisposed', despite the fact that both had been 'naturalized in England.'[14] In another case, a man naturalized in the neighbouring Transvaal found that his eleven year old son was denied the right to pass through the Cape because he had 'a cut lip'.[15] This was despite

8 British Parliamentary Papers, Cd 3524, Papers laid before the Conference, Enclosure 4 in No. 1, M. D. Chalmers, Law of Aliens and Naturalization Bill, Memorandum, November 1902, pp. 142, 146.

9 Dummett and Nicol, *Subjects, Citizens, Aliens and Others*, p. 76.

10 See Rubenstein with Field, *Australian Citizenship Law in Context*; Davidson, *From Subject to Citizen*; Chesterman and Galligan, *Citizens without Rights*; Chesterman, 'Natural-Born Subjects?', pp. 30-39.

11 British Parliamentary Papers, Cd 3524, Papers laid before the Conference. Enclosure 4 in No. 1, M. D. Chalmers, Law of Aliens and Naturalization Bill, Memorandum, November 1902, p. 143; see also Haycract, 'Alien Legislation and the Prerogative of the Crown', *Law Quarterly Review* (1897), pp. 165-186; Cd.1742, Royal Commission on Alien Immigration, Report, pp. 35-36.

12 There were exceptions to this rule, however. See the restrictions placed on West African men married to British women in the twentieth century in Ray, *Crossing the Color Line*.

13 Fahrmeir, *Citizens and Aliens,* p. 3; Maclean, 'Examinations, Access, and Inequity within the Empire', p. 115; Gammerl, 'Subjects, Citizens and Others', pp. 523-549.

14 UCT, BC 160, Morris Alexander Papers, 'Immigration', 5 August 1911, passenger from "Bon Louis".

15 UCT, BC 160, Morris Alexander Papers, 3.D63/499, 10d: 'the Trintapel[?] Castle 20 Aug. 1911'; pencilled above 'cut' is 'split'.

Union in 1910, as a common law uniting the naturalisation policies of the separate South African parts was not agreed until 1913. Such cases reflect the lack of reciprocal recognition of naturalisation across the empire, as well as the anti-Semitism of the border system in the Cape at the time (I shall discuss this more later).

One significant problem with the naturalisation law which developed, and which these cases highlight, was the lack of clarity about whether an alien naturalised in one part of the empire was naturalised outside of that territory as well. A 1669 court case ruled that colonial law only applied within the colony, but various laws and rulings at different times reached different conclusions about whether British naturalisation law applied in the colonies.[16] Such vagueness meant that being 'British', even in a legal sense, meant very different things in different parts of the empire, and that decisions on specific cases often reflected broader social constructions of citizenship.[17]

I use Linda Bosniak's formulation here, that citizenship needs to be thought of as several different things: a legal status, a system of rights and duties, and a form of group identity.[18] It is also essential to understand this within the context of the growing historiography about the creation of ideas of Britishness in the eighteenth century onwards, most notably Linda Colley's *Britons*.[19] In it, she explained that, from the legal creation of Britain in 1707, the public used and identified with the label of being British in many different ways, and only gradually came to adopt it.

My research will show, when dealing with applicants for naturalisation, there was no clear definition of Britishness provided, but that the question implicitly pervaded decision-making. Looking at the naturalisation of aliens within Britain's settler colonies puts a spotlight on people whose position within a 'British' world was always marginal - if they were British, they would not have to be naturalised. Often their claims to whiteness, or to being desirable migrants, were also marginal - they were Germans, French and other Europeans on the whole, but there are also Japanese, Chinese, Egyptian, Lebanese, Syrian, Turkish, and Pacific Islanders within their ranks. It lays bare the liminal spaces of identity and belonging within settler societies and challenges the dominance of the *British* migrant experience (e.g. migrants from Britain) within existing British world scholarship.

In the empire, the myriad identities of migrants and indigenous groups have complicated the political identification of residents even further, a situation exacerbated by a lack of clear constitution outlining who was and who was not British, nor how the label could be acquired or removed. Naturalisation law and bureaucracy was meant to assign legal status, but it was also tied to different rights and duties (real and imaginary) and to broader ideas of race, class and other aspects of group identity. This tension did not lead to Britain or its colonies developing a legalistic bureaucratic machine, as has been described as developing in the US. Instead, because settler colonies wanted to exclude Asians but Britain did not want to sanction overt racism against Indians (who were British subjects) or against Japanese (who were allies), Britain encouraged a deliberate vagueness in legislation,

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16 *Craw v Ramey* (1669), Vaugh. 274, 124, E. R. 1072, quoted in Dummett and Nicol, *Subjects, Citizens, Aliens and Others,* p. 76; The British National Archives (TNA), HO 45/10489/112229: Aliens, Bills and Acts, Naturalisation: Under Sec of State, Foreign Office, to Under Sect of State, Colonial Office, 2 October 1903. See also *Markwald v. Attorney-General,* Chancery Division, 1920, Vol. 1, pp. 348 and 370, quoted in John Chesterman, 'Natural-Born Subjects?', p. 33; Clarke, 'Citizenship and Naturalization', p. 321.

17 Muller, 'Bonds of Belonging', p. 53.

18 Bosniak, 'Citizenship Denationalized'. Psychologists have differentiated further by pointing out that group identity and individual identity may overlap, or even contradict, and are not necessarily the same thing. See Condor, 'Towards a Social Psychology of Citizenship?'; Rubenstein with Field, *Australian Citizenship Law*.

19 Colley, *Britons*.

perpetuating wider constitutional vagueness about citizenship, rather than clarifying it.

To take one example of how different conceptions of citizenship could affect what happened, consider the debates surrounding the writing of the Australian constitution. There one attendee perfectly illustrates the ways that contemporaries used 'subject' and 'citizen' to mean many different things:

> 'it would simply be monstrous that those who were born in England should in any way be subjected to the slightest disabilities. It is impossible to contemplate the exclusion of natural born subjects of this character; but on the other hand, we must not forget that there are other native-born British subjects whom we are far from desiring to see come here in any considerable numbers'[20]

Here, distinctions were made between 'natural-born' subjects, described interestingly as 'English' and not 'British', and 'native-born' subjects who were technically British subjects but should not be allowed to migrate into the country. The example of Hong Kong 'Chinamen' and Indians were the most common in such debates; people who were technically British but somehow were not really British. It was exactly the difficulty in defining how to draw the line between the two that led Australian politicians to deliberately *not* define colonial citizenship in the final version of the Constitution, nor did the eventual 1903 Naturalisation Act (or subsequent acts) entirely clarify the matter. Instead, who was entitled to citizenship, as well as the rights and duties associated with citizenship, was left to inference by individual bureaucrats, government ministers, and occasional judicial review.[21]

The most famous and arguably the most influential law to do this was Natal's 1897 Immigration Restriction Act, more commonly known as the Natal Language Test. It allowed border officials to implement a literacy test in any European language to anyone arriving at a port. In other words, they could decide whether someone looked desirable and impose a literacy test if they wanted to keep the potential migrant out of the colony. At the 1897 Colonial Conference, Britain's Secretary of State for the Colonies, Joseph Chamberlain, pushed this language test as an acceptable model of migration control. Although neither he nor the Natal governor (who devised it) denied that it was formulated to keep out Asians, they could still deny accusations that it racially targeted them. While this legislation was not universally popular, all of the settler colonies adopted versions of it.[22]

Less analysed by scholars was a concession made by Chamberlain at the same meeting, concerning executive privilege. The New South Wales Prime Minister, George Reid, had asked whether 'power should be given to the Governor in Council at any time to exclude any person or class of person… an executive power, which would be exercised with discretion', and was specifically described as a kind of 'common law.'[23] While Chamberlain showed reluctance at the time, subsequent colonial laws were allowed to contain clauses about executive privilege. This meant that the executive could always decide to grant or

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20 Australian *Record of the Debates of the Convention* (Melbourne, 1898), vol V, p. 1760, quoted in Rubenstein with Field, *Australian Citizenship Law*, p. 52.

21 For a full breakdown of these early debates, see Rubenstein with Field, *Australian Citizenship Law*, esp. pp. 50-54. She has argued that this lack of definition remains today in Australia, meaning the rights and duties associated with it are equally unclear in the most recent Australian Citizenship Act (2007).

22 See Bright, 'Asian Migration and the British World, 1850-1914', pp. 128-149; Huttenback, 'The British Empire as a "White Man's Country"', p. 111; Lake, 'Translating Needs into Rights', p. 203.

23 UK Parliamentary Papers, Cd8596, 1897 Colonial Conference, London Proceedings, p. 139.

withhold naturalisation for anyone on any grounds, and did not have to provide a reason.[24] Naturalisation applicants in settler colonies found it almost impossible to appeal any decisions as power rested with the executive, and no reason had to be given for refusal.[25]

These types of laws, which put so much power in the hands of executive privilege and bureaucratic decision-making, shaped a distinctive migration system. Subsequent legislation embraced this method, and discriminated increasingly on the basis of 'morality', 'health', wealth, and other very flexible categories, often left to border officials to interpret.[26] Vague legislation like this meant that Greater Britain could simultaneously promote their unity on migration matters, what Ratiki Karatani has called the 'common code'[27], while excluding whomever they pleased.[28] This code, of course, operated differently in each colony, precisely because the 'code' that developed was developed to be vague. While important to recognise the overlapping push for a 'global color line', in practice, it is crucial to recognise how different such systems could actually work, and the ways this fed into wider debates about citizenship.

Even when governments attempted to be specific, the restrictions on explicit racism led to further confusion and inconsistency. For instance, in Australia, the Commonwealth Franchise Act of 1902 excluded any 'aboriginal native of Australia, Asia, Africa, or the Island of the Pacific except New Zealand' from ever voting, or applying for naturalisation.[29] They were not allowed to specify race, only geography, but this in turn led to endless debates about the boundaries of continents. Most famously, Turkey was divided by the Bosporus River, with residents to the West deemed acceptable European migrants and those to the East banned. Those in 'Syria', a generic name for the territory south of Turkey until somewhere around Jerusalem (the exact boundaries were inconsistently imagined by different people), were occasionally allowed in and even naturalised, but on other occasions they were labelled Asians or Africans and banned from migration and naturalisation accordingly.[30]

We need to understand then the white 'color line' which developed within the British empire as less a shared legal system and more of a constant negotiation between different actors. Robin Cohen's phrase, 'frontier guards', works well at helping conceptualise these actors as any person or even a movement that seeks 'to influence the ideological and legal parameters of nationality, citizenship and belonging', to decide who to include and who to

24 UK Parliamentary Papers, Cd8596, 1897 Colonial Conference, London Proceedings, p. 140.

25 For example, the Australian Naturalisation Act (1903), Section 7: 'The Governor-General in Council, if satisfied with the evidence adduced, shall consider the application, and may, with or without assigning any reason, in his discretion grant or withhold a certificate of naturalization, as he thinks most conducive to the public good.' Conversely, executive privilege was used frequently during the First World War in Australia to grant German women naturalisation, despite 'enemy aliens' being banned from applying. See Bright, 'Women's Naturalisation in Australia during World War I', forthcoming.

26 Huttenback, *Racism and Empire*; Martens, *Empire and Asian Migration*; Lake and Reynolds, *Drawing a Global Colour Line,* pp. 125–132; McKeown, *Melancholy Order*, pp. 185–214. Britain referenced this legislation when passing their own first migration control legislation in 1905; see Bashford and Gilchrist, 'The Colonial History of the 1905 Aliens Act', pp. 409-437; TNA, HO 45/10489/112229/18: Aliens, Bills and Acts, Naturalisation, Elgin Circular to self-governing colonies, 14 December 1906.

27 Karatani, *Defining British Citizenship*, pp. 70-83.

28 Bright, 'A "Great Deal of Discrimination Is Necessary"'.

29 TNA CO 885/19/7: Sir Charles Prestwood Lucas, 'Native races in the British empire. Memorandum.' This deals with the position and rights of the indigenous populations of Crown colonies, self-governing colonies and protectorates, 31 December 1907, p. 2. See also Chesterman, 'Natural-Born Subjects?' p. 32.

30 See, for instance, National Archives of Australia (NAA): A1, 1904/9135, M. Betro (1904); A1, 1912/18004, Salma Betros (1905); ST1233/1/0, N6777, Rachel Nasser (1916-28); ST1233/1, N2930, Mrs Freda Abraham (1916-25); A1, 1906/6969, Revocation of certain Naturalization Certificates, Confidential letter, Atlee Hunt to P. J. McDermott, Under Secretary, Chief Secretary's Office, Brisbane, 22 May 1905, pp.35-36.

exclude.[31] Examining how such frontier guards imagined citizenship and administered the systems of naturalisation helps illuminate much about how contemporaries understood their world and their place in it, and will make up the bulk of the rest of this article.

Unlike other recent studies of citizenship and subjecthood, this is not an intellectual history[32]. The popular political and intellectual theories underpinning the global colour line do share many features, as several recent histories have emphasised.[33] This, instead, is a close scrutiny of bureaucratic decision-making precisely because the British legislative vagueness was so important.

I have chosen South Africa and Australia as case studies for several reasons. They were important in shaping the 'global color line'.[34] Senior bureaucrats left private papers, which can be combined with very thorough official migration and naturalisation files to gain a much clearer sense of the negotiations which shaped migration in practice.

A similar process would probably be evident in Britain itself and would be of great interest but Britain has historically done a poor job of preserving records for migrant entry and naturalisation.[35] And while this issue of naturalisation and law also fed into questions of legal sovereignty, and did affect the eventual development of separate citizenships (first in Canada in 1946) this is not my primary focus today.[36] Precisely because of the vagueness of the laws, it is clear that broader social ideas of citizenship bled into how laws were implemented, thus giving administrators and policy-makers as well as external agents the opportunity to influence who the state recognised as legal subjects, and who were granted rights.

You may notice some slippage between naturalisation and migration throughout this article; this is because any focus on naturalisation laws must also take into account migration laws. In both Australia and South Africa (and throughout most of the world at the time), the same departments governed both initial migration and later naturalisation. These bureaucracies were primarily designed to enforce any exclusion at the port of entry (and in South Africa, there were virtually no border checks on their land borders with other African colonies until the 1920s).[37] Neither put much effort into recording or policing migrants once they had arrived within the country until after WWI. Passports were also quite rare until after WWI. For instance, the total number of passports issued to Australian women before 1914 appears to be less than 20.[38] Fundamentally, while there was a recognition that naturalisation was quite important, and the laws often attracted considerable attention, the administration of those laws was almost always of secondary concern, and both administrations seem to have depended on external bodies (individuals, charities, even shipping companies), to help police the system, rather than doing much active policing themselves. This meant that the number of people who could shape the system was considerable.

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31 Cohen, *Frontiers of Identity,* p. 2.

32 Bell, *The Idea of Greater Britain*; Behm, *Imperial History and the Global Politics of Exclusion*; Gorman, *Imperial Citizenship*.

33 See footnote 3.

34 Castles and Miller, *The Age of Migration*; Caplan and Torpey, eds., *Documenting Individual Identity*; Lake and Reynolds, *Drawing the Global Colour Line*.

35 Gammerl, 'Subjects, Citizens and Others', pp. 532, 542; Farhrmeir, *Citizens and Aliens,* p. 93.

36 Karatani, *Defining British Citizenship,* p. 40.

37 See Hyslop, 'Oceanic Mobility and Settler-Colonial Power', pp. 248-267; MacDonald, 'Colonial Trespassers in the Making of South Africa's International Borders'.

38 According to a search in the NAA database for passport applications from females, July 2019.

II South Africa

In South Africa, I want to start with the colourful Clarence Wilfred Cousins (1872-1954), who ran the Cape migration office from 1905 until 1915, as Chief Immigration Officer, before being appointed the Union's head of migration until 1922. In addition to official records, he left extensive letters and diaries, and even a memoir.

Cousins' chief responsibility was to create a paperwork system for processing all migrants and to train and supervise his staff. This included the implementation of the language test, and a range of other laws and regulations. The Cape 1906 Migration Act, for instance, banned anyone suffering from one of a range of medical or pseudo-medical conditions, including 'idiots'.[39] Similarly, when South Africa passed its first national Immigration Exclusion Act in 1913, it banned the 'diseased' and 'disabled', and could also exclude anyone on 'economic grounds' and 'habits of life'. These terms were kept deliberately vague by the government to ensure (successfully) that Britain did not interfere, and anyone could be excluded in practice.[40]

Politicians in South Africa perfected such vague legislation, and Cousins clearly embraced the power this gave him personally. Cousins wrote extensively about his work in a private diary and long letters to family, making it clear that his personal identity was linked to his migration work, (although it is worth noting that this rarely accompanied any statements about Britishness or South Africanness). He frequently framed his work, and his own identity, as being a 'custodian of the gate' for white colonials. In this respect, it is worth noting that he was himself an immigrant: born in Madagascar in 1872 to a missionary father (employed by the London Missionary Society) and educated in Oxford before attending the university, where he studied modern history. His career hopes were dashed, however, when due to family finances, he had to find work before completing his degree. Like many before him, the colonies offered a solution, and he arrived in Cape Town in 1896, where he worked in a variety of government departments before running the Migration Office.[41]

Cousins's writings reveal two overriding concerns: keeping out 'Orientals' (a group which included Chinese, Indians, and Jews, but apparently not Japanese), and helping young 'English' women. When a woman arrived to join a husband who had deserted her and landed in jail, he considered excluding them as undesirable migrants, but decided that, as they were English, he would 'giv[e] them every chance'.[42] On another occasion during the war, a young English girl, 'clearly a nice girl, well-educated, and a lady' arrived in Cape Town, sent by her mother to marry a local man, but Cousins suspected something closer to white slavery (although that term was not used by him). The man who came to collect her produced a letter from the mother, giving permission for her daughter marrying '"any of your old pals" as long as he had plenty of money and would be kind to the girl.' This put Cousins in a dilemma. The letter from the mother seemed to make everything legal, but it also seemed to indicate human trafficking, a child sold by her own mother and sent alone to South Africa for, at best, marriage, and, at worst, prostitution. He eventually persuaded her to travel back to her mother in England. Although he was concerned about her fate with her 'horrid mother', it was the best he could do, and he used considerable

[39] See the *Annual Reports of the Immigration Restriction Department in the Cape* (1902–9); Dhupelia-Mesthrie, 'The Form, the Permit and the Photograph', p. 7 for detailed residency requirements, and how it was used to exclude Indians.

[40] Peberdy, *Selecting immigrants*, pp. 39, 47, 51; Saron, 'Jewish immigration', pp.101–102.

[41] University of Cape Town Archives (UCT), BC1154, C. W. Cousins Papers, E4.

[42] UCT, BC 1154, Cousins Papers, A4.1.3, Diary, 29 April 1913.

time and effort, and some of his own money, helping the girl 'escape' her fate in South Africa.[43] She was not an unusual case, with his letters and diaries full of cases of young 'English' women in distress and his own efforts to save them.[44] The growing administrative body, overseen by Cousins spent considerably energy protecting such women and excluding 'undesirables'.

One of the notable features of Cousins' oversight was his faith, not in documentation, but in the ability to 'see' whether migrants were desirable. Cousins was frequently explicit in explaining how personal encounters were more important than the actual paperwork:

> 'There are of course other things to look for than signatures to declarations or answers to stated questions. The experienced officer has for example to possess an instinct of all sorts of possible disqualifications which the passenger's papers will not reveal.'[45]

He noted with approval when an Immigration Officer detained 'a young London Jew' because he 'did not like the look of him'.[46] The law and Cousins both encouraged migration decisions based on the 'look' of arrivals. If they saw someone they thought 'looked' wrong, they were encouraged to use the laws creatively, as described earlier concerning naturalised British Jews. Conversely, if he liked the look of English girls, he helped them.

It is worth emphasising here, however, the constant negotiation between different actors. While the law gave Cousins the power to enforce his anti-Semitic exclusionary desires,[47] the vague laws and executive power built into those laws meant others could also influence decision-making. One such person was Morris Alexander (1877–1946), a Jewish lawyer and member of Parliament. He frequently was the lawyer for Jews and Indians who wished to appeal migration decisions in court, and was an outspoken champion of racial equality in South Africa. In 1904, he co-founded a charity which sought to regulate and protect Jewish migrants, the Cape Jewish Board of Deputies, which became nationally amalgamated in 1912. He left meticulous records of everything he did.[48]

Now I want to draw attention to notes Alexander made during seven visits between June and October 1911, when he watched border officials at work on behalf of the Board. In Alexander's notebook, he documented 26 cases of suspicious rejections of Jews, almost all on medical grounds. In one case, 'a Mr Kaplan and his three children, already resident in [a] Johannesburg suburb, were refused entry because 'one eye of one child was defective.' On the same ship, 'Mrs Omdur & four children were stopped, because the one child appeared to be a little pale.'[49] Others were turned away on different days for being 'unclean', 'a dwarf', or being 'pale' or 'sickly'.[50] Many of these refusals on health grounds appear specious, or at least vague. Such were the concerns, the South African Jewish Board of Deputies subsequently employed a medical man to greet each ship and monitor

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43 UCT, BC 1154, Cousins Papers, B1.3, Monthly Family Letter from Cousins to England, 20 December 1914; see also 198-9, 1 November 1914; 278-9, 14 December 1914; A4.1.2, Diary, 5 August 1912; A4.1.3, Diary, 19 March 1913 and 21 October 1913 (2).

44 See Bright, 'A "Great Deal of Discrimination Is Necessary"'.

45 UCT, BC 1154, Cousins Papers, SC 16 – 1908, Report of the Select Committee on Asiatic Grievances (1908), p. 111, quoted in Dhupelia-Mesthrie, 'False Fathers', p. 108.

46 UCT, BC 1154, Cousins Papers, A4.1.3, Diary, 21 October 1913.

47 Peberdy, *Selecting immigrants,* pp. 4, 28. For more on 'contagion' and migration, See works by Alison Bashford.

48 Saron, *Morris Alexander*; Alexander, *Morris Alexander*; Mendelsohn and Shain, *The Jews in South Africa*.

49 UCT, BC 160, Morris Alexander Papers, D63/499, 10d – 'Immigration' booklet, 5 August 1911, passenger from "Bon Louis".

50 UCT, BC 160, Morris Alexander Papers, 3.D63/499, 10d – 'Immigration' booklet. See especially 20 August 1911, passenger from 'Trintapel[?] Castle'; Per Garth Castle, 11 September 1911. See also UCT BC 1154, Cousins Papers, A4.1.3, Diary, 19 March 1913.

refusals.[51]

The observational role of Alexander and his charity, however, does not just confirm discrimination by Cousins and the border officials under him. It was worth employing a medical man because they had personal networks which could be utilised to go over the head of Cousins and his staff. While it is difficult to identify specific cases where official decisions were reversed because of external pressure, Cousins complained regularly in his diary that Jews contacted his minister to exert such pressure.[52] The South African Board of Jewish Refugees claimed to engineer such changes of mind on multiple occasions.[53] By the time of Union, the Board worked closely together with authorities to protect and police the Jewish community.[54] This cooperation reflected the fact that both Indian and Jewish populations accepted that it was 'undesirable' to have unregulated migration and took on elements of self-policing as a way to protect existing residents from racism.[55] The Board did this in a far more semi-official capacity than Indians did, possibly reflecting their greater integration within the wider white settler society (however much people like Cousins wished to exclude them from the category of white). According to Alexander's memoir, this close relationship went back to 1904, (before Cousins was even hired), at the behest of the Colonial Secretary, Colonel Crewe. It is worth noting that when the Board was launched in the same year, their guest speaker was Alfred Milner, the Governor.[56] Those connections meant they could go over Cousin's head concerning admission at the ports, and once they had entered the colony, the Board had a virtual monopoly on deciding which Jews to support through the naturalisation process.[57]

So, here we have a legal system deliberately designed to be vague, allowing frontier guards (official and semi-official) to discriminate with regards to naturalisation and migration policy. Cousins hated Jews and sought to exclude them, but the Board proved largely effective in circumnavigating his power by forming semi-official partnerships with more senior government figures. It is also worth noting that Alexander, when fighting for the rights of Indians, Chinese, and Africans, proved far less effective, earning his label as

51 See Rabinowitz, 'From the Morris Alexander "Immigration" Notebook, 1911'. The office ran from 1914-15, closed due to the war, and reopened again in 1923 through the 1930s as a growing number of Eastern European Jews arrived.

52 See, for instance, UCT, BC 1154, Cousins Papers, A4.1.3, Diary, 19 March 1913.

53 Saron, *Morris Alexander,* p. 21. Some oral history suggests other prominent Cape Town Jews engaged in similar activities. See Schrire, *From Eastern Europe to South Africa,* pp. 33–34; Saron, 'Jewish Immigration', p. 101. This is part of ongoing research into the Board's archival records and those of official migration and naturalisation records.

54 Mendelsohn and Shain, *The Jews in South Africa,* p. 65; Cape Town Archives Repository (KAB): GH, 23/79, 127, application for admission to the Cape Colony from Mr. Von Sever, A Russian Jew; Transvaal National Archives Repository (TAB), PSY, 52, J7/00, 1900, political secretary to military governor: undesirables Jews not to be counted as class undesirables; TAB, GOV, 636, PS 6/04, Jewish Board of Deputies (1904); TAB, GOV, 803, PS 7/19/05, Jewish Board of Deputies (1905); Pietermaritzburg Archives Repository (NAB), CSO, 1727, 1903/2494, R. Levisohn, Honourary Secretary, Durban Hebrew Congregation, Durgan, Relative to the Landing of Person of the Jewish Persuasion at Durban; NAB, IRD, 19 IRD, 688/1903, Colonial Secretary: Deputation from Jewish Community; NAB, IRD, LEER, 91 IRD, 708/1911, Private Secretary, Minister of the Interior, Pretoria, correspondence with Sigried Raphaely, President of Jewish Board of Deputies; South African National Archives Repository (SAB), GG, 1306, 36/26, Exclusion of Certain Russo-Jewish Immigrants from the Union of South Africa; SAB, PM, 1/1/237, PM110/2/1913, Immigration: Jewish Board of Deputies; SAB, GG, 170, 3/3360, Defines SA Jewish Board of Deputies, Stating Objects, Forwards Report from 14 April – 31 March 1919; SAB, GG, 960 19/417, Governor-General: Resolution of Loyalty Passed by South African Hewish Board of Deputies (1920).

55 See *Indian Opinion* throughout the early 1900s; Saron, 'Jewish Immigration', p. 104; Mendelsohn and Shain, *The Jews in South Africa,* p. 44.

56 Alexander, *Morris Alexander,* p. 31.

57 Alexander, *Morris Alexander,* p. 32; The South African Jewish Board of Deputies Report, 1912-14, quoted in Saron, 'Jewish Immigration', p. 104; Mendelsohn and Shain, *The Jews in South Africa,* p. 60.

the champion of lost causes. The Board was able to wield such political power primarily because, as middle class men, they shared many of the same social and economic links, and 'shared interests and values, including empire loyalism and racial prejudice' with other powerful members of settler society, a social position which excluded other groups championed by Alexander.[58]

While explicit references to Britishness were rare, the question of belonging and nationhood were implicit throughout Cousins' and Alexander's work. Indians, Chinese, and Jews, from Cousins' perspective, were eternally sojourners and eternally dishonest, while English women needed rescuing by an English man. On the other hand, Alexander clearly believed strongly in 'British ideals', constantly referring to them in his various fights for the rights of British subjects in South Africa. Despite being a lawyer, he constantly appealed to inclusive, largely mythic, cultural ideas of the rights and duties of British citizenship. His memoir, completed and published by his wife after his death, explained that he saw naturalisation as a particularly important part of this process. He

> 'held the conviction… that it was the duty of everyone eligible for naturalization to become naturalized and to accept the responsibilities of citizenship. He believed that naturalization was a vital step towards identification with the immigrant's new country, and that it brought with it a new dignity and status, as well as a feeling of security.'[59]

Such imaginings of naturalisation had little to do with the specific laws in place, nothing to do with subjecthood to a Crown, or loyalty to Britain or South Africa. Yet these demonstrate competing ideas of group identity, civic responsibility, and race, all bound by the imagined rights and duties of citizenship. And vague legislation ensured that imagined rights and belongings could prove significant in shaping what actually happened in practice, who was included and who excluded.

III Australia

I do not plan to now offer a direct comparison with Australia. Rather, I want to show how similar laws were implemented in Australia. Specifically I want to show how a very different personality running Australia's system sought to develop a more legalistic and consistent approach (perhaps more like in the US), but ultimately he oversaw a system riddled with inconsistencies because of the legal and constitutional situation within the empire. In short, in South Africa the vagueness was embraced, while Australian bureaucrats tried to pretend the laws were clear, fair, and consistent (even when privately acknowledging that they were not).

The head of migration control from Federation in 1901 until 1916 was Atlee Hunt, an Australian-born and educated lawyer. While policing the border was Cousin's whole life, for Hunt, overseeing migration and naturalisation matters was a small part of his job. As head of the Department of External Affairs (DEA), his job included all broadly imperial or foreign policy matters for the federal government.[60] He took a less personal interest (perhaps he was simply more secure in his place within Australian society) and seems to have adopted a much more conservative attitude towards using his powers. When

58 Mendelsohn and Shain, *The Jews in South Africa,* p. 65.
59 Alexander, *Morris Alexander,* p. 32.
60 National Archives of Australia (NAA): A1, 1903/2284, Nature of work carried on by External Affairs Department, report by Secretary, Atlee Hunt, 23 April 1903.

confronted with a specific question about when to administer the language test to white passengers, for instance, he encouraged far less personal discrimination than Cousins had done: the test, he said, should only be applied if there was 'some specific reason… known to [the] officer why that course should be adopted' and made little effort to single out Jews or other groups (although he did tell border officials to always be suspicious of Chinese people's paperwork).[61] On another occasion, he expressed a liking for Japanese officials in Australia, but still refused to interfere in granting their wives visas, as he could have done. He explained:

> 'I do not intend to discuss whether or not we ought to wish to have these people here or not. My own view is that the law is a necessity of our very existence, but whether or not I concur in it is beside the question. The fact remains that the object of the law is to exclude certain classes of people from Australia, and eventually, by refusing to admit any more, to entirely free Australia from them.'[62]

Elsewhere, when discussing the thorny matter of German naturalisation during the First World War, he described his oversight of naturalisation to include 'a general obligation to see that the terms of the law are faithfully carried out', so did not think it would be fair to deprive already-naturalised Germans of that status.[63] In other words, he supported Asian exclusion and was suspicious of German-born migrants (regardless of whether they had been naturalised) but, unlike Cousins, did not think his personal views on the matter should interfere with the administration of the law.

This does not mean that discrimination did not occur, but that it was less systematic, lacking direction from a senior bureaucrat. Discrimination was especially evident when laws were vague (such as where the boundaries between Europe and Asia were). Women in Australia became a particular source of inconsistency, because naturalisation laws and the forms used for applicants assumed applicants were male. This meant that the forms opened up a variety of problems for both women filling in the forms and bureaucrats processing them.

If we look at the plight of married women, the problems become especially pronounced. In most countries around the world between roughly 1850 and 1945, a woman's nationality depended entirely on her husband's nationality. Married women were almost universally no longer citizens in their own country if they married an alien, and usually automatically adopted the nationality of their husband.[64] For instance, a British woman marrying a Japanese man would find herself no longer British, but Japanese.[65] (Censuses often adopted a similar recording mechanism, so that, when 'race' was recorded, wives were recorded as belonging to the same race as their husband.) Married women could not apply for naturalisation at all under British law. Both the 1870 and 1914 British Nationality Acts stated that people suffering from a 'disability' could not be naturalised; 'disability' included

61 NAA: J3116, 14, Alien Immigration – correspondence relating to arrival of SS Duke of Argyll, 25 January 1902 and an inquiry from a Customs Officer as to whether the Education Test is to apply to Europeans [White Aliens]. See also Atlee Hunt Papers, National Library of Australia, Series 14, MS 52/822, Hunt to Collins, 1 May 1912; MS 52/840, Collins to Hunt, 22 August 1912; MS 52/14/846.

62 Atlee Hunt Papers, MS 52/1313, Hunt to F. W. Foxall Esq., Japanese Consulate General, Sydney, 8 December 1908.

63 Atlee Hunt Papers, MS52/1517, Hunt to Mahon, 19 January 1916.

64 Irving, *Citizenship, Alienage, and the Modern Constitutional State*.

65 A Japanese woman marrying an alien would only lose her nationality if she acquired her husband's nationality, according to the Japanese Law of 1899. See Irving, *Citizenship, Alienage, and the Modern Constitutional State,* p. 109.

'married women, infants, lunatics, and idiots'.[66] Historians have generally assumed that this meant no married women could have applied successfully in Australia or anywhere else in the empire.[67] However, my current research shows that approximately 45% of all applicants in Australia were married women, and only a small handful had their applications rejected.[68]

The reasons for this are complicated. Until 1911, there was no dedicated space on the form to list a spouse or children, so sometimes administrators made women fill out forms for themselves at the same time as their husbands applied, while on other occasions women were told they did not need to do this.[69] In some cases, administrators knew that the husband had previously been rejected in his own right, but the wife was still successful.[70] In a few cases, administrators were clearly sympathetic to cases of desertion.[71] Most frequently, officials did not even ask why a married woman was applying, or the status of her husband.

The success of these women was not merely a matter of bureaucratic incompetence or indifference. In one 1910 case, the applicant, Alice Shong Kew Wong Sing, was born in Gympie, Queensland, to a Chinese father and 'English' mother, and had subsequently married a Chinese man who was ineligible to apply. She was applying because a local bank had insisted that she had to be naturalised before taking out a mortgage.[72] Despite her appearing to be exactly the sort of person not desired in Australia, (in fact someone pencilled 'Chinese' at the top of her application, showing how they identified her), she was successful. The files do not make it entirely clear why, but in her case, and several subsequent cases, especially involving women married to 'enemy aliens' during the War, being born in Australia (regardless of parentage), and being the mother of children born in Australia, seems to have been powerful factors in shaping their inclusion into the body politic. It is worth remembering that, theoretically, this certificate of naturalisation gave her access to the vote, to maternity cover and old age pension, and, of course, to securing a mortgage and an inheritance which she would otherwise be denied (at least in Australia; remember that naturalisation guaranteed no rights outside of Australia).[73] Perhaps, while her husband was forever Chinese, her life in Australia, and her role as a woman and a mother, and her own 'English' mother, meant that state agents thought of her as both less threatening and as more easily absorbed, or even conquered, by the dominant British culture of Australia.[74] Many German women granted naturalisation during World War One

66 Section 17 (1870): '"Disability" shall mean the status of being an infant, lunatic, idiot, or married woman'; Section 27 (1914): 'The expression "disability" means the status of being a married woman, or a minor, lunatic, or idiot'. See Irving, *Citizenship, Alienage, and the Modern Constitutional State*; Baldwin, 'Subject to Empire', pp. 522-556.

67 From Dutton, 'Women - Citizenship in Australia'. The Naturalization Act of 1903, section 9: 'A woman who, not being a British subject, marries a British subject, shall in the Commonwealth be deemed to be thereby naturalized, and have the same rights powers and privileges, and be subject to the same obligations, as a person who has obtained a certificate of naturalization.'

68 Based on all digitised NAA applications from females between 1901 and 1909, as of 13 November 2019. The database, once completed, will be freely available online at https://naturalisation.online/database/.

69 See, for instance, NAA: A1, 1912/6502, Margaretha Klose (1908); NAA: A1, 1905/83, Carolina Rurade (1905); NAA: A1, 1904/321, Gertie Wolper (1904). This was still a problem concerning women and children in 1939: NAA: A406, E1947/10, J. E. Stewart, Commonwealth Electoral Officer, Queensland, Memorandum, 13 December 1939.

70 NAA: A1, 1904/9341, Mary Joseph (1904).

71 NAA: A1, 1904/5299, Rose Lestrem (1904).

72 NAA: A63, A1910/4814, Alice Shong Kew Wong Sing (1910); See a similar example at NAA: A1, 1908/6179, Sarah Jane Karl, nee Wilson (1908).

73 NAA: A63, A1910/4814, Alice Shong Kew Wong Sing (1910).

74 See other examples from World War one, such as the files for Mrs. Fauvette Erdos, born to Portuguese

through executive power were able to do so by emphasising their position as mothers of Australian children, who in turn were contributing to the war effort, an appeal authorities did not accept from fathers.[75] It certainly appears that, probably due to gender considerations, female applicants were simply not scrutinised as closely as male applicants, what Michelle Langfield has referred to as the 'differential treatment of men and women' embedded within Australia's migration system.[76] This 'differential treatment' was not always reflected in specific legislation, but because laws were written by men for men; the application to women led to further confusion. The vagueness of legislation also meant that the system encouraged what we would now call unconscious bias in making decisions. Women were seen as less threatening and less important, and so received less scrutiny.

Both ministers overseeing the DEA and Attorney Generals changed rapidly during this period, with it rare for one to be in place for even two years. Their interpretations of the laws varied considerably and their rulings were not always widely disseminated. To take one example, in 1904, R. R. Janan gave the opinion that: 'Not being either natural-born or naturalized under the Act, she [a married woman] is not a "British Subject", and is eligible under section 5' to apply for naturalisation, a ruling confirmed in 1910 by a different Attorney General.[77] In 1906, however, Isaac A. Isaacs, the then Attorney General, gave a completely different ruling, that marriage itself could not take away a woman's 'British nationality', seeming to draw on older ideas of the inalienable status of subjecthood. Under his interpretation, British female subjects who married aliens did not need to apply for naturalisation at all, and 'should be given the benefit of the doubt, and be enrolled as an elector.'[78] He drew not just on British traditions of subjecthood but also on the *intention* of Australian constitution writers who had not included a clause about women and nationality.[79]

These legal Opinions were never publicly advertised by the government and seem to have been adopted haphazardly by various electoral officials and migration and nationality officials. Married women were never told they could apply for naturalisation. Indeed, other scholars have written about how women's groups championed the renaturalisation of British women who married aliens during this period.[80] Both contemporaries and this subsequent scholarship have been seemingly unaware of how easy being re-naturalised was. Still, in practice, if a woman applied in Australia, whether married or not, she was usually successful until 1916.

