

Andrew Harrop, *the end of inheritance tax*; Dr Rajiv Prabhakar, *asset-based welfare*, Anthony Speight QC, *a British Bill of Rights*

TheSPECTRUM

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Syria: death
of an
ancient
nation

Nuclear
Narratives:
America &
Germany





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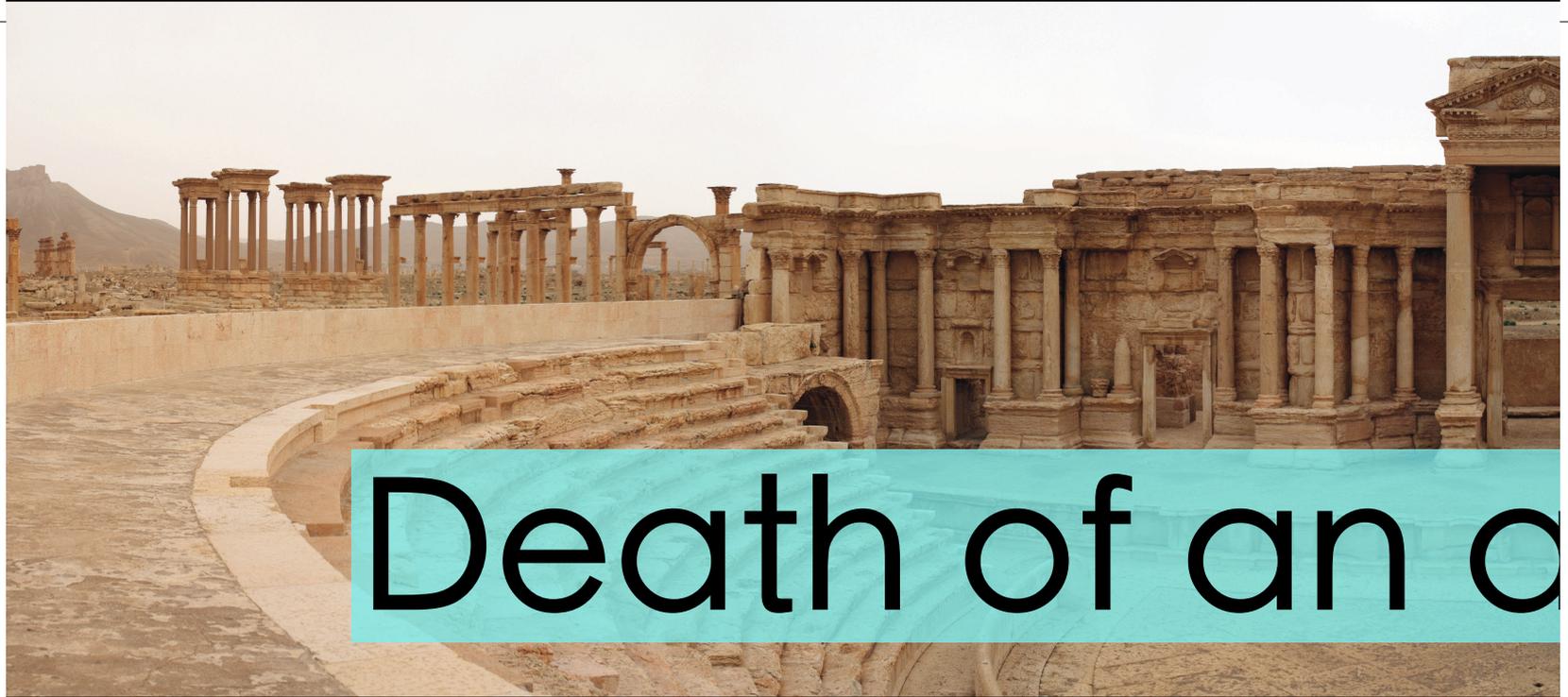
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Death of an o

With the Syrian Civil War, and the supra-national mayhem that continues to rage around it stretching into a fifth year, how the conflict began, and what is really going on in the region, seems to be drifting from the public consciousness. How many of us can, most of the time, explain why one Middle Eastern government likes one but not another of its neighbours, or how Syria went from an unpleasant, but functional, one-party state, to a civil war with more actors than can be easily be counted? And yet, this is the one of the cornerstone issues of our time.

With this public confusion in mind, we decided to start the Spectrum this year with a section on Syria. We will not be proposing solutions, as the Think Tank usually attempts to do, but rather attempting to demystify the issue.

The self-immolation of Mohamed Bouazizi in December 2010 was the moment which signalled the start of the Arab Spring, a revolutionary wave of violent and non-violent demonstrations which proved to be the catalyst for conflict in the Middle East ever since.

It was three months later, on the 6th March 2011 in the Syrian city of Daraa that demonstrations first began to emerge in Syria in opposition to Bashar Al-Assad, whose regime had incarcerated 15 young students for writing anti-government graffiti. By the 'day of dignity' on the 18th of March civil unrest was prominent in Damascus and Aleppo, and on the 20th protestors burnt down the Ba'ath party headquarters. This ultimately led to escalation from the state apparatus that violently reacted to protests to attempt to suppress resistance. Over the next month Assad attempted to quell

protests by offering the carrot, in the form of political reforms, and employing the stick, by besieging Daraa, the 'cradle of the revolution,' which was eventually occupied on April 30th. It was this significant moment, the 'day of rage' on the 29th April, in which just fewer than 100 people were killed, which promoted the international media to refer to the protests in Syria as an uprising.

Over the next two months the regime besieged a number of major cities, committing atrocities against demonstrators, and by the end of May 2011 a number of human rights

"Within a month the country was polarised"

organisations estimated that over 1200 citizens had been killed. The violent response to demonstrations continued, and the international community, including the Arab League and Saudi Arabia, condemned Bashar Al-Assad. On the 29th July, in response to increasing levels of violence from the regime, seven Syrian army officers defected and formed what later became the Free Syrian Army. This began a chain of events, with the Syrian National Council forming in Turkey from the disparate rebel groups, and, by September, the armed insurgency had

begun. Within a month the country was polarised - in the mountainous Idlib region, the rebels were in control, and in the northern city of Aleppo millions were marching in support of the government.

Despite an attempted ceasefire in April 2012 brokered by Kofi Annan, there was, at this point, an unrelenting escalation as the world became more and more acutely aware of this humanitarian crisis. In July, the Red Cross declared the conflict a civil war. For the next six months, battle raged for Aleppo and Damascus, with increasing use by the Syrian Army of air-fighters and Scud ballistic missiles. There seemed little end in sight, and, on cue, the Islamist faction al-Nusra Front took control of a Syrian airbase near Idlib, and, for the first time, were able to arm themselves with truly heavy weaponry. At the same time, the rebels took Raqqah - the first provincial capital to fall.

It was at this point in mid-late 2013, that two key trends began to emerge. First - the Kurds. Sensing an opportunity with the state weakened and distracted, the Kurds began to push Assad's forces out of their lands in the north of Syria. Second, on 12th July, the Islamic State of Iraq and Levant assassinated a Free Syrian Army general, Kamal Hamami - this was seen as a declaration of war, and so another actor had emerged.

Over the next few months a pattern of expansion by the Kurds against both Islamist and Syrian forces in the North, and Islamist and FSA expansion in the South and middle of Syria became established. It was at this point, struggling to steady its feet in the rubble of the country that the government became desperate, and



ancient nation

unleashed a chemical weapon attack in the Damascene countryside, killing hundreds. The West equivocated. The red line had been crossed, and yet, with Cameron subject to a humiliating defeat in the Commons and Obama unable to press his case in Congress, nothing was to be done. The conflict would rumble on without end.

By early 2014, the majority of the fighting against IS was being done by a combination of the Army of the Mujihadeen, the FSA and the Islamic Front in Aleppo and Raqqah. For the month of January there was fraught fighting in the two cities, with Raqqah changing hands once, twice, and once again, and finally resting in the hands of the Islamic State of Iraq and the Levant.

It is around this time, with it becoming increasingly clear that, not only was ISIS a threat to the success of the FSA, but that they may become a true ground-force in Syria with which to be reckoned, that external powers became involved. This was also alongside their early 2014 rampage through Iraq. It is easy to forget that up to this point, there was relatively little contagion in Iraq, aside from the loss of a few border villages. It was when ISIS took control of Mosul, the second most popular city that events took a turn, and powers larger than the region began to become fully involved. Sensing trouble on its borders, Turkey had begun to send warplanes into North-western Syria some time earlier, but it was now that the US began sending warplanes to bomb and drones to assassinate. And so the area over Syria began to swarm with foreign and home fighters alike, and the conflict became ever denser and more confused.

more confused.

For the next year, and up until relatively recently, the conflict became trapped in something of a cycle, with the Kurds advancing up until their historic border, at which point, unfortunately, they have little point in helping out beyond; the Syrian state reasserting control over regions previously held by the FSA, now aided by Russian bombardment, and crucially, ISIS, in Syria if not in Iraq, holding firm. One cannot overstate the importance of Russian involvement, or the complexity of the current situation. With the Kurds and IS holding the oil reserves of the nation, from whom Assad is purchasing oil, the conflict looked very much against Assad. It is Russian assistance that has turned it back in his favour.

This is where we now find ourselves.

George Houghton, Editor-in-Chief & Steven Male, Defence & Diplomacy.



The Key Relationship: Assad and Putin

Long-term allies. Putin is determined to keep Assad in place once a ceasefire is arranged. In 2013, he offered to have him removed, but the West arrogantly assumed they could do so themselves. Putin is now the major carbunkle on the hull of the west.

KEY PLAYERS

Bashar al-Assad: Alawite dictator of Syria, controlling somewhere around half the country. Allies with Hezbollah, Iran & Russia. Shia.

Free Syrian Army: Main rebel faction, predominantly Sunni, somewhere around 100,000 men. Hindered by bad organisation and factionalism.

Islamic State: Wahabist Sunni sect. No known allies, but selling oil to Assad.

The Kurds: Dominant in both Northern Iraq and Syria. Intent on defeating IS, but only as long as they infringe upon their historic territory.

Saudi Arabia: Pumping money into rebel hands. Wahhabism is state religion.

Iran: Shia, and allied with Assad. Keen to keep him in power to preserve Shia axis.

Iraq: Clawing back territory from IS. Sunni, but with changeable government.

Turkey: Intent on crushing the Kurds, who have long been insurrectionist.

Interview: Dr. John Bew

Dr John Bew is an author, contributing writer at the New Statesman, and a Reader in History and Foreign Policy at King's College London. Steven Male is Defence & Diplomacy Editor at King's Think Tank.

In the aftermath of the Commons vote to expand RAF bombing raids to Da'esh targets in Syria as well as Iraq, I met with Dr John Bew, a Reader in History and Foreign Policy at King's College London, and a contributing writer for the New Statesman, who has written a number of articles analysing both the international situation, and the way in which domestic politics influences foreign policy rational.

Our discussion was initially concerned with the Commons vote on the 2nd of December 2015 whereby Parliament took the decision to extend air strikes into Syria, in addition to Iraq. This has clearly indicated an important juncture in the development of the United Kingdom's foreign policy. A more robust position is now being implemented by our government in response to the growing security threat posed by ISIS, a militant Islamist group. However, it must be emphasised that this vote remained, in part, a consequence of our inaction in Syria over the past two years, and as Dr Bew stated 'we are still in the frame of the August 2013 vote against supporting what people expected to be United States military action. It remains to be seen which of the two votes was the more significant.'

The vote in 2013 was a response to Assad's use of chemical weapons. Our inaction was heavily influenced by Iraq, and the mistakes made, in both intervening in Iraq and our operations in Iraq, have compromised the perception our electorate have on military intervention, even when it is legitimately humanitarian.

Bew insightfully argued that 'the problem with the debate over intervention in Syria in 2013, was that it was centred on Iraq in 2003. While we must of course digest and understand the lessons of Iraq, we have to deal with foreign policy problems on their own merits; not on the basis of past history.

Whilst the debate in December 2015 was of a superior quality, domestic political issues once again dominated the agenda. Cameron feared the kind of conservative rebellion which had cost him dearly in 2013. This rebellion could have been led by Crispin Blunt, Chair of the Foreign Affairs Select Committee, who like many Tory rebels and anti-interventionists had been questioning the viability and sensibility of the expansion of bombing. To counter this Cameron made his now infamous claim that there were 70,000 allied opposition fighters ready to fight alongside the western bombardment. Secondly, Cameron said to his own MP's "don't walk into the opposition lobby with a bunch of terrorist sympathisers." This was a challenge to his own rebels. Although the rebellion did not materialise, this is a clear example of Cameron's fear of Tory rebellion clouding and diluting his foreign policy.

Meanwhile, the politics of the Labour party which crucially influenced the debate were reflective of a number of continuous internal dilemmas. Such dilemmas, according to Dr Bew are nothing new.

"Don't walk into the opposition lobby with a bunch of terrorist sympathisers"

Labour has always had internal divisions on foreign policy. It has a pacifist tradition, a liberal interventionist tradition, and other breakaway groups such as the "Keep Left" group of the late 1940s. The infiltration of mantras from the "Stop the War" movement is just the latest manifestation of this." Given that Corbyn has carved out a place for himself as a foreign policy rebel, Bew was surprised at the poor quality of his



speech in parliament. "Stop the War" is his special subject, so it was odd that the speech was rambling and vague about the mechanics of intervention." Bew believes that it was the contrast with Corbyn's speech that partly explains the success of Hilary Benn's passionate intervention. It is rumoured that as many as ten to fifteen Labour MPs joined the ranks of the rebels once they heard Benn speak. This raises questions about Corbyn's pedigree to make the case that his die-hard supporters believe he is there to make.