This changed after a revealing exchange between Hunt, a law professor friend of his, the Australian Prime Minister, the Australian Attorney General, and the Colonial Office in London. Starting in 1913, and again in 1914, 1915, and 1916, the Colonial Office wrote to

parents in Tasmania, and married to an Austro-Hungarian, described by her lawyers 'as British as anyone in character, sympathy and feeling'. NAA: A11803, 1914/89/84, correspondence concerning Mrs Fauvette Erdos; NAA: A1, 1916/12834, Fauvette Erdos; NAA: A401, Erdos. Further discussion of women's applications during World War 1 can be found in Bright, 'Women's Naturalisation in Australia during World War I', forthcoming.

75 See NAA: A1, 1917/14627, Schedule Showing Names of Germans Applying for Naturalization (Approved by Minister), pp. 7-14.

76 Langfield, 'Gender Blind?', p. 143.

77 NAA: A1, 1904/7646, Naturalization of Married Women in NSW, Opinion from the Attorney General, 29 August 1904, pp. 2-3. Confirmed in A63, A1910/7244, Naturalization British Women married to aliens, C. Hughes, Attorney-General, Opinion: Eligibility of a British Born Woman Who Has Married an Alien to Apply for a Certificate of Naturalization, to DEA, 7 November 1910.

78 NAA: A63, A1910/7244, Isaac A. Isaacs, Attorney General, Opinion: Franchise - British Woman Married to an Alien: Naturalization Act 1905, 29 March 1906.

79 He referenced Australia Parliamentary Debates (1903) Vol.14, p. 2200.

80 See Irving, *Citizenship, Alienage, and the Modern Constitutional State;* Baldwin, 'Subject to Empire', pp. 522-556.

Hunt to complain that married women should not be naturalised, as they were prohibited by British law. Never mind that the Home Office and Foreign Office kept telling the Colonial Office that it was not clear that British naturalisation law applied in the colonies, or what the relationship between its law and colonial law was. Despite this, the Colonial Office also complained that Australia's failure to charge a fee was another case of serious inconsistency within the empire, at a time when various imperial conferences were promising to try to move towards common naturalisation laws. This then led to a rather heated debate over sovereignty that was only quietly resolved in 1916 when Australia agreed to stop naturalising married women, in an apparent nod to the 'common code' they were supposed to strive to achieve.[81] These inconsistencies in Australia reflect some of the unintended consequences of legal vagueness, a vagueness which allowed positive discrimination on behalf of women until executive privilege led the minister to remove this right from married women in 1916. Pointedly, this was done without accepting the Colonial Office claim that British naturalisation law trumped Australian law and involved no actual change in naturalisation law.

It also reveals how social construction of citizenship meant women born in Australia, regardless of her parentage, received favourable treatment, and that a form of positive discrimination operated for women. This was never an intention of Hunt or others working with him. That women seem to have been allowed a far more racially inclusive version of subjecthood than men is all the more surprising in this context, given wider popular concerns about eugenics and miscegenation. Perhaps in a society which so often lacked female migrants, any married woman bearing children in Australia was a good migrant.[82]

IV Conclusion

These case studies show how the issue of naturalisation in the early twentieth century reflects the complex ways in which citizenship and subjecthood were constructed, problematised, and reconfigured. Because of the specific British legal and constitutional context, how these things were imagined really mattered. It is perhaps unsurprising that the people most susceptible to discriminatory practices under the naturalisation laws which existed in the empire were people whose claim to whiteness or Europeanness were debatable (such as Russian Jews or Syrians), or women, since the system was designed largely to accommodate men. The vague laws were fostered, not just to accommodate colonial racism, but were part of a much longer legal and constitutional tradition within Britain and its empire.

As settler colonies introduced new rights and duties, connected at least tenuously to local citizenship, citizenship became highly contentious (and, while I have not had space to discuss it here, more desirable for migrants themselves[83]). Who was entitled to legal citizenship, as well as the rights and duties associated with citizenship, were left to individual bureaucrats, government ministers, the odd external agents like the Jewish Board of Deputies, and occasional judicial review. A 'common code' was never possible, but

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81 NAA: A1, 1914/20769, Atlee Hunt to Prime Minister's Secretary, 5 August 1914, pp. 27-28; Colonial Office to Hunt, 18 July 1913; NAA: A435, 1944/4/4347, Attorney-General's Opinion, Eligibility of the Wives of Aliens for Naturalization, 31 May 1916; Hunt Papers, MS 52/1536, Hunt to Harrison Moore, 17 March 1916; NAA: A2863, 1917/25, Naturalization Act - No. 25, 1917, p. 8, handwritten note by S. Mahon, 18 April 1916.

82 This remains the subject of ongoing research, and will appear in a forthcoming book, *The Good Migrant: Naturalisation, Race and Gender in South Africa and Australia in the Early Twentieth Century*.

83 Fortier, 'What's the big deal?', pp. 697-711.

Greater Britain was united in having systems that relied on the personal judgements and prejudices (conscious and unconscious), from a variety of official and unofficial border agents.

This was a distinctly British system, one which has to be distinguished from other legal systems at the time, such as that which developed in the United States. While the language of whiteness and focus on Asian exclusion were common issues in all of these settler societies, the legal and unwritten constitutional boundaries of the British empire ultimately did matter when it came to citizenship. That citizenship did not actually exist, that this was an exercise of contemporary imagination as legal interpretation, does not diminish the import of considering these local examples and how they fit within the imperial and global dimensions of citizenship and migration control in the early twentieth century.

Examining South Africa and Australia together can also help scholars better understand the global system of migration control which developed, and which still exists. While the more overtly racist and sexist discriminatory laws of the past have disappeared, the discretionary powers given to border officials are still largely in place. Once we realise that the 'color line' which developed in the late nineteenth and early twentieth centuries was less a system of laws and more of a constant negotiation between different actors, we can begin to recognise that such a system still exists and is still open to manipulation and discrimination. And while we may never have a definitive answer to the question of how British the British world was, the vague legal underpinnings of nationhood, citizenship and naturalisation were decidedly British. In many former colonies and in Britain itself, those vague legal underpinnings remain.

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The Importance of Being 'British'? Australia, Canada, New Zealand and the Cultural Economy of Empire in the Interwar Era.

FELICITY BARNES*

Summary

Throughout the interwar period, Canada, Australia and New Zealand ran intensive marketing campaigns designed to sell their produce to British consumers. Using the very latest in marketing techniques, money from their respective governments, and advice from Britain's leading advertising agencies, the dominions created films, advertisements, radio talks, recipe books, shop-window displays and street parades to persuade British consumers to buy Canadian apples, New Zealand lamb or Australian butter. These varied campaigns shared a single message: British consumers should buy their products because, the Dominions, like their produce, were British. These campaigns were surprisingly large: one Australian promotional film screened to more than 3 million people in month. But despite its scale, dominion marketing has largely escaped historical attention. However, it offers a new approach to what historians Gary Magee and Andrew Thompson have recently termed the 'cultural economy' of empire. Their work emphasizes the role of 'co-ethnic British networks' in shaping patterns of trade and migration. This paper interrogates the idea of co-ethnic networks, moving beyond their function to suggest trade not only benefited from such networks but mobilised ideas about race, especially whiteness, to create them.

I Introduction

In April 1935, a little-known publicity body launched a very large publicity campaign. The Australian Trade Publicity Committee (ATP) was an Australian operated, London-based marketing organization dedicated to selling more Australian produce to British consumers. Funded by a collection of producer boards, with assistance from the Australian government, the committee began work in 1926, representing Australian dairy, wine, and fruit interests.[1] With a permanent team of eight to ten sales representatives, they actively canvassed retailers and wholesalers throughout the United Kingdom, selling on behalf of these producers. The committee was also responsible for all publicity and advertising, and the 1935 campaign gives some idea of the scale of these activities. To launch the new apple

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1 National Archives of Australia (NAA), A461 I323/1/2, Trade publicity general representations, 'Australian Overseas Trade Publicity'.

season, the trade publicity team arranged for advertising on more than 1000 buses and 1000 van sides.[2] Advertisements ran in the major dailies; 90,000 retail posters were dispatched, and 15 temporary salesmen were employed.[3] Advertising even appeared on railway indicators.[4] But the centrepiece of their activities was a brand-new promotional film, starring the Australian Prime Minster, and booked to play in 160 cinemas in enough sessions to reach an audience of three and half million in a month.[5] The film's title reinforced the key message of the entire campaign: Australian apples were 'British to the Core.' (Figure 1)

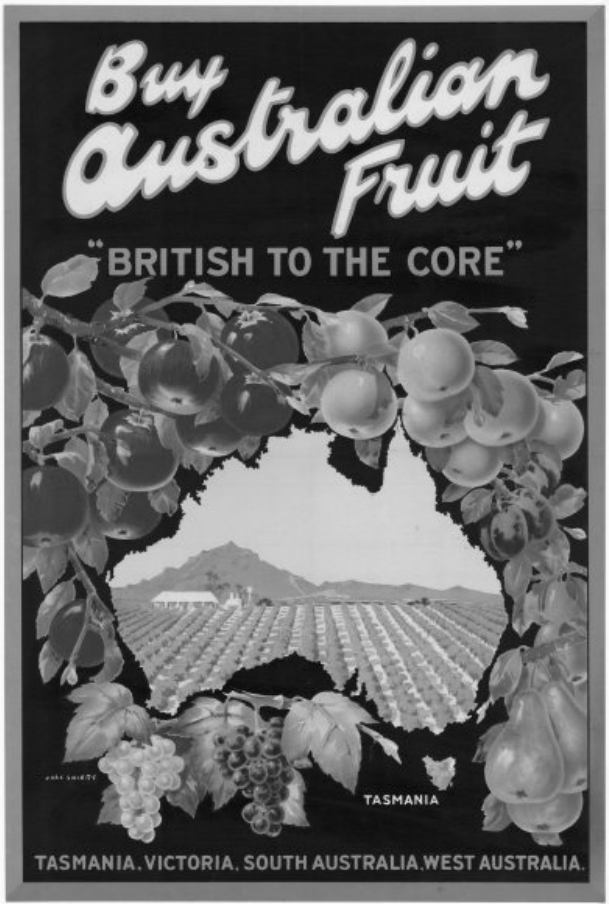

Figure 1. *'Buy Australian Fruit', Chas Shiers.*

Source: 5056565, National Library of Australia.

[2] NAA, A2910 430/1/98 Part 10, Australian Trade Publicity, Report for May 1935, p. 20.
[3] Ibid.
[4] Ibid., p. 19.
[5] Ibid.

On its own, a campaign of this size would be hard to ignore. But it was just part of the organisation's usual round of activities. Whilst the April apple campaign obviously diverted some of their resources, the ATP's permanent staff continued to promote butter, along with dried and canned fruit, that month, making more than 1700 sales calls, opening 29 new accounts, and dispatching more than 15,000 sets of general promotional material, and screening trade films to around 80,000 people.[6] Their team of 18 female demonstrators carried out 46 week-long demonstrations in retailers across the country, from the Birmingham Co-operative Society to the giant retailer Lyon's staff shop in Hammersmith, London.[7] A number of window display competitions were run, including one for Williams Brothers, a London-based retail chain with two hundred stores, which concluded with a prize-giving reception for store managers and their wives at Australia House.[8] Nor was this the biggest reception held that month. On 30 April, the ATP hosted the 'largest assembly ever gathered together in London of Australia's customers'.[9] Amongst the 460 guests invited to lunch were the Chairman of Selfridges, Harrods' food manager, the Director of Allied Suppliers, which controlled over 3000 stores included the well-known Lipton and Maypole brands, along with representatives from key co-operative stores, railway companies and hotels.[10] Once again, the Prime Minister was the star turn, and he raised a toast to 'Australia's Customers'.[11] Perhaps it should have been best customers: by this time, Britain was taking a growing share of Australian exports, and trade in direct-to-consumer produce like fruit and dairy had not only become a larger proportion of that trade, it was virtually completely dependent on the British market. In April 1935, it was not merely Australian apples that were British to the core: much of its commodity trade was too.

Australia's trade campaigns were not the only show in town. Other white settler colonies also had commodity trades built upon British consumers, and they too inaugurated mass marketing campaigns in Britain in the interwar period. From the mid 1920s, New Zealand lamb and dairy products filled shop windows, while instore demonstrators offered shoppers a taste of the dominion, serving up roast lamb sandwiches and samples of butter and cheese. Butchers dressed themselves, their bicycles, and even their vans in New Zealand meat wrappers to compete in fancy dress parades, while British children went to special cinema shows promoting meat and dairy products.[12] (Figure 2) Others received letters and birthday cards from 'Uncle Anchor', courtesy of New Zealand's Anchor butter club.[13] Meanwhile, cheese, apples, bacon, and even macaroni were plugged in specialty Canadian 'Empire' shops, complete with cooks from the Empire Home-makers' Institute giving lessons on how to cook with Canadian products.[14] Planes flew overhead towing banners reading 'Canada Calling', while back on the ground, British soldiers received gift packs of Canadian products, and a stuffed buffalo labelled 'A Visitor from Canada' was pulled through the streets of London.[15]

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6 NAA, A2910 430/1/98 Part 10, Australian Trade Publicity, Report for April 1934, pp. 5, 19.
7 Ibid., p. 11.
8 Ibid., p. 7.
9 Ibid., p. 10.
10 Ibid.
11 Ibid.
12 Barnes, *New Zealand's London,* p. 136.
13 Webber, *The Anchor Story*, p. 4.
14 Hill, *Canada's Salesman to the World*, p. 356.
15 Ibid., pp. 360, 357.

Figure 2. *British butchers and their bicycles, decorated in New Zealand lamb marketing material.*

Source: New Zealand Meat Producers Board, *Annual Report and Statement of Accounts, 1935*, Wellington, 1935, n.p.

Despite their spectacular nature, these dominion publicity campaigns in the interwar metropolis have received little historical attention This paper examines Australia's campaigns, along with some examples from New Zealand and Canada not just to rematerialise a lost part of their cultural past, but to contribute to a wider debate about the nature of dominion identity and imperial culture – the importance of being British – in the interwar period. For whilst these campaigns have been largely forgotten, the nature of the dominions' economies in the interwar era has been the subject of considerable historical debate. Trade and tariffs, protection and preferences, have been co-opted from their conventional role in economic history and pressed into service to argue the dominions were more or less 'British'. Older nationalist histories of these settler colonies prefer a 'less British' past, emphasising early signs of independence and relegating any lingering ties to the Motherland as faintly embarrassing relics. Conventional analyses of empire, which depict the interwar period as a 'time when the imperial economy fragmented' favour such readings, with Britain cast as weary Titan and the dominions as eager inheritors of nascent independence.[16] The story plays out slightly differently in each dominion. For Canada, the economics of empire was another arena to test its fledgling national arm, with Prime Minister Mackenzie King, like Laurier before him, taking 'great pride in fighting off imperial advances', while bureaucrat Oscar Skelton, a quiet yet powerful influence on external affairs, 'regarded imperialists with somewhat less affection than he did the bubonic plague', and instead strategized endlessly to free Canada from its colonial past.[17] For

16 McKenzie, 'Trade, Dominance, Dependence and the End of the Settlement Era', p. 465. British revisionism includes Thompson and Magee, 'A Soft Touch?', pp. 689-717.

17 Thompson, 'Canada and the Third British Empire, 1901-1939', p.98; Bothwell, Drummond, and English,

Australia too, preference debates have become a site to flex a little colonial muscle. Once considered evidence of colonial servility to British interests, trade negotiations like Ottawa have been recontextualised as occasions where politicians rationally 'asserted the autonomy of the nation state'.[18] No longer British bootlicks, Australian politicians were recast as 'hard and devious bargainers with little sentiment towards empire except where it suited their national interests.'[19] New Zealand on the other hand, suffered by comparison, with its greater economic dependence and tractability earning it the not entirely flattering sobriquet of 'dutiful dominion.'[20]

These nationalist 'creation myths' have prompted an energetic response, especially from British World scholars who instead draw on the economics of empire to reassert the importance of British sentiment and identity in the dominions through this period and beyond. [21] Central to this 'more British' idea is James Belich's concept of recolonization, which describes an economics-based reintegration of the dominions with Britain that also served to regenerate cultural ties. Starting at the end of the nineteenth century, the recolonization phenomena runs directly counter to the nationalist narrative of gradually evolving independence: instead 'Dominion Britonism seems actually to have *increased* in the early twentieth century.'[22] It would also prove remarkably persistent. In the case of Australia, Stuart Ward has argued that British sentiment was a defining force in Anglo-Australian commercial relationships until well after the Second World War era, and, just as Belich has argued for New Zealand, it was Britain's decision to enter the EEC, rather than any strident local nationalism, that saw the demise of the 'imperial ideal' in Australia.[23] Though the 'British embrace' may have loosened a little sooner in Canada, Carl Berger's work recognised earlier than most that imperialism was not incompatible with Canadian nationalism; more recent work has emphasised the continued importance of Britishness amongst English Canadians up into the 1960s.[24]

Thus, for some considerable time, albeit in very different ways, dominion historians have been interested in what metropolitan historians now describe as the 'cultural economy' of empire. Just as Ward and others have suggested sentiment helped maintain dominion connections to Britain, so this new work is interested in the extent to which a shared 'British' cultural identity may have influenced imperial economic patterns and behaviour. In their recent examination of the British world economy to 1914, Andrew Thompson and Gary Magee have argued for the power of 'co-ethnic British networks' in shaping patterns of trade and migration: others have begun to implicate culture in the construction of financial and investment networks.[25]

So far, this 'cultural turn' in imperial economic history has principally been concerned with mapping empire's impact, showing its role as an enabler of trading networks, or demonstrating the enduring nature of imperial sentiment in national settings. However,

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Canada 1900-1945, p. 299; Hillmer, *O.D. Skelton,* p. 182.

18 Tsokhas, *Markets, Money and Empire,* p. 3; Kosmas, *Making a Nation State,* p. 108.

19 Drummond, *Imperial Economic Policy,* quoted in Ross, 'Australian Overseas Trade and National Development Policy 1932–1939', p. 184. For a recent assessment see Mackenzie, *Redefining the Bonds of Commonwealth,* p. 23.

20 Ross, 'Reluctant dominion or dutiful daughter?', pp. 28-44.

21 Thompson, 'Canada and the Third British Empire', p. 90; Ward, 'Sentiment and Self-interest', pp. 91-108.

22 Belich, *Replenishing the Earth,* p. 461.

23 Ward, 'Sentiment and Self Interest', p. 96; see also Bolton, 'Money, trade investment and economic nationalism', p. 231; Belich, *Paradise Reforged*; Ward, *Australia and the British Embrace,* p. 4.

24 Berger, *The Sense of Power*; Buckner, ed., *Canada and the End of Empire*.

25 Thompson and Magee, *Empire and Globalisation*; for a summary of others see Attard and Dilley, 'Finance, Empire and the British world', pp. 1-10.

trade did not simply benefit from culture: it also helped produce it. This shift in emphasis is more than semantic. Reconsidering imperial trade networks as producers, rather than products, of culture recreates empire as a dynamic and contingent cultural force. Though Thompson and Magee note Britishness was not static, 'co-ethnic networks', based on migration suggest a shared and stable Britishness. Imperial sentiment, similarly, appears largely as a natural, if misguided, consequence of co-ethnic networks. In response, some have claimed the British world's cultural economy can seem all too 'cosy', underplaying the tensions between its various elements.[26] However, as the first part of this article will argue, the dominions' marketing suggests the cultural economy functioned rather differently. In the interwar period, imperial networks of trade and consumption were creators as well as beneficiaries of Britishness; marketing helped make the imperial sentiment it hoped to profit from. Though this of course was underwritten by migration, the 'global chain of kith and kin' was also the product of consumer advertising

Repositioning Britishness as, at least in part, constructed through trade, makes the idea of co-ethnicity rather less than cosy for a further reason. Research on social networks, which underpins the economic cultural turn, is, naturally enough, focused on inclusivity. Work has revolved around family networks like the Rothschilds, or business ties based around religion like those formed by Quakers or Jews, to demonstrate culture's role in facilitating the economy. Accordingly, it has spawned neutral, and inclusive-sounding terms like 'co-ethnic networks', and 'non-market advantages' to describe these cultural formations.[27] But the economics of empire was never neutral. Scholars applying these ideas in the imperial setting are therefore quick to warn that British co-ethnic networks played a role in the dispossession of indigenous groups.[28] Yet recognition never rises above an obligatory obeisance to the idea of empire's dark side. Dispossession therefore remains a consequence of these networks. In the second part of this article, I argue dispossession and discrimination are instead a condition of them. A co-ethnic network is, by its very nature, also an anti-ethnic network. Current economic writing occludes the powerful exclusionary dynamics at play in constructing imperial identities through trade in the interwar period. But pursuing the 'non-market advantages' of Britishness required mobilizing those familiar standbys of imperial cultural power; race and gender. Dominion marketing makes a case in point: their press campaigns, promotional films and publicity produced a form of 'British' identity that was both white and masculine. Paradoxically then, the dominions' modern marketing produced versions of Britishness that relied on much older gendered and racial hierarchies of empire.

II Making a sentimental empire?

An outwardly resurgent culture of imperial sentiment forms the backdrop to the implementation of dominion campaigns. After nearly a century of free trade, by the 1920s, imperial protection was beginning to attract serious attention in Britain. Though tariff reform in the pursuit of a united empire had seemed a lost cause in the years immediately preceding World War I, afterwards, the idea of imperial economic unity in some form, gained a new momentum.[29] During this time, a rash of new organisations ready to promote

[26] Dilley, *Finance, Politics and Imperialism*, p. 5; Howe, 'British Worlds', pp. 699-701.
[27] Magee and Thompson, *Empire and Globalisation,* p. 6; Magee, 'The Importance of Being British?', p. 344.
[28] Magee and Thompson, *Empire and Globalisation*, p. 38.
[29] Thompson, 'Tariff Reform', p. 1033-1054; Rooth argues for fresh momentum from 1925. Rooth, *British Protectionism,* p. 42.

various permutations of empire trade, imperial preference, and empire shopping, joined the usual cast of imperial evangelists like the Victoria and Primrose Leagues.[30] Some, like the British Empire Producers Organization (BEPO) had begun before the war. Founded in 1916 as a sugar lobby, the BEPO had come to see imperial preference as 'the development of the family property for the benefit of the whole family' and by 1924, was campaigning 'in favour of empire products.'[31] That same year, a group known as the Empire Industries Association for the Extension of British Preference and the Safeguarding of Home Industries Organisation (EIA) was formed and by 1926 had launched a campaign almost as exhaustive as its title. Like the Self-Supporting League, they started with public meetings, holding over a thousand, with a special focus on free trading strongholds in the Midlands and Manchester; 'each Sunday in summer meetings were held in nine London parks' as well.[32] The EIA had its roots in the Conservative party, and by 1928, 'protectionist sentiment was a dominant force' within the party's rank and file.[33] Imperially-inclined producers and politicians were joined by manufacturers, like carmakers Austin and Morris.[34] Some were imperial apostates, wary of the impact of curbing free trade, but when chemical magnate, Lord Melchett, formed Imperial Chemical Industries in 1926, 'the choice of name …[was] a deliberate statement of policy.'[35] By 1929 he had joined forces with Leo Amery to launch the Empire Economic Union.[36] At the same time press baron Lord Beaverbrook, had begun a noisy empire free trade movement, that would not only inspire his competitor, Lord Rothermere, to promote empire trade, but would culminate in the creation of the United Empire Party.[37]

Campaigning for imperial preference spread beyond politicians and businessmen. As Frank Trentmann has observed, a new form of 'consumer imperialism' developed after the war, which valorized 'buying empire' as a patriotic duty.[38] The Empire Marketing Board, with its focus on slogans like 'Empire Buyers are Empire Builders' is the best-known example, but there were plenty of other imperial lobby groups pushing the 'Buy Empire' barrow, like the British Empire League and the British Empire Union.[39] Some even predate the better-known EMB activity: the first 'Empire Shopping week celebrating Empire Day was inaugurated by the British Women's Patriotic League in 1922'.[40] Women, particularly middle class, Conservative housewives, were at the forefront of this movement. They were key targets of empire shopping campaigns, with advertisers urging women to 'ask in your daily shopping for empire produce.'[41] But women were activists as well as consumers: throughout this era, they turned their domestic expertise to promoting the imperial cause, holding empire cake competitions, running empire produce stalls and fetes, creating Empire 'surprise boxes' and badgering shopkeepers to stock empire products.[42]

This metropolitan efflorescence of imperial sentiment was part of the rationale for the

30 Hendley, *Organised Patriotism,* pp. 211, 217-219.
31 'Editorial Notes', *Production and Export*, 44, April 1920, pp. 1-5, quoted in Lee, 'Imagining the empire', pp. 139, 158.
32 Rooth, *British Protectionism*, p. 325. See also Trentmann, *Free Trade Nation*, p. 325.
33 Witherell, 'Sir Henry Page Croft', pp. 357-381; Garside, 'Party Politics', p. 52.
34 Rooth, *British Protectionism*, p. 39.
35 Ibid.
36 Boyce, 'America, Europe, and the Triumph of Imperial Protectionism', p. 55.
37 Rooth, *British Protectionism,* p. 55.
38 Trentmann, *Free Trade Nation*, p. 229.
39 Lee, 'Imagining the empire', pp. 356-357.
40 Trentmann, *Free Trade Nation*, p. 230.
41 *The Tatler*, 9 April 1930, p. xiii.
42 Trentmann, *Free Trade Nation*, p. 231.

dominion marketing and it certainly held the promise of some commercial advantage for their produce.[43] But despite the best efforts of housewives, well connected businessmen and Conservative politicians, it was by no means enough to ensure success. Imperial preference remained more a principle than a practice: the salesmen of empire had to contend with the actual buying preferences of retailers and wholesalers, and here it appears, sentiment was in short supply. In 1926, Australian produce could be found in just 12-14,000 British shops, out of a total of approximately 200,000: roughly 7%.[44] Retailers and wholesalers were less concerned with the imperial origins of commodities than they were with its price, quality, distribution and supply. They were, as one representative put it, 'shrewd'.[45] 'British people have been accustomed for generations to pick and choose from the best of every land… keen merchants ...are constantly flooding Great Britain with the best goods of every kind that the world produces and no newcomer, not even the Australian, favoured as he is by a warm fraternal feeling, can hope successfully to attack the British market unless his goods are of good quality and of consistent quality…'.[46] Sentiment did not prevent Australian goods being 'cold shouldered because of their unreliability'[47]. Australian butter, with its variable quality and supply, was a notorious culprit. But the well-known biscuit manufacturer Crawford and Sons had also preferred to continue using 'Medditeranean [sic]' fruit as 'Australian fruit did not seem so good',[48] and as late as 1933 a sales report bemoaned the 'prejudice which many traders have for the Californian Fruit', a prejudice only reinforced by Australia's lower packing and grading standards.[49] Nor was this prejudice restricted to retailers: much to the bewilderment of an ATP sales rep, it seems cash-strapped consumers in the depressed areas of 1930s Lancashire and Yorkshire wouldn't buy Australian fruit at any price: 'I do not know where they get their money from, but at present they will only have the best that that money can buy'.[50]

Shopkeepers were not inclined to be sentimental about Canadian products either. When surveyed around 1927, Harrods complained Canadian canned fruits were inferior to American, while hams were also of 'very poor quality'.[51] Home and Colonial stores concurred; they had no used for Canadian canned fruit as it was 'very inferior', whilst a consignment of butter 'went bad within a few days of receipt'.[52] The buyer for John Irwin and Co, with 150 branches was 'very scornful of Canadian pears' and found the salmon expensive.[53] 'Mr Stafford frankly described our Canadian canned fruits as poor quality, was rather lukewarm in reference to Canadian canned salmon' and 'would not consider Canadian butter… and Canadian cheese he described as being like leather'.[54] As a later

43 NAA, A461 H323/1/2 Part 1, Trade Publicity - UK pt.1, Sec. Australian House to Sec. Prime Minister's Department, 30 December 1925.

44 NAA, A2910 430/1/98 Part 5, Publicity - Australian Trade Publicity Reports Australian Trade Publicity Monthly Report, August 1933, p. 9; NAA. A461 H323/1/2 Part 1, Trade Publicity - UK pt.1 'Advertising Australian Products. Interesting Report', pp. 1-2.

45 NAA, A2910 430/1/98 Part 4, Australian Trade Publicity Report for August 1931, p. 9.

46 NAA, A461 H323/1/2 Part 1, Trade Publicity - UK pt.1 'Advertising Australian Products. Interesting Report', pp. 1-2.

47 Ibid., p. 4.

48 NAA, A2910 430/1/98 Part 1, Australian Publicity in the United Kingdom – Copies of Miscellaneous Memos between Official Secretary and Director of Trade Publicity, Hyland to Trumble, 22 February 1930.

49 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity Monthly Report, June 1933, p. 12.

50 NAA, A2910 430/1/98 Part 4, Australian Trade Publicity, Report for August 1931, p. 9.

51 Libraries and Archives Canada (LAC), RG 20 517, File 2: Department of Trade and Commerce Special Report $100,000 scheme for advertising Canadian food products in Great Britain, Mr E. D. Arnaud, Trade Commissioner Bristol, pp. 15-16.

52 Ibid., p. 23.

53 Ibid., p. 32.

54 Ibid., p. 35.

survey conceded, 'although there is of course no suggestion of ill-will towards Canadian products ,we must recognize that we are not generally accorded preferential treatment…'.[55] Neither housewives nor trade would be interested 'in an empire product purely for its own sake: it must come up to the proper standard.'[56]

An existing imperial sentiment then was not enough to guarantee dominion sales. One approach to this problem was to work on the quality of the produce. New Zealand led the way here, implementing producer boards which helped to deal with some of its own quality problems, like shipments of tainted butter, or market issues like persuading a dubious public to eat frozen meat. (Here they were almost too successful: 'Canterbury', New Zealand's best quality lamb, became a generic term for frozen meat, meaning the New Zealand Meat Producers Board was constantly forced to defend the reputation of its lamb against other, lower quality, meat masquerading as a New Zealand product.)[57] Australia was quick to follow suit, forming boards for most of its exports by the mid 1920s, although Canadian producers, for a variety of reasons, never managed to form any coordinating export body. But all three would adopt the second approach to the problem of sentiment: manufacturing it through marketing. Once again there would be some variation between the dominions. New Zealand, first with the producer boards, was also first to launch large scale campaigns: Canada, though last, would undertake them on the greatest scale. However, differences were largely limited to size and timing. The campaigns themselves shared techniques, themes, advertising agencies and even slogans. Australia and New Zealand sometimes cooperated to market 'Empire butter', whilst Australian and Canadian apples were marketed under the same 'British to the core' slogan. With these similarities in mind, what follows will largely focus on the work of the Australian Trade Publicity Committee to demonstrate the dominions' active construction of empire sentiment though commodity making.

Giving commercial substance to empire's rhetorical bonds of kith and kin, the ATP made the personal touch central to their work, with representatives regularly making over a thousand sales calls per month. These were a thousand opportunities to emphasise the connections between Australia and Empire, connections that were not 'natural' products of sentiment. After one visit, Salmond Fleming, a 'high class' grocery firm in Dundee, was persuaded to 'do the best we can to push Australian goods more especially now that we have some knowledge of the conditions and aspirations of the settlers. We shall certainly do the best that we can for Australia.'[58] A more formal education in empire was also on offer: members of the Institute of Certificated Grocers could enter an essay competition on the topic 'Selling Australian products to help British settlers; to strengthen the empire; and to provide more business for British merchants'.[59] Even point of sale material helped develop a sense of empire, exerting 'a constant moral pressure on the shopkeeper to stock our goods'.[60] Nor was this unwelcome with retailers: on receipt of his pack of display material, the proprietor of Cave Austin and Co, at St Leonards on Sea, sent his 'Thanks for the advertising material. It is always a pleasure to us to push your Empire lines.'[61]

ATP staff rallied the idea of empire to Australia's commercial cause in an almost

55 Department of Agriculture, *The British Market and the Canadian Farmer*, p. 6.
56 Ibid., p. 14.
57 Higgins, '"Mutton Dressed as Lamb?"', pp. 161-184.
58 NAA, A2910 430/1/98 Part 6, Australian Trade Publicity, Report for April 1934, p. 4.
59 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity, Report for January 1933, p. 6; Australian Trade Publicity, Report for August 1933, p. 7.
60 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity, Report for August 1933, p. 7.
61 NAA, A2910 430/1/98 Part 6, Australian Trade Publicity, Report for July 1934, p. 6.

ceaseless round of Rotary meetings, Chamber of Commerce gatherings and Empire lunches and dinners. Toasts were to the 'Trade and commerce of empire',[62] and the speeches were on such subjects as Anglo-Australian trade, or Australian trade with the Motherland.[63] Not all of these were warmly received: according to ATP's chief, A. E. Hyland, free traders at one meeting in Wales were 'not altogether in sympathy with my subject'.[64] However the ATP continued their empire building, incorporating events like 'Australia night', a lavish event for grocers and their wives, held in 'about the largest space in London', complete with dancing, into the annual meeting of British grocery presidents.[65]

Some of the campaigns capitalized on wider promotional activities undertaken by various empire leagues which also aimed to generate imperial sentiment. Australia, along with the other dominions, used frequent 'Empire Shopping Weeks' to promote their produce. In May 1930, 'between fifty and sixty of the very largest shops, notably in the West End, went out of their way to stage miniature exhibitions.'[66] In 1931 Australia took 'advantage of the "Buy British" atmosphere to obtain editorial publicity for our products'.[67] But perhaps the most important supporting activities were run by the Empire Marketing Board. Established in 1926 and funded by the British Government until its demise in 1933, the EMB was charged, amongst other things, with persuading British shoppers to buy more empire produce. Working with one of Britain's leading advertising agencies, the EMB spread their imperial message through extensive advertising, in the press, on the radio, in shop windows, and most impressively, by developing a unique series of outdoor billboards. Although much existing literature on the EMB focuses on its portrayal of the dependent empire, the dominions were central to their work.[68] Dominion representatives made up a quarter of the members of the executive board, Australia's representative being that energetic imperialist and sultana king, Frank McDougall. (by contrast the entire dependent empire was represented by just one member). The dominions were also the main subject of the EMB's advertising, appearing in more than 30% of the billboard campaigns, and again, thanks to McDougall, Australia was particularly prominent.[69]

Australia can also take the dubious credit for initiating one of the interwar period's most persistent symbols of empire cohesion, the Empire Christmas pudding. Giant puddings, complete with celebrity stirrers, also obsessed the Empire Marketing Board from 1927 – they even produced a spectacularly unsuccessful feature film about an empire pudding – but the ATP claimed to have promoted the first version in 1926.[70] Yet the empire could always strike back. In 1934, the Australian Prime Minister, Joseph Lyons, made a speech announcing protection for the tiny Australian cotton industry. In the process, he sparked perhaps the only boycott ever held in favour of empire, as grocers in Bolton, Lancashire, on behalf of their customers employed in the cotton industry, retaliated by refusing to sell Australian goods. After backtracking on both sides, the boycott was suspended, but the

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62 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity, Report for January 1933, p. 5.
63 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity, Report for April 1933, p. 6.
64 NAA, A2910 430/1/98 Part 7, Australian Trade Publicity, Report for June 1934, p. 6.
65 NAA, A2910 430/1/98 Part 7, Australian Trade Publicity, Report for September 1934, p. 7.
66 NAA, A2910 430/1/98 Part 1, Australian Publicity in the UK, Misc Memos between Official Secretary and Director of Trade and Publicity, 29 May 1930.
67 NAA, A2910 430/1/98 Part 4, Australian Trade Publicity, Report for November 1931, p. 7.
68 See for example, Buck, 'Imagining Imperial Modernity', pp. 940-963; Meredith, 'Imperial Images', pp. 30-37. For dominion representation see Barnes, 'Bringing Another Empire Alive?', pp. 61-85.
69 Barnes, 'Bringing Another Empire Alive?', p. 65.
70 NAA, A2910 430/1/98 Part 4, Australian Trade Publicity, Report for December 1931, p. 11. For a different origin story, see O'Connor, 'The King's Christmas Pudding', pp. 127–155.

'quarrel' lasted.[71] Lancashire grocers declined to attend 'Australia Night'. Months afterward, the ATP were still in damage control, screening slides in sixty cinemas emphasising 'Australia is Lancashire's second-best customer'.[72]

The ATP's activities in this period shed a different light on arguments that stress Australia's assertive economic nationalism. In metropolitan shops, if not always in imperial conference rooms, Australia's interests were best served by being British 'to the core'. That the same could be said for New Zealand is perhaps not surprising: however, it was also, eventually, true for Canada too. Though legendarily allergic to empire, a 1937 report by the Department of Agriculture castigated Canada's marketing efforts as having done 'little to impress retailers or consumers, in Britain, especially compared with the other dominions...'.[73] That verdict came from the edited version of the report: the first version was considered too critical to be released. More significant though, Australia's example also strongly suggests trade's role in building, not simply benefiting from, any cultural economy of empire. ATP salesmen could not rely on the power of co-ethnic networks to sell their sultanas: instead, they had to work to create a shared sense of Britishness.

The second part of this paper extends this idea. As suggested earlier, new work on the cultural economy has tended to consider the social formations which underpin trade networks as relatively stable and benign bodies, the post-mortems of which revolve around their economic effectiveness. The experience of dominion commodities in the British marketplace is at odds with such a reading. Co-ethnicity in this case was contingent, not just congenital, and its construction was less dependent on any long-established links of family or faith, but on the mobilisation of ideas around race and gender. As we will see, these ideas relied on exclusion as much as the inclusion implied in the idea of co-ethnicity.

III Constructing Co-ethnic Networks

The clearest indication of the construction of co-ethnicity was in the dominions' constant appeal to Britishness. New Zealand advertising constantly referenced Britishness, and even Canada overcame its imperial squeamishness in some campaigns, even reifying the ties of empire across the ether when one promotion when the Canadian Minister of Trade and Commerce telephoned the Lord Provost of Glasgow 'during a luncheon for civic and other dignitaries.'[74] Once again, however, Australia is the exemplar. In extensive press advertising, Australian produce was 'British and Best', or 'All British',[75] even 'picked and packed …by fellow Britons'. Australian sultanas were 'grown on British soil', a claim which was, at best, only technically true: no doubt a similar stretch of the geographical imagination inspired a logo featuring the map of Australia labelled 'All-British'.[76] (Figure 3) No detail was too small to be overlooked in establishing Australia's British credentials: at one promotional cinema screening, a short film of seals in the Melbourne Aquarium caused official concern because the announcer had 'a pronounced American accent. It is an amusing little item from Movietone news but the American accent is undesirable and it will be cut out of all future shows.'[77]

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71 NAA, A2910/1430/1/98, Part 10, Australian Trade Publicity, Report for February 1935, p. 6.
72 Ibid.
73 Department of Agriculture, *The British Market and the Canadian Farmer*, p. 7.
74 O. M. Hill, *Canada's Salesman to the World,* p. 360.
75 *Hull Daily Mail,* 27 May 1927, p. 9.
76 Ibid., 9 June 1927, p. 6; *Nottingham Evening Post,* 14 July 1927, p. 3.
77 NAA, A2910 430/1/98 Part 4, Australian Trade Publicity, Report for August 1931, p. 5.

Figure 3. *"All-British" Australia.*

Source: Nottingham Evening Post, 3 May 1928, p. 9.

The commodities themselves reinforced the idea of Britishness; apples, butter, and even sultanas were familiar British foods, not exotic produce of the dependent empire. Advertising emphasized this: one dried fruit advertisement noted, 'Australian food is all British food. Australia is an all British land'.[78] That familiarity was reinforced as Australian products were positioned as suitable ingredients for traditional British cooking, like puddings or fruitcakes. Perhaps keen to set a new empire marketing trend, in December 1932 the ATP put an all-Australian Christmas cake on display at Australia House in London. Weighing three quarters of a ton, it was decorated with a match in progress at the Sydney Cricket Ground, complete with a scoreboard reading '"one up for England"'.[79] Indeed Australian fruit, butter and eggs could make those familiar foods more British. Consumers could 'Put a union jack in your fruit cake' by throwing in a handful of Australian sultanas or follow the example of the king and use 'no other sultanas in their Christmas pudding'.[80] (Figure 4) Australian commodities therefore went beyond simply appealing to Britishness: in a creative twist, buying Australian was positioned as a way for metropolitan shoppers to perform their own Britishness. In the ATP's hands, a 'British shopping basket' was one filled with Australian food.[81]

Figure 4. *Summoning the spirit of empire.*

Source: Hull Daily Mail, 13 June 1932, p. 4.

Similarly, 'empire buying' in general was reconstituted as buying Australian. Since 1926, the Empire Marketing Board had been working to stress 'a vital mutual dependence between the Empire at Home and the Empire overseas'.[82] Australian advertising recast this vague sense of imperial solidarity as a direct dependence between Australian and Britain. Press

78 *Nottingham Evening Post*, 26 July 1932, p. 3.
79 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity, Report for December 1932, p. 7.
80 *Nottingham Evening Post,* 23 November 1928, p. 6.
81 *Western Morning News*, 10 November 1933, p. 5.
82 Constantine, 'Bringing the Empire Alive', p. 216.

advertising explained that 'Every pound you spend on Australian produce enables Australia to spend a pound more on British goods.'[83] To encourage consumers to 'Help Australia to help you', advertising once again constructed, and naturalized, bonds of kinship: 'Buy from those who buy from you…Australia has a marked preference for British goods because 98% of the population of the Southern Dominion are the sons and daughters of the motherland with a genuine affection for the old country'.[84]

Australian claims to Britishness were however, contrived in other, more subtle ways. Publicity downplayed the otherness of the Australian landscape, emphasizing Home-like orchards over the exotic outback. This domestication of the colonial landscape in favour of a more 'British' looking environment was the EMB's strategy for all dominions, and it also shaped the dominions' own advertising. From time to time, a little local colour was allowed to creep in, but usually only to give products some identifiable difference when they competed against other white dominion producers. Australian butter, for example, which competed against New Zealand butter, adopted the kangaroo as a grading symbol. Australia's most prominent symbol of otherness, the kangaroo was an unlikely choice for promoting butter, but it was also occasionally pressed into other advertising, including the ATP's own *Kangaroo Kookbook*, which was produced 'to assist Australia's countless friends amongst the housewives of Great Britain in the still more satisfying use of Australia's food products'.[85] Cooking kangaroos, however, were no match for the fighting variety. Boxing kangaroos were also recruited to promote Australian products, most spectacularly, in a 1932 exhibition at Olympia, when Australia's High Commissioner, Sir Granville Ryrie, went a few rounds with one to promote Australian butter.[86] But this outlandish icon had to share space with a new, domesticated symbol of Australian-ness: Melba XV, the 'wonder cow', world champion producer of butter fat and star of point of sale material in shop windows throughout the UK.[87] In these windows, Australia was constructed not only as British but as rural. The same set of ideas would be set in motion in cinemas across the country in ATP-organised film shows that featured epics like 'The Romance of the Cattle Industry' and 'Dairying in Queensland' and attracted thousands of British housewives and schoolchildren every month.

So far, so co-ethnic. In an object example of the kind of inclusiveness valued by such networks, Australian Britishness, like dominion Britishness generally, emphasised the similarities between former colony and imperial centre. But just as important, obtaining 'non market' advantages required the erasure of difference. Consequently, commodity advertising made dominion indigenous populations disappear. Just as New Zealand's commodity campaigns made little use of Maori motifs, and Canada's avoided their first nations people, there was no hint of Australia's aboriginal inhabitants in ATP advertising. It seems not all dominion inhabitants could be reimagined as British 'kinsfolk'. Further, assertions of racial affinity (a rather less neutral term than co-ethnicity) also worked to separate the dominions from the black, or colonial, empire. Once again, this difference was subtly, but consistently, contrived. As noted, dominion rural spaces looked more English than exotic. At the same time, they were also clearly differentiated from those of other empire producers. What we might call 'colonial' commodity landscapes, like Indian tea plantations, or African harvest scenes, bustled with labourers, their promotional images as

83 *Hull Daily Mail*, 7 July 1927, p. 8.
84 *Western Morning News*, 18 May 1928, p. 11.
85 Director of Australian Trade Publicity, The *Kangaroo Kook Book* (London 1932), p. 1.
86 *Sydney Morning Herald,* 3 June 1932, p. 13.
87 *Northern Advocate*, 14 August 1924, p. 7.

tightly packed as their bales of cotton or chests of tea. Contrarily, Australian landscapes, like dominion landscapes generally, were depicted as empty spaces, home only to livestock and the occasional white settler. Imaginatively cleared of their original native occupants, their landscapes could stand in quiet contrast to the teeming activity of the colonial empire. The differentiation between imperial colony and dominion is clearest in the artistic approaches adopted by contemporary Empire Marketing Board work.[88] But it is also evident in the dominion's own campaigns. Here even the sunshine was different. An important strand of such promotion, sunshine was emphasized for a number of reasons: it reflected developing scientific interest in vitamins, and it gave dominion dairy producers a competitive advertising edge over countries like Denmark who raised cattle in stalls over winter.[89] However, Australia's sunshine was not the dangerously debilitating tropical kind still feared by Europeans as degenerative into the interwar period. Instead it was a sturdy Anglo Saxon sun that could perk up 'pale faces' in Britain.[90] (Figure 5)

The construction of racial difference was not limited to empire: race was also used to fend off competition from outside it. This was of course made easier by the fact that some of their main rivals - Greek and Turkish dried fruits, Californian canned fruit and Danish butter could be considered 'foreign' even if they were also longstanding and familiar suppliers of food to British consumers. Indeed, in order to capture some of their market share, Australian campaigns capitalized on and constructed the idea of foreignness. Ads frequently and querulously demanded 'Why pay more money for foreign butter'.[91] They also regularly associated Australian food with cleanliness, implying food from other less 'British' sources might be suspect. Australian sultanas, for example, were 'cleanest' because they were 'never touched by hand from the moment they're picked till they reach the shop', a claim undoubtedly intended to inspire unease about the way Greek or Turkish fruit was handled.[92] A similar approach was also used to differentiate white colony from black in EMB advertising: Indian rice was harvested by hand, Australian sultanas were graded and

Figure 5. *Selling sunshine.*

Source: Gloucestershire Daily Echo, 10 September 1937, p. 11

88 See Barnes, 'Bringing Another Empire Alive?', pp. 68-76.

89 The Bodleian Library (BL), John Johnson Collection, Emigration, Box 3, New Zealand Dairy Produce Board, *The Empire's Dairy Farm: Country Life in Zealand* (London, n.d.), p. 3; BL, John Johnson Collection, Emigration Box 1,(10)c, *Australian Butter for the Homeland*.

90 *Gloucester Echo*, 10 September 1937, p. 11.

91 *Lancashire Evening Post*, 10 February 1933, p. 6.

92 *Liverpool Echo*, 12 October 1928, p. 6.

packed 'by machinery under Government Supervision.'[93]

Gender joined race in differentiating dominions from the dependent empire. It is hardly novel to reveal that colonial commodity advertising, like so many other parts of the colonial project, constructed a feminised exotic other. Empire Marketing Board advertising abounded with 'scantily dressed female rice growers' and pliant, smiling, natives working under white supervision.[94] . As I have argued elsewhere, the dominions, looked very different. For example, whilst women workers were common in those colonial commodity landscapes, labour in dominion settings was almost exclusively male. Further dominion workers were always depicted fully clothed in what appears to be an unofficial dominion dress uniform of long sleeves, trousers and hat. Workers in the dependent empire were signified instead by 'native' dress.[95] Australia's own advertising reinforced this gendered division in campaigns that adopted the figure of the male 'settler' as a key symbol. Dressed in that dominion uniform, and on occasions, looking strikingly like the EMB's archetypal Australian, the 'settler' graced numerous advertisements for butter and sultanas. By 1932, he could be found in 'the best class shops the country' as the ATP developed 'a new and striking display piece which represent[ed] an Australian settler, practically life size, standing behind a table carrying cut outs representing dishes of sultanas, currants, canned fruit, and butter.'[96] (Figure 6)

Yet there is some dissonance between the use of a male symbol and the very domestic nature of Australia's produce, a dissonance heightened by the fact that one of Australia's major competitors, California's Sunmaid Raisins, had created the highly successful 'Sunmaid Raisin girl'. Advertisers did deploy men in food advertising, but usually as figures of entitlement and authority: women cooked for men, and for their approval.[97] The settler figure fulfilled neither of these roles. Yet Australia was not alone in adopting the dissonant male settler symbol: Canada also developed 'the masculine figure of a robust Canadian farmer' for its contemporaneous commodity campaigns. Stephen Constantine has suggested that in Canada's case, the development of a male symbol for British markets represented growing Canadian nationalism, but it is more likely the opposite is true. The development of male symbols in Canada and Australia reflected the need to differentiate white dominions from the rest of the colonial empire.

Figure 6. *The* '*settler*'.

Source: Dundee Evening Telegraph, 4 May 1928, p. 7.

However, the life-like settler, at home in a 'better class store', reminds us that the masculine dominions were not only produced in relation to

93 The *Times*, 7 February 1927, p. 13; ibid., 28 August 1929, p. 8.
94 Meredith, 'Imperial Images', p. 33.
95 Barnes, 'Bringing Another Empire Alive?', p. 76.
96 NAA, A2910 430/1/98 Part 5, Australian Trade Publicity Report, September 1932, p. 11.
97 Parkin, *Food is Love,* pp. 126-134.

the dependent empire. They were also constructed directly through their commodity relationship with Britain. In this relationship, Australia was a land of producers, clearly symbolised by the settler figure. Britain, was, on the other hand, the land of consumers, and the archetypal consumer was the housewife. Consequently, ATP advertisements both featured, and targeted, female consumers, and were often found nestling cosily in the women's section of the paper. In a happy conjunction of the standard depiction of consuming women as homemakers, and empire advertising's wider obsession with kith and kin, ATP ads imagined women as mothers, shown in kitchens or around the family dining table.[98] (Figure 4) Predictably these advertisements carried messages about ensuring the family's health and wellbeing, a strategy that is also reflected in advertising trends more broadly in this era. But dominion advertising also charged women with responsibility for the empire's health. Buying British could 'bring back prosperity'.[99] Indeed 'family' and 'family of empire' were sometimes explicitly linked. 'Every housewife wants her husband to be in good employment with steady wages and so he will be if Britain's factories are busy and prosperous. Help to make them busy and prosperous by increasing the buying power of their best customers – notably Australia.'[100]

IV Conclusion

Australia's miscellany of wonder cows, giant puddings, and boxing kangaroo bouts have been all too easy for traditional economic literature to ignore. But they are evidence of the importance of being British. Examining the ATP's campaigns reveals the extent to which imperial sentiment had to be invented, not simply appealed to. Equally, dominion campaigns reveal the ways the supposed inclusiveness of a shared Britishness was underwritten instead by mobilizing exclusionary discourses of race and gender. Co-ethnicity implies inclusion: in dominion advertising being British equally required exclusion. Such a reading challenges the current picture of largely benign networks, instead making their role in constructing imperial hierarchies explicit. In the imperial context, it is simply not enough to note the presence of power: we need to unpack its operation. And here, examining the cultural work of the dominion campaigns is revealing in another way. They remind us that in an era still seen as the twilight of empire, new strategies for its maintenance and reconstruction remained in play. Dominion myths about nationalism notwithstanding, when it came to forging identity in the interwar period, and perhaps even beyond, the white dominions commodity marketing to remain 'British to the core'.

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98 Ibid., p. 22.
99 *Yorkshire Evening Post,* 2 November 1931, p. 6.
100 *Western Morning News*, 1 June 1928, p. 8.

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Economic Governance in the Empire-Commonwealth in Theory and in Practice, c. 1887-1975†

ANDREW DILLEY*

Summary

After a long spell of neglect, historians in the last twenty years have started again to take an interest in the economics of the 'British World': an entity centred on Britain and the dominions. Their approach emphasises shared culture and networks. By contrast this article reasserts the importance of institutions of governance in shaping economic transactions and hence the importance of political (not cultural) economy. In order to re-emphasise the connected importance of co-ordination between states within the Empire, it prefers the term Empire-Commonwealth to British world, a term more closely grounded in contemporary language. It argues that the Empire-Commonwealth possessed complex, patchy, but discernible practices of economic governance which the paper delineates and argues were shaped by the overriding concern to maximise the autonomy of self-governing members (Britain and the dominions). These practices let to cooperation over preferential trading arrangements, currency, taxation, migration and investment, law and regulation, and transport and communications. After 1945 the international framework which sustained these practices transformed, while the internal dynamics of the post-imperial Commonwealth made significant cooperation on matters other than aid and development in the global south unlikely. The possibility of broad-ranging governance receded even as intra-Commonwealth trade and investment declined.

I Introduction

In the aftermath of the Second World War, the United States used its newfound hegemonic power to remake the global order. It became the principal architect of a set of binding international political and economic institutions: the United Nations, the General Agreement on Tariffs and Trade (GATT). It also supported complementary regional supranational groupings ones such as the North Atlantic Treaty Association, and promoted

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Free Trade Areas, not least the European Economic Community.[1] This reordering cut across older forms of association. The British Empire and Commonwealth's system of imperial preference proved an early target for American economic policy makers wedded, like their forebears, to the 'open door'.[2] British defences of the status quo denied the legitimacy of American intervention.[3] For instance, in October 1945, the report of a conference hosted by the Federation of Chambers of Commerce of the British Empire stated that although the 'British Commonwealth of Nations' was 'divided by the sea' and composed of 'States which are themselves each and severally sovereign', this, however, did not 'deprive them of the right to lower the inter-State tariff walls which divide them' since 'the right to this is claimed by every political entity'.[4] In 1948 the same body compared 'The trading system of the widespread British Commonwealth and Colonial Empire … to that of the great domestic market of the United States'.[5]

Thus, defenders of imperial preference asserted a political and economic unity imparted by practices of association that had grown between largely autonomous states embedded within, but distinguished from, the broader British empire.[6] They deployed the rhetorical fruits of a half century long project to imagine and maintain a political entity which was simultaneously united and divided – both one and yet also composed of separate and increasingly sovereign parts. The term British Commonwealth of Nations was officially adopted in the 1921 Anglo-Irish Treaty and centred on the self-governing parts of the Empire. The famous statement in 1926 by Lord Balfour explained that British Commonwealth of Nations was composed of 'autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs'.[7] These interwar developments crystallised a pattern and trajectory already visible in political thought and practice from the late nineteenth century; a Commonwealth project forming within broader project of empire.[8]

This article charts the economic dimensions of this Empire-Commonwealth project. The term Empire-Commonwealth is used here to encompass particularly but not exclusively the Anglo-Dominion core of the British Commonwealth of Nations from the 1880s to the 1940s. It is deployed first to reflect slippery contemporary terminology and spatial imagination. The British Commonwealth of Nations was not entirely distinguished from the colonial empire in shifting contemporary political vocabulary. India was for example officially part of the British Commonwealth of Nations – although its status was ill defined. Down to 1939 the term empire was more frequently used than Commonwealth even for institutions largely focused on the autonomous core of the Commonwealth. Contemporaries also still conceived of the British Commonwealth of Nations as possessing a connection to rest of the colonial empire.[9] Second, Empire-Commonwealth differentiates from the post-colonial Commonwealth of Nations which emerged from the period of decolonization. In

1 Borgwardt, *New Deal for the World*; Anderson, *The New Old World*. On the US and European integration, see also Monnet and Mayne, *Memoirs*.

2 McKenzie, *Redefining the Bonds of Commonwealth*; Tooze, *The Deluge*, p. 16.

3 Drummond, *Imperial Economic Policy*.

4 London Metropolitan Archives (LMA hereafter), CLC/B/082/MS18287: *Congress Proceedings*, 1945, p. 9 (Congress Proceedings hereafter). All LMA references are from these papers unless otherwise stated.

5 *Congress Proceedings,* 1948, p. 36.

6 Jennings, *The British Commonwealth of Nations*.

7 E. 129, Imperial Conference, 1926, Inter-Imperial Relations Committee, p. 1

8 Hall, *British Commonwealth*; Hall, *Commonwealth*. The term project here adapts Darwin, *Empire Project*. For late-nineteenth and early twentieth century political thought, see Bell, *Idea of Greater Britain*; Baji, 'Zionist Internationalism?'; Baji, 'British Commonwealth'.

9 Behm, *Imperial History*, pp. 185-220; McIntyre, *Britannic Vision*, p. 87.

1945 was possible to imagine the Empire-Commonwealth as an economic and political entity. This was not possible of its post-colonial successor by the 1970s.[10] Although the post-colonial Commonwealth encompasses much the same membership as the Empire-Commonwealth, it has a very different and more limited *praxis* of intergovernmental cooperation.

II Historiography and Argument

That the Empire-Commonwealth possessed, and was seen to possess, possibilities of economic governance has been underemphasised in the recent historiography on empire. It was not always so. During the first half of the twentieth century, the great debate on imperial preference placed economics and governance at the heart of emerging ideas about the Commonwealth. Keith Hancock's *Surveys of Commonwealth Affairs* devoted volumes to the Commonwealth's 'Problems of Nationality' and 'Problems of Economic Policy' in 1937 and 1942.[11] Economics featured heavily in later volumes in the series by Nicholas Mansergh and J. D. B. Miller.[12] For this older literature the Commonwealth was an entity which had affairs. However, in the late-twentieth century imperial history and the Commonwealth parted company. In 1953 Ronald Robinson and Jack Gallagher's 'Imperialism of Free Trade' and its underlying concept of informal empire ungirded the study of empire from close attention to political institutions.[13] Their school of the literature reached its zenith in P. J. Cain and A. G. Hopkins' two volume study of British imperialism. The index for the second edition had a one-line entry for the 'Commonwealth', merely cross-referring the reader to the 'post-war period'.[14]

The core of the Empire-Commonwealth, the self-governing settler dominions attracted more attention in Cain and Hopkins' work than Robinson and Gallagher's and took centre stage in the new literature on the British World that emerged from the early twenty-first century. Yet that literature was constructed on slippery conceptual foundations. While *de facto* many authors – including Carl Bridge and Kent Fedorowich in their opening manifesto – used the term Commonwealth, this usage did not feed the conceptualisation of the British world.[15] The British world remained disconnected from the continuing trickle of publications on the Commonwealth.[16]

This neglect has characterised the application of the British World concept to economics. James Belich, writing on the conceptually distinct Anglo-world, distinguished a distinct Anglo-dominion economic sphere but had little to say on politics even though his 'two-fold' angloworld could only be distinguished by political and constitutional means.[17] Similar problems can be seen in Gary Magee and Andrew Thompson's *Empire and Globalisation*.[18] Magee and Thompson's concept of 'cultural economy' down played the role of the state - of political economy – and placed instead at the heart of a British world

10 Lloyd, 'Britain and the Transformation'.
11 Hancock, *Problems of Economic Policy*; Hancock, *Problems of Nationality*.
12 Mansergh, *Survey of British Commonwealth Affairs*; Miller, *Survey of Commonwealth Affairs*.
13 Gallagher and Robinson, 'The Imperialism of Free Trade'.
14 Cain and Hopkins, *British Imperialism, 1688-2000*, p. 713. For a recent assessment, see Dilley, 'Jientorumanshihonshugiron Ga Iwazunisumase Mizunisumaseteirukoto'.
15 Bright and Dilley, 'After the British World'.
16 A distinct revival of interest in the political thought that underpinned the Commonwealth has begun. See for instance, Bell, *Idea of Greater Britain*; Baji, 'Zionist Internationalism?'.
17 Belich, *Replenishing the Earth*.
18 Ibid.; Magee and Thompson, *Empire and Globalisation*.

economy the operation of 'co-ethnic networks'.[19] The approach usefully highlighted the way culture and identity can shape economics. But they two found it hard to delineate their subject sharply treating the US as an ambiguous case both inside and outside of the 'British world' without explaining how or why that could be the case.[20] Yet, as the example of the defence of imperial preference in the late 1940s showed, for US and Empire-Commonwealth policy makers, political economy sharply separated the 'Angloworld'.

Magee and Thompson focused on the late nineteenth and early twentieth century. David Thackeray has recently taken the concept of cultural economy forward into the twentieth century, a period in which the role of states, regional, and international bodies in regulating the global economy expanded enormously. Thackeray has offered a rich study which seeks to show the construction of a 'British World of Trade' – a world he confines to the Empire-Commonwealth which features in his sub-title. His emphasis is on the forging and then disintegration of economic networks which shaped patterns of trade. He gives useful attention both to the expulsion of non-whites from these networks, and to their interaction with the international level. Thackeray is far more conscious of and gives far more emphasis to the role of politics and the state: the core of his book focuses on official and quasi-official bodies such as the Imperial Economic Council, or business associations such as chambers of commerce. He also often acknowledges that many of the networks (as he terms them – I would prefer institutions) he focuses on were framed by politics. Indeed, his study's chronology is bounded by the period of late-Victorian imperial federation and final Britain's entry into the EEC: in other words, by political economy.[21] Yet he retains a preference for the British world as a framework (using Empire-Commonwealth as a synonym) and rejecting other possible terms.[22] Hence Thackeray also retains the 'network' as his driving concept, and charts trade associations and networks skilfully, but pays less attention to the forces which shape the 'trading networks' he describes.[23] Yet his chronology alone suggests a need to give more weight to politics and economic governance than the 'British world', network theory, and cultural economy allow.

This article restates the existence and sketches the shape of a framework of empire-Commonwealth political economy which in turn affected economic transactions and networks. This emerged in the late nineteenth century, reached a zenith between the wars, and rapidly eroded after the Second World War. The *praxis* of economic governance was in turn shaped by the broader international context within which it operated.[24] It is not claimed that this Empire-Commonwealth framework was necessarily a primary driver of economic transactions. The practices of governance associated with the Empire-Commonwealth were often weak by comparison with the powers of nation states (including dominion governments) or with the more binding post-1945 forms of international and regional association. Nor is it claimed that economic governance was harmonious. It was often fractious.[25] Still until the late-1940s, a political economy of the empire-Commonwealth existed. Its operation was real, and at least *no less* significant than pre-1945 forms of international cooperation.[26] Conversely, by the 1970s the post-colonial Commonwealth did

19 Magee and Thompson, *Empire and Globalisation*, pp. 14, 45-63.
20 Dilley, 'Empire, Globalisation, and the Cultural Economy'.
21 Thackeray, *Forging a British World*.
22 Ibid., p. 7.
23 For a critique of network-focused approaches, see Potter, 'Webs, Networks and Systems'.
24 For a similar argument about British imperial power more broadly, see Darwin, 'Globalism and Imperialism'
25 Barnes, 'Lancashire's 'War' '.
26 Jennings, 'Constitution', p. 474.

not possess the same possibilities of economic governance.[27]

III Methods of Governance in a Decentralised Supranational Polity

The Empire-Commonwealth evolved practices of economic governance, defined here as institutional frameworks shaping aspects of economic of activity. These were built on the voluntary cooperation of the UK and Dominion governments, combined with management of the colonial empire. The UK government retained some functions and a distinctive role, a role that tended to be exercised at the sufferance of other members. The Empire-Commonwealth's modes of cooperation shared certain key attributes grounded in an underlying concern to maintain and maximise the autonomy of individual members. None of these modes of cooperation were necessarily exclusive to Empire-Commonwealth level. In many areas there was overlap or interplay with international level cooperation.

Economic governance on this basis could be exercised through five main practices, none mutually exclusive. First, UK institutions performed certain key functions. For example, the Bank of England managed the sterling bloc/area from the 1930s to the 1950s while the Judicial Committee of the Privy Council often served (unless restricted as by the Australian constitution) as the highest court of the empire. [28] Second, the UK government could provide exclusive or disproportionate subsidies. This might take the form of financing communications networks (shipping, postal systems, telegraphs, airlines and the like) or sponsoring the production of knowledge framed by the Empire-Commonwealth. Examples of the latter might include the funding of the Imperial Institute in South Kensington or the Dominions Royal Commission which began in 1909 and reported in 1918.[29] Third, unilateral legislative action promoted harmonisation by replicating laws elsewhere (generally but not always the adoption of UK legislation). This happened frequently with aspects of commercial law. Fourth, individual members' actions could by design or effect create a distinctive Empire-Commonwealth political economy. Canada's unilateral adoption of imperial preference in 1897 falls into the latter category.[30] So too might the United Kingdom's Colonial Stock Acts (that created some de facto preference in investment for the dominions), the Empire Settlement Acts of the 1920s, or the creation of the Empire Marketing Board.[31] Fifth structured voluntary bilateralism or multilateralism: agreements between members or all members were brokered within the crucible of the Empire-Commonwealth. The Ottawa trading agreements of 1932 were a series of bilateral agreements resulting from bilateral negotiations held in parallel at the imperial conference.[32]

The array of practices and the areas over which they were applied were widely recognised by contemporaries. They were reflected in and reinforced by the periodic colonial and imperial conferences. The possibilities of economic governance also generated a broader ecosystem of economic thought out of which policies emerged. Their existence underpinned temporary commissions and permanent advisory bodies which increasingly

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27 An important and neglected overview can be found in Lloyd, 'Britain and the Transformation'. For general accounts of the post-colonial Commonwealth both sceptical and sympathetic, see McIntyre, *Significance of the Commonwealth*; Srinivasan, *Rise, Decline, and Future*; Shaw, *Commonwealth*; Murphy, *Empire's New Clothes*.

28 Schenk, *Britain and the Sterling Area*; Wheare, *Constitutional Structure*, pp. 24-25, 45-54.

29 Constantine, ed., *Dominions Diary*; Dominons Royal Commission, *Final Report*; Mackenzie, 'Imperial Institute'.

30 Skelton, *Life and Letters*, pp. 52-57.

31 Jessop, 'Colonial Stock Act'; see also Reference 33.

32 Drummond, *Imperial Economic Policy*.

formed to promote Empire-Commonwealth coordination: for instance, the Dominions Royal Commission (1909-1918), the Empire Marketing Board (established in 1926), or the Imperial Economic Committee (established in 1924).[33] The Empire-Commonwealth's economic governance was also reflected in civil society. At least two major pan-Empire-Commonwealth business associations were active across the interwar period and persisted into the 1970s: the Federation of Chambers of Commerce of the British Empire (originating in 1886), and the Empire Producers Association (originating in 1916).[34] The Royal Empire Society formed its own trade section.[35] There were also political lobby groups or leagues. To take only British examples, some were fleeting and specialised, like the Empire Resources Development Committee, which formed in the aftermath of the First World War to advocate state intervention to facilitate colonial economic development.[36] Others were large scale, including the succession of bodies which advocated imperial preference (see below) most notably the Empire Trade League and the Tariff Reform Association prior to 1914, and, the Empire Industries Association from the mid-1920s.[37]

The rich seems of discussion of political economy which emerged from official, semi-official and unofficial channels reflected the potential for Empire-Commonwealth economic governance to touch on range of policy areas. In turn we will now explore how they were applied in the fields of trade, currency, migration and investment, taxation, law, and transport and communications.

IV A Provisional Anatomy of Empire-Commonwealth Economic Governance, c.1887-1939

A. Markets: Preferential Trade

No single policy symbolised Empire-Commonwealth political economy more than preferential trade. The concept, a revival of pre-1850s practice, was for empire members to charge lower tariffs on each other's products than foreign goods, even those enjoying 'Most Favoured Nation' status. The idea was floated in the fair-trade debates of the 1880s, pursued assiduously by Canadian businessmen and politicians in the 1890s, and became the centrepiece of Joseph Chamberlain's Edwardian challenge to free trade. Canada in 1897 first included imperial preferences in it tariff schedules unilaterally, followed by New Zealand in 1902, Australia in 1907, and the newly united South Africa in 1910.[38] The UK's commitment to free trade kept it aloof until the introduction of the protectionist McKenna Duties in the First World War also saw some preferences introduced for the empire in Britain. Many of these unilateral preferences persisted in the 1920s, although some McKenna duties were lifted. The UK rejected Conservative proposals for more comprehensive imperial preference in the 1923 election. Other Empire-Commonwealth members began pursuing bilateral preferential deals. Canada signed one with Australia in 1931.[39] Thus notwithstanding patchy implementation, imperial preference persisted as a

33 Dominons Royal Commission, *Final Report*; Barnes, 'Bringing Another Empire Alive?'; Constantine, 'Bringing the Empire Alive'; TNA, DO 222 (Imperial Economic Committee).

34On the FCCBE, see Dilley, 'Politics of Commerce'; Dilley, 'Trade after the Deluge'; Dilley, 'Un-Imagining Markets'. On the Empire Producers Association, see Marrison, *British Business*, p. 302.

35 Reese, *History of the Royal Commonwealth Society*, pp. 161-176.

36 Killingray, 'Empire Resources '.

37 Thompson, *Imperial Britain*, pp. 9-109; Marrison, *British Business*, ch. 12.

38 Sullivan, 'Revealing a Prefence'.

39 Wells, *Imperial Preference*, pp. 8-9. [Sydney Chamber of Commerce], *Commerce*, XXI, 2, 1 Feb 1932, pp.

recurrent economic and political idea.

Even *ad hoc* preferences spawned regulation. One important question concerned certification of origin: if imperial goods got preferences what proportion of empire-content (raw materials and labour) were required to be eligible? The various dominions never had a common definition. The documentation required to administer customs preferences led to an entire subsidiary conference, the Imperial Customs Conference of 1921 which recommended standard forms (fitfully adopted) on which varying definitions could be expressed.[40] While all international trade required certificates of origin (for example to administer Most Favoured Nation status), preferential trade raised particular problems which gave empire trade a distinctive identity. Moreover, even if the UK did not have significant preferences for the dominions by this point, UK exporters had a clear stake in dominion preferences, illustrating how unilateral and uncoordinated decisions by governments nonetheless created a form of pan-Empire Commonwealth economic framework for commercial enterprise.

Preferential trade came to fruition in the 1930s. The UK finally abandoned free trade in the wake of the Great Depression. Subsequently a comprehensive set of bilateral deals were negotiated at the Ottawa Imperial Economic Conference in 1932. The Ottawa agreements were to operate fixed terms, introduced notice periods for cancellation, and created mechanisms to decide which industries in the dominions should or should not be protected through tariff boards. They enhanced the dominions' access to UK markets compared to foreign primary producers. It is usual to point out, as manufacturers groups in the UK soon complained, that the agreements and tariff boards often gave UK exporters advantages against foreign rather than domestic competitors but did not significantly dent dominion protectionism.[41] Even so the agreements provided a clear framework for tariff relations and for subsequent changes in tariff relations. The degree of certainty provided may well have helped encourage intra-Empire-Commonwealth trade, a claim made vociferously by its defenders in the late 1940s and 1950s.[42] Whatever the practical limitations, the Ottawa agreements epitomised the possibilities as well as limitations of Empire-Commonwealth economic governance.

Reaching their apogee in the Ottawa system, trade preferences embodied the broader reconciliation of autonomy with unity that lay at the heart of a concept of the Empire-Commonwealth. This was why they persisted across the decades, while schemes for Empire free trade (or, as Joseph Chamberlain put it when floating the idea in the 1890s, an imperial zollverein) failed to gain traction.[43] These schemes (whether outlined by Joseph Chamberlain or Lord Beaverbrook) required a customs union with a common tariff, something unacceptable to the dominions *and* Britain. As Leo Amery explained on the eve of the Ottawa conference: 'Mutual preference is the practical expression of a desire to cooperate without that surrender of economic and political autonomy which is involved in any formal customs union with internal free trade'.[44] Only preference enabled the expression of simultaneous unity and autonomy at the heart of Empire-Commonwealth economic governance.

56-57.

40 Cmd. 1231: Imperial Customs Conference, 1921.

41 Drummond, *Imperial Economic Policy*.

42 University of Warwick, Modern Records Centre, MSS 221/4/1 [Empire/Commonwealth Industries Association], 1 Annual Reports, 1926-1976: Annual Report, 1947.

43 London *Chamber of Commerce Journal*, June 1896, pp. 6-7.

44 *Observer*, 10 April 1932.

B. Currency

By the end of the Second World War, a further area of cooperation – almost but not entirely coterminous with the Empire-Commonwealth – had risen to prominence: currency. By that point – excepting chiefly Canada – most of the countries of the Empire-Commonwealth (and some non-Commonwealth countries) pooled their export earnings in London and used these balances to settle payments with the non-sterling world. The Bank of England played a crucial role in managing the Sterling Area. The Area emerged from the looser run sterling bloc which formed in the 1930s following Britain's departure from the gold standard in 1931 and included far more non-Commonwealth members. Although the Sterling Area was not coterminous with the Empire-Commonwealth, the coincidence was close enough for contemporaries to elide the two frequently and for the management of the area to be discussed in Commonwealth fora.[45] In the 1940s and 1950s the deficit particularly with the dollar bloc (US AND Canada) intensified transactions within the sterling area, and hence largely intra-Commonwealth economic transactions and discussions.[46]

Currency was less obviously an attribute of empire-Commonwealth political economy prior to the final abandonment of the gold standard in 1931. If during this period there was less of a distinctive Empire-Commonwealth monetary identity, it was because the gold standard, and in Asia bimetallic or silver standards, subsumed this possibility within broader international frameworks. In India in 1898 the currency was shifted to a gold exchange standard which preserved silver internally while shifting to settlements in gold externally.[47] Nonetheless debates on currency took place at Empire-Commonwealth level. At the early Congresses of Chambers of Commerce of the Empire advocates of bimetallism such as Henry Hucks Gibbs (a London merchant banker whose trade focused on Asia) pushed the remonetisation of silver with the interests of India (or rather British traders in India) prominently emphasised in his case.[48] In the late-1920s pan-Empire-Commonwealth challenges to the gold standard re-emerged. Monetary radicals formed pan-Empire-Commonwealth networks to advocate alternatives. For example, stinging critiques of the gold standard emanated from the desk of A. De V. Leigh, secretary of the London Chamber of Commerce and of the Federation of Commonwealth Chambers of Commerce. They circulated widely even finding their way to the desk of William Mackenzie King, Canada's Liberal prime minister.[49]

In the end the sterling bloc formed *de facto* as Britain left the gold standard, becoming much more tightly regulated and controlled during the Second World War.[50] By osmosis most of the empire-Commonwealth, excepting Canada, became a currency bloc. However, the Sterling Area was always conceived as a distinct entity. Perhaps as a result currency never acquired the symbolic significance of imperial preference.