Ultimately though, the vote has changed a problematic position. In the immediate term British security interests are hindered in Syria due to the number

of British citizens fighting with IS, who 'pose a serious and direct threat to national security.' Bew notes that the Defence Secretary, Michael Fallon, had said that it was "morally indefensible" to "subcontract out" British national security to allies, such as the Americans and the French. Another argument against intervention, as expressed by the Foreign Affairs Committee, was that taking military action would reduce Britain's role as a soft power interlocutor and potential peacemaker.

Dr. Bew was unconvinced that Britain would have the necessary diplomatic leverage to bring the various parties to the table if it stayed out of the military coalition.

Despite the focus on ISIS, it must be emphasised that Assad is the most important actor in the Syrian conflict, and promulgates the existence of ISIS. Dr Bew emphasised this arguing that 'it is very easy to focus on IS instead of Assad. But Assad is responsible for the manifestation of ISIS.' However, in an initially peaceful revolution in Syria in 2011, our governments failed to fully comprehend the strength of Assad's position. As a result the West had no understanding of how to bring about Assad's fall from power. This led to a position of disconnect between rhetoric and policy, which can be so perfectly highlighted by Obama's red line.

Bew maintained that the red line was a crucial moment that 'demonstrates the importance of language.' Obama was opposed to interfering unless chemical weapons were deployed by Assad, and when they were, Obama refused to lead any intervention.

At this point, Bew asked 'if the extent of the fallout of the Syrian Civil War had been known, might the international community have offered a more robust response at the outset?'

Bew's most compelling comments were centred on the future of the UK's foreign policy, arguing that the UK 'cannot afford to go through a traumatic process of



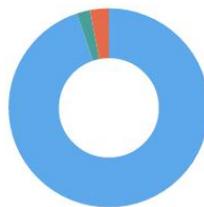
Jeremy Corbyn, the new leader of the Labour Party, has been struggling to assert his parliamentary authority.

introspection every time we need to make a decision about the world outside. Taking care of one's security requires some housekeeping, made easier by working with friends and allies. It also requires a greater degree of historical literacy.' Finally, Bew argued that it is 'necessary to re-enter the mental space where we can envisage some sort of future for Syria after its civil war.' Yet entering such a space has become increasingly problematic as hundreds of thousands of Syrian refugees have fled to Europe. It is almost impossible to conceive how Syria can exist in a post-civil war world.

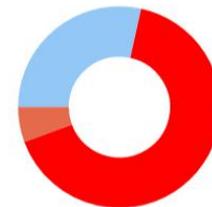


The shadow of Blair and Bush's blunder in Iraq loomed large over proceedings.

Conservative MPs



Labour MPs



■ For (95%) ■ Against (2%) ■ Abstained (3%) ■ For (28%) ■ Against (66%) ■ Abstention (6%)

We'll split, and split, and split again, to save the party we love - a brief history of Labour Party defence splits

1935: Leader of the Labour Party George Lansbury, a noted pacifist, is forced to resign in the face of growing party opposition led by Clement Attlee over his anti-rearmament stance. Ernest Bevin and Hugh Dalton lead the party against Neville Chamberlain's policy of appeasement.

1947: Prime Minister Clement Attlee and six other cabinet ministers decide to proceed with the development of nuclear weapons in Britain, against the majority of Party feeling.

1960: Continuing splits over nuclear disarmament, including Gaitskill's famous 'fight, and fight, and fight again' speech.

1981: The Gang of Four senior cabinet ministers leave Labour to form the Social Democratic Party in protest against the party's adoption of an anti-NATO, unilateralist policy.

2003: Split over the Iraq War. Despite Blair and Brown supporting, the majority of Labour Party MPs vote against the war.



Nuclear narratives

in the U.S. and
Germany

Knowledge, Action, Nuclear Power

Rocky Howe & Xinyuan Wong

Nuclear power has always been a subject of controversy. On one hand, nuclear power has been touted as a cheap source of energy with low CO₂ emissions. Yet, equally embedded in the global consciousness are disasters such as Chernobyl (1986), and Fukushima. Despite such disasters and other possible environmental and health effects of nuclear power, different countries have had divergent pathways in the development of commercial nuclear power. France, India, China and America continue to expand nuclear power, while countries such as Germany, Italy, and Sweden are on the path to phasing out nuclear reactors. As of 2015, the U.S. has 100 licensed reactors generating about 20% of the nation's electricity and four new nuclear plants are currently under construction.

Public acceptance of nuclear power has risen and fallen over the years with a series of domestic and foreign accidents, from the Three-Mile Island Accident in 1979 to the recent Fukushima Meltdown in 2011. Polls conducted immediately after Fukushima showed that support for nuclear power plummeted to 43% from 57% in 2008. Yet the data on public acceptance of nuclear power in itself may say little about the actual workings of nuclear power in America. Since its early days, nuclear has gradually undergone a process of depoliticisation. This occurred through the technicalisation of nuclear discourse that privileges scientific expertise over citizen opinion.

The content of that scientific expertise is best known as Probabilistic Risk Assessment. Emerging in the early 1970s surrounding the Three-Mile Island

Island incident, public perception was clearly divided from the engineering judgements and technical work of risk assessment, with the latter always presumed to be true until proven otherwise. The credibility and paternalistic authority of risk discourse in this era was produced through highlighting its formal institutional affiliations, and also through the linguistic strategies of its writings—making claims to objective methods and using seemingly objective statements such as ‘presenting the estimated risk’.

This does not mean the discourse itself is not contested, however. While further recommendations were made by NRC (Nuclear Regulatory Commission) regulators post-Fukushima to upgrade the safety features of existing power plants in America, these were ultimately curtailed by industry lobbying against the expensive safety equipment. Internal disagreements in the NRC led to the rejection of many of the original safety recommendations.

Recently, nuclear power has begun to be sold as a means of addressing climate change, with attempts at providing some measure of scientific and statistical evidence. Correspondingly, safety concerns are often labelled as “fear”. This comes close to strategies in the early days of nuclear power in excoriating nuclear opposition as irrational and biased, and as fearful of the unknown. The risk in discourse is most evident here – the selective use of technical explanations becomes a means of legitimising specific discussions, largely those conducive to a pro-nuclear position, over others. Until March 2011, Germany had obtained nearly a quarter of its electricity from nuclear energy.