C. Investment and Emigration

At the 1923 Imperial Economic Conference, Australian Prime Minister S. M. Bruce encapsulated the needs of the dominions as 'men, money, and markets', a tryptic woven

45 Miller, *Commonwealth in the World*, pp. 77-79.
46 Schenk, *Britain and the Sterling Area*.
47 Keynes, *Indian Currency and Finance*.
48 *Chamber of Commerce Journal*, 5 August 1886, pp. 33-42; see also Green, 'Gentlemanly Capitalism'.
49 Archives Canada, MG 26/J1/ 197/167516-20 (W. L. Mackenzie King Papers): McGeer to Mackenzie King, 1 Nov 1933, Leigh to McGeer, 16 Oct 1933, King to McGreer, 6 Nov 1933.
50 Fieldhouse, 'Metropolitan Economics', p. 95.

into a homespun Commonwealth political economy by Sir Keith Hancock.[51] Imperial Preference in part covered the markets, but men and money were indeed just as central to the underlying political economy of the core of the Empire-Commonwealth, Britain and the old dominions. The old dominions were the products, as James Belich has so fluidly charted, of nineteenth century settler capitalism (and settler colonialism).[52] Dramatic imports of migrants and capital, both chiefly originating in Britain, underlay the dramatic expansion of all the dominions down to 1914.[53] After 1918 the supply of both were curtailed, money more so perhaps than men. Bruce's call at the imperial conference was essentially for the use of the mechanisms of voluntary association to be deployed in the dominion's favour to increase their share of a smaller pie, a call based on their supposed virtues of loyalty and hence membership of a broader polity.[54]

In the late nineteenth century, the flows of men and money were not particularly manipulated by the UK government, although the dominions themselves ran intensive campaigns to court migrants and woo investors.[55] Edwardian Canada excelled at this as Wilfrid Laurier's Liberal government, supported in London by the Canadian High Commissioner Lord Strathcona, boosted the 'last best west'.[56] Strathcona was also instrumental leading a campaign playing on the 'loyalty' demonstrated by colonial contributions to the second Anglo-Boer War to secure the passage of the 1901 Colonial Stock Act. This allowed trustees to invest in certain colonial stocks and hence allowed colonial and dominion governments privileged access to investment funds.[57]

Other institutions provided investors with some reassurance when comparing imperial and foreign investments, particularly the role of the Judicial Committee of the Privy Council as the highest court of appeal for much of the empire (except where specifically restricted).[58] After the Great War, the potential for intervention became greater. Overseas investments were subjected to greater regulation and direction by the UK government in the 1920s and 1930s.[59]

There were also moves to promote intra-imperial migration, for instance the Empire Settlement Act of 1922 sought shift the flow of migrants towards the dominions.[60] Underpinning the large movements of migrants lay deeper conceptions of citizenship (admittedly vague as Rachel Bright argues in this journal) tied up with common status as subjects of the crown.[61] These conceptions could ease movements of labour within the Empire-Commonwealth. At the same time, as Bright has shown, curtailing movements of Asian migrants within as well as into the Empire (and doing so in ways that were compatible with supposedly overarching notions of imperial citizenship) were a central feature of discussion in Colonial and Imperial Conferences. Thus the 1897 conference agreed to the extension of the so-called Natal education test.[62] Regulating migration and

51 Hancock, *Problems of Economic Policy*.

52 Belich, *Replenishing the Earth*; Veracini, *Settler Colonialism*. For the original use of the term 'settler capitalism', see Denoon, *Settler Capitalism*.

53 Harper, 'British Migration'.

54 Constantine, *Emigrants and Empire*.

55 Magee and Thompson, *Empire and Globalisation*, pp. 89-91; Dilley, *Finance, Politics, and Imperialism*, pp. 103-110.

56 Wilson, *Lord Strathcona*, pp. 488-507.

57 Jessop, 'Colonial Stock Act of 1900'.

58 Dilley, *Finance, Politics, and Imperialism*, pp. 92-97; Smith, 'Patriotism'.

59 Fieldhouse, 'Metropolitan Economics', p. 39.

60 Constantine, *Emigrants and Empire*.

61 Gorman, *Imperial Citizenship*; Bright, 'Migration, Naturalisation and the British world'.

62 Bright, 'Asian Migration and the British World, 1850-1914' See also Lake and Reynolds, *Drawing the Global Colour Line*.

citizenship thus became a key attribute of Empire-Commonwealth governance.

D. Taxation

Movements of people and money also created a further area of pan-Empire-Commonwealth cooperation: double taxation.[63] The possibility that personal or commercial income could be taxed twice as it moved across state boundaries was not unique to the Empire-Commonwealth, but true of all global flows of income. Nonetheless the very intense levels of investment and trade combined with the tendency (at least until the mid-twentieth century) for wealthy individuals in the dominions to return to the UK made the issue particularly acute.[64] Practices informal cooperation and the widespread imagination of the Empire-Commonwealth as a single political entity strengthened the possibility for action.

Double taxation entered discussions in business circles and at colonial and imperial conferences in the Edwardian period. Louis Botha raised the double taxation of death duties at the 1907 Imperial Conference.[65] However the First World War made the issue more acute. Until then dominion finances had not rested significantly on direct taxation. The war changed that even as levels of taxation also rose in the UK. A further problem arose in that the UK tended to tax the income of residents while the dominions tended to determine liability by the location at which income was earned. This created overlapping liabilities. During the war business leaders in London pursued the matter both through the chambers of commerce movement and its imperial outworking – the British Imperial Council of Commerce, and through the formation of the Association to Protest Against the Duplication of Income Taxation in the Empire.[66] Wartime conditions gave the movement a particularly powerful rhetoric, for during times of war the empire looked most like a single polity. Thus in 1916 one correspondent to *The Economist* argued that:

> There is no imperial budget or imperial revenue, and every part of the Empire has furnished its own war contingent. It results that… imperial expenditure for war purposes falls on the municipal budget of each component of the empire… But an Australian resident in England pays a double contribution. He pays for the war contribution in Australia for the Australian contingent and again another contribution in England for the British contingent.

The situation was 'unjust' and 'discriminatory against one class of the king's subjects'.[67] Finance Bills in 1915 and 1916 allowed some liability in the dominions to be offset against UK tax liabilities. The matter was taken up at the 1917 and 1918 Imperial War Conferences by the Canadian, Australian, and New Zealand Premiers.[68] While delayed until the immediate aftermath of the war, in the early 1920s double income tax arrangements were concluded between the UK and most imperial locations, and the *modus vivendi* arrived at

63 For one of the few overviews of double taxation, see Mollan and Tennent, 'International Taxation'.

64 Sleight, 'Reading the British Australasian Community'; Harper, *Emigrant Homecomings*.

65 Australian National Archives, A461 D344/3/3: Part 1: Double Income Tax: Great Britain and the Commonwealth 1907- 1945: 'Memo', N.D.

66 TNA, T/1/11926/11806: Memorials on Double Income Taxation, 1916; T/1/11654/15268: Finance Bill 1914. Clause 5. Effect Upon Investments and Re-Investments Within the Empire: Resolution of the Executive Committee of the British Imperial Council of Commerce, 24 July 1914; T/72/837/1969: Deputation from the Association to Protest Against the Duplication of Income Taxation in the Empire, 5 April 1918.

67 G. Burgess, Letter to Ed, *Economist,* 23 Sept 1916, p. 527; also ibid., 2 Sept. 1916, p. 409.

68 Cd. 8566, *Imperial War Conference,* 1917, pp. 70-80; Cd. 917, *Imperial War Conference*, 1918, pp. 73-80.

largely allowed UK-resident tax payers to offset some tax paid in the dominions.[69]

Empire-Commonwealth countries were not the only ones with which the UK negotiated double taxation arrangements in the interwar period.[70] But arrangements were made early and possibly generously, notwithstanding that the UK government wished to avoid discriminating in favour of the Empire. It is suggestive that by the 1930s the UK Treasury considered the arrangements overly generous to the dominions.[71] For the dominions such double taxation arrangements constituted a subsidy shaping investment in addition to the Colonial Stock Acts. This was an example of structured bilateralism within the Commonwealth generating early and potentially significant benefits for the dominions and for investors. Common loyalty, common citizenship, and the imagination of a virtual polity were central to bringing these arrangements into being before similar agreements with foreign powers.

E. Law

Trade and investment all take place within a framework of law and regulation. Although it is rather common to hold markets to be distinct from states, markets are made in part by the legal institutions that enabled their functioning.[72] Commercial Law therefore encompassed an enormous area within which an Empire-Commonwealth political economy could be forged. The benefits of uniformity, consistently perceived by businesses mobilised through the chambers of commerce movement, could only be realised in a sporadic and unstable manner given the mechanisms of governance available. Nonetheless, until the second half of the twentieth century, and in the absence of robust international institutions or regional frameworks, voluntary and patchy harmonisation could be better than nothing.

In the heyday of imperial federation in the 1880s and early 1890s, the chambers of commerce movement endorsed calls to codify the commercial law of the empire. The idea as advocated at early Congresses of Chambers of Commerce by Professor Leone Levi in 1886 and Professor Dove Wilson in 1892 core was simple. They proposed a comprehensive codification encompassing all aspects of commercial law across the empire.[73] Such a uniform concept ultimately ran against the emerging principle of voluntary association which condoned local variations. Still the diffusion of uniform or near uniform legislation on a case by case basis retained leverage down to the 1930s. A number of areas of law were discussed by businesses and found their way into the proceedings of imperial conferences: the adoption of uniform and decimal weights, measures, and currency; the mutual recognition of commercial arbitration awards; or uniform and mutually enforceable law on debt, copyright, patents and trades marks.[74] Laws and regulations on such matters occupied much space in the final report of the Dominions Royal Commission published in 1918.[75]

The example of Bills of Lading illustrates the operation of the system, its time lags and limitations, but also its potential to translate proposals into practice. Bills of Lading are contracts between shipping companies and shippers for the carriage of goods. They govern the respective liabilities of the shipping company and the shipper should goods become

69 Archives Canada, RG/25/G-1/1748/566: Double Income Taxation in the Empire, 1935.
70 Mollan and Tennent, 'International Taxation', p. 1059.
71 TNA, DO 35/218/10: 'Double Income Tax Relief', 1930; Archives Canada, RG/25/G-1/1748/566: Double Income Taxation in the Empire, 1935.
72 Dilley, 'Un-Imagining Markets'; North, 'Institutions'.
73 *Chamber of Commerce Journal,* 5 August 1886, p. 20; ibid., June 1892, pp. 14, 47.
74 See for a typical selection, Congress Proceedings, 1906.
75 Dominons Royal Commission, *Final Report*.

damaged. From the third quarter of the nineteenth century, shippers (as represented through the chambers of commerce movement) became increasingly discontented with the growing list of exclusions put in place by shipping companies. The problem was compounded by the growing concentration of the shipping sector which weakened the bargaining position of the shippers. After attempts at informal resolution, by the end of the nineteenth century legislation was demanded. Because a bill would necessarily be signed under one jurisdiction, usually that at point of departure, harmonisation was considered important for simplicity's sake and to ensure shipping companies did not evade liabilities. The campaign on Bills of Lading persisted with minor success down to the First World War. After the war, the issue was then pursued at international level through the newly formed International Chamber of Commerce which, at The Hague in 1921 drew up a series of recommendations. These were given embodiment at the UK level in the 1924 Sea Carriage of Goods Act.[76] Similar legislation then diffused out and was adopted in other Empire-Commonwealth countries – thus the Empire-Commonwealth served to promote an internationally-agreed framework. There was one exception. For a long time, Canada preferred aligned not with the UK but with the US Harter Act of 1893 on shipping liabilities. Thus Canada waited until the US moved into alignment with the Hague Rules in the mid-1930s.[77] The complex morass of shared and partially shared laws remains to be charted comprehensively, but it is clear that its existence and possibilities animated generations of businessmen and policymakers.

F. Transport and Communications

Transport and Communications constituted a final major area of Empire-Commonwealth political economy. They laid the foundations of the flows of goods, services, people, money, and intervention that, in the end, underlay economic transactions in the Empire-Commonwealth. Operating through a combination of British subsidies and mutually agreed expenditure.

A host of activities fall under the aegis of communications: postal services, telegraph networks, shipping subsidies, wireless telegraphy, radio, and air transportation to name but a few.[78] The creation of a network of inter-imperial telegraphic cables was one important project where this can be seen. In the 1880s and 1890s the Canadian engineer who oversaw the construction of the Canadian Pacific Railway, Sir Sandford Fleming, led a campaign across the UK, Canada and antipodes for the construction of a pan-Pacific cable with state support.[79] The campaign found support in Australia and New Zealand where the route promised to reduce cable charges relative to the privately owned Eastern and Eastern Extension Companies. Spending by Australian states, Canada, and the UK was required to secure this end.[80] Postal charges, coordinated across and reduced by multiple governments, were also a late-nineteenth century development which helped integrate the Empire-Commonwealth. The imperial penny post instituted in the UK in 1898 was an act of coordination which both symbolised integration but also facilitated integration by

76 The issue was a perennial at the Congresses of Chambers of Commerce of the Empire. See for example, *Chamber of Commerce Journal*, 5 August 1886, pp. 42-48; Congress Proceedings, 1909, p. 81; Congress Proceedings, 1924, p. 15.

77 Archives Canada, Toronto Board of Trade, MG/28/III/56/146: Transportation and Customs Committee, 20 Sept 1933; Congress Proceedings, 1936, p. 27.

78 MacKenzie and Dalziel, *Penguin Historical Atlas*, pp. 88-90; Porter, *Atlas*, pp. 148-152, 163-167.

79 Thompson, 'Sandford Fleming'.

80 Potter, *News and the British World*, pp. 62-68.

promoting information flows. It was the product of a campaign led by individuals like the Australia and UK-based journalist and politician John Henniker Heaton, and of coordination between different postal systems.[81] Orders, catalogues, and other essential commercial ephemera all flowed more easily as a result.[82] Subsidised shipping lines were yet another area where state intervention channelled patterns of communications. Again prior to the War, Canadian campaigners were particularly keen to secure fast steamship services in the Atlantic and Pacific.[83] Through the first half of the twentieth century further areas of subsidy, by the UK or by the UK with agreement from other members. Wireless telegraphy and later radio became prominent in the Edwardian period and in from the 1920s. Air transportation was added to shipping as a priority by the 1920s.[84]

All these areas required subsidies and that the lion share came from the UK state. Communications infrastructure shaped patterns of economic transaction Empire-Commonwealth and network formation. They thus created economic possibilities. As long as the Empire-Commonwealth remained a distinctive unit of political coordination, they helped lend it a distinctive political economy.

G. Assessment

Members of the British Empire-Commonwealth developed a high per capita propensity to trade with each other and to draw on British investment prior to 1914 which intensified during the interwar period.[85] The principal economic relationships were bilateral, between Britain and individual territories. There were other smaller but significant exchanges for instance between Canada and the West Indies, across the Tasman between Australia and New Zealand, or from South Africa northwards.[86] India was enmeshed in an inter-Asian trade system and Canada had powerful connections to the United States.[87] Still, with Britain the principal Empire-Commonwealth economic partner of most other members. The changing significance of Empire-Commonwealth economic relationships can therefore be gauged in Figure 1 below which shows the proportions of total British trade accounted for by the empire, and specifically the dominions.

The significant and steadily growing portion of British trade with the Empire-Commonwealth and especially with the dominions cannot solely be attributed to aspects of economic governance described here. Their contribution must be set aside other factors: the cultural networks described by Magee and Thompson and Thackeray; and the shifting international economic situation, for instance growing protectionism and the relative decline in success of some sectors of the British economy in international markets in the interwar period. Still empire-commonwealth undoubtedly played a role, and one discerned and often deemed significant by contemporaries. Moreover and whatever its economic impact, down to 1939 the intensity of economic exchange within the Empire-Commonwealth frequently validated the political project of economic governance.

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81 Matthew, 'Heaton, Sir John Henniker, first baronet (1848–1914), postal reformer'.

82 Potter, *News and the British World*, pp. 68-82.

83 *Congress Proceedings*, 1903, pp. 62-64, 154-155.

84 These concerns can be seen in interwar debates within the Federation of Commonwealth Chambers of Commerce. See for example, *Congress Proceedings*, 1927.

85 Magee, 'Importance of Being British?'; Magee and Thompson, *Empire and Globalisation*; Fieldhouse, 'Metropolitan Economics'.

86 For examples, see Armstrong and Nelles, *Southern Exposure*; Tennent, 'Management and the Free-Standing Company'; Phimister, *Economic and Social History*.

87 Akita, 'Late Nineteenth-Century British Imperialist'; Marr and Paterson, *Canada*, pp. 288-291.

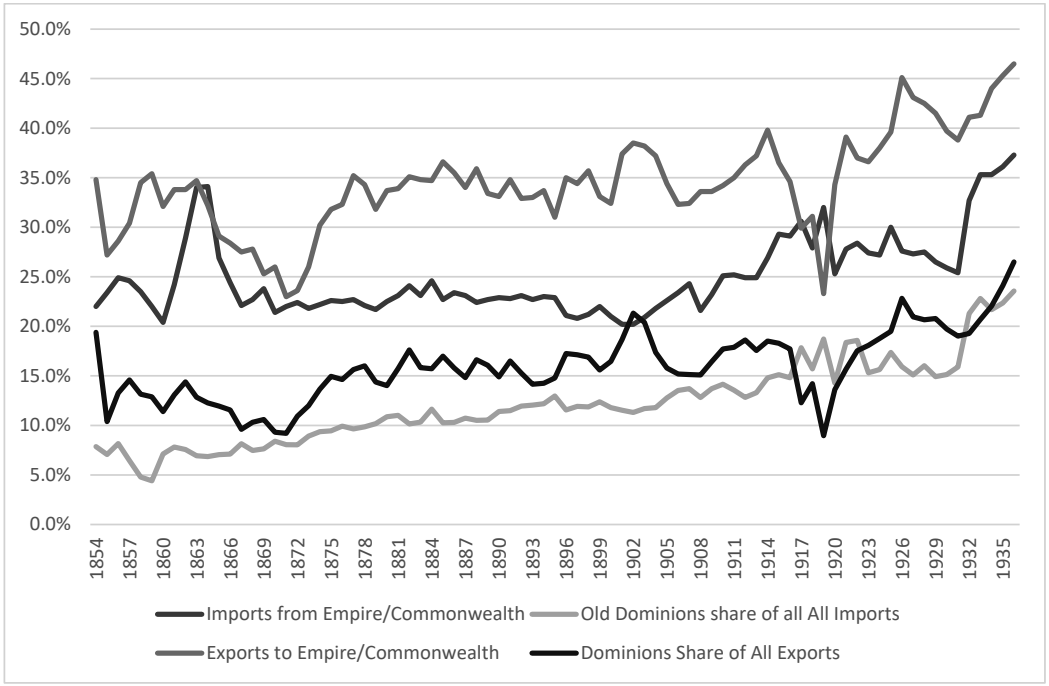

Figure 1. *Empire-Commonwealth and Old Dominion Shares of British Imports and Exports*

Source: Schlote, *British Overseas Trade*, Table 20b.

V The End of Empire-Commonwealth Political Economy, 1945-1975

The empire-commonwealth system reached a zenith immediately after the Second World War. Imperial preference remained in operation. The sterling bloc hardened into a tightly controlled Sterling Area, managed to facilitate Britain's war effort and then to address a large deficit in dollars. This intensification came at the expense of dollar-using Canada which saw trade to the sterling area curtailed. Import controls associated with the Sterling Area along with other measures such as bulk purchasing further intensified controls. In the tropical empire a new phase of constructive imperialism (the 'second colonial occupation') intensified the economic management and exploitation. With dollars scarce and much of the rest of the world decimated, trade within the empire-Commonwealth as a proportion of total trade peaked in the late-1940s (as Figure 2 below shows).[88] The replacement of Imperial Conferences with more frequent, if less glamourous, Commonwealth Heads of Government meetings, along with meetings of Commonwealth finance ministers suggested an intensification of Empire-Commonwealth economic governance.[89] Bouyed by wartime propaganda, belief in the system amongst British and dominion businessmen and politicians renewed.[90]

88 Fieldhouse, 'Metropolitan Economics', pp. 104-108; Krozewski, *Money and the End of Empire*; Shipway, *Decolonization and Its Impact*, pp. 117-119.
89 McIntyre, *Commonwealth of Nations*, p. 354.
90 Potter, *Broadcasting Empire*, pp. 110-144.

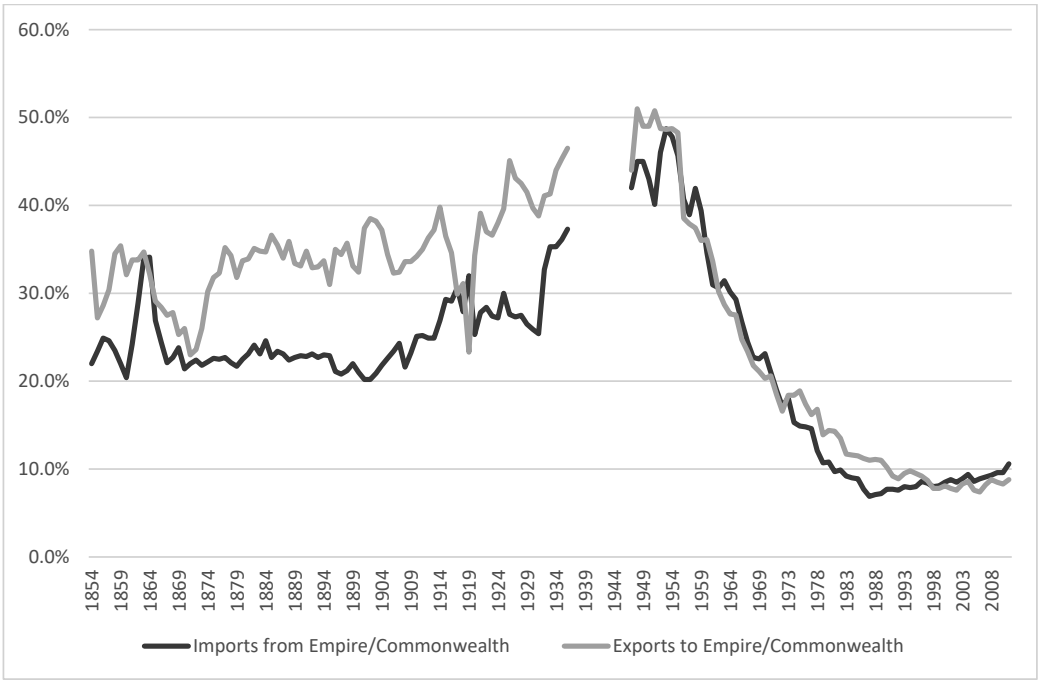

Figure 2. *British Trade with the Empire-Commonwealth, 1954-2009*

Sources: Schlote, *British Overseas Trade*, Table 20b.; Allen, 'Commonwealth Trade Statistics'.

By 1975 the earlier mechanisms of economic governance in the Commonwealth had either vanished or receded.[91] The changes were rooted in shifting international politics and economics as well as decolonization in the dependent empire. First newer more powerful international economic institutions emerged, some global in scope such as the World Trade Organisation, the International Monetary Fund, and the General Agreements on Tariffs and Trade; others regional, most notably the European Economic Community.[92] All superseded the weak interwar international framework centred on the League of Nations. These new institutions required in varied degrees adherence to rigid rules which ran counter to and superseded the loose voluntary practices seen with in the Commonwealth. The new order curtailed the scale, scope, and significance of that cooperation. The Commonwealth would persist, from 1965 presided over by a secretariat, to pursue certain core values (development and anti-apartheid) but it would not promote tight knit collaboration.[93] Bilateral cooperation, networks forged by history, language, the common law, migration, and culture would persist. These may perhaps have continued to generate some economic

[91] For an expanded version of the argument made here, see Dilley, 'Un-Imagining Markets'.

[92] Foreman-Peck, *History of the World Economy*, pp. 239-242; Frieden, *Global Capitalism*, pp. 254-271, 283-301.

[93] Lloyd, 'Britain and the Transformation'; Onslow, 'Commonwealth and the Cold War'; Ball, *The "Open" Commonwealth*.

advantages in terms of reduced transactions costs but not within a framework of active economic governance.[94]

The erosion of the levers of political economy can only be outlined here. Change was not instant and through the 1950s a widespread belief in the possibilities of significant economic cooperation remained in place, for instance surrounding the 1958 Montreal Commonwealth Economic Conference.[95] As late as the mid-1960s, Harold Wilson's Labour government embarked on a Commonwealth trade drive in the wake of Charles De Gaulle's veto of Britain's first EEC application.[96] However, notwithstanding the persistent hopes of governments and businessmen, the underlying realities had shifted: the field had changed. Imperial preferences were frozen under the 1947 General Agreement on Tariffs and Trade. Their value eroded and their pattern fell out of sync with a changing global economy.[97] This took place before the UK's pursuit of EEC membership which presaged their final abolition.[98]

The Sterling Area was never intended to be a hermetically sealed zone and pressure to convertibility came from the US from the end of the Second World War. Although several earlier attempts to float the pound were unsuccessful, after 1958 the controls within the area were progressively dismantled.[99] Coordination of legislation remained a possibility. As late as the mid-1960s the Federation of Commonwealth Chambers of Commerce thought, for example, that significant new Commonwealth arrangements on double taxation might be possible.[100] But as the Commonwealth expanded, as its governments aligned with different regions, and pursued radically different approaches to economic management, the significance of such voluntary measures receded.[101] Economic discussions at Commonwealth level – at the newly founded Commonwealth Secretariat and within a large penumbra of Commonwealth NGOs – focused on aid and development in the global South.[102] As the possibility of economic governance receded, the two major pan-Commonwealth business lobbies – the Federation of Commonwealth Chambers of Commerce and the Commonwealth Producers Association ceased activity. So too did the Commonwealth Industries Association – a group centred on the back-benches of the Conservative party and the descendent of Joseph Chamberlain's Tariff Reform League.[103] Of course, trade (on a much-reduced scale, see Figure 2) remained between Commonwealth countries, but that trade ceased to be distinguished by a distinct framework of economic governance. [104]

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94 Bennett and Sriskandarajah, 'The 'Commonwealth Effect' Revisited'. See also Murphy, *Empire's New Clothes*, pp. 203-217.

95 Miller, *Survey of Commonwealth Affairs*, p. 283.

96 Ashton, 'British Government Perspectives'.

97 McKenzie, *Redefining the Bonds of Commonwealth*.

98 Ogawa, 'Britain's Commonwealth Dilemma'; Ward, *Australia and the British Embrace*; May, 'Commonwealth'.

99 Schenk, *Britain and the Sterling Area*; Strange, *Sterling and British Policy*.

100 FCCC Papers, CLC/B/082/MS18291: 'Report of Special Taxation Committee on "Double taxation within the Commonwealth"', 1964.

101 Miller, *Survey of Commonwealth Affairs*, pp. 439-462.

102 Bangura, *Britain and Commonwealth Africa*.

103 Dilley, 'Un-Imagining Markets'; Cambridge University Library, GBR/0115/RCMS/11/1/ (Records of the Commonwealth Producers' Organisation): *Council Minutes 1950-1974*, 18 July 1974; University of Warwick, Modern Records Centre, MSS 221/1/1/4 [Empire/Commonwealth Industries Association]: Annual General Meeting, 9 December 1975.

104 See the various editions of *Commonwealth Trade* published from the 1950s to the mid-1970s by the Commonwealth Economic Committee.

VI Conclusion

This article has argued that for all the revival of interest in the economics of empire, historians have not given enough attention either empirically or more especially conceptually to the interplay of politics and economics in the Empire-Commonwealth, to the possibilities, practices, contests, and compromises of economic governance. This is not to revive claims of British 'control' (the debate on British economic imperialism – exerted through informal means – is ongoing and distinct).[105] Nor is it to assert an even stranger claim that somehow the centralising dreams of imperial federationists such as Lionel Curtis in fact succeeded.[106] Rather it is to reclaim the varied practices of governance through which the decentralised Empire-Commonwealth nonetheless sought to cooperate economically, and to prompt a re-examination of the various areas in which this governance operated. These areas stretched beyond the totemic issue of tariffs through currency, migration and investment, taxation, law and regulation, and transport and communications. While some contemporaries and more post-1945 analysts have tended to question their effectiveness, they still constitute one of the most significant attempts at supranational economic cooperation prior to 1939. The Empire-Commonwealth framework of economic governance existed, was recognised and debated by contemporaries, and had at least some impact.

After 1945 the global context changed; international institutions became more binding. The Empire-Commonwealth became a post-colonial Commonwealth with a larger and more diverse membership, focused on development but less concerned to maintain a distinctive political economy. Global trade shifted into north-north exchanges; Britain's trade swung towards Western Europe. Practices of Empire-Commonwealth economic governance faded before they were finally truncated by British entry into the European Economic Community. Now, as the binding global architecture of the post-1945 order again comes under acute and economically disruptive challenge, and as nation-states reassert their sovereignty, the need for historians to recognise and study the political economy of the Empire-Commonwealth framed precisely around the goal of reconciling cooperation and flexibility and autonomy has become a contemporary as well as a historiographical imperative.

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105 For a classic statement, see Fitzpatrick, *British Empire in Australia*. The modern debate now continues between Cain and Hopkins and their critics. See particularly Cain and Hopkins, *British Imperialism*, and the essays in Dumett, *Gentlemanly Capitalism and British Imperialism*.

106 Lavin, *Empire to International Commonwealth*.

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International Lawyers' Failing: Outlawing Weapons as an Imperfect Project of the Classical Laws of War

By MILOŠ VEC*

Why are some weapons regarded as intrinsically evil and others are not? This article intends to supply a history of the stigmatization of weapons on land warfare in the era often labelled 'classical international law'. This era is packed with discourses not just about war but also treaties' restrictions on warfare technologies. Even if war itself was considered to be 'just', not every military strategy and not every weapon was seen as a legitimate tool. This article takes a multi-normative perspective to examine entanglements between legal norms, morality, and social custom (like military honour codes) and their impact on the project of outlawing particular methods of killing. Although this article's goal is to draw a detailed sketch of nineteenth-century international law, it will nonetheless go further back in time to include earlier writings because nineteenth-century discourse cannot be understood without references to pre-modern international law authorities such as Hugo Grotius, Emer de Vattel, or Immanuel Kant.

Why are some weapons regarded as intrinsically evil and others are not? This article intends to supply a history of the stigmatization of weapons on land warfare in the era often labelled 'classical international law'.[1] This era is packed with discourses not just about war but also treaties' restrictions on warfare technologies. Even if war itself was considered to be 'just', not every military strategy and not every weapon was seen as a legitimate tool.

This article seeks to analyse the issue from the perspective of a legal historian but in a broader normative framework. The moral, religious, ethical, technical, or legal narratives that were used to prohibit the use of certain weapons under international law before the First World War shall be laid out in detail. The eminent historian of international law, Martti Koskenniemi, emphasized the importance of that era for the regulation of warfare in his seminal work in 2001: '… the laws of war have perhaps never before nor since the period between 1870 and 1914 been studied with as much enthusiasm. Optimism in reason and the perfectibility of human nature laid the groundwork for the view that men could be educated to wage war in a civilized way'.[2]

It was 'the golden era of efforts to limit warfare through international law'.[3] Today, these international legal studies are as relevant as ever. Can any common pattern or structures of

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1 Koskenniemi, 'Legacy of the nineteenth century', pp. 141-53.

2 Koskenniemi, *The gentle civilizer of nations*, p. 87.

3 Price, *The chemical weapons taboo*, p. 164.

argumentation be observed? What were the purposes behind such bans? Did such restrictions 'humanize' warfare and promote pacifism following the advent of the First World War? Or did these very restrictions help to legitimize war itself and were thus only a fig leaf for ferocious military acts?

To answer these questions, this article will consider legal, political and philosophical discourses from the mid-seventeenth century up until the aftermath of the First World War (including perspectives of the military) with a particular focus on developments in the 'long' nineteenth century. The historical sources are mostly writings from legal, political, and philosophical scholarship. Treaties play only a small role[4] due to their historical absence in the period before the Saint Petersburg Declaration and Hague Conventions and Declarations in this international legal discourse and are therefore not the main focus of this article. This article aims to include authors from and sources on a vast range of countries including Argentina, Austria-Hungary, Belgium, Chile, China, Denmark, France, Germany, Italy, the Netherlands, Japan, Russia, Spain, Switzerland, the United Kingdom (UK), and the United States of America (USA). However, it must be admitted that this article is almost entirely Eurocentric. The debate is overwhelmingly traced through the perspective of European doctrine (but through the eyes of different nationalities, assuming potential differences[5]) due to the author's lack of language abilities necessary to read primary sources from Asian or African writers. At the same time, the historical international legal discourse was, in fact, being increasingly dominated by Europeans, and the spread of legal doctrines was supported by economic and military expansion as well as global trade between the early modern and nineteenth centuries.[6] Although this article's goal is to draw a detailed sketch of nineteenth-century international law, it will nonetheless go further back in time to include earlier writings because nineteenth-century discourse cannot be understood without references to pre-modern international law authorities like Hugo Grotius, Emer de Vattel, or Immanuel Kant.[7]

I. Pariah weapons in international legal history: A failed moralization of law?

'Pariah' is not a term from international legal historical sources, so the phrase rarely appears verbatim in any written record. Placing it as the epistemological centre and conceptual focus of this article carries the danger of producing anachronisms.

This article takes an approach based on the history of science (Wissenschaftsgeschichte) to the history of the law of war and explicitly excludes the debate on military strategies, which are not based on weapons in a material sense. The scope is limited to weapons as artifacts or means, defined as 'a device, a munition, and implement, a substance, an object, or a piece of equipment.'[8] It is necessary to make this decision explicit because historical sources very often combine the discussion of outlawed weapons with that of potentially immoral or illegal strategies.[9]

4 Roberts, 'Against war', p. 319.
5 Roberts, *Is international law international?*
6 Onuma, *International law in a transcivilizational world*, Chs. I and IV; Ballantyne and Burton, 'Imperien und Globalität', pp. 287-433; Burbank and Cooper, *Empires in world history*, pp. 287-331; Bayly, *Die Geburt der modernen Welt*, pp. 248-99; Darwin, *Der imperiale Traum*, pp. 283-346; Osterhammel, *Die Verwandlung der Welt*, pp. 674-736.
7 Kadelbach, Kleinlein, and Roth-Isigkeit, eds., *System, order, and international law*.
8 Haines, 'The developing law of weapons', p. 276.
9 Heineccius, *A methodical system of universal law: Or, the laws of nature and nations*, II, Ch. IX, pp. 194-95.

A similar pattern of discourse and its inherent problems can be found in the concept of 'weapons of mass destruction' (WMD) that has been investigated by Oren and Solomon as well as by Bentley.[10] This notion played a crucial role during the 2003 invasion in Iraq by the Coalition forces led by the USA but can be terminologically traced back to the interwar period. Oren and Solomon warn us not to treat WMD 'as if it were a self-evident, fixed concept.'[11] They try to historicize the concept of WMD and want to 'dispel the illusion that it has a stable, unambiguous meaning'.[12] Transferring this important ambition to the field of pariah weapons therefore brings analogous methodological challenges of changing historical semantics and also of avoiding anachronisms of projecting the notion of pariah weapons onto epochs in which the word was unknown.

At the same time, functionally similar notions of 'pariah weapons' can be found in historical sources from the eighteenth to the twentieth century that discuss warfare and its limits. The multi-normative discourses around these terms and concepts have to be treated very carefully, given that the story of the law of war has often been told in a progress narrative focusing on the mitigation of war.[13] For most of the past, the use of force was considered legal in general; just-war doctrine provided a yardstick. International law's role in this scheme was to balance necessity and humanity[14] in warfare.

1. The real actors of the outlawing process: International lawyers and their stigmatizing terminology

The idea closest to the 'pariah' concept in international legal doctrine are so-called *intrinsically evil* ('mala in se'[15]) weapons. The notion stigmatizes certain types of weapons and methods in warfare. Many histories of international law that deal with the law of war focus on state interest,[16] military discipline,[17] and humanitarian principles[18] as driving forces to outlaw the use of certain weapons. However, the role and contribution of what Schachter called 'the invisible college of international lawyers'[19] in his article in 1977 are crucial for this process.

A shared professional moral and religious homogeneity among international lawyers was the central prerequisite to express outlawing demands in legal doctrine. At the same time, the articulation of such demands has to be contextualized within the colonial and imperial mindset of international lawyers.[20] It needs to be seen as a symbolic act of delegitimation by which jurists comforted and self-ensured their own supreme status of *civilization*. This perspective also explains why the project of moralizing international law and with it the 'pariahization' of war weapons failed in the long nineteenth century and often had merely a rhetorical character. In particular, the language of stigmatization provides evidence of this

10 Oren and Solomon, 'WMD: historicizing the concept'; Bentley, *Weapons of mass destruction*.
11 Oren and Solomon, 'WMD: historicizing the concept', p. 1.
12 ibid, p. 3.
13 Neff, *War and the law of nations*, p. 163. Neff states 'In sum, the nineteenth century witnessed impressive progress in the codification and elaboration of the rules of war – and, in the process, towards a gradual limitation on the destruction and suffering of war'. ibid., p. 191.
14 Lingen, *Crimes against Humanity*, p. 15 (on the concept); Hayashi, 'Military necessity as normative indifference', pp. 675-782.
15 Bolton and Minor, 'International campaign to abolish nuclear weapons' operationalizations', p. 385.
16 af Jochnik and Normand, *The legitimation of violence*, pp. 49-95.
17 Benvenisti and Cohen, 'War is governance', pp. 1363-416.
18 Klose, 'Abolition and establishing humanity as an international norm', pp. 169-86; Lingen, *Crimes against humanity*, p. 588.
19 Schachter, *The invisible college of international lawyers*, p. 217.
20 Anghie, *Imperialism, sovereignty and the making of international law*.

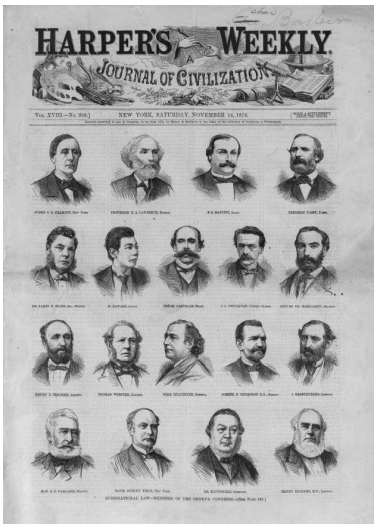

Image 1: Sometimes, the 'the invisible college of international lawyers' was made visible, such as here on the title page of an 1874 Issue of '*Harper's Weekly*' from 14 November 1874.