Yet in the wake of the accident at Fukushima, Germany has resolved to abolish all nuclear power facilities by 2022. The anti-nuclear movement (Anti-Atomkraft-Bewegung) is loosely associated with the political left. Germany is a federal parliamentary democracy with multiple parties, often run by coalition governments, currently dominated by the Christian Democratic Union (CDU) and Social Democratic Party (SPD). On the left there are the Greens. Their ideological influence outstrips the actual proportion of votes gathered at both state and federal parliamentary levels. While arch-conservative support for the anti-nuclear movement is not uncommon, it is usually explicitly distinguished from the movement.

The origins of this centre-left alignment lie in the protests and controversies surrounding the only nuclear plant in Germany to be planned but never built, in the southwestern village of Wyhl in the early 1970s, which is found in the middle of the wine-growing region Kaiserstuhl in Baden-Württemberg. Public outrage at police brutality against protesting farmers, coupled with support from students and the intellectual community in the nearby university town of Freiburg, culminated in a protest numbering 30,000 participants. The plant was never built due to the potential for greater adverse publicity and in 1975 the construction license for it was eventually removed. In the following years, similar protests erupted in different places, such as Kalkar in North Rhine-Westphalia and Gorleben in Lower Saxony over issues of radioactive waste. This consolidated support for a commission by the federal parliament in 1980 recommending a

a ‘paradigmatic shift in energy policy away from nuclear power’ .

The political outcome of such movements was the formation and election of the Greens into parliament in 1983. In 1998, they formed a coalition government with the Social Democratic Party under the administration of Gerhard Schroeder, which was the first administration to phase out nuclear energy, albeit at a very slow pace and with continued controversy. Subsequently, the 1986 disaster in Chernobyl spread fallout across Germany, contaminating sandboxes in playgrounds as well as food crops and vineyards. Radioactive rain was also experienced in some states, which, when combined with reportage of the Chernobyl disaster zone itself, fired up public opposition to further expansion of nuclear energy capacities.

However, the extensive degree of decentralized decision-making by the states in Germany on matters such as energy policy meant that for a long time, drastic variations in nuclear discourses could be found depending on whether the anti-nuclear movement had gained ground in a particular state. The unintended effect of these incidents was also to unite academic institutions, students, and the farming community, and also create political impetus towards applied research in renewable energy sources with an eye towards mainstreaming them as quickly as possible, so as to provide a credible alternative. From that point of view, the second and rather distinctive quality of the anti-nuclear movement is its direct causal relationship with the ongoing energy transition (Energiewende) in Germany, which has broken world records in terms of the depth and quality of solar panel technology and energy policies aiming towards grid parity for alternative energy.

But why have these two countries diverged? The difference in politics is critical. Germany experienced a rise in political participation over nuclear power following protests in the 1970s, and the subsequent translation of these protests into electoral politics. In contrast, America experienced a depoliticisation of nuclear policy. Environment issues had yet to play a major role in party politics at this early stage in America, while non-institutional anti-nuclear movements had relatively little impact.

Consequently, the constituents participating in anti-nuclear movements are much more diverse in Germany, with the inclusion of farming communities and student movements into the fold. This is unlike the U.S case, where the discourse became dominated by academics and the state.

There is a ‘paradigmatic shift in energy policy away from nuclear power’

The discourses about the effects of nuclear power are also fundamentally different – the U.S. speaks of ‘risk assessment’ , while Germans look to ‘avoid harm’ . The difference in mentality affects the specific kinds of risk/harm imagined, with the latter country looking at effects such as health and radioactive contamination risks. Certainly, this could be linked to the real German experience in Chernobyl, where millions of German ate canned food in fear of contamination. In contrast, ‘risk’ is constructed on the concept of probability – which in itself implies its own possibility for reduction and management.

Perhaps the two discourses have underlying cultural explanations too. Fisher has explored the paranoia underlying the “transnational imaginary” of environmental disasters in German film, arguing that environmental fallout has clear resonances with the fear of military

apocalypse” . In America, nuclear policy could be linked to nationalism. In an article tellingly titled ‘The Nuclear Regulatory Commission Thinks America Should Be More Like Europe’ , one prominent commentator argued that “we didn’ t learn that much from Fukushima”, and while he is “not normally a nationalist...in the area of nuclear

power, no one comes close to America’ s safety and security with respect to nuclear” . The evidence has pointed towards significant unaddressed safety risks in the nuclear industry.

Finally, there is a broader context to nuclear power in both countries. In Germany, the transition to renewable energy is catalysed by the EU’ s Energy Union, while in America, commercial nuclear development has been stifled by low-price natural gas, and its nuclear industry argues for a better energy mix in its favour (Silverstein, 2015). Arguments for nuclear power based on its low CO₂ emissions thus naturally emerge in America.

Wen Khong Rocky Howe, Editor,
Energy & Environment; Xinyuan Wong,
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Dialogue:

Pillars of British Society



Andrew Harrop

Andrew Harrop is the General Secretary of the Fabian Society, the centre-left think tank closely associated with the Labour Party

The abolition of inheritance tax

An inherited tax, and one we should be rid of

When you tell people about the British tax system they don't think it's fair. Of course that's true with respect to multinationals like Google, using legal loopholes to pay tiny taxes on their profits. But it's also true when it comes to the balance of tax between rich, middling and poor families.

People know that, as you earn more, you pay a higher rate of income tax. So when the Fabian Society told a series of focus groups that, looking across all taxes, low-income families pay a higher share of their income, the participants were puzzled and angry.

But the uncomfortable reality is that poorer families pay lots of other taxes which are both less visible and less progressive than income tax: national insurance, VAT, council tax and sin taxes. And they don't start with much money in the first place, so any liability represents a bigger share of their income.

We either need to increase the incomes of low earning families, through benefits, pensions and pay, or we need to reform the tax system to reduce their liabilities (and raising the income tax personal allowance won't cut it - this benefits the rich more than the poor).

The mismatch between tax liabilities and people's ability to pay gets even greater when you look at wealth as well as income. Most low-income families have few assets to their name (indeed, many are in debt), while at the top, wealth has been rising much faster than incomes, both over the long-term (the Piketty effect) and since the financial crisis. This means that wealth inequality is far higher than income inequality, and yet we tax wealth far less than income.

The participants in our research told us that people with the broadest shoulders should pay more. So we concluded that the public is ready to be persuaded that wealth should be better taxed. But there is an obstacle in the way. The same people who want the rich to pay more also loath the most prominent wealth tax we have right now: inheritance tax. For good or ill, the tax is too toxic to save, because citizens think it is a tax on grannies and grief, not on lucky heirs.

Our solution is to introduce a range of new ways of taxing wealth, but at the same time to scrap inheritance tax.

"The tax is too toxic to love"

The most obvious way of doing this is to stop taxing estates and instead to tax the recipients of all gifts and transfers, on the same basis as we tax their income. After all, it makes little sense to tax income generated through hard work the most, income generated from investments a bit less, and money we are lucky enough to receive for free the least.

Alongside this, other ways of taxing wealth are needed. Property or land should be taxed in a more proportionate and less intrusive way. The combination we have today of council tax (regressive) and stamp duty (progressive but distortive) makes no sense. A proportionate annual land or property tax should take their place. Meanwhile, there are lots of proposals kicking around for the reform of taxes on capital gains.

With that we would address the future taxation of wealth. But what of all the wealth accumulated over so many decades of minimal taxation? Perhaps it is time to consider a one-off, retrospective tax to pay for future public investment. A forthcoming Fabian report will make that case, with a particular emphasis on valuing and taxing wealth hidden in offshore tax havens.

Selling all this won't be easy, but people's instincts are that people with a lot should pay more. The detail of the reforms will need to go with the grain of public opinion. That's why there will need to be some give and take. But on taxing wealth, we have a wealth of options.

It may not be popular, but that doesn't mean we should abandon it

Matthew Polacko

Inheritance tax (IHT) is applied in the UK on wealth that is transferred upon the death of an individual and is currently charged at 40% on inheritances of over £325,000. Dubbed the "death tax" by critics, it is a flat tax and one of Britain's most unpopular.

It is true that IHT has flaws but these can be easily reformed. Its biggest charge is that it unfairly hits the middle class more than the rich, who employ clever accountants to exploit loopholes to avoid it. Rather than close these loopholes the Conservative government in their summer budget chose to raise the threshold for when the tax kicks in to £1 million. The vast majority of estates are not liable for IHT and this

change in the threshold has been estimated by the Treasury to decrease the projected amount of estates liable for IHT from just over 10%, to just over 6%, which amounts to over £1 billion in lost annual revenue.

While raising the threshold in itself looks good policy, as more and more people are getting pulled into the taxable zone due to rising house prices, most notably in London, it makes much more sense to raise the threshold even further, to levels more akin to the US rate and to introduce higher gradations, so that IHT becomes a progressive tax, like tax on income.

In the United States, inheritance tax (or estate tax as it is known there) is also 40% federally but the threshold is \$5.45 million, so that it only hits the richest 0.02% of the population. Democratic Party Presidential candidate, Senator Bernie Sanders, introduced legislation in the summer that would make the estate tax far more progressive with gradations at 45% for estates over \$3.5 million, 50% on over \$10 million estates, 55% on over \$50 million estates and 65% on billionaires.

Labour Party leader Jeremy Corbyn has also called for the introduction of a graded progressive inheritance tax. A sharply progressive IHT would bring in much more revenue than the current £3.7 billion and hit far fewer people. Britain faces a large fiscal deficit and the Conservative government is undertaking some of the largest cuts in post-war history, so it make little sense to compound the staggering pain being inflicted by these cuts even further through the withdrawal of an albeit small, but potentially very lucrative revenue stream.

Alongside the scrapping of inheritance tax, Harrop argues that other ways of taxing wealth are needed, such as reformation of the tax on capital gains and the regressive council tax. These proposals are overdue but they need not be undertaken at the expense of the inheritance tax, as the government should be availing themselves of every means possible to improve Britain's precarious financial situation, bottom of the table OECD social mobility ranking and soaring inequality.

Inheritance taxes have existed for generations, from Ancient Rome to feudal England; with the goal that wider society should receive some benefit from an unfair aristocracy of the propertied. Even the leading pioneer of free market thinking Adam Smith, argued in favour of inheritance tax in his

classic text *The Wealth of Nations*.

Inheritance taxes encourage parents to invest in skills and higher education during their child's formative years because large tax-free inheritances on the contrary weaken a beneficiary's incentive to work and experiment. In fact, studies have shown that people who receive large inheritances are four times more likely to leave the productive workforce than those who inherit small amounts.

IHT also makes good economic sense because by limiting the extent to which capital is handed down from generation to generation, it equalises opportunities and increases social mobility, while reducing the concentration of capital at the very top. We now know that income inequality is linked to a host of poor social, political and economic outcomes, including lower growth.

Market distribution of income can be quite arbitrary but the income that is received in the marketplace is normally at least somewhat tied to the skills, effort and labour of an individual, whereas inheriting great wealth is essentially akin to the blind luck involved in winning the "Ovarian Lottery," as dubbed by multi-billionaire Warren Buffett. Therefore, taxing earned income far more than unearned wealth, as we currently do in Britain, is both less fair and less productive.



"The avoidance of taxes is the only intellectual pursuit that still carries any reward." - John Maynard Keynes

Taxation is not a popularity contest and by making IHT far more progressive by closing loopholes and only taxing the super-rich, opposition to it would surely decline. Most Britons eventually would probably come to support it if they were made aware of the fact that it would

only affect the top 1%. After all, the super-rich are thriving, as London alone contains 80 billionaires, the world's most and Britain's thousand wealthiest families own over half a trillion pounds, which has more than doubled since the financial crisis.

When it comes to taxing wealth, we do indeed "have a wealth of options" as Harrop points out. However, we should not be substantially limiting ourselves by removing an economically sound, longstanding and potentially lucrative revenue stream in a time of harsh austerity, when both income and wealth are skewed more towards the very top than at any time since the 1920s and climbing. Reforming IHT will create a more equitable society where wealth is tied closer to work and not to which family you happened to be born into.

Matthew Polacko is Business & Economics Editor at King's Think Tank.

Target capital gains instead - people have no right to be aggrieved about losing unearned income

Nick Naylor

Undoubtedly, Andrew Harrop correctly argues that the level of wealth inequality today is too high. Between 2012 and 2014, the wealthiest tenth of households owned 45% of the UK's aggregate wealth, compared to the least wealthiest half, who owned a mere 9%. Despite this, he contests inheritance tax is "too toxic to save", calling it "a tax on grannies and grief". The Conservative government, with its plans to abolish inheritance tax by 2020 on estates worth up to £1 million, agrees. However, what should replace inheritance tax?

Harrop suggests other types of taxation, such as an annual, proportionate land and property tax, can replace it. Albeit a very interesting proposal clearly influenced by Henry George's economic philosophy, it also seems to be impracticable. An annual tax on wealth may force many households to sell their assets to pay the tax. This is problematic to say the least. For one, it would be economically detrimental, as households would be made poorer

through having to pay yet another tax every year in addition to income tax, council tax and national insurance, which in turn would mean they would have less income to spend. This would depress demand and in turn Britain's already stagnant economy.

Moreover, Harrop's proposals do not explore inheritance tax's flaws fully. Currently, beneficiaries pay a 40% rate on an estate's value if it is worth above £325,000 or 36% if a tenth of the estate is given to charity. £325,000 is in nobody's estimation a large estate (the median wealth of households in south-east England is only £342,000).

As a result, it is entirely sensible for there to be more gradations in inheritance tax, so that the tax does not fall so heavily on the majority of beneficiaries. This would mean someone inheriting an estate in southeast England worth the median regional value, who is currently deducted nearly £7,000, pays even less. Meanwhile, someone who leaves behind a significantly larger amount of wealth faces larger deductions.