Source: *Harper's Weekly* (14 November 1874)

rhetorically loaded religious terminology and categories from moral theology, such as referring to a given category as 'sacrosanct'[21] or threatening perpetrators with a 'condamnation solennelle'[22] (solemn condemnation) if they did not comply with the existing moral and legal rules that imposed restrictions on the means of warfare among so-called civilized states. Furthermore, our transcivilizational standards are sometimes expressed by the reference to a 'taboo',[23] as laid out in a number of newer publications, some of which were published by members of this project group. Michelle Bentley reminded us that the taboo served 'as strategic narrative' in her 2018 article:[24]

> … The taboo is a complex construction, which encompasses a range of ideas: from the idea that these weapons are inherently repulsive, to the idea that their use is immoral, to the idea that the nature of this weapons demand that they be eliminated, to the idea violators must be punished. […] This paper does argue, however, that narrative construction is also a case in which the ideals of the taboo can be broken apart, and each part used selectively and manipulated to fit very specific political aims.[25]

Thus, the task for legal history would be to critically assess the justification narratives and rhetoric of the standards and criteria of outlawing weapons.

21 Bentley, 'Trump and the taboo', p. 1.
22 Fiore, *Nouveau Droit International Public*, II, p. 279.
23 Price, *The chemical weapons taboo.*
24 Bentley, 'Trump and the taboo', p. 9.
25 ibid, p. 14.

2. The importance of normative entanglements

'Pariah' encompasses a moral verdict, referring to discriminatory practices. International legal provisions are entangled in multiple ways with other normative orders; in this case they refer – implicitly or explicitly – to morality when outlawing the use of particular types of weapons. Two normative contexts of such verdicts and their multi-faceted entanglements shall be highlighted in this regard.

a) International law and domestic law

All histories of international law should take domestic legal provisions into account as they are typically the forerunners of regulations on an international level. This is the case for poison, which was and still is stigmatized by an overwhelming number of national criminal codes and as well as – as we will see later – by international law. In addition, the international law of war was often inspired by domestic military regulations as the (American) Lieber code (which also included prohibitions of the use of poison).[26] Domestic provisions also serve as an implicit reference point for jurists trained in a specific domestic legal system.

b) Multi-normativity as an analytical framework

Specifying that not all weapons were considered equal by normative standards also implies the possibility of complex interactions and even contradictions between plural and different standards. This normative plurality might primarily affect law in that domestic legal provisions could collide with international law – whether founded in treaties or customary law. Yet, normative pluralism goes beyond such inter-legal relations. This article's argument is that extra-legal normative orders, such as ethics, morality, religion, social custom (like military conventions, 'chivalric codes of combat',[27] martial honour, 'military honour'[28]), or (with increasing relevance in the twenty-first century) technological standards need to be considered to understand the logic of outlawing pariah weapons. A mere legal perspective would not be sufficient to comprehend the stigmatization of certain types of weapons by statutory and international law. In contrast, only the close interactions and entanglements of moral and martial honour and (international) legal norms can sufficiently explain the aversion to such weapons. In addition, one might argue that the inherent structure/weakness of international law to enforce its regulations further enhances the necessity of moral arguments when outlawing certain practices.

Most social interactions are regulated by plural norms concurrently; thus 'multi-normativity'[29] is typical and not exceptional. One should not expect conformance of these various normative orders when assessing certain types of weapons. In other words, the fact that one normative order (e.g. morality) expresses uneasiness with a certain type of weapon does not necessarily imply that another normative order (e.g. international law) shares this view. These legal approaches stand in complex interaction with moral convictions and social conventions that crystallized in the writings of international lawyers. The interaction

26 Witt, *Lincoln's code*, p. 2, 4, 183; Price, *The chemical weapons taboo*, p. 20.
27 Witt, *Lincoln's code*, p. 18.
28 Bernard, 'Growth of laws and the usages of war', p. 89. See: Liivoja, 'Law and honor', pp. 143-65; Liivoja, 'Military honour and modern law of armed conflict', pp. 75-100.
29 Vec, 'Multinormativität in der Rechtsgeschichte', pp. 155-66.

might be complex and particularly dependent on actors expressing their particular views in certain situations.

3. 'Pariah Weapons' as a neglected topic in international legal historiography

This topic of limiting war technologies is not only of historical relevance. In an epoch marked by accelerated technological innovations, new challenges and new threats to international human rights and world peace arise. 'Lethal autonomous weapons systems (LAWS)', 'unmanned aerial vehicles', 'military nanotechnology', and 'cyberwar',[30] 'hybrid conflicts' and 'New Wars'[31] question our traditional assumptions and legal instruments, as imposed by domestic and international law: 'In the twenty-first century, the pace of technological change in warfare has quickened.'[32] All the more, it should be our primordial interest to analyze legitimations and de-legitimations of particular warfare technologies in past centuries. Often, international legal debates refer to *experience*, yet *experience* is a social construction of the past, which has always had its leeways. Therefore, there is a clear necessity to historicize ideas, concepts, and motives of normative restraints. Interestingly, the historical research on limitations of warfare technology still seems relatively scarce[33], despite a number of publications[34], and particularly compared to the vast amount of literature on just war doctrine or other legitimations of warfare that focus on the right to resort to war (*jus ad bellum*).[35] Historical case studies on the interdiction of certain types of weapons seem to be much rarer in comparison.[36]

II. Before IHL was introduced: Vivid discussions and the danger of anachronisms

Today, the principal places for the debate on outlawing weapons would be *international humanitarian law* (IHL) and *disarmament law*. These particular fields of international law have their roots in the nineteenth and twentieth centuries. However, IHL is a neologism that had its breakthrough only recently, in the 1980s.[37] As a relatively modern concept, it shifted the focus in favour of particular interests. Those interests are not necessarily identical with historical regulations; therefore, the danger of anachronism arises. Historically, the debate to outlaw certain weapons was as argued in the context of the 'law of war' (*jus in bello*). Such shifts of concept matter and should not be underestimated in their impact. Historically, this issue was of vital relevance – probably even more than it is today. In other words, the nineteenth-century perspective on the issue was different than today's wording

30 Laufer, 'War, weapons, and watchdogs', pp. 62-74.
31 Kaldor and Chinkin, *International law and new wars*.
32 Schmitt, 'War, technology and the law of armed conflict', p. 137.
33 Neff, *War and the law of nations*, p. 1; Liivoja, 'Technological change and the evolution of the law of war, p. 1164.
34 O'Connell, *Of arms and men*; Boot, *War made new*; Gillespie, *A history of the laws of war*; Keen, *Laws of war in the late Middle Ages*; Neff, *War and the law of nations*.
35 See recently Simon, 'Myth of Liberum Ius ad Bellum', pp. 113-36; Bernstorff, 'Use of force in international law before World War I', pp. 233-60; Verdebout, 'Contemporary discourse on the use of force in the nineteenth century', pp. 223-46.
36 See e.g. Tannenwald, 'Stigmatizing the bomb', *International Security* 29 (2005), pp. 5-49; Price, 'A genealogy of the chemical weapons taboo', *International Organization,* 49 (1995), pp. 73-103; ibid., *The chemical weapons taboo*.
37 Alexander, 'A short history of international humanitarian law', p. 110.

Figure 1: *Emergence and conceptual rise of 'international humanitarian law', compared to 'law of war'.*

Source: Google Books Ngram Viewer (https://books.google.com/ngrams/), 31 Jan 2019.

of IHL suggests,[38] which is why this article speaks of the modern *law of war* as the legal context of pariah weapons.

1. A scarce presence in international treaty law

When analysing pariah weapons in international law, today's international lawyers first examine international treaties and customary international law. However, this approach can hardly be used for historical analysis; combing through international treaties turned out to be a fruitless endeavour, since there are few major or important treaties for most of the period before the Hague Conferences. A recently published Swiss legal history dissertation on early modern peace treaties refers to a number of provisions on demilitarisation.[39] These early modern European bi- and multilateral peace treaties included regulations on limiting artillery and reducing fortresses on the side of the losers. But none of them aimed to ban the use of particular weapon technologies as a whole. Similar observations can be made with regards to the late nineteenth and early twentieth century Japanese and Chinese treaty collections or analysis, which also did not mention any restrictions of particular warfare technologies.[40]

Contemporary late eighteenth- and early nineteenth-century authors quoted some (isolated) provisions against certain weapons from treaties between European powers in premodern Europe. Yet, those treaties already were a historical phenomenon at that time. In 1821, German jurist Johann Ludwig Klüber referred to the existence of treaties explicitly regulating the manners of war and quoted an unnamed treaty of 1675 that prohibited the use of poisoned weapons.[41] German international lawyer Georg Friedrich von Martens

38 Schäfer, 'The 150th anniversary of the St Petersburg Declaration', pp. 505, 508.

39 Huwiler, *De Pace – De Bello*, pp. 320-40, 461, 479.

40 Matsudaira, *Völkerrechtlichen Verträge des Kaiserthums Japan*; Takahashi, *Cases on international law during the Chino-Japanese war*; Takahashi, *International law applied to the Russo-Japanese War*; MacMurray, ed., *Treaties and agreements with and concerning China*, vols. 1 and 2.

41 Klüber, *Europäisches Völkerrecht*, p. 398. Further references to such a treaty of 1675 can be found in various historical sources: Fleming, *Der Vollkommene Teutsche Soldat*, P. III, C.VI, § 18 (p. 199); Beust,

noted in 1795 that such sources had a highly isolated field of application and were thus of only limited value when it came to deriving general principles of international law:

> The use of red hot shot [invented 1574, at the siege of Dantzick], of chain and bar shot, of carcasses filled with combustibles, boiling pitch, &c. have sometimes been proscribed by particular conventions between maritime powers. These conventions, however, extend no further than the war for which they are made; and, besides, they are never applicable except in engagements of vessel for vessel.[42]

For most of the nineteenth century, until its last decade in which the famous Hague conference took place and its eponymous treaty collection soon followed, it seems that not a single treaty prohibited the use of particular weapons except for the Saint Petersburg Declaration of 1868. This is highly interesting and also a slight surprise as the nineteenth century faced a so-called 'treaty revolution';[43] the number of bi- and multilateral treaties rose dramatically, and international legal doctrine discovered new types of treaties: the so-called 'lawmaking treaties'.[44] With regards to international legal sources, the nineteenth century was marked by a landslide shift to treaties and customary international law. Still, this 19th-century treaty revolution came late in the field of weapons regulation; not many wars were fought between European powers before the Crimean War and the arms races among European countries in the late nineteenth century. Efforts for codification of the laws of war were therefore mainly undertaken at the very end of the century and concentrated on in the context of the two Hague conferences in 1899 and 1907 due to the Eurocentricity of the international lawyers. At these conferences, modern international treaty law came into focus, and along with the rhetorically impressive Martens Clause, these conferences' legal outcome was a milestone in international treaty law that led the way for further codification projects. In the preceding years, treaty law's diminished role had allowed other kinds of legal sources to develop, which brought particular customs and doctrines into focus. However, customary international law was obviously not the appropriate instrument for any reform projects.

2. Jurists replace a legislator

In fact, jurists were primarily the ones deliberating on restrictions, liaising international law with their moral convictions, and then finally formulating norms, thus establishing international legal standards. The debate mainly took place within the genre of dissertations and textbooks, which spread remarkably during the nineteenth century;[45] quite a number of them received further editions, attracted annotations by colleagues, or were translated into other languages[46] (in this article, English editions are referenced when available). Contemporary bibliographies on international legal writings appeared and listed publications by various jurists about forbidden weapons or prohibited methods of warfare

Observationes Militares, V, C. III, Observatio CVIII, § 1, 12. (p. 236); Grotius, *Drey Bücher von Kriegs= und Friedens=Rechten*, L.III, C. IV, XVI.1 (p. 59) footnote 58. – A similar provision is said to be included in another treaty of 1702: Beust, *Observationes Militares*, I, C. II, Observatio XXI, § 1, 4. (p. 27); Rohr, *Einleitung zur Ceremoniel-Wissenschafft*, P.II, C.VII, § 29 (p. 489).

42 Martens, *Summary of the law of nations*, VIII, p. 282.

43 Keene, 'Treaty-making revolution of the nineteenth century', pp. 475-500.

44 Vec, 'Recht und Normierung in der Industriellen Revolution', pp. 104-26.

45 Macalister-Smith and Schwietzke, 'Bibliography of textbooks and comprehensive treatises', pp. 75-142.

46 ibid.

written in distinct sections.[47] Interestingly, the most famous bibliography, published in Regensburg in 1785, only referred to poisonous weapons explicitly in this regard.[48] Later during that period, the first legal journals appeared that were only dedicated to the topic of international law.[49]

In a situation in which positive treaty law on pariah weapons was almost completely lacking in international relations apart from the St Petersburg Declaration and the Hague Conventions and Declarations, the writings of these jurists were an important source of nineteenth-century international law[50] (nonetheless, it was highly disputed how to classify these sources from a systematic standpoint). International lawyers were aware of that fact and sometimes listed the 'text-writers of authority, showing what is the approved usage of nations' first in the canon of the sources of international law.[51]

Interestingly, the statements of these text writers were sometimes presented in a very normative fashion, presumably to cover one's own moral convictions and attitudes. Nevertheless, some writers claimed explicitly in their arguments that they merely referred to generally accepted historical authorities and in particular to legal masterminds of the seventeenth and eighteenth century.[52] Some textbooks on the law of nature and of nations even presented their statements as legal codes in an attempt to have them appear neutral and of normative value. These textbooks' language and formal styles were deliberately designed to evoke an association with neutral legal codes. The books' contents were presented in paragraphs led by '§'-signs. Their alleged legal character served as a replacement for actual legal arguments; the author wrote as an authority and declared himself able to give mere opinions normative character and therefore did not need to justify his statements.

Yet, jurists were not the only ones engaged in these debates, and legal perspectives had no monopoly on the discourse on the law of war. Historically, there has been a broad range of contributions from writers with different scientific backgrounds: natural law, theology, political science, and moral philosophy. Practical philosophers Francis Hutcheson[53] and Johann Georg Heinrich Feder,[54] as well as the Lutheran theologian and philosopher Johann Franz Buddeus,[55] or the Catholic theologian Augustin Schelle[56] from Salzburg, discussed the use of poisoned weapons in the eighteenth century.

Sometimes justifications for interdictions were relatively unclear when it came to their exact normative foundation. The authors would claim that a certain weapon was 'illicit' or 'forbidden' without referencing the normative order that led them to that conclusion. The terms they used were not precisely defined but needed – and still need – to be interpreted by the reader. Others were using legal terminology and manners of war (as a social custom) almost interchangeably. Klüber used the French term *loi de guerre* and translated it as *Kriegsmanier* and *Kriegsgebrauch* ('manners of war') in 1819.[57] In German scholar and

47 Kamptz, *Neue Literatur des Völkerrechts*, p. 334f.
48 Ompteda, *Litteratur des gesammten sowohl natürlichen als positiven Völkerrechts*, pp. 636-7.
49 Hueck, 'Gründung völkerrechtlicher Zeitschriften in Deutschland im internationalen Vergleich', pp. 379-420.
50 Vec, 'Sources in the 19th century European tradition', pp. 121-45.
51 Wheaton/Dana, *Elements of international law*, p. 23.
52 Martini, *Lehrbegriff des Natur= Staats= und Völkerrechts*, p. 122. Martini references Heineccius, Wolff, Gundling, Gunner.
53 Hutcheson, *Short introduction to moral philosophy*, p. 335.
54 Feder, *Lehrbuch der Praktischen Philosophie*, p. 163.
55 Buddeus, *Lichts der Weisheit*, p. 494f.
56 Schelle, *Praktische Philosophie*, pp. 61, 343.
57 Klüber, *Droit des gens moderne de L'europe*, p. 384.

philosopher Friedrich Saalfeld's '*Handbuch des positiven Völkerrechts'* (*Handbook of Positive International Law*), which was published in 1833, terminology 'manners of war' were all common and legal practices during wartime.[58] Eighteenth century European jurist Johann Gottlieb Heineccius refers in 1738 to the 'mores gentium humaniorum', which was translated as 'the manners of more civilized nations' and then equated with 'the humanity of war'– two terms, oscillating between the social customs of civilized nations and the morality of warfare.[59]

III. Limiting war? Fundamental disputes about what (not) to condemn in the Law of Nature and Nations

The relevance of these writings cannot be underestimated. Long-lasting traditions were established particularly by the seventeenth and eighteenth law of nature and of nations authors. Within these works, the usage of forbidden weapons during a just war was controversially discussed, opinions were expressed, and highly specialized tracts and dissertations were referenced.[60] The earlier assessments of Grotius, Vattel, and Kant on weapons were frequently quoted even during the nineteenth century, and it seems ultimately clear that those cross-references were more than historical footnotes but rather references to prevailing legal authorities in the field of international relations.

In 1866, American international lawyer Henry Wager Halleck made a strong and explicit reference to Vattel's book from 1758 at the end of a passage and quoted him as an undisputed authority.[61] In 1850, British international lawyer Richard Wildman discussed the conflict among legal textbook writers with regards to the means of lawful destructions in war and quoted Grotius, Cornelius van Bynckershoek, and Heineccius.[62] Such references, along with the general style of argumentation, underline once more that it would be a fundamental misunderstanding to believe that nineteenth-century international law was a merely positivist enterprise.[63] Instead, the law of nature was alive and influencing the law of nations in manifold ways.[64]

1. The polyvalent justifications of outlawing perfidies (Grotius, Vattel, Kant)

To gain a better understanding of the legal authorities that were quoted during the nineteenth century, a short study of the work of Grotius, Vattel, and Kant seems valuable.[65] The most prominent classical doctrinal example for the polyvalent justifications of outlawing perfidies is Hugo Grotius' textbook, *De Jure belli ac Pacis libri tres,* which was first published in 1625. Famously, Grotius discussed the *ius in bello* according to the law of nature as well as to the law of nations (two different normative yardsticks) against the

58 Saalfeld, *Handbuch des positiven Völkerrechts*, p. 197f.
59 Heineccius, *A methodical system of universal law: Or, the laws of nature and nations*, II, C. IX, § 199, p. 194.
60 See the bibliography at Höpfner, *Naturrecht des einzelnen Menschen, der Gesellschaften und der Völker*, p. 122f.
61 Halleck, *Elements of international law and laws of war*, p. 179. On Lieber's code, poison and Vattel, see: Witt, *Lincoln's Code*, pp. 18, 183.
62 Wildman, *Institutes of international law*, II, p. 23.
63 Koskenniemi, 'Into positivism', pp. 189-207.
64 Vec, 'Sources in the 19th century European tradition', pp. 121-45.
65 Price, *The chemical weapons taboo*, p. 23ff.

backdrop of the just-war doctrine.[66] In 1988, Swiss international lawyers Daniel Frei emphasized that arms control serves four objectives:

> reducing the likelihood of war […]; reducing suffering and damage in the event of war; reducing the expenditure of armaments and saving resources; and contributing to conflict management by providing a framework for negotiation between opposing sides, by reducing suspicion and by generally contributing to an atmosphere conducive to relaxation of tensions.[67]

According to this analytical lens, it seems that the limitations proposed by Grotius focused on reducing suffering and damage in the event of a just war. Additionally, mutual trust in international relations played a crucial role. Grotius explicitly imposed restrictions on the methods of warfare:

> … the Law of Nations, if not of all, yet of the better part of them, allows not the taking the Life of any one, no not of an Enemy, by Poison; which Custom was introduced for a general Benefit, lest Dangers, which are very common in War, should be multiplied beyond Measure. And it is probable, that it was first made by Kings, whose Life being chiefly defended by Arms, is more in danger of Poison, than that of other Men, unless it were secured by the Severity of Law, and fear of Disgrace and Infamy.[68]

Such restrictions were not imposed by the law of nature according to Grotius; they could only be imposed by the law of nations: 'For if we respect the Law of Nature, if a Man has deserved Death, it signifies not much, whether we do it by the Sword or Poison.'[69]

Similarly, this line of argument against treacherous and cruel weapons can be found in many other early modern law books[70] and also factors prominently in the work of Swiss jurist Emer de Vattel first published in 1758, which can be seen as Grotius' successor in terms of transnational reception in the diplomatic and academic world.[71] Vattel also clearly spoke out against warfare with poison. After justifying the use of force, Vattel asked rhetorically:

> Nations may do themselves justice sword in hand, when otherwise refused to them: shall it be indifferent to human society that they employ odious means, capable of spreading desolation over the whole face of the earth, and against which, the most just and equitable of sovereigns, even so supported by the majority of other princes, cannot guard himself?[72]

Here, an interesting argument against the use of poison is made explicit: it is – as Richard Price put it repeatedly – 'a potential equalizer in a battle' [73] and brings not only disorder to

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66 Haggenmacher, *Grotius et la doctrine de la guerre juste*.
67 Frei, 'International humanitarian law and arms control', pp.493-494.
68 Grotius, *Of the rights of war and peace*, 1715, L. III, C. IV, XV (p. 76), XV. 1.
69 ibid.
70 Beust, *Observationes Militares*, I, C. II, Observatio XXI, § 1, 2. (p. 26); Hasse, *Die Wahre Staats=Klugheit*, p. 455f.
71 Fiocchi Malaspina, *L'eterno ritorno del Droit des gens di Emer de Vattel*.
72 Vattel, *Law of nations*, p. 358.
73 Price, 'A genealogy of the chemical weapons taboo', *International Organization* 49 (1995), p. 82; Price, *The chemical weapons taboo*, p. 25.

a contest of physical force but also makes monarchs and princes vulnerable as they are subject to unreasonable warfare. In other words, poison 'also threatened to undermine the class structure of war, for a relative commoner could possess significant destructive capacity without the elaborate and expensive knightly accoutrements of horse, armor, and the like.'[74] Vattel's conclusion was to outlaw two methods in particular:

> Assassination and poisoning are therefore contrary to the laws of war, and equally condemned by the law of nature, and the consent of all civilized nations. The sovereign who has recourse to such execrable means, should be regarded as the enemy of the human race; and the common safety of mankind calls on all nations to unite against him, and join their forces to punish him.[75]

Again, the use of poison was the classic example and most discussed instrument when it came to concrete restrictions:

> The use of poisoned weapons may be excused or defended with a little more plausibility. At least there is no treachery in the case, no clandestine machination. But the practice is nevertheless prohibited by the law of nature, which does not allow us to multiply the evils of war beyond all bounds. You must of course strike your enemy in order to get the better of his efforts: but if he is once disabled, is it necessary that he should inevitably die of his wounds? Besides, if you poison your weapons, the enemy will follow your example; and thus, without gaining any advantage on your side for the decision of the contest, you have only added to the cruelty and calamities of war.[76]

As previously laid out, Vattel used the same moral yardstick for judging weapons and imposing legal restrictions as that of Grotius; even the wording was partly identical.

The lasting legacy of these statements was not only the actual ban of the use of poison as an instrument of warfare. Probably even more important than this measure was the rationale and the criteria for this ban itself [see below III.4]. Grotius and Vattel supplied tools and instruments by which methods of warfare ought to be judged. Jurisprudence and moral philosophy went hand in hand to stigmatize certain types of weapons. The ongoing and explicit references to Grotius and Vattel illustrate that the discourse on the limitation of warfare in the nineteenth century was also dominated by categories and concepts regarding the moralization of weapons that were hardly new.

This theoretical contribution from the masterminds of the law of nature and of nations school was supplemented, discussed, and modified by many other writers across Europe who shall not be mentioned individually at this point for reasons of brevity. Yet, it would be an inexcusable shortcoming not to finally mention the international legal philosophy Immanuel Kant eminently formulated in his tract '*Zum ewigen Frieden*' (Perpetual Peace, 1795). In his preliminary article No. 6, Kant repeated and underlined the assessments shared by the majority of his predecessors from the seventeenth and eighteenth century in their writings on the law of war. More clearly than the authors before him, Kant justified these restraints with an explicit purpose which was, in his opinion, trust in international relations:

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74 Price, *The chemical weapons taboo*, p. 25.
75 Vattel, *Law of nations*, pp. 360-1.
76 ibid, p. 361.

> Es soll sich kein Staat im Kriege mit einem andern solche Feindseligkeiten erlauben, welche das wechselseitige Zutrauen im künftigen Frieden unmöglich machen müssen: als da sind, Anstellung der *Meuchelmörder* (*percussores*), *Giftmischer* (*venefici*), *Brechung der Capitulation, Anstiftung des Verraths* (*perduellio*), in dem bekriegten Staat etc.
>
> No state at war with another shall countenance such modes of hostility as would make mutual confidence impossible in a subsequent state of peace: such are the employment of assassins (percussores) or of poisoners (venefici), breaches of capitulation, the instigating and making use of treachery (perduellio) in the hostile state.

Trust had the highest value because it was needed as a base for future peace agreements. The aforementioned weapons destroyed trust between warring parties and were therefore seen as dishonourable means:

> Das sind ehrlose Stratagemen. Denn irgend ein Vertrauen auf die Denkungsart des Feindes muß mitten im Kriege noch übrig bleiben, weil sonst auch kein Friede abgeschlossen werden könnte, und die Feindseligkeit in einen Ausrottungskrieg (*bellum internecinum*) ausschlagen würde.
>
> These are dishonourable stratagems. For some kind of confidence in the disposition of the enemy must exist even in the midst of war, as otherwise peace could not be concluded, and the hostilities would pass into a war of extermination (bellum internecinum).

These weapons, methods, and strategies, such as treacherous murders, poisoning etc. were morally unacceptable. Belligerents had to treat the enemy in a manner – even in times of war – that allowed them to return to peaceful terms and uphold international relations.

2. Contra: The freedom to choose one's arms (Bynkershoek and Wolff)

On the issue of illegal warfare, the eighteenth-century international legal doctrine was complex and not just a story of straight progress. Even the outlawing of poison was contested by a small but vocal minority of scholars – and poison was the least controversial of all the pariah weapons. In contrast with what one may expect, premodern doctrine was not unanimous in banning the use of poison from warfare. Notoriously, German natural lawyer Christian Wolff argued for the use of poison to force an enemy to restore lawfulness.[81]

> § 877. – *Whether by nature it is allowable to destroy the enemy by poison*.
>
> By nature it is allowable to destroy the enemy by poison. For as long as he is an enemy,

77 Kant, *Zum ewigen Frieden*, p. 12 – *highlighting* in original.
78 Kant, *Perpetual peace*, translated from German by M. Campbell Smith, p. 144.
79 Kant, *Zum ewigen Frieden*, p. 12f – *highlighting* in original.
80 Kant, *Perpetual peace*, translated from German by M. Campbell Smith, p. 144.
81 Wolff, *Jus gentium methodo scientifica pertractatum*, p. 709; Wolff, *Grundsätze des Natur= und Völkerrechts*, p. 871.

> he resists the restoration of our right, consequently so much force is allowable against his person as is sufficient to repel his force from us or our property. Therefore, if you are able to remove him from our midst, that is not illegal. But since it is just the same whether you kill him with a sword or with poison, as is self-evident, since forsooth in either case he is removed from our midst that he may no longer resist and injure us, by nature it is allowable to destroy an enemy by poison.
>
> There is no reason why you should object that an enemy is killed secretly by poison, so that he cannot protect himself from that so easily as from open violence; for he is not always killed by open violence who is killed by a sword or the use of other arms. For let us suppose that you secretly enter a place where the leader of the hostile army is asleep, and kill him with a sword. No one surely will deny that this is allowable by the law of war and is just the same as if he should be pierced by a bullet when unexpectedly seen from a distance. Therefore, from the fact that by poison a secret attempt is made against the life of an enemy, the right to remove him from our midst, if a favourable opportunity occurs, is not changed.[82]

Dutch international lawyer Cornelius van Bynkershoek[83] took the same position and justified it with the nature of war:

> War is a contest *by force*. I have not said by *lawful force*, for in my opinion, every force is lawful in war. Thus it is lawful to destroy an enemy, though he be unarmed and defenseless; it is lawful to make use against him of poison, of missile weapons, of firearms, though he may not be provided with any such means of attack or defense; in short every thing is lawful against an enemy.[84]

His treatise on the law of war, originally published in 1737, was translated into English and even reprinted in Philadelphia in 1810.

Interestingly, the set of criteria that these two and other authors[85] apply was not so fundamentally different from that of the seventeenth- and eighteenth-century writers who argued against the usage of certain weapons, such as poison. The main argument was deduced from war as a legal concept with distinct purposes.[86] But just *how* far can belligerents go? Which means can be used to overthrow the enemy, to break his will, and to force him to restore justice? Which means go too far? That was the pivotal question in the dispute. Necessity, an early precursor of today's concept of 'proportionality'[87] and mercy, provided a map for normative orientation. Still, Wolff reaffirmed belligerents' liberty within that dogmatic frame to choose any weapon.[88]

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82 Wolff, *Jus gentium methodo scientifica pertractatum: Vol. II: The translation*, p. 450.
83 Akashi, *Cornelius van Bynkershoek*.
84 Bynkershoek, *Treatise on the law of war*, p. 2.
85 Buddeus, *Sitten=Lehre, das Natur= und Völker=Recht, wie auch die Staats=Klugheit*, p. 494f.
86 Mohl, 'Ueber völkerrechtswidrige Kriegsmittel', p. 767.
87 It should be noted at this point that the aforementioned early concept of 'proportionality' differed significantly from 'proportionality' as it is known today in international humanitarian law. However, for lack of a better word, 'proportionality' will be used in this paper, as nineteenth-century lawyers – overall – followed similar parameters as scholars do today.
88 Wolff, *Jus gentium methodo scientifica pertractatum*, p. 636.

3. Continuity of the moral argumentation in the nineteenth century's 'positivist' legal doctrine (Georg Friedrich von Martens, Wheaton)

It is often argued that the late eighteenth century revolutionized international legal doctrine in methodological terms, which in return led to the field's shift to positivism. Regardless of this claim's overall accuracy, there are at least some indications of a palpable shift towards positivism in the titles of major legal textbooks of the era. 'Treaties and custom' became front and center legal sources of contemporary law of nations; first edition of Georg Friedrich von Martens' textbook from 1789 is a prominent example of this trend.[89] Along with this change came an orientation towards Europe as the main geographical and historical frame of reference for those treaties. A number of book titles referred to a 'European law of nations',[90] and they continued the debate on the law of war and the weapons to be used in that war that was reminiscent of earlier law of nature and of nations textbooks. The actual texts are not quoted in order to avoid seeming repetitive, but similar patterns of argumentation were also on display in legal writings around 1850 and later years. Ideas on how to confine warfare through moral principles continued to dominate international legal debates. A similar picture can be drawn for related fields, like military interventions.[91]

Martens balanced the principally unlimited liberty to choose the most effective means to fight an enemy with a set of other principles, in an effort to mitigate the 'horrors' of war:

> The law of nations permits the use of all means, necessary to obtain the satisfaction sought by a lawful war. Circumstances alone, then, must determine on the means proper to be employed; and, therefore, war gives a nation an *unlimited* right of exercising violence, against its enemy. But, the civilized powers of Europe, animated by a desire of diminishing the horrors of war, now acknowledge certain violences which are as destructive to both parties as contrary to sound policy, as unlawful, though not entirely forbidden by the rigour of the law of nations. Hence those customs which are at present called *the laws of war*.[92]

In this passage, in contrast to Wolff and Bynkershoek, Martens insisted on the unlawfulness of excessive violence. Although this wording sounds very familiar to readers acquainted with earlier eighteenth-century treatises on law of nature and of nations, Martens' quote was nevertheless also typical in its slight shift in terms of justification, representing a new doctrinal approach at the end of the century. It represented a new approach which asserted that Europe as a political sphere was also home to certain types of moral and social customs that limited the legitimate exercise of warfare and will hopefully continue to limit it in the future. However, the overall patterns of argumentation appeared static, and no major changes could be identified in this regard by the author. Poison was still the classical and often the only example of a weapon considered to be forbidden by the law of nations. In a footnote, William B. Lawrence, who annotated *Elements of International Law* by American international lawyer Henry Wheaton, pointedly summed up Wheaton's arguments: 'Nations seem to concur in denouncing the use of poisoned

89 Martens, G. F. von, *Précis du droit des gens moderne de l'Europe*.

90 See e.g. Schmalz, Das europäische Völker=Recht; Schmelzing, *Systematischer Grundriß des praktischen Europäischen Völker=Rechtes; Pradier-Fodéré, Traité de Droit International Public Européen & Américain.*

91 Vec, 'Intervention/ Nichtintervention', pp. 135-60.

92 Martens, *Summary of the law of nations*, VIII, p. 279.

weapons, the poisoning of springs or food, and the introduction of infectious or contagious diseases. As to the nature of weapons not poisoned, there is, and perhaps can be, no rule.'[93]

This stance presumably had to do with the overall continuity of the weapons discussed. Although some progress in weapon technology was made around 1800,[94] it was arguably not fundamental or challenging enough for international lawyers to discuss its impact. Therefore, it seems plausible for them to discuss the issue between the French Revolution and the *Vormärz* ('pre-march') without any reference to challenges brought by new inventions. This aspect was absent for the most part in those decades and in early and mid nineteenth-century debates and publications on contemporary manners of war.[95]

4. A matter of conscience: The language of outlawing

In summary, international law regulating weapons was mainly based on legal, philosophical, and political scholarship from the seventeenth to the mid nineteenth century. A number of authors, often trained as jurists, argued whether just war should have restrictions in terms of the interdiction of certain weapons. It seems that although there was no unanimity, most writers were in favour of outlawing a number of weapons and strategies. The debate was very much conducted as a discussion about principles, not necessarily about rules. In this respect, the discussion was quite similar to contemporary debates on just war. Jurists tried to identify adequate criteria to judge political or military behaviour. They developed an understanding of war as a legal procedure that was fought for certain aims. These aims could serve as yardsticks to measure the legality of a certain type of warfare and its respective methods. Some examples of what not to do in times of war may seem trivial at first. Cruelty out of mere waggery[96] or '*la vengeance et la haine*' (the revenge and the hate)[97], 'wanton destruction'[98] or 'wantonly increasing pain'[99] that had nothing to do with the overall objective of the war[100] should remain taboo according to jurists, even in times of war. It is fair to say that these clear-cut examples were aimed at a broader audience beyond academic circles; they were supposed to guide combatants in the midst of fighting and to 'suppress their desire to engage in "irrational" violence'.[101] These verdicts indicate the presence of moral consideration and determination and depict expressive acts of speech.

Furthermore, such an understanding of war potentially helped to apply the principles of utility, necessity, and – as mentioned above – an early concept of 'proportionality'. Actions motivated by such outlawed emotions violated these principles and could be labelled 'unnecessary' for military purposes, which made them illegitimate and therefore finally illegal. 'The necessities of war'[102] thus had a double function; they enabled the use of force and limited the methods of warfare at the same time.[103]

These criteria also helped to identify the real target of warfare and subsequently promoted excluding – and to a certain extent, protecting – non-combatants: men, women, and

93 Wheaton/Dana, *Elements of international law*, p. 428, note (I).
94 O'Connell, *Of arms and men*, p. 191f; Neff, *War and the law of nations*, p. 202.
95 Rotteck, 'Ein Wort über die heutige Kriegsmanier', pp. 240-79.
96 Moser, *Grund=Säze des Europäischen Völcker=Rechts in Kriegs=Zeiten*, p. 192.
97 Nys, *Le droit international*, p. 148.
98 Lorimer, *The institutes of the law of nations*, II, p. 79f.
99 Martens, *Summary of the law of nations*, VIII, p. 282.
100 Tittel, *Erläuterungen der theoretischen und praktischen Philosophie*, p. 476f.
101 Koskenniemi, *Gentle civilizer of nations*, p. 88.
102 Twiss, *Law of nations considered as independent political communities*, p. 99f.
103 Kolb, 'Main epochs of modern international humanitarian law', p. 29; Witt, *Lincoln's code*, p. 4.

children who were not the target but may have ended up in the crossfire nonetheless. Irish philosopher Francis Hutcheson, one of the founding fathers of the Scottish Enlightenment, wrote in 1747 that 'Violence is justifiable only against men in battle, or such as violently obstruct our obtaining our rights.'[104] Non-combatants are consequently perceived as a group worthy of specific protection by the law of war. This development led to the emergence of what came to be called IHL in the last decades of the twentieth century.[105] At the same time, all these principles and rules were far from absolute and could potentially be overturned in cases of 'extreme military necessity'.[106] The latter was a very 'elastic notion'[107] and was frequently (ab)used in dead-end situations when treaty obligations and the constraints of *Realpolitik* collided.[108] The concept functioned analogously to the Machiavellian idea of *necessitas* as an overruling principle that enabled politicians to justify violations of their legal and moral obligations in exceptional situations. The juridification of international relations and the mitigation of the atrocity of war could both essentially be revoked with it – on very uncertain premises.[109]

IV. Change and self-perception: Narratives of progress in the nineteenth century

Particularly the second half of the nineteenth century not only displayed multiple continuities but finally brought dramatic changes to the law of war. These changes were perceived not only by today's historians of international law but also by contemporaries as remarkable 'progresses' in the development of the law of war.[110] This late nineteenth-century mindset was based on enthusiasm about multiple scientific advances, finally enabling the second Industrial Revolution at this time. The idea of progress was routinely evoked in this regard, and the term was prominently displayed on a number of nineteenth-century book titles.[111] Interestingly, the idea of progress itself was never disputed; during the research for this article, not a single writer was found who even considered regress in contemporary developments of international law and particularly in the law of war. To understand that self-perception, historical treaty practice and the contemporary philosophy of history of international law need to be considered.[112] It appears that the rhetoric of progress was used to justify international lawyers' professional agenda and the young discipline as such.[113] In a time when international law's approach – which sometimes

104 Hutcheson, *Short introduction to moral philosophy*, p. 334.

105 Goltermann, *Opfer*.

106 Saalfeld, *Handbuch des positiven Völkerrechts*, p. 197f.; Klüber, *Droit des gens moderne de L'europe*, p. 384; Arntz, *Programme Du Cours Droit des Gens*, p. 151; Bulmerincq, *Völkerrecht oder internationales Recht*, p. 362; Westlake, *Chapters on the principles of international law*, p. 238; Endres, *Völkerrechtlichen Grundsätze der Kriegsführung zu Lande und zur See*, p. 12.