Nevertheless, whilst inheritance tax should be reformed, one must not exaggerate what this would do to change the levels of wealth inequality. Back in 2014, the Institute of Fiscal Studies suggested that had the inheritance tax threshold been raised to £1 million in 2010, the revenue raised from the tax would have been cut by as much as 70%.

Consequently, reforming inheritance tax would do little to redistribute wealth between households. What would be more effective? Reforming capital gains tax.

Currently, capital gains tax is paid when assets that have appreciated in value are sold. This includes many different forms of personal wealth: second-homes, investment portfolios and even fine art. There are exemptions, including first homes and consequently the tax does not affect many households. This tax, which is on the added value of sold assets, effectively redistributes wealth. It has several advantages over Harrop's proposals for an annual tax on property and land. For instance, it does not mean households have to convert wealth into 'liquid' cash to pay the tax annually, since the household has already converted their wealth into income and therefore can pay the tax without having to find other sources of income.

However, capital gains, like inheritance tax, can be reformed. I suggest that capital gains tax should be charged when households buy, as well as sell, assets. This would be a very different tax from (regressive) VAT, which increases disproportionately living costs for poorer households. Instead, it would be charged on assets like second homes, which are likely to increase in value.

Unlike VAT, it would therefore affect households who will be able to recoup the cost of the tax in future. Not only would this make wealth taxes more frequent and make wealth distribution more equal, it would solve several other acute problems too. It would hinder the speculative buying of land by individuals and companies who have very little interest in building homes (and instead hold the land until its value rises) by hitting their short-term profits.

"A tax on grannies and grief"

This would ease the housing crisis, as it would encourage the prioritisation of long-term investment over short-term speculation. It would also increase government revenue significantly, helping the state invest in 'human capital', such as education, which would in the long-run redistribute wealth between households by improving life opportunities for children from poorer backgrounds and in turn improve their future ability to own wealth.

Nick Naylor is a second-year undergraduate in the History department.

Why Britain Should Eat "Ugly" Fruit - Policy in Brief

Drastically reducing food waste in Britain is not only imperative, but also feasible. In March 2015, DEFRA stated "Government activities must focus on areas that only government can and must do, i.e. where there is a clear market failure... Food waste remains an area where market failures still exist."

The UK wastes approximately 15 million tonnes of food every year. In the meantime, the UK figures among the European countries that donate the least amount of food, registering in 2013 5'900 tonnes donated, in contrast with Spain's 118'000 tonnes and Italy's 72'000 tonnes. This waste takes place while the lowest income families have reduced their fresh and processed fruit and vegetables consumption of 5% between 2007 and 2013, due to the increase in price of food of 37% between 2007 and 2014.

The food waste takes place at three levels: the farmer gate, supermarkets shelves, and at the consumer level. Supermarkets dictate strict product specifications to farmers meaning that they'll only buy fruits and vegetables that fit demanding size, shape and colour specifications – regardless of the nutrition, taste and value of the food.

On top of this, last minute order cancellations by supermarkets and the businesses they are supplied by leave many farmers without any compensation and no market to sell their food to.

Some have attempted to justify supermarkets and markets food selection by stating that they are only responding to consumers demand. This, however, has already been shown to be little more than a urban myth. In February 2015, in fact, Asda started displaying this otherwise rejected fruits on its shelves, and its research suggests that 75% of customers would buy it. What we see therefore, is that there is demand for ugly fruit, the supply is lacking.

This policy recommendation is thus calling for the establishment of authorities to investigate supermarkets unfair treatment of suppliers and keep them from rejecting food on cosmetic standards. This would effectively reduce the overproduction supermarkets would otherwise force farmers into.

This measure might result in supermarkets stocking more food than they can sell, especially in a first adjustment period. Therefore, this policy is also calling for the Government to set in place a system of incentives aiming at raising the opportunity cost for supermarkets to send food to anaerobic digestion or landfilling, and divert it instead to charities.

Erica Arcudi

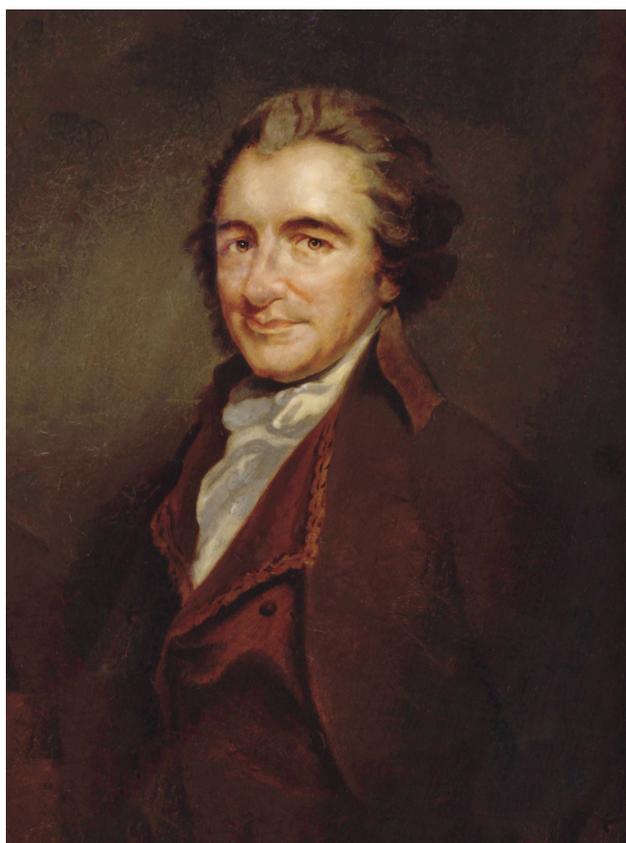
Dr. Rajiv Prabhakar

Dr Rajiv Prabhakar is a lecturer in economics at the Open University and University College London.

Asset-based welfare

Asset-based welfare (ABW) was one of the most innovative social policy agendas of the last Labour government. US academic Michel Sherraden first coined the term ABW to refer to the idea that the individual ownership of assets is important for individual welfare. Sherraden argues that traditional social policy towards the poor has relied on raising income through the tax and benefit system, claiming that while this type of policy addresses the symptoms of poverty, it does not tackle its underlying causes. Owning a stock of assets is different because this leads to changes in how people think or behave in the world. This 'asset-effect' is important because people then take the steps to avoid welfare problems arising in the first place. For example, having a personal pension prompts people to save more to avoid poverty in retirement.