107 Liivoja, 'Technological change and evolution of the law of war', p. 1165.

108 Koskenniemi, *Gentle civilizer of nations*, p. 38.

109 Vec, 'All's fair in love and war'.

110 Duane, *Law of nations*, p. 101; Bernard, 'Growth of laws and the usages of war' p. 89; Taylor, *Treatise on international public law*, p. 470; Olivart, *Tratado de Derecho internacional público*, III, p. 87; Bonfils, *Manuel de droit international public*, p. 656; Martens, *Völkerrecht*, p. 489; Bordwell, *Law of war between belligerents*, pp. 2-6.

111 Isambert, *Tableau des progrès du droit public et du droit des gens*; Wheaton, *Histoire des progrès du droit des gens*; Calvo, *Le droit international théorique et pratique*; Pradier-Fodéré, *Traité de Droit International Public Européen & Américain*; Pierantoni, *Die Fortschritte des Völkerrechts im XIX. Jahrhundert*.

112 Hunter, 'About dialectical historiography of international law', pp. 1-32

113 Koskenniemi, *Gentle civilizer of nations*, chs. 1 & 2.

seemed like less of an approach and more of a blind eye – was mostly indifferent to detrimental effects of empire and colonialism, a shared moral basis was needed to soothe one's conscience. This ambivalent dynamic can also be observed in the realm of outlawing weapons.

1. A late-nineteenth century increase in international treaty law; Martens' Clause

The most remarkable development of the last decades of the nineteenth century in the law of war regarding weapons is the increase of treaty law, which was fostered by documents which – though typically not legally binding – served as declarations and subsequent guidelines for states' practice. Nonetheless, there were exceptions when it came to their legal character. Among the treaties mentioned below, the St Petersburg Declaration of 1868 and the Hague Conventions and Declarations of 1899 and 1907 did gain the force of law. Three steps central to this overall development shall be mentioned in this context:[114]

a) The St Petersburg Declaration of 1868

The preamble of the Declaration of St Petersburg from 29 November /11 December 1868 reads as follows:

> Considering that the progress of civilisation should have the effect of alleviating as much as possible the calamities of war; That the only legitimate object which states should endeavour to accomplish during war is to weaken the military forces of the enemy; That for this purpose it is sufficient to disable the greatest possible number of men; That this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable; That the employment of such arms would therefore be contrary to the laws of humanity; The contracting parties engage mutually to renounce in case of war among themselves the employment by their military or naval troops of any projectile of a weight less than 400 grammes [about 13 ½ ounces] which is either explosive or charged with fulminating or inflammable substances.[115]

Although a number of specific weapons singled out by the authors were explicitly outlawed, other weapons were still regarded legal. However any weapons could be condemned if their usage was deemed violating general principles ('laws of humanity') or the overall objective of the declaration. Explosive projectiles under a certain weight belonged to the few categories of weapons to be declared as *mala in se* at that time. These weapons were considered to not serve the main purpose of war and therefore fell outside the scope of military necessity.[116]

b) The Brussels Declaration on Land Warfare of 1874

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114 In the following (IV.1 a-c), I refer to a section of a previously published article: Vec, 'Challenging the laws of war', pp. 108-10.

115 Online: Declaration renouncing the use, in time of war, of explosive projectiles inder 400 grammes weight. 29 November/11 December 1868. https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=568842C2B90F4A29C12563CD0051547C. Accessed: 14 December 2016.

116 Schäfer, 'The 150th anniversary of the St Petersburg Declaration: Introductory reflections on a janus-faced document', p. 507.

The next step was the *Project of an International Declaration concerning the Laws and Customs of War* of 1874, which encompassed the following provision in Art. 13: 'According to this principle [means of injuring the enemy are not unlimited, MV] are especially 'forbidden': (a) Employment of poison or poisoned weapons.'[117]

The Declaration of 1874 never went into force, but in 1880, it led to corresponding resolutions by the Institut de Droit International, the '*Manuel des lois de la guerre sur terre*',[118] unofficially called the 'Oxford Manual'. This manual later served as a model for the provisions at the Hague Conferences of 1899 and 1907.[119]

c) The Declaration on the Use of Projectiles with Asphyxiating or Deleterious Gases and the Hague Convention on Land Warfare of 1899

Finally, on 29 July 1899, Hague Declaration (IV, 2) concerning asphyxiating gases was adopted. The preamble explained that the declaration was 'inspired by the sentiments which found expression in the Declaration of St. Petersburg of 29 November (11 December) 1868.' The document itself briefly stated that 'The contracting powers agreed to abstain from the use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases.'[120] One could argue that these phrases ultimately originate – at least in part – from Article 13 of the Brussels Declaration of 1874.

Additionally, the second convention 'respecting the laws and customs of war on land' was concluded in 1899.[121] Section II had the title 'On Hostilities'; Chapter 1 is 'On Means of Injuring the Enemy, Sieges, and Bombardments' and stated in Article 22: 'The right of belligerents to adopt means of injuring the enemy is not unlimited'. A list of specific prohibitions followed in Article 23:

> Article 23.
>
> Besides the prohibitions provided by special conventions, it is especially prohibited: –
>
> (a) To employ poison or poisoned arms;
> (b) To kill or wound treacherously individuals belonging to the hostile nation or army;
> (e) To employ arms, projectiles, or material of a nature to cause superfluous injury;[122]

It was also adopted (with minor changes to the 1899 version) in 1907.[123]

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117 Online: Project of an international declaration concerning the laws and customs of war, Brussels, 27 August 1874, Means of injuring the enemy. https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=31364F80ED69E269C12563CD00515549. Accessed 14 December 2016.

118 Schindler and Toman, eds., 'The laws of war on land', p. 29; Kassapis, *C-Waffen*, p. 10; Kunz, *Gaskrieg und Völkerrecht*, p. 13.

119 Mérignhac, *La conférence internationale de la paix*, p. 197.

120 Carnegie Endowment for International Peace: Pamphlet No. 8. The Hague declaration (IV, 2) of 1899 concerning asphyxiating gases, Carnegie Endowment, 1915, V. https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=2531E92D282B5436C12563CD00516149. Accessed 14 December 2016.

121 Kunz, *Gaskrieg und Völkerrecht*, p. 13.

122 Online: Convention with respect to the laws and customs of war on land (HAGUE, II). 29 July 1899. http://avalon.law.yale.edu/19th_century/hague02.asp. Accessed 14 December 2016.

123 Synopsis in: Carnegie Endowment for International Peace, Division of International Law: Pamphlet No. 5. The Hague Conventions of 1899 (II) and 1907 (IV) respecting the laws and customs of war on lands, Carnegie Endowment, 1915, p. 17.

d) Martens' Clause

The preamble of the 1899 Hague Convention (II) on the laws and customs of war on land included a short clause in the ninth paragraph originally designed to 'overcome a diplomatic impasse in the drafting of rules of belligerent occupation and permissible resistance by the occupied thereto'[124]: 'Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity and the requirements of the public conscience'.

The clause was slightly modified in 1907[125] and rose to prominence under the name of the Russian delegate at the Hague Conferences, eminent international lawyer Fedor Fedorovitsch [=Frédéric/ Friedrich] Martens. Its wording has been taken up in a number of more recent treaties of IHL and remains a source for controversial legal debates of high practical relevance until today.[126] These debates are fuelled by the concepts and terms of the historical language, which was arguably ambiguous and ambitious at the same time. In the clause, the international legal language used evidently addresses 'the existence and import of the patently non-positivistic sources of IHL', according to many international lawyers.[127]

The clause is generally used as a reference for two assumptions: IHL is incomplete, and war is subordinate to law.[128] Both assumptions may be understood to be based on the idea that there is nothing above law, which inevitably regulates the conduct of war, and law may expand to fill present gaps in the future. The common interpretation of these two assumptions encompasses a certain hope about multi-normativity in this field. Not only should international lawyers see a legal link between positive international law and morality at this point, but the norms of morality should also serve as supplements for law in situations where the law itself remains incomplete. This idea is somewhat in line with international lawyers' writings from previous centuries. Historically, ideas about morality, natural law, and chivalry stand behind the ethical approach of the clause.[129] The invocation of 'principles' serves as a replacement for often lacking concrete legal rules.

This moralist intent tended to invoke 'public conscience', a fashionable idea and concept in the years around 1900, and the combination of both morality and public conscience was evaluated in an overwhelmingly positive light.[130] The provisions of international law are admittedly incomplete since potential future developments in the form of technological progress will change the framework and will alter the reality of what needs to be regulated by international law. However, the clause's importance should nonetheless not be underestimated; its preamble will remain relevant as a method to fill present and future gaps of international law, diffuse as it may be. Positive international law will have to keep pace with technological progress to slowly build a progressive normative order without falling behind.

Interestingly, this approach aims to include international morality and public conscience

124 Bernstorff, 'Martens Clause', para. 14.
125 Meron, 'Martens Clause', p. 79.
126 Kahn, 'Protection and empire', p. 26.
127 Giladi, 'Enactment of irony', p. 849.
128 ibid, p. 862.
129 Meron, 'Martens Clause', p. 79.
130 Lingen, 'Fulfilling the Martens Clause', p. 193.

into its interpretation of legal provisions on unlawful weapons.[131] It is based 'on the continuing intuition that restraint in warfare is an intrinsic part of European conscience.'[132] The historical reality of militarism and the imperialism that followed, along with conflicting normative orders, is less prominently addressed[133] – if at all. International lawyers' optimistic self-assessment in the late nineteenth century found its rhetorical soundboard here; their belief in strong ethical foundations of the modern European law of nations, which is on the edge of becoming a true global order, was based on Christianity, progress, and civilization. The preamble codified uncodified principles and was therefore a somewhat paradoxical norm. Due to its openness for future developments and interpretations and unabashed promise to humanize the law of war, Martens' Clause has remained a dynamic normative factor despite changing interpretations and needs of international law and international politics.

2. Continuing condemnation: Differentiation of criteria and a partial change in justifying norms

All these provisions of the Hague Conventions and Declarations were in line with the opinions of the aforementioned majority of writers on international legal doctrine from the seventeenth to nineteenth century. Put differently, in the end, the Hague Conventions and Declarations and their predecessors merely codified international customary law without creating new provisions in this field.[134] The standards of humanitarian warfare that had crystallized from intense international legal debates were finally put on paper in Article 22, which laid out general principles, and Article 23, which detailed special provisions and examples.

Many lines of argumentation were in full continuity with the aforementioned legal authorities and their moral convictions. The interdiction of poison is probably the most evident indicator of those continuities. Numerous late eighteenth-century and nineteenth-century authors and their textbooks on the law of nations condemned poisoned weapons, including philosophers Francis Hutcheson[135] and Adam Ferguson,[136] theologian Thomas Rutherforth,[137] international lawyers like the Germans Klüber, Schmalz,[138] Schmelzing,[139] Saalfeld,[140] the Italian Fiore,[141] the English Richard Wildman, the Danish Kolderup-Rosenvinge[142], the American Bowen[143] and Halleck[144], the French Villiaumé[145] and Mariotti[146], the Dutch Poortugael[147], the Venezolan-Chilean Bello,[148] and the Argentinean

131 Bernstorff, 'Martens Clause', para. 12.
132 Koskenniemi, *Gentle civilizer of nations*, p. 87.
133 Meron, 'Martens Clause', p. 85.
134 Nys, *Le droit international*, p. 141.
135 Hutcheson, *Short introduction to moral philosophy*, p. 335.
136 Ferguson, *Principles of moral and political science*, p. 307.
137 Rutherforth, *Institutes of natural law*, p. 528.
138 Schmalz, *Das europäische Völker=Recht*, p. 247.
139 Schmelzing, *Systematischer Grundriß des praktischen Europäischen Völker=Rechtes*, III, p. 157f.
140 Saalfeld, *Handbuch des positiven Völkerrechts*, p. 208.
141 Fiore, *Nouveau Droit International Public*, II, p. 279.
142 Kolderup=Rosenvinge, *Grundrids af den positive Folkeret*, p. 106f.
143 Bowen, *International law*, p. 113.
144 Halleck, *Elements of international law and laws of war*, p. 179.
145 Villiaumé, *L'esprit de la guerre*, p. 60
146 Mariotti, *Du Droit des Gens en temps de guerre*, p. 71.
147 Poortugael, *Het oorlogsrecht of het recht en de gebruiken in den oorlog*, p. 163.
148 Bello, *Principios de Derecho de Jentes*, p. 125f.

Calvo,[149] etc. This unanimous rejection was now (re-)framed in new declarations and their principles. The American international lawyer George Davis stated in 1887, 'The decision as to whether a particular instrument may, or may not, be employed in war will depend upon the wound or injury caused by its use. If the wound produced by it causes unnecessary suffering, or needless injury, it is to be rejected, otherwise not. This rule applies to all instruments of whatever character, whether weapons or projectiles, which may be used in war. The application of this rule forbids the use of cutting or thrusting weapons which have been poisoned, or which are so constructed as to inflict a merely painful wound'.[150]

Additionally, it seems that as the catalogue of criteria for pariah weapons was constantly being diversified, it became more precise and elaborate. The yardsticks of military utility and its moral counterpart, humanity, were defined more precisely. Moral and legal duties were defined, and the two normativities of law and morality closely interacted. Terms, labels, and concepts such as 'civilization chrétienne' (Christian civilization),[151] honour, clandestinely, 'infamous' (means of poison),[152] 'torture',[153] 'violence inutile',[154] 'cruautés inutiles'[155]/Cruelties/*Gräuelthaten,*[156] meuchlerisch[157]/treacherous, *entehrend*/discreditable;[158] honesty, '*unmenschliche Grausamkeiten*'[159]/'*unmenschlich*',[160] *unehrenhaft*,[161] odious/*odieuse*/*odieux*,[162] '*infructuosamente cruel y funesto*',[163] actions '*barbare*'[164], '*rigueurs inutiles*'[165] popped up and provided means to describe what to forbid. This vocabulary was moralizing, first and foremost. Yet, it also supplied yardsticks on how to measure and judge war technologies from a legal standpoint, how to apply legal judgment and how to outlaw excess. Unlawful weapons were being singled out rhetorically – in a negative sense – instead of disdaining them for their function and their trail of destruction. This strong language had a decisive impact on lawmaking due to a distinct factor: public opinion.[166] The rise of the public sphere at the end of the late nineteenth century and the interests of the many political movements (among them the peace societies) at the time and public opinion in general both affected international law.[167] International lawyers started using arguments from public debates to justify their projects and normative claims. At the same time, public opinion had an impact on political projects and demanded reforms in current international law and future projects of codification.[168] These requests were more likely to be heard when they were formulated in clear language with a moralizing punch.

149 Calvo, *Le droit international théorique et pratique*, p. 134.
150 Davis, *Elements of international law*, p. 224.
151 Fiore, *Nouveau Droit International Public*, II, p. 279.
152 Ward, *Enquiry into the foundation and history of the law of nations*, II, p. 199.
153 Bowen, *International law*, p. 113.
154 Acollas, *Le droit de la guerre*, p. 53.
155 Arntz, *Programme Du Cours Droit des Gens*, p. 151.
156 Bulmerincq, 'Nothwendigkeit eines allgemein verbindlichen Kriegsrechts', pp. 21, 23, 26.
157 Lentner, *Das Recht im Kriege*, p. 81.
158 ibid, p. 82.
159 Lueder, 'Landkriegsrecht im Besonderen', p. 391.
160 Heffter, *Das Europäische Völkerrecht der Gegenwart auf den bisherigen Grundlagen*, p. 271.
161 Mohl, 'Ueber völkerrechtswidrige Kriegsmittel', p. 777.
162 Calvo, *Le droit international théorique et pratique*, p. 134; Schmalz, *Le droit des gens européen*, p. 247.
163 Bello, *Principios de Derecho de Jentes*, p. 125f.
164 Foignet, *Manuel élémentaire de droit international public*, p. 267.
165 Bex, *Essai sur L'Évolution du Droit des Gens*, p. 150.
166 Gillespie, *History of the laws of war*, III, p. 22.
167 Roberts, 'Against war', p. 331.
168 Wheaton/Dana, p. 17; Wheaton/Lawrence, p. 16; Gardner, *A treatise on international law*, pp. 177, 239; Hull, *The two Hague Conferences*, p. 21ff.

However, it also appears that the canon of topoi was not only growing; some topoi also vanished. Perfidy is an interesting example in this regard. While it did not vanish per se, the authors did try to address a different audience. Whereas some early modern authors warn that military personnel, political leaders, and monarchs ('the commander in chief or any other enemy of distinction')[169] could secretly be assassinated using clandestine, treacherous weapons, this line of argumentation against poison seemed to have all but vanished in the nineteenth century. Authors now primarily addressed combatants and non-combatants; the fear that poison could be an equalizer, undermining the class structure of war,[170] was no longer mentioned as a rationale of its prohibition. The norm's justification had shifted, and as a result, former arguments were dropped silently (however, it might have still contributed tacitly as an ideological undercurrent to the maintenance of the norm). The argumentation instead focuses on regular combatants or innocent noncombatants. Therefore, 'the enemy of distinction' and his particular endangerment through poisonous weapons and treacherous killings went out of focus.

3. Against 'barbarism' and the 'uncivilized': Eurocentrism, colonialism, and exclusion

The process of issuing early, non legally binding declarations as well as concluding treaties can be seen as a juridification of international relations in the field of the law of war. This shift was observed and commented on by all international lawyers of the time, who saw it as clear proof of a 'period of humanitarian progress and voluntary codification'.[171] They emphasized the progress that international law had made and analysed the scope, structures, and content of the juridifications that were taking place. A community of states emerged that was guided by international legal consciousness. The notion of 'civilization' was frequently attached to states' self-perception. Their lawyers became protagonists in formulating doctrines and supporting diplomatic relations. It was the concept of 'civilization'[172]/Christian civilization[173] that encouraged a certain number of states to conclude those treaties and to issue these non legally binding declarations, and it was a touchstone for others. The states understood themselves as being European and civilized states, which justified discriminating and subordinating the outside world in manifold ways and means. International law was one of them.

In the field of the law of war, this civilizing mission of international law[174] was expressed in frequent references to and in the rejection of 'barbarism.' Stigmatizing certain types of war methods and weapons was a proof of culture[175] and civilization,[176] and by adhering to these new standards, states seemingly overcame earlier stages of historical warfare that were considered 'barbarian.'[177] Often, the spheres of action of these methods were not only

169 Martens, *Summary of the law of nations*, VIII, p. 281.

170 Price, *The chemical weapons taboo*, p. 43.

171 Maine, *International law*, p. 142.

172 Rutherforth, *Institutes of natural law*, p. 528 (against poison); Rodriguez Saráchaga, *El derecho internacional público*, p. 380.

173 Fiore, *Nouveau Droit International Public*, II, p. 279.

174 Pauka, *Kultur, Fortschritt und Reziprozität*; Gong, *Standard of 'civilization' in international society*; Lingen, *Crimes against humanity*, pp. 17, 40ff; Yanagihara, Significance of the history of the law of nations in Europe and East Asia, pp. 310-1, 343ff.

175 Saalfeld, *Handbuch des positiven Völkerrechts*, p. 197f.; Bluntschli, 'Kriegsvölkerrecht und Kriegsgebrauch', p. 256; Martens, *Völkerrecht*, II, p. 489; Bulmerincq, 'Die Nothwendigkeit eines allgemein verbindlichen Kriegsrechts', II, p. 27.

176 Howland, *International law and Japanese sovereignty*, p. 24, 99-126.

177 Duane, *Law of nations*, p. 101; Mohl, 'Ueber völkerrechtswidrige Kriegsmittel', p. 777; Bluntschli, *Das moderne Völkerrecht der civilisirten Staten,* p. 312; Bonfils, *Manuel de droit international public*, p. 657.

located in the European past but also the global present. But authors of nineteenth-century international law textbooks spotted inhuman warfare practices almost exclusively outside of Europe. References to interdictions of such weapons existing outside of Europe in the past or present were made (Islamic law of war[178]; Manusmriti, also called the Mānava-Dharmaśāstra or Laws of Manu[179]), but these footnotes were much rarer. Austrian lawyer Ferdinand Lentner wrote in 1880 that the use of poison or poisonous weapons was still a custom of wild hordes.[180] In other words, the barbarians were always the others (in 1908, Percy Bordwell mentions 'the Jews'[181] in this regard), and one's own moral supremacy was carefully constructed in opposition to this 'barbarian' other that needed to be suppressed. This characteristic could be found in many textbooks and international lawyers' argumentation at that time.

It was of no coincidence that some international lawyers from the second half of the nineteenth century explicitly discussed not only poison or assassination but also another regulatory challenge to civilized warfare: the use of colonial troops.[182] They perceived such an 'Employment of Savage Allies'[183] as a violation of moral standards due to the well-known 'barbarism' of these 'semi'- or 'uncivilized' troops and claimed that such use was illegal[184] or demanded reforms to forbid it in the future.[185] However, it should be noted that these voices mainly came from states without colonial empires and therefore had strong political undertones.

In summary, colonialism, imperialism, and Eurocentrism all left their traces on the field of the nineteenth-century law of war.[186] Overall, the celebrated progress in the doctrine of the law of war was not shared with 'barbarians' outside of Europe's geographical realm and its moral foundation, the 'Christianity, education, an enlightened self-interest'.[187] There is a consensus among today's international legal historians that international law contributed to the colonial rule of European states.[188] However, it is disputed to which degree international law as such was an imperialist and colonialist enterprise from its beginning in the early modern period. This debate is ongoing and is enriched by the so-called Third World Approaches to International Law, which highlighted doctrinal discriminations in the European law of nations and also in the field of the law of war. Non-Europeans were excluded in two ways. First, they were stigmatized for supposedly practicing barbarian methods of warfare. In addition, the doctrine of the European law of nations did not attribute statehood to many of these non-European political actors, so they were again excluded from new interstate treaties in this field. The celebrated European law of war and

178 Heffter, *Das Europäische Völkerrecht der Gegenwart*, p. 272, N. 2; Lueder, 'Das Landkriegsrecht im Besonderen', pp. 393, N. 9.

179 Taylor, *Treatise on international public law*, p. 480; Bluntschli, *Das moderne Völkerrecht der civilisirten Staten*, p. 312; Lueder, 'Landkriegsrecht im Besonderen', pp. 393, N. 9.

180 Lentner, *Recht im Kriege*, p. 80.

181 Bordwell, *Law of war between belligerents*, p. 8.

182 Koller, *Von Wilden aller Rassen niedergemetzelt*; Lueder, 'Das Landkriegsrecht im Besonderen', p. 395.

183 Wheaton/Dana, *Elements of international law*, p. 428, n. II; Bordwell, *Law of war between belligerents*, p. 232.

184 Acollas, *Le droit de la guerre*, p. 55; Bluntschli, *Das moderne Völkerrecht der civilisirten Staten*, p. 314; Martens, *Völkerrecht*, p. 485f.

185 Heffter, *Das Europäische Völkerrecht der Gegenwart auf den bisherigen Grundlagen*, p. 272, n. 4 by Geffcken.

186 For late nineteenth-century examples in the field of arms transfer, see Enomoto, 'Controlling arms transfers to non-state actors', pp. 5f, 17; see further: Anghie, *Imperialism, sovereignty, and the making of international law*, p. 55f.

187 Gardner, *Institutes of international law*, p. 595.

188 Anghie, *Imperialism, sovereignty, and the making of international law*.

its progress was only supposed to benefit states belonging to the 'family of nations.' Henry Wheaton once rhetorically asked in a famous passage, 'Is there a uniform law of nations? There certainly is not the same one for all the nations and states of the world. The public law, with slight exceptions, has always been, and still is, limited to the civilized and Christian people of Europe or to those of European origin. This distinction between the European law of nations and that of the other races of mankind has long been remarked by the publicists'.[189]

Other political entities did not benefit from the constraint of warfare. Accordingly, the warfare against 'non-civilized' peoples/'savages' was unlimited. It was marked by discriminatory standards (their forms of political organization were not recognized as states),[190] and racist beliefs in international law led to unbelievably cruel and merciless practices.[191]

4. New technologies challenging old standards

International lawyers of the second half of the nineteenth century, particularly around the year 1900, faced manifold regulatory challenges that were mostly due to changing technology. Industrialization and militarization introduced new weapons to interstate warfare. Nineteenth-century international law textbooks mentioned Congreve rockets,[192] (submarine contact) mines,[193] chemical compounds,[194] and torpedoes;[195] the early twentieth century added flamethrowers, submarines, machine guns, aerial bombardment, and tanks.[196]

This progress added new chapters to the theory[197] and history[198] of the law of technology. From a normative point of view, some passages in older international law textbooks were now outdated. Late nineteenth- and early twentieth-century international lawyers criticized their colleagues' earlier writings as being irrelevant due to subsequent technological developments.[199] One of their preferred targets for criticism was Klüber's still widely popular textbook in its 1861 edition, which contained a passage on the interdiction of:

> the usage of chain bullets or rod bullets, shooting cannons with iron, glass, nails or similar items. […] Against the manners of war are in addition: loading the musket with two bullets, or with two halved bullets, or with jagged bullets, or with bullets mixed with glass or lime […][200]

189 Wheaton/Lawrence, *Elements of international law*, p. 16f; Wheaton/Dana, p. 17f. Similar: Leseur, *Introduction à un cours de Droit International Public*, pp. 97-102.

190 Kleinschmidt, *Diskriminierung durch Vertrag und Krieg*; Bernstorff, 'Use of force in international law before World War I', pp. 243, 247.

191 Witt, 'Dismal history of the laws of war', p. 903; Balfour, 'Secret wars in forgotten Africa', p. 128.

192 Schmelzing, *Systematischer Grundriß des praktischen Europäischen Völker=Rechtes*, III, p. 160f.

193 Wheaton/Dana, *Elements of international law*, p. 428; Rodriguez Saráchaga, *El derecho internacional público*, p. 383; Bordwell, *Law of war between belligerents*, pp. 278-80.

194 Wheaton/Dana, *Elements of international law*, p. 428.

195 Wheaton/Dana, *Elements of international law*, p. 428; Lentner, *Das Recht im Kriege*, p. 83f; Lorimer, Institutes of the law of nations, II, p. 79f; Rodriguez Saráchaga, *El derecho internacional público*, p. 382; Olivart, *Tratado de Derecho internacional público*, III, p. 103.

196 Hull, *Breaking and making international law*, pp. 211-316; Neff, *War and the law of nations*, p. 165.

197 Eisenberger, *Innovation im Recht*.

198 Vec, 'Kurze Geschichte des Technikrechts', pp. 3-92.

199 Lentner, *Das Recht im Kriege*, p. 82; Lueder, 'Das Landkriegsrecht im Besonderen', p. 391; Heffter, *Das Europäische Völkerrecht der Gegenwart*, p. 271; Bonfils, *Manuel de droit international public*, p. 657f.

200 Klüber, *Droit des gens moderne de L'europe*, p. 315.

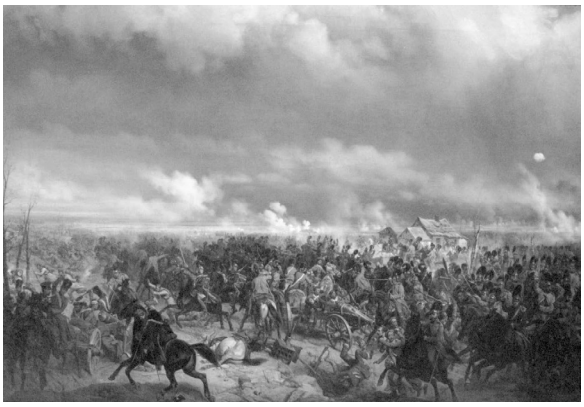

Image 2: Battle of Grochow 1831, painting by Bogdana Willewalde ca. 1850; the painting shows how Polish Congreve rockets exploded over the soldiers.
Source: Wikimedia Commons.

The technologies these authors described as illegal did not exist anymore on the battlefields. These examples now belonged to the history of the law of war.

5. Peace through weapons: The promise of advanced technology

Furthermore, international lawyers were completely in line with their contemporaries, particularly politicians and the military, and also considered the usage of these new weapons to be progress. Future inventions, as stated by earlier authors as well, were not regulated or forbidden by the law of war. Interestingly, international lawyers also projected hope on the technological progress of the day. The military made a similar assessment; new weapons would be more effective and thus would shorten military conflicts, which would then mitigate the horrors of war. More destructive weapons would lead to fewer future wars.[201] Belligerents would be more inclined to agree on a ceasefire and to conclude peace treaties. Abomination against new weapons would be outbalanced by the millions of lives that would be saved in the long run.[202] In addition, war itself was sometimes seen by international lawyers as an expression of 'belligerent spirit',[203] a Darwinist struggle about the survival of the fittest. It was a new kind of morality of armed conflicts that was on the verge of late nineteenth century international legal doctrine.

Thus, the law of war perceive advanced technology as a promise and not only as a threat to humanity. Additionally, many writers refrained from suggesting restrictions on the new weapons as they were patriots: supportive of their fatherlands and their military powers. They shared the hopes of the military that developments of new weapons would make give their country advantage in competition for European dominance and global hegemony (e.g. by disciplining the 'uncivilized' with superior technological innovations).[204] It does not come as a surprise that the great powers in particular opposed limitations here.[205] As a

201 Gillespie, *A history of the laws of war*, p. 23; Dülffer, *Regeln gegen den Krieg?*, p. 149f.
202 Schmalz, *Das europäische Völker=Recht; in acht Büchern*, p. 247.
203 Koskenniemi, *Gentle civilizer of nations*, p. 38.
204 Price, *The chemical weapons taboo*, p. 42.
205 Bordwell, *Law of war between belligerents*, p. 131.

consequence, new means of destruction, technological progress, and military improvements were welcomed in principle and scarcely regulated. International lawyers often acted in line with politicians' and the military's interests. Restrictions enforced through the international law of war were therefore seen critically in general. Innovations should be principally enabled, not curbed by law.

6. Isolated restrictions as comprehensive legitimations of warfare?

The historical role of restrictions on certain weapons before the First World War has been discussed critically and controversially in legal historiography. A famous thesis proposed that the restrictions were, in fact, legitimizing warfare.[206] Some restrictions worked as fig leaves for ferocious military acts in the era of imperialism, militarism, and colonialism. Did the language of 'humanity' and the narrative of the 'humanization' of warfare along with the proscription of pariah weapons serve as a justification narrative for a warfare and state practice that was anything but respectful of human life?

From the perspective of sources, it is difficult to approve of this thesis. It is true that efforts to prevent or humanize warfare had little outcome[207] and that state practice was dominated by military imperatives.[208] In 1884, Scottish international lawyer James Lorimer criticized the lack of a system and rationale behind proscriptions by authors of 19th century textbooks as well as of international conventions which restricted means and methods of warfare:

> Apart from the consideration of neutral interests, and the prevention of needless cruelty, no principle appears to have guided the attempts which have been made to distinguish between lawful and unlawful weapons; and it is with great truth that Bluntschli has said, 'On autorise, on defend, sans savoir précisément pourquoi.' The enumerations contained in the books, and the proposals of the International Military Commission at St. Petersburg in 1868, to prohibit the use of all explosive projectiles weighing less than 400 grams, are really of no value. They certainly would not be respected in anything approaching an embittered war. But the science of destruction is probably only in its infancy; and if war is to continue, the subject of regulating the use of the terrible weapons which it may place in the hands of combatants, is one which may force itself on their attention. All that can be done in the meantime is to confine warfare, as far as possible, to States in their public capacity, and to induce them to abandon, by common agreement, the ruinous race of preparation in which they are at present engaged — a race rendered specially costly by the rapidity with which discovery follows discovery, and invention supersedes invention.[209]

This is a remarkably critical assessment of Lorimer's colleagues' tedious efforts to outlaw certain weapons: 'really of no value'.

The percentage of outlawed weapons in relation to all available warfare technology were relatively low. Few weapons were outlawed by international treaties and customs as well as through international legal doctrine before 1914. However, these restrictions were at least not intentionally imposed to justify warfare as a whole. At the same time, international

206 af Jochnik and Normand, *Legitimation of violence*, pp. 49-95.
207 Alexander, 'Short history of international humanitarian law', p. 115.
208 ibid, p. 130.
209 Lorimer, *Institutes of the law of nations*, II, pp. 79-80.

lawyers participated not only in the promotion of peaceful international relations and arms limitations but also in legitimizing warfare: international law and its scholars were actively justifying violence. Several authors have recently laid out how international law in fact contributed to the escalation of conflicts in the years leading up to 1914, since it normalized and legitimized the use of force.[210] Regulations of warfare were imposed to professionalize war and sometimes also to protect combatants from civilians' illegal methods.[211] Therefore, it is possible to claim that they were mainly imposed in favor of the often quoted aim of a "mitigation of atrocity of war". But it is also not fully convincing to claim that the opposite is true and that these restrictions were only a fig leaf. On the contrary: Restricting some weapons may have also brought palpable advantages to those who were supposed to benefit from the restrictions.

A practical benefit would only occur if provisions on pariah weapons in non legally binding declarations, treaties, and international legal doctrine were spread on the battlefield and amongst political, particularly military decision-makers. Yet, the issue of norm implementation has often been neglected in international legal history, and it is of course hard to evaluate by using textbook sources alone. Some remarks in studies from military history suggest that norm implementation was relatively poor.[212]

V. The memory and presence of disappointment: The doomsday of the First World War

In the last years before the beginning of the First World War, the mood among international lawyers was optimistic overall. Their discipline was flourishing; international treaty making continued, and challenges stemming from economy, technology, and international relations promised to turn into interesting fields of future research for them. International lawyers still held the optimistic view of the progress of the international law. However, when it came to the law of war, some international lawyers knew that all these proscriptions would not persist against the doctrine of 'military necessity'.[213] Eminent international lawyer Lassa Francis Lawrence Oppenheim wrote in 1906:

> The fact is that many legal rules of warfare are so framed that they do not apply to a case of necessity; but there are, on the other hand, many rules which know nothing of any exemption in case of necessity. Thus, for instance, the rules that poison and poisoned arms are forbidden, and that it is not allowed treacherously to kill or wound individuals belonging to the hostile army, do not lose their binding force even if the escape from extreme danger or the realization of the purpose of war could depend upon an act of such kind. It may, however, correctly be maintained that all mere usages, in contradistinction to laws, of war may be ignored in case of necessity.[214]

Again, the proscription of poison and poisoned arms served as the ultimate example for

[210] Diggelmann, 'Beyond the myth of a non-relationship' pp. 93-120; Bernstorff, 'Use of force in international law before World War I', p. 260.
[211] Benvenisti and Lustig, 'Taming democracy'.
[212] Toppe, *Militär und Kriegsvölkerrecht*, pp. 28, 30, 105.
[213] Vec, 'All's fair in love and war'; Price, *The chemical weapons taboo*, pp. 16, 20, 22, 49.
[214] Oppenheim, *International law*, II, p. 79.

outlawed weapons,[215] and Oppenheim reinforced the binding force of these proscriptions even in the event of 'military necessity': The most important elements of the law of war would always remain valid independently of massive military and political interests.

The First World War made clear that this had been a vain hope and made Oppenheim's statement in retrospect sound like whistling in the dark. The international lawyers' mantra that poisonous weapons had to be the first weapons whose use to be outlawed and banned was simply ignored when push came to shove. In the German attack at Ypres on 22 April 1915, new technological methods were used – far beyond the imagination of the treaty drafters at the Hague conferences. Although, it is disputed whether the Hague Declaration concerning asphyxiating gases did explicitly forbid the release of chlorine gas from canisters in the legal sense, this practice violated everything the declaration morally stood for and everything its drafters had tried to prevent. The poison's effect on the fields of Flanders was gruesome, and it was much different from earlier uses at the eastern front near Bolimów, where Germans attacked the Russians in January 1915 with gas shells that contained strong teargas.[216] Nonetheless, the use of poison – the ultimate pariah – did not end at Ypres. Scientists from other European countries that were involved in the First World War and similarly interested in developing poison gas stepped in and supplied belligerents with knowledge and material.[217] Although international law was still a justification narrative for political and military actions,[218] in the case of poison gas, this narrative was hardly ever heard during the war. According to the author's theory,[219] even the militaries that used poison gas tried to avoid public debates about this pariah weapon. Poison gas also violated fundamental moral principles and ideas of military honour/martial honour. As Richard Price put it in 1995, it was regarded to be associated 'with womanly deception and the ignominy of the death by poison (in contrast to the glory of a death achieved during an open contest of brute physical strength among men)'.[220]

Image 3: John Singer Sargent, 'Gassed', oil painting (1919), recently evaluated as 'one of the masterpieces of Western art and one of the most disturbing humanistic commentaries on war'.[221]

Source: Wikimedia Commons.

215 Same moral argument from Bordwell, *Law of war between belligerents*, p. 6.
216 Borodziej/ Górny, *Der vergessene Weltkrieg. Europas Osten 1912–1923*, I, p. 86f.
217 Schmidt, 'Justifying chemical warfare', pp. 129-58.
218 af Jochnik and Normand, 'Legitimation of violence', p. 77.
219 Vec, 'Challenging the laws of war by technology', pp. 105-34.
220 Price, 'A genealogy of the chemical weapons taboo', *International Organization,* 49 (1995), p. 81; Price, *The chemical weapons taboo*, p. 23.
221 Brigham, 'Foreward', p. 8. See further Lubin, 'American artists in the crucible of war', pp. 35-7 on 'Gassed'.