The asset-effect is controversial. There is no agreement in the empirical literature about whether or not the effect exists. Despite this controversy, ABW has impacted policy. This was probably most advanced under New Labour, who introduced the Child Trust Fund (CTF). Under CTF, all babies born in the UK from September 2002 were given a £250 grant from government. These grants were locked into special 18-year-old accounts. Children from poorer backgrounds qualified for an extra £250 and so received £500. This was described as progressive universalism. CTF was universal because all children received a grant and progressive because



The return of Thomas Paine-style socialism

poorer children received a larger endowment. Family and friends could save up to £1,200 a year into this account. New Labour had planned to add to CTF by introducing a Saving Gateway (SG) in 2010. These were to be special savings accounts aimed at those on low incomes. Every £1 saved by a SG account holder would attract a 50p match from government (the total government match would be capped at £300).

CTF was the first policy of its kind anywhere in the world and attracted international interest. A survey of UK academics described CTF as one of the most successful policies from UK government over the past 30 years. However, the success of CTF was short-lived. In 2010, the Conservative-Liberal Democrat government stopped government payments into the CTF

(though there was an exception for children in local authority care) and cancelled the proposed rollout of the SG in its first wave of public spending cuts. ABW has also attracted a growing number of critics who are worried that it diverted resources from more pressing areas of spending and that it helped prompt the financial crisis.

So what now for ABW? The asset-effect approach is not the only rationale for ABW. There is also an alternative approach that emphasises the importance of providing assets as a way of reducing wealth inequality. Wealth inequality has attracted growing comment and concern, as can be seen in public debates about the 1% versus the 99%. Although wealth inequality might be justified on some grounds (such as the incentive it might give for economic innovation), there are concerns that current wealth inequality destroys economic efficiency and is morally unjustified. Taxing wealth is an obvious way of reducing wealth inequality. However, spreading wealth is another way of trying to reduce wealth. 'Basic capital' is the idea that everyone should be given a capital grant as a mark of citizenship. If wealth taxes are used to pay for capital grants, then this could mean a two-pronged attack on wealth inequality.

Thomas Paine outlined a forerunner to the basic capital idea during the eighteenth century. In *Agrarian Justice* he argued that a tax on natural resources should be used to provide capital grants for all young

people. There have also been modern versions of this idea. Julian Le Grand and David Nissan proposed that all 18 year olds should receive a £10,000 grant from government. In the US, Bruce Ackerman and Anne Alstott went even further and argued that all 21 year olds should receive an \$80,000 stake. Differences exist in this basic capital literature about whether or not any restrictions should be placed on how such grants should be used.

More recently, A.B. Atkinson draws on basic capital ideas when he calls for a reborn CTF to reduce wealth inequality. Atkinson has a long-standing interest in tackling wealth inequality and a basic capital is one of his 15 proposals he makes for the creation of a more equal society. He proposes the introduction of a lifetime capital receipts tax (that taxes the gifts or inheritances that a person receives over their life) as a way of paying for grants for all.

He says that revenue from current inheritance tax receipts in the UK would pay for a grant of around £5,000 for everybody. This plan would therefore place CTF on a different path from the one that was developing under New Labour, and perhaps towards a more equal realm.

Basic capital? Why not basic income?

Joris Bucker

Dr Rajiv Prabhakar makes a case for Asset-based welfare, which in its purest form means giving a lump sum to everyone alive. In extreme examples, one can think of a £50,000 free savings account when you turn 18. It's up to you whether you spend this on further education, starting a new business or anything else. It should ensure that you, independently of your family's wealth, could start the career you want. Sounds good, right?

Better still, Dr. Rajiv Prabhakar cites Sherraden, who argue that people will behave differently when owning an asset. This new mind-set will presumably make them more forward looking, so they might save more money or invest in their future, eradicating poverty. This is called the asset-effect.

Life is a gamble. Our society is highly unequal, and people don't have equal

chances. A lump sum of money may equalize everyone at the age of 18, but leaves the rest to luck. As the bank's risk free interest over this money is not enough to sustain your life, using it properly means taking risks.

Over time, some risks will pay off while others lose everything. This policy is therefore a redistribution of inequality. It gives everyone an equal probability of becoming poor, but hardly changes the actual probability of becoming poor in the end. Moreover, the asset-effect sounds appealing, but is hardly supported by empirical evidence.

Therefore inequality is not necessarily solved with a lump sum of starting capital. If my thesis holds, we need smaller sums, more often, to reset our position each time. This way no one has the time to fall into poverty and the poverty rate will actually drop. But more

"The idea is as simple as it is counterintuitive: free money, or a basic income for all."

on basic income later.

I support asset-based poverty reduction in developing countries. It involves giving free money and trusting the receivers to spend it wisely. Making sure the money is spent the way the charities like only costs on bureaucracy and kills the important trust factor. And it works.

Trusting homeless people was exactly what Broadway, a charity, did when they gave on average 800 pounds to 13 long-term homeless people living rough in the London City, no strings attached. Managing their money carefully, a few years later 11 are not sleeping rough anymore.

This does not necessarily prove the asset-effect, and may even be evidence that the basic income would work.

What I want to say is that people living in absolute poverty (developing countries, homeless people) may benefit from the asset-effect. For most of us, there is little a lump sum from the government can change directly. We already have cheap government loans for studying and businesses are far less capital intensive than they used to be (no factories, no stables, just coffee and a laptop).

What we need though is income security for those times that we might not have a

project to work on or that we need to develop the next life changing business idea. And what about the ability to choose to spend a little more time with our new-born baby?

We face life-changing risks on a daily basis. As a cycling commuter in London I am all too aware of this. More subtly, increasingly lower job security is an important stress factor too. More and more people are freelancers, and while being an entrepreneur can be fun and rewarding, it also adds to income and job insecurity. If only we were saved by a social welfare system.

But a low month for an entrepreneur is not the same as being jobless, and therefore no social security will kick in. Further, once you do get welfare, the Kafkaesque nature of the welfare system can cause stress on its own. The stigma of social welfare makes people

only more detached from society.

Finally, and most importantly, being on social security means all sorts of obligations you have to meet for the government to show your willingness to work. It doesn't give you time to start your own business, nor is it very fond of you studying. It does not give you trust. What we need then, is a simpler, more elegant system, available for all, at all times. The idea is as simple as it is counterintuitive: free money, or a basic income for all.

A basic income means that there is always some money coming in, enough to stay alive. Let's say £1,000 per month. If your work stream is down for a while, you still have something to fall back on: If you want to start your own business from scratch, you will have the time to build it. Coming from a high paid job, perhaps you need to move to a smaller place and adjust your spending habit, but there is no other money pressure; If you feel the need to study, to help yourself pursue a different career, just let the basic income pay the bill; If you want more time off during pregnancy, or to spend more with your baby, money will be less of an issue. Economists are puzzled, but studies have proven that it works.

Mincome was a 4-year ground breaking experiment in Dauphine, Manitoba, Canada, where families were given what's now about £1,000 every month, no questions asked. People with paid jobs received less depending on how much they earned. The question was, and economists are still obsessed with this, will people quit their job and start living off this free money? The simple answer is no.