Although the debate in international law on the proscription of weapons went on during and after the First World War and even intensified due to a number of disputed cases (for example, regarding submarines), the general tone in publications changed remarkably after August 1914.[222] International legal writing was politicized, nationalistic, and militarized. Lines of conflict that had previously been covered by the surface of a 'shared civilization' could not be denied anymore. Instead of celebrating the moral and legal progress that their discipline had achieved worldwide, many international lawyers now blamed their colleagues in hostile countries for destructing international law. The mood changed. Pessimistic, fatalistic, and defeatist undercurrents became more prominent.[223] The discipline's positive self-perception ceased, and international lawyers were confronted with the widespread denial of international law to a greater degree than they had ever experienced during wartime. The pre-1914 self-assessment that international relations were subject to contributions of the most important cast of international lawyers looked like a 'legal autosuggestion'.[224]

The explicit provisions in non legally binding declarations and treaties against the use of poisonous weapons read – due to their ineffectiveness in WW I – somewhat bitter in retrospect, particularly the reference to 'public conscience' in the Martens' Clause, and their inherent limits in times of war became evident. All of these measures 'provided little restraint in the First World War.'[225] The basic principle of the classic law of war that even a just war does not justify all means was belied on the battlefields. Military measures were being justified as 'reprisals', as part of a 'circle of justifying, scandalizing and reproducing violence'.[226] In the end, military necessity was used to justify the means instead of mobilizing international law to restrain their use and excesses. The practice of outlawing only certain ways of warfare failed at preventing war overall and, ironically, the use of some of the criticized weapons in particular. The terminological, moral, and legal delegitimation of 'intrinsically evil' weapons was not able to persist against technological, military, and power narratives. The moral double standards of international lawyers not only in the context of general warfare but also in that of imperialism and exploitation explain why the project of moralizing international law failed. Late nineteenth-century international law and moral understanding had always excluded 'barbarians' from celebrated progress of the restraint of war. Now, as the European countries fought each other, they mutually blamed and labelled each other as 'barbarians' and subjected their opponents to merciless warfare beyond international legal provisions. The moralizing language and discriminating categories had promoted tools and justifications that seemed like a backlash within a narrative of progressiveness and peacefulness[227] – but in fact were not. They referred to justification narratives that enabled merciless warfare of European nations against the "other" – and othering was quite a popular political and moral strategy.

The First World War left not only public but also international lawyers with a 'memory of disappointment'.[228] Still, the legacy was not all bad. It offered and still offers the chance to reassess fundamental principles and beliefs of nineteenth-century classical international law, to critically revisit its axioms and methods, and to measure them by their outcome. The 1925 Geneva Protocol on Poison Gas provided a new positivized norm that banned

222 Onuma, *International law in a transcivilizational world*, p. 539; Weinke, *Gewalt, Geschichte, Gerechtigkeit*.
223 Lammasch, *Das Völkerrecht nach dem Kriege*, p. 3f: The idea of humanizing war was a vain hope.
224 Payk, *Frieden durch Recht?*, p. 62.
225 Gillespie, *History of the Laws of War*, 3, p. 23.
226 Brock, 'Between sovereign judgment and the international rule of law', p. 88.
227 Payk, *Frieden durch Recht?*, p. 78.
228 Alexander, 'Good war', p. 26.

chemical warfare; in fact, it was seen as a self-reassurance and affirmation of the content of treaties and of customary law that had been valid prior to the First World War but had often been breached in praxis between states during the war.[229] Furthermore, the Kellogg-Briand Pact created during the Interwar Period finally indicated a paradigmatic change[230] in international (legal) thinking: in addition to certain weapons or strategies, the act of war itself should be outlawed. Even excelling former notions of civilization and humanity, the pact was eventually ignored on a grand scale. Nevertheless, these historical experiences might help us – even today – to impose better laws and to more effectively enforce them after critically assessing our common past. Methodologically, the fact that today's international law has an inclination to historicize normative issues should be seen as yet another sign that it is possible to critically assess our common past. Twenty-first century challenges of international law and international relations through new technologies or methods of warfare or new actors of international law can be all addressed from a critical-historical perspective. Thankfully, the past is not merely the past in today's academia. Past failures can serve as references for how to deal with today's challenges, since the simple question of which weapons one may and may not use remains as urgent as ever.

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229 Vec, 'Challenging the laws of war', p. 128.
230 Hathaway and Shapiro, *The Internationalists*.

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'Weapons of Mass Destruction': Historicizing the Concept†

By IDO OREN* AND TY SOLOMON**

The danger posed by 'weapons of mass destruction' (WMD) was the Bush administration's chief justification for invading Iraq in 2003. Amid the ceaseless repetition of this phrase during the run-up to the invasion, hardly anyone stopped to ask: what is 'WMD' anyway? Is it not a mutable social construct rather than a timeless, self-evident concept? Guided by Nietzsche's view of the truth as a 'mobile army of metaphors [and] metonyms . . . which have been enhanced, transposed, and embellished poetically and rhetorically', we present a history of the metonym WMD. We describe how it was coined by the Archbishop of Canterbury in 1937, and subsequently how its meaning was 'transposed' and 'enhanced' throughout Cold War arms negotiations, in the aftermath of the Iraqi invasion of Kuwait, and in US domestic law. We also discuss how, in the run-up to the Iraq war, 'WMD' did not merely describe an Iraqi threat; it was rather 'embellished poetically and rhetorically' in ways that created the threat. After the Iraq fiasco, 'WMD' became the object of satire and its rhetorical power diminished. Still, other, equally-ambiguous phrases such as 'failed states' remain available to be embellished rhetorically for the purpose of producing foreign threats.

The danger posed by 'weapons of mass destruction' ('WMD') was the George W. Bush administration's chief justification for invading Iraq. In the run-up to the March 2003 invasion, administration officials repeatedly told the American public that, as President Bush put it in a speech he delivered in Fort Hood, Texas,

> The Iraqi regime has used weapons of mass destruction. They not only had weapons of mass destruction, they used weapons of mass destruction. They used weapons of mass destruction in other countries, they have used weapons of mass destruction on their own people. That's why I say Iraq is a threat, a real threat.[1]

In the invasion's aftermath, however, a massive search for these weapons failed to find them.[2] The failure generated a heated debate between defenders (or mild critics) of the Bush administration, who characterized the fiasco as an unintentional 'intelligence

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1 "President rallies troops at Fort Hood," 3 Jan. 2003, http://georgewbush-whitehouse.archives.gov/news/releases/2003/01/20030103.html .

2 Woodward, *Plan of attack*, p. 418; Packer, *Assassins' gate*, p. 298.

failure',[3] and harsh critics, who charged that the administration deliberately 'misrepresented the intelligence' about Iraq's WMD and presented a 'fraudulent' case for war.[4]

We seek not to adjudicate this debate but to expose its limits. Debaters of all stripes, including those who charged that the Bush administration lied to the American people, have treated 'weapons of mass destruction' as if it were a self-evident, fixed concept. Both defenders and critics of the administration have implicitly presupposed, furthermore, that the truth about 'weapons of mass destruction' consisted in correspondence between this concept and a factual reality independent of the concept.

Not even the harshest critics of the administration's campaign to sell the war to the American people[5] stopped to ask: what does 'WMD' mean anyway? Is 'WMD' not a contestable, changeable social construct more than a stable, timeless concept? Did the repeated uttering of this phrase during the run-up to war not rhetorically construct a grave Iraqi threat rather than merely describe it? By failing to pose these questions, critics of the Bush administration overlooked something important about the way in which the Iraq War was sold to the American people.

The administration's campaign to sell the war to the public should not be understood as an effort to communicate facts about the realities of the Iraqi threat, facts whose inaccuracy the press failed to expose. The campaign, we argue, rhetorically constructed a reality of an Iraqi danger as much as it (mis)represented such a reality. More specifically, the incessant incantation of the phrase weapons of mass destruction—initially by administration officials and subsequently by the media and the public—successfully obscured the historically variable, ambiguous, and contested meanings of the concept, creating the illusion that WMD was a firm, stable, and self-evident signifier of a preexisting danger.

Seen in this light, the problem with the US press was not that it failed to call the administration's lies about WMD so much as that it reflexively echoed and amplified this vague phrase, thus partaking in its reification. Indeed, inasmuch as they, too, reflexively repeated the term WMD without raising questions about its meaning, even the sharpest critics of the Iraq war contributed unwittingly to the firming-up of this term, thus reinforcing the rhetorical construction of the Iraqi threat.

In this essay, then, rather than search for the essence of 'weapons of mass destruction', we historicize the concept and dispel the illusion that it has a stable, unambiguous meaning.[6] Our exploration is guided by Friedrich Nietzsche's view that the truth is

> A mobile army of metaphors, *metonyms*, and anthropomorphisms—in short, a sum of human relations which have been enhanced, transposed, and embellished poetically and rhetorically, and which after long use seem firm, canonical and obligatory to a people; truths are illusions about which one has forgotten that this is what they are; metaphors which are worn out and without sensuous power; coins which have lost their picture and now matter only as metal, no longer as coins.[7]

Following Nietzsche's formulation, we analyze the metonym weapons of mass

[3] The notion of 'a major intelligence failure' was the key conclusion of the Silberman-Robb Commission, a panel appointed by President Bush to investigate US intelligence capabilities regarding Iraq's WMD; see Isikoff and Corn, *Hubris*, p. 382.

[4] Ibid, pp. 398, 19.

[5] For example, Isikoff and Corn, *Hubris*; Rich, *Greatest story*.

[6] One scholar who *has* challenged the essentialist understanding of WMD is Michelle Bentley, whose work nicely dovetails with our analysis. See her 'Long goodbye' and *Weapons*.

[7] Nietzsche, *Portable Nietzsche,* pp. 46-7; emphasis added.

destruction as a 'sum' of past political and social 'human relations'.[8] We describe how this figure of speech was coined by the Archbishop of Canterbury in 1937, how it was 'transposed' by presidential science advisor Vannevar Bush in 1945, how it was 'transposed' again and 'enhanced' in UN disarmament negotiations in 1946–48, how the WMD coin subsequently 'lost [its] picture', how in the 1980s—in contrast with the Bush administration's later declarations that Iraq 'used weapons of mass destruction'— the US government and media did *not* use this metonym to describe Iraq's chemical attacks, how the concept experienced a revival in the aftermath of Iraq's 1990 invasion of Kuwait, and how it was 'transposed' once more in the Violent Crime Control and Law Enforcement Act of 1994. We then analyze how 'weapons of mass destruction' was 'embellished poetically and rhetorically' in 2002–03: how its condensation of diverse meanings into a single phrase, its reinforcement by other ominous expressions such as 'mushroom cloud', its transposition into an acronym, and especially its ceaseless repetition made the term 'seem firm, canonical and obligatory' to the American people, creating the 'illusion' that it was a straightforward referent of a factual truth about Iraq.

I The Emergence, "Enhancement," and "Transposition" of WMD, 1937–1945

'Weapons of mass destruction' was apparently coined by the Archbishop of Canterbury. In his 1937 Christmas day radio broadcast, he stated

> Who can think without dismay of the fears, jealousies, and suspicions which have compelled nations, our own among them, to pile up their armament. Who can think at this present time without a sickening of the heart of the appalling slaughter, the suffering, the manifold misery brought by war to Spain and to China? Who can think without horror of what another widespread war would mean, waged as it would be with all the new weapons of mass destruction? [9]

The Archbishop's allusions to Spain and China—where the Nazi and Japanese air forces attacked population centers—suggest that he probably meant to include aerial bombs among the 'new weapons of mass destruction'.

In the US press the term WMD would not be printed until November 1945, but its metonymical component, 'mass destruction', did appear, rarely, even before the Archbishop's address. In the 1930s 'mass destruction' was not primarily associated with weapons—12 of the 21 *New York Times* articles that contained this term during the decade did not place it in the context of modern warfare. [10] During World War II the frequency of 'mass destruction' in the press increased somewhat and the term became predominantly associated with warfare. Initially, most of the *New York Times* articles that alluded to 'mass destruction' did not tie it to particular weapons, but gradually a growing proportion of the references to this expression came to denote the effect of allied aerial bombing. For example, in November 1943 the *New York Times* reported on an air raid resulting in the

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[8] Chandler, *Semiotics*, p. 233, defines a metonym as 'a figure of speech that involves using one signified to stand for another signified which is directly related to it or closely associated with it in some way, notably the substitution of effect [purported mass destruction] for cause [e.g., nuclear explosion; chemical reaction]'.

[9] 'Archbishop's appeal' in *London Times*, 28 Dec. 1937.

[10] We use 'article' as a generic category aggregating news reports, editorials, opinion pieces, readers' letters and advertisements.

'mass destruction' of an Austrian factory.[11] Immediately after the US dropped two atomic bombs on Japan in August 1945 commentators and critics of the new weapon began to associate it with 'mass destruction'. For example, 34 clergymen publicly appealed to President Truman to halt production of the atomic bomb, which they characterized as 'the technology of mass destruction'.[12]

After the bombing of Hiroshima and Nagasaki leading atomic scientists advocated the creation of an international authority for the control of atomic energy, which they hoped would avert a US-Soviet arms race. Their position was supported by senior officials, including Vannevar Bush, the government's chief scientific advisor. President Truman endorsed the idea of the international control of atomic energy but he declined to immediately approach the Soviet Union, preferring to discuss the idea with Britain and Canada first.[13]

On 16 November 1945 the press reported on a meeting of President Truman with Prime Ministers Clement Attlee of Britain and W. L. Mackenzie King of Canada. The *New York Times* printed the text of the declaration issued by the conferees while the paper's columnist Arthur Krock paraphrased the declaration's crux as follows:

> We propose that a special commission of the United Nations shall begin at once to plan international means for [controlling atomic energy]. The Commission should proceed in four steps: first, to set up an organization for the international exchange [of scientific information]; second, to devise workable controls that will insure the peaceful use of this information; third, to draw up a protocol by which all nations will agree to eliminate the atomic bomb and other *weapons of mass destruction* from their armament for all times; and, fourth, to suggest inspection and other safeguards which will really protect the states that comply from those which, if unpoliced, might not.[14]

Image 1: New York Times journalist Arthur Krock
Source: United States Library of Congress.

11 'Plant in Austria bombed to ruins' in *NY Times*, 4 Nov. 1943.
12 'Truman is urged to bar atom bomb' in *NY Times*, 20 Aug. 1945.
13 Gaddis, *United States*, pp. 247–53; Bernstein, 'Quest'.
14 'In the Nation: "In Other Words"—Truman, Attlee, King' in New York Times, 16 Nov. 1945; emphasis added.

This was the first time the *New York Times* (and probably the US press) printed the metonym weapons of mass destruction. Notably, this term did not appear in the original text of the tripartite declaration; it was Krock's adaptation of the longer phrase 'atomic weapons and all other major weapons adaptable to mass destruction'.[15]

How did 'all other major weapons' crop up in the declaration even though the purpose of the conference was to coordinate atomic policy alone? In early November 1945, when Vannevar Bush complained to Secretary of State James Byrnes about the lack of adequate planning for the upcoming tripartite meeting, Byrnes asked Bush to draft a plan. Bush did so and he subsequently co-drafted the declaration signed by President Truman and the two prime ministers.[16] According to his autobiography, Bush suggested inserting the words 'and all other major weapons adaptable to mass destruction' into the declaration, and his British counterpart promptly agreed. 'We both thought that, while we were attempting to bring reason to bear on one terrible weapon, we might as well include another that could be equally terrible'.[17]

The 'equally terrible' weapon type that Bush had in mind was biological.[18] Bush helped oversee secret research into germ warfare during World War II, and in 1944 he tried unsuccessfully to promote within the government the idea of placing biological weapons under international control.[19] His fortuitous participation in the tripartite conference thus allowed him to turn this concern into official policy. Had the State Department engaged in methodical planning for the conference, it is unlikely that Bush would have had the opportunity to draft the US policy position, let alone slip into the tripartite declaration the words 'all other major weapons adaptable to mass destruction'.

With the exception of Marquis Childs of the *Washington Post*—who noted that the new phrase was 'particularly significant. It would surely cover the [B-29] super-bomber'—commentators paid little attention to the debut of 'other major weapons adaptable to mass destruction'.[20] Still, by inserting these words into a major official document Bush made it probable that the phrase would later be recycled in diplomatic negotiations. In Nietzsche's terms, Bush 'enhanced' this figure of speech by introducing it into diplomatic discourse and 'transposed' it from a term that might have become associated exclusively with atomic weapons into a more open-ended expression. The *New York Times*, too, may be credited with 'transposing' the phrase into the more graceful locution weapons of mass destruction.

II Continued "Transposition" and "Enhancement," 1946–1948

In December 1945, at a conference of the 'big three' (the US, Britain, and Soviet) foreign ministers held in Moscow, the Soviets accepted the plan—outlined in the Truman-Attlee-King declaration—to call on the UN to establish a commission that would work toward eliminating 'atomic weapons and all other major weapons adaptable to mass destruction'. The conferees apparently did not discuss the meaning of this phrase, and it was incorporated into the declaration issued at the conclusion of the meeting.[21]

15 Gaddis, *United States,* p. 271.
16 Ibid., p. 270; Bush, *Pieces*, p. 296.
17 Bush, Pieces, p. 297.
18 Ibid, p. 297; Tannenwald, *Nuclear taboo*, p. 103.
19 Guillemin, *Biological weapons*, pp. 53, 58, 74.
20 'Washington calling: freedom of science' in *Washington Post*, 17 Nov. 1945.
21 'Text of communiqué issued by big three after the Moscow conference' in *NY Times*, 27 Dec. 1945; Bernstein, 'Quest', pp. 1028–9; Gaddis, *United States,* p. 279.

On 24 January 1946 the UN General Assembly adopted a resolution to establish a commission to plan for international control of atomic energy.[22] Secretary of State Byrnes appointed Undersecretary of State Dean Acheson to chair a committee to guide the US delegates to the nascent commission. Although its terms of reference alluded to 'control of atomic energy and other weapons of possible mass destruction', the final report submitted by Acheson's committee in March 1946—the Acheson-Lilienthal report—focused exclusively on atomic energy. Its single mention of 'mass destruction' referred strictly to atomic weapons.[23]

Bernard Baruch, who was named by President Truman as ambassador to the UN Atomic Energy Commission (UNAEC), was reluctant to be a 'messenger boy' for the Acheson-Lilienthal blueprint, and proceeded to formulate his own plan.[24] The Baruch Plan incorporated the US military's concern, conveyed to Baruch by General Dwight Eisenhower, that 'To control atomic weapons, in which field we are pre-eminent, without provision for equally adequate controls of other weapons of mass destruction can seriously endanger national security'.[25] In presenting his plan to the UNAEC in June 1946, Baruch declared that

> before a country is ready to relinquish any winning weapons it must have more than words to reassure it. It must have a guarantee of safety, not only against the offenders in the atomic area but against the illegal users of other weapons—bacteriological, biological, gas . . . If we succeed in finding a suitable way to control atomic weapons, it is reasonable to hope that we may also preclude the use of other weapons adaptable to mass destruction.[26]

The Soviet ambassador, Andrei Gromyko, countered with an alternative plan that also contained references to 'atomic weapons and all other similar weapons of mass destruction'.[27] But whereas Baruch associated such 'other' weapons with 'bacteriological, biological, gas' warfare, Gromyko left this category undefined.

In subsequent months negotiation sessions in the UN over atomic energy became increasingly acrimonious.[28] In one of these sessions, held at the UN Political and Security Committee on 2 December 1946, the issue of 'other weapons of mass destruction' came to the fore after it had been 'ignored' in previous months.[29] The US delegate, Senator Tom Connally, 'insisted that any scheme for international control must include such weapons as jet planes, biological warfare, and poison gas, which, he pointed out, were not included in the Russian resolution[30]'. Connally remarked that 'the victims of poison gas or biological germs were just as dead as those killed by the bomb'[31]. The British delegate, Sir Hartley Shawcross, supported Connally's view that the scope of international control must be

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22 UN Doc. A/RES/1(I), Establishment of a Commission to Deal with the Problems Raised by the Discovery of Atomic Energy.

23 Gaddis, *United States,* p. 332; Bernstein, 'Quest', pp. 1029–32. The full report is posted at http://www.learnworld.com/ZNW/LWText.Acheson-Lilienthal.html.

24 Bernstein, 'Quest' pp. 1032–5.

25 Ibid., p. 1036. See also Bentley, *Weapons*, pp. 36–7.

26 'Baruch's speech at opening session of U.N. Atomic Energy Commission' in *NY Times*, 15 June 1946.

27 'The texts of the principal speeches on the proposals to control atomic energy' in *NY Times*, 20 June 1946.

28 Herken, *Winning weapon*, p. 189.

29 Hamilton, T., 'Molotov says veto could not be used in arms inspection' in *NY Times*, 5 Dec. 1946.

30 Adams, F., 'U.S. wants all weapons brought under arms control' in *NY Times*, 3 Dec. 1946.

31 Adams, F., 'U.S. wants all weapons brought under arms control' in *NY Times*, 3 Dec. 1946.

extended to non-atomic weapons[32]. Noting that 20 million people died in the war even before the atomic bombing of Japan, Shawcross said it was 'essential that we should have general reduction of all armaments and prohibition of the most terrible . . . There is no longer safe ground for being sure that the atom bomb is the most terrible'.[33]

The Soviet delegate, Andrei Vishinsky, responded that Connally's position was but a ploy to prolong America's atomic monopoly. According to the *New York Times* Vishinsky said that 'the most dangerous weapons [must be] taken up first. . . . But he added that Senator Connally obviously misunderstood the Russians when he said the Soviet proposal spoke only of the atomic bomb'[34]. Vishinsky went on to state that 'gas and bacteriological warfare had already been prohibited by international agreements . . . He said rockets, jet planes and other weapons of mass destruction were specifically covered' in the UN General Assembly resolution of 24 January 1946, which established the UNAEC (in fact, the resolution referred to 'other weapons adaptable to mass destruction' without naming specific weapons)[35]. Vishinsky added that his government favored 'a general reduction of armaments . . . applying to all kinds, types and categories of weapons'.[36]

The discussion of other 'weapons of mass destruction' continued in subsequent days. On 4 December 1946 Shawcross reiterated Britain's position that the 'actual abolition of the atomic bomb must not take place prior to an effective ban on other "weapons of mass destruction"'.[37] *New York Times* correspondent Thomas Hamilton commented that this British proposal may have been attributable to the fact that not 'merely the atomic bomb, bacteriological warfare and long-distance rockets, but other and more fearsome weapons are thought to be on the offing . . . One particularly horrible possibility, it is thought, is that of using long-distance rockets to carry a ton of more of the particularly virulent bombs that scientists are now developing'.[38] Although the following day Baruch distanced himself from the British demand, his counterpart in the UN Political and Security Committee, Senator Connally, continued to insist, much like Shawcross, that 'the actual abolition of the atomic bomb must go "hand in hand" with that of long-range rockets, bacteriological warfare, etc.'.[39] Connally stated that when the US forgoes its atomic weapon, 'we want other nations to forego the use of other weapons of mass destruction—rockets, jet planes, etc.'.[40] Surprisingly, Soviet Foreign Minister Viacheslav Molotov accepted the proposal to render the abolition of atomic weapons conditional upon the elimination of 'other weapons of mass destruction', but the scope of this category remained undefined.[41]

Molotov's concession fell short of bridging the gulf separating the US and Soviet positions.[42] On 30 December 1946, the UNAEC adopted the Baruch plan by a 10-0 vote, with the Soviet Union and Poland abstaining.[43] Although Baruch regarded the vote as a personal victory, for his Plan it portended defeat since the dispute was merely transferred to the Security Council, where the Soviets could veto the Baruch Plan.[44] After Baruch's

32 Adams, F., 'U.S. wants all weapons brought under arms control' in *NY Times*, 3 Dec. 1946.
33 Adams, F., 'U.S. wants all weapons brought under arms control' in *NY Times*, 3 Dec. 1946.
34 Adams, F., 'U.S. wants all weapons brought under arms control' in NY Times, 3 Dec. 1946.
35 Adams, F., 'U.S. wants all weapons brought under arms control' in NY Times, 3 Dec. 1946.
36 Adams, F., 'U.S. wants all weapons brought under arms control' in NY Times, 3 Dec. 1946.
37 Hamilton, T., 'Molotov says veto could not be used in arms inspection' in NY Times, 5 Dec. 1946
38 Hamilton, 'Molotov says veto'.
39 Hamilton T., 'Molotov accepts curbs on all arms' in *NY Times*, 7 Dec. 1946.
40 Hamilton T., 'Molotov accepts curbs on all arms' in *NY Times*, 7 Dec. 1946.
41 Hamilton T., 'Molotov accepts curbs on all arms' in *NY Times,* 7 Dec. 1946.
42 Ibid.
43 Gaddis, *United States,* p. 334
44 Gaddis, *United States,* p. 334; Bernstein, 'Quest for security', pp. 1043–4.

'victory', UN disarmament talks continued for another two years.[45] Although these talks were largely fruitless, they are of considerable interest from our perspective because the delegates continued to wrestle, from time to time, with the meaning of 'weapons of mass destruction'.

In early 1947 the Soviet Union proposed that, in accordance with a December 1946 General Assembly resolution calling for general disarmament, the Security Council appoint a commission to formulate plans for 'the prohibition of atomic weapons and other weapons of mass destruction, as well as a reduction in the numerical strength and materiel of national armed forces'.[46] The United States, however, objected to folding the talks over 'weapons of mass destruction' into a general disarmament framework. American diplomats insisted that the UNAEC 'retain complete jurisdiction over control of all weapons of mass destruction', and that the issue of general disarmament be taken up by a separate commission.[47]

As the *New York Times* pointed out on 1 February 1947, it was widely understood that 'apart from atomic bombs, weapons of mass destruction include bacteriological warfare and guided missiles', but 'a more precise definition [was] required' in order to demarcate the jurisdiction of the UNAEC from that of the disarmament commission.[48] The following day, the *New York Times* reported that

> The lack of such a definition has come up repeatedly in [US delegate Warren] Austin's conferences with other Council members. The B-29 plane, used to drop the two atomic bombs on Japan, inflicted much greater loss of life with non-atomic bombs, it was noted. These talks have raised the further question whether carriers and battleships, and perhaps other components of the armed forces of the world, should be considered weapons of mass destruction.[49]

On 12 February 1947 the Security Council adopted a Soviet proposal for 'a new commission to study arms reductions but with the American proviso that it should deal only with conventional arms and not with those already being dealt with by the Atomic Energy Commission'.[50] The *New York Times* explained that 'In view of the assignment by the Assembly of all matters dealing with atomic and other major weapons of mass destruction to the Atomic Energy Commission, this second commission could naturally deal only with what the assembly resolution designates as 'minor' or conventional weapons of the pre-atomic age'.[51] The Council, however, defined neither 'minor' weapons nor 'weapons of mass destruction'.

In summer 1947 the US submitted to the new United Nations Commission for Conventional Armaments a proposed definition of 'weapons of mass destruction': 'Any instrument or invention capable of destroying life and property on the scale of a plague, a flood, a famine, or an earthquake'.[52] The US delegate, Franklin Lindsey, explained that this definition applied to the atomic bomb, radioactive materials, and deadly chemical and

45 Herken, *Winning weapon*, p. 190.
46 Hamilton, T., 'U.S. revising stand for atom primacy' in *NY Times*, 1 Feb. 1947.
47 Hamilton, T., 'U.S. Facing rebuff on atom priority' in *NY Times*, 2 Feb. 1947.
48 Hamilton, 'U.S. revising stand'.
49 Hamilton, "U.S. facing rebuff."
50 'Disarmament meets a test' in *NY Times*, 13 Feb. 1947; see Tannenwald, *Nuclear taboo,* p. 104.
51 'Disarmament meets a test' in *NY Times*, 13 Feb. 1947; see Tannenwald, *Nuclear taboo,* p. 104.
52 Rosenthal, A. M., 'U.S. asks one body curb worst arms' in *NY Times*, 21 Aug. 1947.

biological mixtures.[53] He excluded airplanes and warships from the WMD category because they were merely 'carriers' of destructive weapons, not 'producers' of destruction.[54] Lindsey added that, if future weapon technologies become capable of causing destruction on the scale of the above-mentioned natural disasters, these weapons too should come under the UNAEC's jurisdiction.[55]

A few weeks later, the US pressed for a resolution to be adopted by the Commission, which states 'whereby the Commission on Conventional Armament would eliminate from its consideration not only atomic weapons but all weapons of mass destruction, equivalent in effect to famine or earthquake',[56] including 'radioactive material, lethal chemical and biological weapons and "any weapons developed in the future which have characteristics comparable in destructive effect to those of the atomic bomb or other weapons mentioned above".[57]' The Soviets opposed the resolution 'on the ground that disarmament involving atomic weapons cannot be divorced from the scrapping of more conventional weapons such as battleships and rifles'.[58]

The Soviets got their wish of linking atomic and conventional disarmament in early 1952, when the moribund UNAEC was fused with the Commission for Conventional Armaments into the 'UN Disarmament Commission'.[59] Still, it is notable that, before its dissolution, the Commission for Conventional Armaments voted to adopt the American definition of WMD. In August 1948 the Commission resolved that 'weapons of mass destruction should be defined to include atomic explosive weapons, radio-active material weapons, lethal chemical and biological weapons, and any weapons developed in the future which have characteristics comparable in destructive effects to those of the atomic bomb or other weapons mentioned above'.[60] Although this resolution had no immediate practical consequences—the Soviets blocked its submission to the Security Council—its passage marked a closure, however fleeting and arbitrary, of the fitful UN debate concerning the meaning of 'WMD'.

In recapitulation, after the atomic bombing of Japan Vannevar Bush 'transposed' the term mass destruction by associating it with 'other', non-atomic weapons and 'enhanced' it by slipping the term into the Truman-Attlee-King declaration. But the meaning of 'other weapons adaptable to mass destruction' remained contested in the ensuing disarmament negotiations in the UN. To the extent that the participants or commentators bothered to define it, they associated it variously with 'bacteriological, biological, gas' (Baruch), 'rockets, jet planes' (Vishinsky), 'bacteriological warfare and long-distance rockets, [and] . . . particularly virulent bombs' (Thomas Hamilton, *NY Times*), 'long-range rockets, bacteriological warfare, etc.' (Shawcross), 'rockets, jet planes, etc.' (Connally), 'bacteriological warfare and guided missiles' (*NY Times*), and 'the B-29 plane . . . carriers and battleships" (*NY Times*). Finally, the Commission on Conventional Armament resolved that the WMD category included atomic, radioactive, biological, and chemical weapons, as well as future weapons capable of comparable destruction. This resolution constituted a

53 Rosenthal, A. M., 'U.S. asks one body curb worst arms' in *NY Times*, 21 Aug. 1947.
54 Rosenthal, A. M., 'U.S. asks one body curb worst arms' in *NY Times*, 21 Aug. 1947.
55 Rosenthal, A. M., 'U.S. asks one body curb worst arms' in *NY Times*, 21 Aug. 1947.
56 Jones, G. E., 'Soviet balks vote on U.S. arms plan', in *NY Times*, 6 Sept. 1947.
57 Jones, G. E., 'Soviet balks vote on U.S. arms plan', in *NY Times*, 6 Sept. 1947.
58 Jones, G. E., 'Soviet balks vote on U.S. arms plan', in *NY Times*, 6 Sept. 1947.
59 Un Doc. A/RES/502(VI), Regulation, Limitation and Balanced Reduction of All Armed Forces and All Armaments; International Control of Atomic Energy.
60 UN Doc. S/C.3/32/Rev.1, Commission for Conventional Armaments, Resolutions Adopted by the Commission at Its Thirteenth Meeting, 12 August 1948, and a Second Progress Report on the Commission, p. 2; Price, *Chemical weapons taboo*, p. 144; Carus, *Defining,* p. 20; Tannenwald, *Nuclear taboo*, p. 104.

significant 'transposition' and (re-) 'enhancement' of 'weapons of mass destruction' for it made it likely that, should arms reduction talks be revived, the resulting draft treaties would reproduce this metonym.

III How the Coin Lost its Picture: "WMD" During the Cold War

The term WMD was indeed replicated in several arms treaties concluded during the Cold War, including the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America; the 1967 Outer Space Treaty; the 1971 Seabed Treaty; the 1972 Biological Weapons Convention; and the 1979 SALT II Treaty.[61] Moreover, as Michelle Bentley demonstrates, the term was employed frequently by US defense and arms control officials during the 1950s and 1960s.[62] But even as 'WMD' remained in circulation within the bureaucracy, government officials sometimes deliberately sought to blur the 'picture' emblazoned on this coin of speech by the UN in 1948. For example, at a high-level 1963 meeting dedicated to the Outer Space Treaty, Assistant Secretary of Defense Paul Nitze 'indicated that DOD did not want a clear definition of WMD' included in the treaty because such a definition would foreclose the option of placing in orbit small anti-satellite nuclear weapons.[63] At other times, when US officials were publicly pressed to define 'WMD', they fell short of reproducing the definition adopted by the UN. During the 1967 Senate hearing on the Outer Space Treaty, when chief US negotiator Arthur Goldberg was asked to specify 'the other weapons of mass destruction', he replied: 'Bacteriological, any type of weapons which could lead to the same type of catastrophe that a nuclear weapon could lead to'.[64] Goldberg thus omitted three elements of the UN's 1948 definition: radioactive material weapons, lethal chemical weapons, and future weapons capable of causing comparable destruction.

If US foreign policy specialists were sometimes reluctant or unable to portray the precise contours of the picture inscribed on 'WMD' by the UN, it should not be surprising that for the general public the picture, indeed the very coin itself, was being 'lost' altogether. As Figure 1 shows, the frequency of *New York Times* articles mentioning 'weapons of mass destruction' fell markedly during the Cold War.[65]

Not only had the use of 'WMD' by the press become increasingly infrequent, but on those occasions in which it *had* appeared, the phrase was only rarely associated with specific weapons other than nuclear arms. Consider, for example, the nine articles in which the *New York Times* printed 'WMD' in 1958. Only one of them contained an explicit reference to chemical and biological weapons. The other articles either mentioned no specific weapon systems or placed 'WMD' in the context of nuclear weapons alone. Similarly, all four *New York Times* articles that mentioned 'WMD' in 1975 did so in the context of the nuclear arms race; only one of these articles made a passing reference to chemical and bacteriological weapons.

As Michelle Foucault explained in his commentary on Nietzsche, the genealogical

61 The full texts of these treaties (in the order in which they are mentioned above) are available at http://www.fas.org/nuke/control/opanal/text/index.html; https://www.state.gov/t/isn/5181.htm; https://www.state.gov/t/isn/5187.htm; https://www.state.gov/t/isn/4718.htm; and https://www.state.gov/t/isn/5195.htm.

62 Bentley, *Weapons*, chap. 3.

63 Carus, *Defining,* pp. 22–3.

64 Ibid., p. 24.

65 The data were generated from the archives of the *NY Times* online at http://www.nytimes.com. In the 1970s and 1980s 'WMD' was rarely used not only in the press but also within the foreign policy bureaucracy—see Bentley, *Weapons*, p. 72.

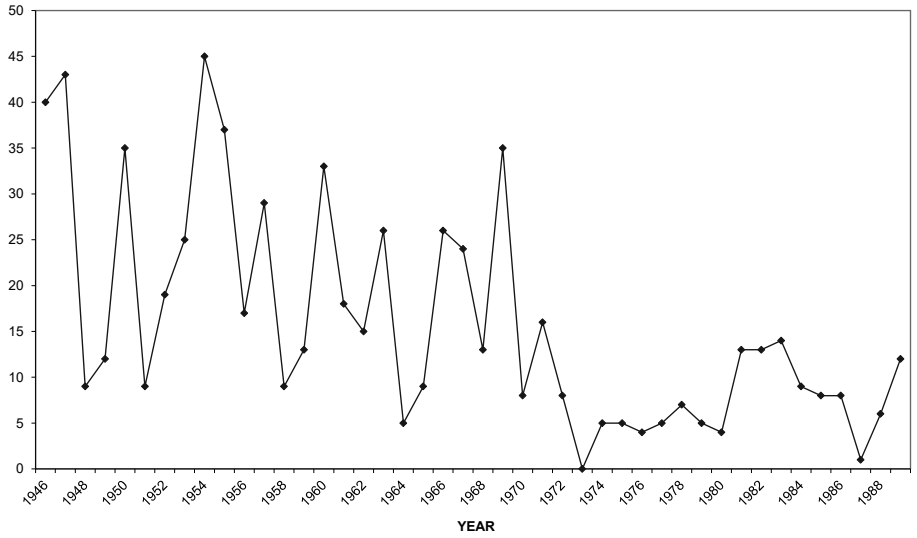

Figure 1: *Frequency of 'Weapons of Mass Destruction' in the New York Times 1946-1989*

Source: http://nytimes.com

investigation of concepts requires not only the excavation of 'the different scenes where they engaged in different roles'; genealogy 'must define even those instances when [these concepts] are absent'.[66] During the Cold War, the concept WMD was absent, first, from discussions of America's own armaments. US officials almost never referred to America's weapons as 'WMD'. In those years the phrase 'American (or US, or America's) weapons of mass destruction' never appeared in the *New York Times*, *Washington Post*, or *Wall Street Journal*.

Second, during the Cold War the concept WMD was absent from reporting on, and public discussions of, instances in which gas was undoubtedly used in warfare, including the widespread use of riot control agents and herbicides by the United States in Vietnam.[67] Although the US government insisted that tear gases and defoliants were not true chemical weapons, critics of the war charged that the usage of such chemical agents violated international law.[68] Judging from the coverage of the controversy by the *New York Times*, *Washington Post*, and *Wall Street Journal*, the phrase WMD was entirely absent not only from the official discourse of the US government but also from the pronouncements of its critics. Even Soviet diplomats—who frequently accused the US of 'using poison gas' or 'violat[ing] international law by using chemicals'—were never reported to have charged that the US employed 'weapons of mass destruction' in Vietnam.[69]

Similarly, the concept WMD was absent from reporting on the use of poison gas by the Egyptian air force in the Yemen, which resulted in hundreds of civilian deaths.[70] Between

66 Foucault, 'Nietzsche, genealogy, history', p. 76.
67 Tucker, *War of nerves*, p. 223.
68 Graham, *Disarmament sketches*, pp. 22–5.
69 First quotation: 'Washington rebuts poison gas charge' in *NY Times*, 10 March 1963; second quotation: 'Soviet assails U.S. on war chemicals' in *NY Times*, 14 Aug. 1968.
70 Tucker, *War of nerves,* pp. 190–2.

1962 and 1968 the *New York Times*, *Washington Post*, and *Wall Street Journal* together published more than two dozen reports on Egypt's chemical warfare in the Yemen. None of them mentioned 'weapons of mass destruction'.

Most strikingly, in contrast with the Bush administration's statements in 2002–03 that the Iraqis 'used weapons of mass destruction in other countries, they have used weapons of mass destruction on their own people', the phrase WMD was entirely absent from contemporaneous reporting on Saddam Hussein's use of poison gas against Iran and the Kurds in the 1980s. From 1982 through the conclusion of the Iran-Iraq war in 1988 Iraqi forces launched repeated chemical attacks against Iranian combatants. In late 1987 the Iraqi army began a chemical warfare campaign against civilians in the Kurdish region of Northern Iraq; the most devastating of these attacks targeted the town of Halabja, killing several thousand people.[71] The Iraqi use of poison gas received substantial press coverage. In 1988 alone the *New York Times*, the Washington *Post*, and the *Wall Street Journal* published 53 articles that mentioned or discussed Iraqi chemical attacks in Kurdistan. None of these articles, much like earlier press reporting on the Iraqi use of gas against the Iranian military, mentioned 'weapons of mass destruction'.

In sum, during the Cold War 'weapons of mass destruction' became increasingly scarce in US public discourse and, to the extent that this metonym was mentioned in the press, it was associated with nuclear weapons more than biological, chemical, or radioactive ones. The phrase was absent from media accounts of chemical warfare in Vietnam, Yemen, and, remarkably, Iraq. Thus, during the Cold War it was unlikely that even a highly attentive US citizen could have given a specific description of 'WMD' consistent with the UN's official definition of the term. By the 1980s, as it became rare and as the 'picture' emblazoned on it by the UN had faded, 'WMD' came to 'matter only as metal', if it mattered at all, 'no longer as [a] coin'.[72]

IV "WMD" After the Cold War: Simultaneous Re-Enhancement and Transposition

In the 1990s the incidence of 'WMD' in US discourse on foreign affairs rose appreciably. The metonym became increasingly associated with efforts to enforce UN Security Council Resolution 687 adopted in 1991,[73] which prohibited Iraq from possessing nuclear, biological, and chemical arms. But even as this association re-'enhanced' the meaning attached to 'WMD' by the UN in 1948, and even as the circulation of this coin in foreign policy talk was growing, 'WMD' had seeped into the discourse of *domestic* US law, where its meaning was 'transposed' again.

Re-Enhancement

The perception that 'WMD' proliferation critically endangered the United States was not invented by the George W. Bush administration. This threat assessment actually emerged during the presidency of George H.W. Bush, when the winding down of the US-Soviet nuclear competition gave the US arms control community an opportunity to pursue a more expansive agenda of chemical and biological disarmament throughout the developing

71 Ibid., pp. 249–59, 268–72, 279–82.
72 Nietzsche, *Portable Nietzsche,* p. 47.
73 UN Doc. S/RES/687, Resolution 687 (1991) of 3 April 1991.

world. The arms controllers began to use the term WMD interchangeably with biological and especially chemical weapons.[74] The adoption of this locution had the rhetorical effect of dramatizing the menace posed by chemical weapons and de-legitimizing these weapons.

Ironically, in their quest to delegitimize the possession of chemical weapons by developing countries arms controllers were able to seize on the rhetoric of Third World leaders themselves, especially Saddam Hussein.[75] During the Iran-Iraq war Iraqi officials made veiled analogies between chemical weapons and the atomic bomb. In 1982, for example, an Iraqi diplomat threatened that 'Iraq will use a new secret weapon of mass destruction if the Iranians launch a major offensive on the border'.[76] When the war ended, Hussein re-directed this rhetoric against Israel, warning that 'Whoever threatens us with the atomic bomb, we will annihilate him with the dual [binary] chemical', and that Iraq 'would respond to any Israeli use of weapons of mass destruction . . . by using comparable weapons against Israel'.[77] After invading Kuwait in August 1990 Iraqi leaders employed similar language to deter the US from attacking Iraq.[78]

US leaders replied in kind, reinforcing the rhetorical conflation of chemical and nuclear weapons. In August 1990 President George H.W. Bush declared that 'the use of chemical weapons . . . would be intolerable and would be dealt with very, very severely', while Defense Secretary Dick Cheney later warned that 'were Saddam Hussein foolish enough to use weapons of mass destruction, the US response would be absolutely overwhelming and it would be devastating'.[79] Interestingly, although George H.W. Bush, unlike his son in 2002–03, did not cite the danger of Iraq's 'WMD' as the chief justification for the Gulf War, the elder Bush nonetheless created the language that would later be adopted by the Bill Clinton administration and be used with a vengeance by the George W. Bush administration. In November 1990 President George H.W. Bush, glossing over the past reluctance of his administration to denounce Iraq's use of poison gas, depicted Hussein as a 'Dictator who has gassed his own people, innocent women and children, unleashing chemical weapons of mass destruction . . . those who measure the timetable for Saddam's atomic program in years, may be seriously underestimating the reality of that situation and the gravity of the threat'.[80] Several days later Bush said that Hussein was 'a dangerous dictator all too willing to use force, who has weapons of mass destruction and is seeking new ones'.[81]

The US and Iraqi rhetoric combined with the adoption of the locution WMD by advocates of biological and chemical disarmament to constitute a revival and, in Nietzsche's terms, a re-'enhancement' of the picture of WMD painted by the UN in 1948. UN Security Council Resolution 687 of 3 April 1991, which set the terms of the Gulf War ceasefire, firmed up the re-enhanced picture when its preamble stated that the Security Council was conscious of 'the threat all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons'. The resolution mandated the unconditional destruction of Iraq's chemical and biological weapons and it banned Iraq from possessing such weapons, as well as nuclear

74 Hymans, 'Roots', p. 38.
75 Price, *Chemical weapons taboo*, chap. 6.
76 Ibid., p. 137.
77 First quotation: Cowell, A., 'Iraq chief, boasting of poison gas, warns of disaster if Israelis strike' in *NY Times*, 3 April 1990. Second quotation: Cowell, A., 'Iraqi takes harsh line at meeting' in *NY Times*, 29 May 1990.
78 Price, *Chemical weapons taboo*, p. 148.
79 Ibid.
80 'Excerpts from speech by Bush at Marine post' in *NY Times*, 23 Nov. 1990.
81 'Excerpts from President's news conference on crisis in Gulf' in *NY Times*, 1 Dec. 1990.

weapons and long-range ballistic missiles, in the future. Resolution 687 also provided for the creation of a UN Special Commission (UNSCOM) to 'carry out on-site inspection of Iraq's biological, chemical, and missile capabilities'.[82]

The emergence of the metonym WMD in the rhetoric surrounding the Gulf War and the insertion of the phrase into resolution 687 made it likely that this revived coin would continue to circulate in media coverage of foreign affairs should the process of disarming Iraq drag on. And indeed, as figure 2 illustrates, the incidence of the term in the US press rose significantly in the 1990s.[83] Furthermore, most references to 'WMD' were in the context of Iraq—that country was mentioned in 895 of the 1271 *New York Times* articles that referred to 'WMD' in the 1990s. The presence of 'WMD' in the media and the phrase's association with Iraq became especially intense in 1998, when repeated confrontations between the Iraqi regime and UNSCOM's inspectors culminated in a massive bombing campaign by the US and UK against Iraq.[84] In that year alone, the *New York Times* published 346 articles that contained 'WMD', 282 (81%) of which referred to Iraq. Moreover, in his 1998 State of the Union Address President Clinton dusted off the rhetorical practice initiated by his predecessor of substituting 'WMD' for 'chemical weapons' to describe Iraq's past use of poison gas. Addressing Saddam Hussein, Clinton said that 'you have used weapons of mass destruction before. We are determined to deny you the capacity to use them again'.[85] Defense Secretary William Cohen similarly denounced Hussein for having "use[d] weapons of mass destruction against his own

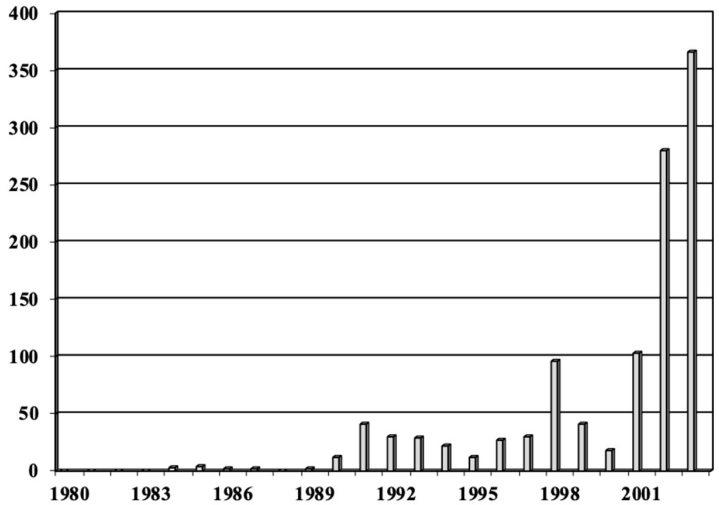

Figure 2: *Frequency of 'Weapons of Mass Destruction' in the Wall Street Journal, 1980-2003*

Source: Factiva.com

82 UN Doc. S/RES/687, Resolution 687 (1991) of 3 April 1991.
83 The data for figure 2 were generated by using the Factiva.com search engine.
84 Tucker, *War of nerves*, p. 357.
85 'Transcript of the State of the Union message from President Clinton' in *NY Times,* 28 Jan. 1998.

people'.[86]

It is clear, then, that in the 1990s foreign policy professionals, though they were not necessarily aware of the UN Commission for Conventional Armaments' 1948 resolution defining 'weapons of mass destruction',[87] have had a picture of 'WMD' in their heads that more or less mirrored the UN's definition. To the extent that it has registered in the mind of the general public, however, the resolution of the picture has been far lower than that of the image harbored by experts. In November 1997 *Newsweek* senior editor Jonathan Alter admitted that 'until recently' he 'didn't know' the meaning of 'weapons of mass destruction'. He wrote that this 'bureaucratic shorthand' was 'widely known inside the government, but right now it's barely a blip in the public consciousness'.[88] A few months later in April 1998 *New York Times* columnist William Safire, too, felt compelled to explain this shorthand. Safire was prompted by a reader who observed that 'Weapons of mass destruction has become the stock phrase in describing Saddam Hussein's threat'. 'Is this some sort of shorthand', the reader asked, 'for 'chemical and biological agents'? Does it include 'delivery systems' like missiles, or exclude weapons everyone else has, like conventional bombs? And where does this infectious phrase come from?'[89] The reader's question suggests that, as the tensions surrounding UNSCOM's inspections were mounting in 1998, 'WMD' was becoming increasingly present in the consciousness of the US public (if not nearly as ever-present as it would become in 2003—in that year the frequency of the phrase in the *New York Times* almost matched its cumulative frequency during the entire decade of the 1990s).

At the same time, however, the reader's question, and Safire's choice to address it in his column, indicated that the meaning of the phrase remained fuzzy and that 'WMD' may have entered the American mind as a 'stock phrase' depicting a general perception of Iraqi menace more than a detailed description of specific military hardware. The fact that as late as July 2003, after months in which the term WMD ceaselessly reverberated through the media, an editor in the *Washington Post* still saw fit to include the question 'what are "weapons of mass destruction?"' in an 'update' on Iraq, is another indication that the minds of many Americans contained no high-resolution image of the concept.[90]

Transposition

Perhaps one reason why even a seasoned commentator like Jonathan Alter 'didn't know' the meaning of 'WMD' was that, even as the UN's definition of the phrase became embedded in the minds of foreign policy bureaucrats, other parts of the federal government borrowed this metonym and stretched its definition considerably. This 'transposition' occurred in the context of the passage by Congress of the 'Violent Crime Control and Law Enforcement Act of 1994'.[91] President Clinton campaigned successfully for including in this law a ban on manufacture, transfer, and possession of semi-automatic assault rifles,

86 'Standoff with Iraq; war of words' in *NY Times,* 19 Feb. 1998. See also Hymans, 'Roots of the Washington threat consensus', p. 39.

87 According to William Safire, 'Most arms control buffs think [WMD] is probably a Russian term'. See 'On language: weapons of mass destruction' in *NY Times,* 19 April 1998.

88 'Why this is not a drill' in *Newsweek,* 17 Nov. 1997.

89 'On language: weapons of mass destruction'.

90 'Fighting in Iraq; the big story' in *Washington Post,* 8 July 2003.

91 The Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 13 September 1994; Clymer, A., 'Decision in the Senate: the overview' in *NY Times*, 26 Aug. 1994.

which Clinton repeatedly dubbed 'weapons of mass destruction'.[92]

Notwithstanding Clinton's rhetoric, the crime act did not refer to the banned rifles as 'WMD'. Still, this phrase did somehow enter another section of the vast bill. Section 60023, subsequently inserted as section 2332a into Title 18, Part 1, Chapter 113B of the US Criminal Code, outlawed the use, attempt, or conspiracy to use 'weapons of mass destruction' against any person or federal property in the US, as well as against US nationals or federal property overseas.[93] Curiously, the definition of 'WMD' in this legislation was far broader than the common meaning of the term in national security discourse. According to Section 2332a, 'weapons of mass destruction' means not only chemical, biological, and radioactive weapons (the words 'nuclear' or 'atomic' are curiously absent), but also 'any destructive device as defined by section 921 of this title'.[94] Section 921, in turn, defines 'destructive devices' as 'any explosive, incendiary or poison gas—bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive charge of more than one-quarter ounce, mine, or device similar to any of the devices described in the preceding clauses'.[95] Additionally, the category 'destructive device' includes any weapon which may 'expel a projectile . . . and which has any barrel with a bore of more than one half-inch in diameter'. Thus, whereas the common understanding of 'WMD' in foreign policy officialdom distinguished between 'WMD' and 'conventional' armament, the violent crime act of 1994 obliterated this distinction.

Soon federal prosecutors began pressing 'WMD' charges against terrorists suspected of using conventional 'destructive devices'. Timothy McVeigh and Terry Nichols, who in 1995 detonated a fertilizer bomb in front of the federal building in Oklahoma City, were charged with the use of 'WMD'.[96] Richard Reid, who tried in 2001 to detonate a 'shoe bomb' on a commercial airliner, pled guilty to a 'WMD' charge.[97] And, as Attorney General John Ashcroft announced in 2004, two suspects were indicted by US prosecutors on 'WMD' charges for hurling hand grenades into two Bogota restaurants, resulting in the injury of five Americans.[98] Thus, by inserting an expansive definition of 'WMD' into US criminal law, Congress made it possible for the Attorney General to discover 'WMD' in Colombia at the same time that other federal agencies were despairing of finding the banned weapons in Iraq.

The 'extensive reliance' of federal prosecutors on the WMD section of the anti-crime legislation was not confined to terrorism cases.[99] In 2006, for example, a federal judge sentenced a Pennsylvania man to a lengthy prison term after he pleaded guilty to charges that included the 'use of a weapon of mass destruction'.[100] As the *Philadelphia Inquirer* reported, the man was unhappy with a surgery he underwent in Chicago. He built a 'bomb out of black gunpowder, a carbon dioxide cartridge, a nine-volt battery, a model rocket

92 Wines, M., 'Clinton renewing push for assault rifle ban' in *NY Times*, 26 April 1994; 'Clinton campaigns for weapons ban in letter to hunters' in *NY Times*, 1 May 1994.

93 The text of the law is posted at https://www.congress.gov/bill/103rd-congress/house-bill/3355/text.

94 The United States Code, Title 18 Crimes and Criminal Procedure, Part I Crimes, Chapter 113B Terrorism, Section 2332a Use of Weapons of Mass Destruction.

95 The United States Code, Title 18 Crimes and Criminal Procedure, Part I Crimes, Chapter 44 Firearms, Section 921 Definitions.

96 'Indictment against Timothy McVeigh and Terry Nichols', at http://newsok.com/article/2510970.

97 Belluck, P., 'Unrepentant shoe bomber sentenced to life', *NY Times*, 31 Jan. 2003.

98 'Second FARC terrorist Indicted for 2003 grenade attack on Americans in Colombia', US Department of Justice news release, at http://justice.gov/opa/pr/2004/October/04_crm_724.htm.

99 Carus, *Defining,* p. 10.

100 'Botched penis surgery ends in mail-bomb to doc', *Associated Press*, 22 Nov. 2006, at http://www.msnbc.msn.com/id/15849599/.

igniter, and dental floss'. Shortly after mailing the bomb to the surgeon the man confessed his crime to the police, which intercepted the package and disarmed it with a water cannon. As the man's attorney complained, because the prosecutors pressed WMD charges against his client, he faced a harsher sentence than he would had he been charged with mailing a letter bomb. 'You shouldn't group this guy', the lawyer protested, 'with people who drive trunk loads of explosives to buildings or gather anthrax'.[101]

Foucault argued that investigating the 'descent' of a concept entails the discovery of 'the myriad events through which' this concept was formed and transformed, including the historical 'accidents, the minute deviations' that shaped the concept.[102] If the slipping of 'WMD' into federal law in 1994 appears to have been an 'accident'—the law enforcement community did not offer a rationale for the term's definition and no discussion of it took place[103]—the subsequent adoption of this concept by state legislatures resulted in 'minute deviations' that sometimes extended the concept beyond its federal definition. In recent years many states have passed legislation criminalizing 'weapons of mass destruction'. While some of these state laws duplicated the language of the US Criminal Code, other states adopted definitions that deviated from it in minute but significant ways. For example, Florida Statute 790.166 broadens the federal definition of chemical weapons. If Title 18 of the US Criminal Code describes a WMD as 'any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors',[104] the Florida statute stretches the definition to include '*any device or object* that is designed or intended to cause death or serious bodily injury *to any human or animal, or severe emotional or mental harm to any human*, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors'.[105]

Minute though this textual deviation might have been, it apparently touched the life of one hapless Floridian, who was arrested in 2006 and 'accused of rigging a "weapon of mass destruction" to spew hazardous substances' into a sex shop. The man 'had set two gallon-sized jugs of what appeared to be a corrosive material on the business' air conditioner. A water hose was set up to push water into the jugs, and another hose fed the substance into the building'. According to the suspect, 'the substance was a mixture of swamp water, yeast, laundry soap and rotten eggs'.[106]

The wide discrepancy between 'WMD' *qua* an existential national security threat and the concurrent association of the term with a primitive mail bomb, or with a 'mixture of swamp water, yeast, laundry soap and rotten eggs', attests to the historically-contingent, legally-fuzzy, and politically- contestable meaning of this concept.

V How "WMD" Was "Embellished Poetically and Rhetorically" in 2002–2003

This section focuses on the run-up to the Iraq War, when 'WMD' became the staple of the campaign to sell the war to the American people. We argue that the Bush administration's

101 Shiffman, J., 'Unhappy over surgery, he now faces prison' in *Philadelphia Inquirer*, 5 April 2006.
102 Foucault, 'Nietzsche, genealogy, history', p. 81.
103 Carus, *Defining,* p. 32.
104 The United States Code, Title 18 Crimes and Criminal Procedure, Part I Crimes, Chapter 113B Terrorism, Section 2332a Use of Weapons of Mass Destruction.
105 Ibid., appendix D; emphases added.
106 'Arrest made over rigged device at Waldo sex shop', in *Gainesville Sun*, 6 Dec. 2006.

claim that Iraq had (or used) WMD should be understood not as a factual description of an Iraqi threat but rather as a rhetorical mode of constructing and inflating such a threat. More specifically, the employment of the metonym weapons of mass destruction by the administration and the press 'embellished' the Iraqi threat 'poetically and rhetorically' in four ways: condensation, reinforcement, abbreviation, and, most significantly, repetition. Embellished by these rhetorical practices 'WMD' produced a generalized sense of a grave Iraqi threat that many Americans readily came to see as 'firm, canonical, and obligatory'.[107]

Condensation

To highlight the dangerous character of the Iraqi regime, US officials frequently referred to the Iraqi chemical attacks in the 1980s. These officials alternated between stating that Iraq used 'poison gas' and declaring that, to quote President Bush again, the Iraqis 'used weapons of mass destruction in other countries, they have used weapons of mass destruction on their own people'.

As discussed earlier, 'mass destruction' became identified with atomic weapons immediately after the bombing of Hiroshima and Nagasaki. In subsequent decades, this identification remained constant and unchallenged even as the association between 'mass destruction' and other weapon types has been fluid, contested, and often tenuous. The Bush administration's practice of interchanging chemical weapons and 'WMD' can be interpreted, then, as an attempt to fix in the public's mind a heretofore unstable association between two disparate things or images: nuclear weapons and gas; Hiroshima and Halabja. The administration, in other words, has practiced rhetorical c*ondensation*: employing a single verbal symbol (WMD) to unify a diversity of meanings (nukes; gas). [108]

As Nietzsche observed, however, 'the unity of the word does not guarantee the unity of the thing'.[109] Indeed, the disparate nature of chemical and nuclear weapons has been noted by prominent experts and observers. For example, two prominent scientists pointed out that nuclear and chemical weapons 'are fundamentally different in terms of lethality, in the area they cover' and in the availability of protective measures against them. Whereas a single nuclear weapon 'can physically destroy an entire city instantaneously', chemical weapons 'do not destroy property' and they 'may cause hundreds, but probably not thousands, of deaths'.[110]

Alas, these experts' voices have been drowned out by the chorus of war rhetoric conducted by the administration. By repeatedly declaring that the Iraqis used/possessed 'WMD' the Bush administration effectively associated the Iraqi threat with nuclear weapons even as administration officials stopped short of claiming that Iraq actually had these terrible weapons. The condensation of chemical and nuclear weapons into a single phrase thus rhetorically magnified the Iraqi threat.

Reinforcement

Nietzsche's characterization of the truth as 'a mobile *army* of metaphors, metonyms, and anthropomorphisms' suggests that no single figure of speech can win a campaign to

107 Nietzsche, *Portable Nietzsche,* p. 47.
108 Kertzer, *Ritual,* p. 11.
109 Nietzsche, *Human,* p. 19.
110 Morrison and Tsipis, 'Rightful names', p. 77. See also Enemark, 'Farewell'.

construct reality without rhetorical reinforcements.[111] The Bush administration indeed reinforced 'WMD' with other ominous figures of speech, the most graphic of which was a double metaphor debuted by national security advisor Condoleezza Rice on 8 September 2002. Speaking on CNN, Rice warned that although the status of Iraq's nuclear program was not known with certainty, 'we don't want the smoking gun to be a mushroom cloud'.[112] A month later, President Bush repeated this portentous phrase in a televised speech in Cincinnati.[113] Other administration officials, too, incorporated the 'mushroom cloud' image into their rhetoric. The reinforcement of the metonym WMD by this dramatic image, as well as other powerful metaphors such as 'axis of evil' and 'outlaw regimes', helped firm up the public's fear that Iraq posed an existential threat to US national security.

Abbreviation

The third rhetorical practice that served to embellish 'weapons of mass destruction' in 2002–03 was the transposition of this flabby phrase into a trim acronym.[114] As figure 3 indicates, whereas the acronym WMD almost never appeared in major US newspapers in the 1990s, during the lead-up to the Iraq War the same publications printed it hundreds of times.[115] Furthermore, as the war approached, the acronym became so ubiquitous that reporters and commentators no longer felt compelled to spell it out.

As Herbert Marcuse explained, abbreviations perform a rhetorical function of 'help[ing] to repress undesired questions'.[116] For example, substituting NATO for North Atlantic Treaty Organization represses 'questions about the membership of Greece and Turkey' while 'UN dispenses with un due emphasis on "united"'.[117] Similarly, by dispensing with

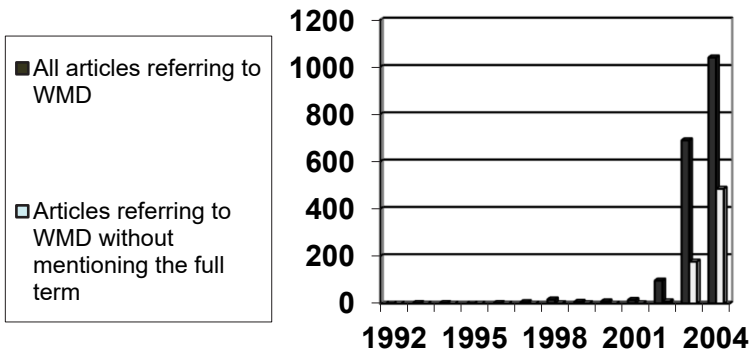

Figure 3: *Frequency of the Acronym WMD in Major US Publications*

Source: Factiva.com

111 Nietzsche, *Portable Nietzsche,* p. 47; emphasis added.

112 See http://www.cnn.com/2003/US/01/10/wbr.smoking.gun/.

113 'President Bush outlines Iraqi threat', at http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html.

114 Although, for convenience, we used it in this essay in reference to earlier periods, the acronym WMD was created by UNSCOM in the early 1990s, then migrated to US political discourse. See Bentley, *Weapons*, pp. 91–2.

115 The data for figures 3-5 were generated by searching the 'major news and business publications–US' data base at the Factiva.com search engine.

116 Marcuse, *One-dimensional man,* p. 94.

117 Ibid.

the words 'mass destruction' the acronym 'WMD' helped 'repress undesired questions' such as: can poison gas cause mass destruction even as gas cannot destroy property? Did Iraq's chemical attacks against 'its own people' actually cause mass destruction? Could the use of chemical weapons by Iraq truly pose a grave danger to US security? To borrow Marcuse's words again, 'Once [WMD] has become an official vocable, constantly repeated in general usage, "sanctioned" by the intellectuals, it has lost all cognitive value and serves merely for recognition of an unquestionable fact'.[118]

Repetition

The incessant repetition of 'weapons of mass destruction' (or 'WMD') by the Bush administration and the unremitting bouncing of the phrase off the walls of the media's echo chamber constituted the most important way in which this metonym was 'embellished poetically and rhetorically' in 2002–03. Beginning in January 2002, the president and senior administration officials uttered this figure of speech multiple times in most of their public appearances.[119] In the CNN appearance in which she introduced the 'mushroom cloud' metaphor, National Security Advisor Rice uttered 'weapons of mass destruction' 13 times. President Bush's Fort Hood speech contained eight utterances of this expression, including five packed into the short paragraph quoted at the beginning of this essay. And Secretary of State Colin Powell alluded to 'weapons of mass destruction' 17 times in his widely-watched February 2003 address to the UN Security Council.[120]

The press echoed and amplified the administration's WMD rhetoric. As figure 2 illustrates, the frequency with which the *Wall Street Journal* printed this phrase spiked dramatically in 2002 and 2003. Similarly, in the *New York Times* the frequency of articles containing this phrase jumped from 60 in 2000 to 524 in 2002 and 853 in 2003. And, as figure 4 shows, in the 12 months preceding the invasion of Iraq, the frequency of 'weapons of mass destruction' in the US press has increased tenfold. The newfound popularity of this phrase was evidenced by its selection by the American Dialect Society as the 2002 'Word of the Year'.[121]

Sigmund Freud wrote that 'Repetition, the re-experiencing of something identical, is clearly in itself a source of pleasure'.[122] Perhaps because of the innate pleasure associated with it, repetition is a common feature of multiple cultural forms. The 'repetition of a sound, syllable, word, phrase, stanza, or metrical pattern is a basic unifying device of all poetry'.[123] In advertising, repetition is 'so obvious' that its significance is 'sometimes neglected. A regular TV watcher may see the same ad tens of times or more, a magazine reader will see the same print again and again'.[124] Similarly, 'repetition, repetition, repetition' is a cardinal rule of effective political campaigning.[125]

Repetition is also central to religious ritual and liturgy. Modes of repetition in contemporary songwriting may have their roots in 'primitive religious chants from all cultures', which 'develop[ed] into cadence and song'.[126] Repetition remains 'one of the

118 Ibid.
119 Gershkoff and Kushner, 'Shaping', p. 531.
120 'Full text of Colin Powell's speech', *Guardian*, 5 Feb. 2003.
121 Barber, *Fear's empire*, p. 29.
122 Quoted in Tannen, *Talking voices*, p. 94.
123 Fogle, 'Repetition', p. 228.
124 Cook, *Discourse*, p. 227.
125 Luntz, *Words*, p. 11.
126 Fogle, 'Repetition', p. 228.

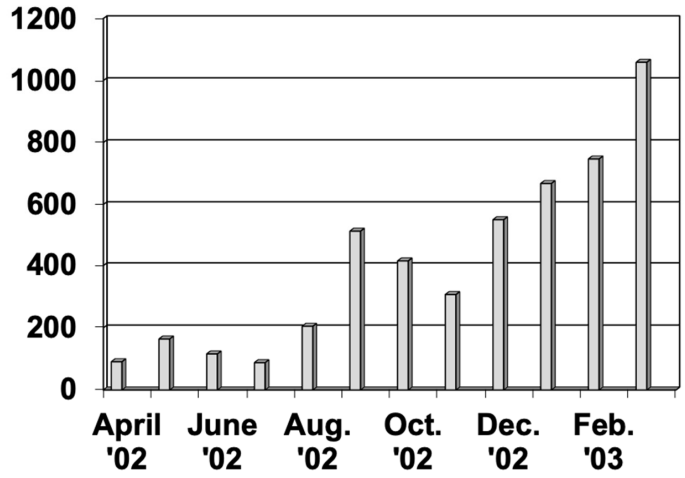

Figure 4: *Monthly Frequencies of 'Weapons of Mass Destruction' in Major US Publications During the Run-Up to War*

Source: Factiva.com

outstanding features of the liturgies of religious ritual, as witnessed by the Bible . . ., the Book of Common Prayer, and the Talmud . . . All rely on repetition to create incantatory rhythms that render their meaning accessible to the widest possible range of readers and listeners'.[127] The texts of prayers regularly recited by adherents of various religions feature such incantatory rhythms. The centrality of repetitive patterns in religious ritual 'may derive from the ancient belief that repeating the name of an object captures the essence of the thing.' 'The repetition of liturgical texts reifies' that which is being repeated.[128]

Amid the 'WMD' din that pervaded the US public arena at the time of the invasion of Iraq, there was but one perceptive commentator who saw the reverberation of the phrase through the media for the liturgical, reifying practice that it was. Shortly after the invasion began, political journalist Michael Kinsley observed that

> By now, WMD have taken on a mythic role in which fact doesn't play much of a part. The phrase itself—'weapons of mass destruction'—is more like an incantation than a description of anything in particular. The term is a new one to almost everybody, and the concern it officially embodies was on almost no one's radar screen until recently. Unofficially, 'weapons of mass destruction' are to George W. Bush what fairies were to Peter Pan. He wants us to say, 'We DO believe in weapons of mass destruction. We DO believe. We DO.' If we all believe hard enough, they will be there. And it's working.[129]

With Kinsley, we argue that the incessant incantation of 'weapons of mass destruction' by the Bush administration, and the ricocheting of the phrase through the echo chamber of the

[127] Bamford, *You can say that again*, pp. 77–79.
[128] Bamford, *You can say that again*, pp. 77–79.
[129] Kinsley, M., 'Low opinion: did Iraq have weapons of mass destruction? It doesn't matter' in *Slate*, 19 June 2003, http://www.slate.com/id/2084602/.

mass media, emptied it of any specific meaning. Just as the repetitive structure of liturgical texts serves to divert the worshipper's mind from his worldly situation and affirm the axioms of his belief, so did the incantation of 'WMD' make Americans take the existence of these weapons as an article of faith, distracting the American mind from the realities of the Middle East. And just as the chanting of a mantra lifts the chanter above material reality and promotes the actualization of the idea being uttered, so did the collective chant 'weapons of mass destruction' rhetorically create the Iraqi threat as much as it referred to such a threat.[130]

VI Conclusion

Figures of speech do not merely describe the truth, they constitute it. As Nietzsche taught us, when metaphors and metonyms experience 'long use', they become 'worn out'; they 'lose' specific meanings, or 'pictures', which used to be attached to them. The people who hear or speak them 'forget' the unstable, variable history of these expressions, succumbing to the 'illusion' that they are 'firm, canonical' mirrors of factual truths.[131]

Guided by Nietzsche's formulation, we showed that 'weapons of mass destruction'—whose possession by Iraq was the chief justification for the Iraq War—lacked a self-evident, fixed meaning. The history of this metonym was marked by twists and 'transpositions', periodic 'enhancements' punctuated by curious absences and 'losses', and even accidents such as the fortuitous participation of Vannevar Bush in drafting the 1945 Truman-Attlee-King declaration, which resulted in the introduction of 'all other major weapons adaptable to mass destruction' into the diplomatic lexicon. To understand the Bush administration's campaign to sell the Iraq War to American people, we ought to view it not as an attempt to communicate facts about the threat of Iraq's WMD. The campaign rather consisted in 'embellishing' this metonym 'poetically and rhetorically'. By using 'weapons of mass destruction' to unify chemical and nuclear weapons, by abbreviating the phrase to repress undesired questions about the unity of these disparate weapons, by mixing it with other ominous figures of speech, and by incessantly repeating it, the Bush administration and the US press glossed over the erratic history of 'weapons of mass destruction', stabilized this metonym, and created the 'illusion' that it was a 'firm' representation of unquestionable Iraqi facts.[132]

The failure to discover 'weapons of mass destruction' in Iraq did not banish the term from national security discourse. The national security strategies of the Barack Obama and Donald Trump administrations both depicted 'WMD' proliferation as a major threat to US security.[133] Nevertheless, as figure 5 illustrates, after peaking in 2003 the incidence of the phrase in the US press has fallen back to roughly its level in the 1990s. This trend mirrored a decline in the official usage of 'WMD'. The Bush administration used the concept far more sparingly during its second term (2005-2009) than before. President Obama, though he repeatedly referred to North Korea's nuclear weapons as 'WMD', only rarely included this phrase in his rhetoric surrounding the lethal use of chemical weapons by Syria's Bashar

130 We present a theoretical elaboration of this claim in Oren and Solomon, 'WMD, WMD, WMD'.
131 Nietzsche, *Portable Nietzsche*, pp. 46–7.
132 Ibid.
133 Bentley, *Weapons*, pp. 111–12; 'National Security Strategy of the USA', Dec. 2017, at https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf

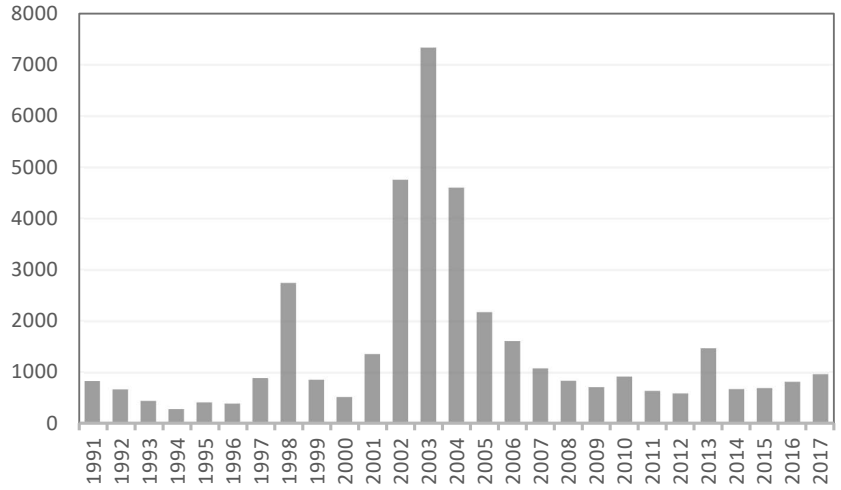

Figure 5. *Frequency of 'weapons of mass destruction' in major US publications, 1991-2017*

Source: Factiva.com

al-Assad regime in 2012 and 2013.[134] Similarly, in April 2017 President Trump avoided referring to 'WMD' even as he publicly condemned the Assad regime's 'horrible chemical attack on innocent civilians' and authorized a punitive airstrike on a Syrian airfield.[135]

The Iraq WMD fiasco did not only reduce the incidence of WMD talk, it 'lessened the political weight of the concept as a rhetorical resource'.[136] In significant part the rhetorical power of the phrase has been undercut by its entry into the realm of popular culture. After the invasion 'WMD' has become the object of satire (as evidenced by Kinsley's above-quoted essay) and the butt of jokes. The 2004 Hollywood comedy *Team America: World Police* parodied a US-led police force pursuing terrorists armed with North Korean 'WMD'.[137] A March 2004 episode of the TV mob drama *The Sopranos* featured a character who, when asked by the authorities to open his garage, wisecracked: 'That's where I make my weapons of mass destruction'.[138] And the plot of a 2006 episode of *The Simpsons* featured aliens who used the claim that humans were manufacturing 'weapons of mass disintegration' as an excuse to invade Earth.[139]

So long as the memory of the Iraq WMD debacle does not vanish, and so long as the phrase WMD remains the object of satire and comedy, its potential as a rhetorical rallying cry in the context of US national security policy remains greatly diminished. The discourse of US foreign policy, however, contains other equally ambiguous and potentially-infectious phrases that, unlike 'WMD', have not been discredited yet and thus remain available to be 'embellished poetically and rhetorically': rogue states, failed states, ethnic cleansing,

134 Bentley, *Weapons*, pp. 110–12; Bentley, *Syria*, p. 90.
135 National Public Radio, 'Trump orders Syria airstrikes after 'Assad choked out the lives' of civilians', 6 April 2017, at https://www.npr.org/2017/04/06/522948481/u-s-launches-airstrikes-against-syria-after-chemical-attack
136 Bentley, *Weapons*, p. 111.
137 Ibid., p. 95.
138 'All Happy Families...', *The Sopranos*, Season 5 Episode 4, March 28, 2004.
139 'Treehouse of Horror XVII', *The Simpsons*, Season 18 Episode 4, November 5, 2006.

border security, and regime change come to mind. Should the current or future administrations begin spouting off one of these phrases (or adopt new ones) to drum up support for military action, one would hope that the ensuing policy debate would focus on the meaning, history, and rhetorical function of the phrase as much as on its factual accuracy.

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