Moreover, what happened is what I would like to call the insurance-effect. The insurance-effect does not change you into a shrewd investor like the asset-effect promises; it reduces the stress of not being able to get by. In Dauphine this had significantly positive effects on people's health condition, the number of cases of domestic violence and the number of high school dropouts. On average, people did work a little less, but that time mainly went to taking a little longer pregnancy relief, spending more time spent raising children and studying longer. None but the most short sighted of economists would take this as a bad thing.

Of course, it will not be cheap. Implementing this in the Netherlands, where I was born, was estimated to cost roughly 30% of GDP. However, we could do away with most existing social security including all overhead, which is also about 30% of GDP in the Netherlands.

The UK spent £251 billion on social security in the 2013-2014 fiscal year, accounting for almost 40% of government expenditure and 15% of GDP. If the 30% of GDP figure applies to the UK, implementing basic income would mean a drastic increase in government spending. In theory this can still work, but the transition should be slow. What we need now are some large-scale, bias free experiments.

Finland is planning to do just that, and Switzerland have just had a referendum on it. Of course, it is the small, wealthy and already social welfare intensive countries that have the ability to implement this first. The UK, however, has no reason not to experiment with it. It would be best to start in a small village, just as Mincome did, and go from there.

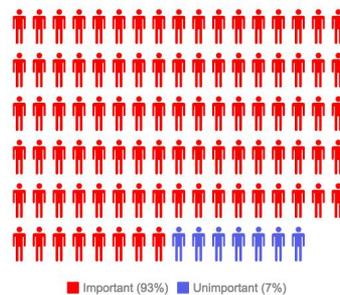
Joris Bucker is Business & Economics Editor at King's Think Tank.

Anthony Speaight

Anthony Speaight QC is a practising barrister. He was a member of the Government Commission on a UK Bill of Rights.

British Bill of Rights

Most Britons are aware, if only from last year's celebrations, that Bills of Rights, like the industrial revolution, started here. Magna Carta is not the only one; we had another Bill of Rights, called just that, in 1689. That pair, along with their offshoots like Habeas Corpus and jury trial, have encapsulated a heritage of freedom that has spread from this country to many parts of the globe. So one might have thought that no country would take better to something called a Human Rights Act. Yet that has not happened.



"How important or unimportant do you think it is that there is a law that protects rights and freedoms in Britain?" (Com Res 2011)

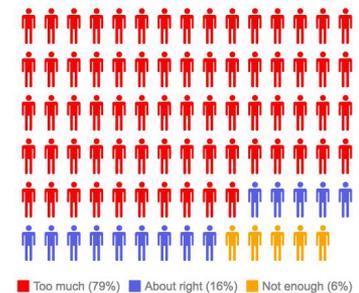
It looks as though the addition of "Europe" transforms attitudes. Here is the assessment of Lord Lester of Herne Hill QC, in many ways the father of the Human Rights Act:-

"The weakness in the Human Rights Act is that it depends upon the Convention to define our rights and freedoms. Instead of asking whether our constitutional rights have been infringed, it asks whether our Convention rights have been infringed. That is not the way it works in the rest of Europe.... Instead of bringing rights home it has an alienating effect..."

He was there explaining why he

Whilst other recent constitutional statutes, such as the Equality Act and Freedom of Information Act are now an accepted part of our political culture, the Human Rights Act sticks out awkwardly as what one Cambridge law academic called "the metropolitan elite's pet project" .

One does not have to hunt very hard to find clues of why the country that invented bills of rights dislikes the latest version. Here are two professionally taken samples of British opinion:



"Do you think the European Court of Human Rights has too much power, not enough or balance right?" (YouGov 2012)

supports a UK Bill of Rights. What Lord Lester is there talking about is that the Human Rights Act does not even label the rights as British constitutional rights: it simply invites weight to be given to rights in the European Convention on Human Rights, an international treaty.

Many bodies that have studied the case have been attracted by a UK Bill of Rights. Prior to the recent outburst of political football over this subject, in August 2008 the all-party Parliamentary Joint Committee on Human Rights reported, "There currently exists an unusual cross-party consensus about

"the need for a British Bill of Rights..."

In 2011 the Coalition Government set up a Commission, whose political complexion, wrote the leading public lawyer Richard Gordon QC, was of "perfect Newtonian balance". Despite that balance, which might have been thought to make the Commission destined to go off in a series of different directions, it produced a strong 7 out of 9 members support for a UK Bill of Rights. How, then, would a UK Bill of Rights be different from the Human Rights Act? In the first place, I envisage a statute declaring common law rights, that is to say rights as understood in our own heritage. There are many such rights, which have been recognised by judges in our courts over the years. Indeed, Dinah Rose QC, a leading public law barrister, in a recent lecture suggested that every one of the rights in the European Convention on Human Rights, had been recognised by the common law as a fundamental right, with the single exception of art 8 on privacy and family life.

Secondly, I should like to see the inclusion of rights that are not mentioned in the European Convention on Human Rights. Of these the most important is jury trial. The great English judge Lord Devlin described jury trial as the lamp that shows that freedom lives. What he meant, I believe, was that so long as conviction of serious crime depends on the verdict of a jury there is a more effective guarantee against the emergence of a totalitarian government than any number of words in declarations.

Thirdly, I should like to see senior courts elsewhere in the common law world placed on the same plane as the Strasbourg Court as what lawyers call "persuasive authority". Under the Human Rights Act the European Court of Human Rights is given a uniquely privileged role in guiding our domestic courts in interpreting rights. This betrays a lack of appreciation of one of our priceless strengths, namely our links with the jurisprudence of so many parts of the globe who share our legal heritage – the United States, Canada, Australia, South Africa and India to name only some.

Finally, I should like to see a clearer acceptance that in a democratic society policy decisions must rest with a democratic legislature, and not with judges. Section 3 of the Human Rights

Act was held by Lord Steyn in the *Ghaidan v Godin-Mendoza* case in 2003 to empower judges to make unreasonable interpretations of statutes. That goes both against common sense and against our legal culture in which reasonableness – the "reasonable man", "reasonable doubt" and so on – is the leitmotif. The idea of vesting decisions on crucial social policy with people like themselves can seem tempting for law professors and activist lawyers... but it is contrary to the profoundest political convictions of so many of us.

The ECHR is more British than we think

Pavlos Kopanas

As a preliminary point, it ought to be noted that, according to my reading of Mr. Speaight's position, a Bill of Rights refers to the drawing up of a legal text, implying the scrapping of the Human Rights Act ('HRA') 1998 and, by extension, the abandonment of the European Convention on Human Rights ('ECHR'). Possible implications flowing therefrom will form the backbone of my criticism of Anthony Speaight's view, both with regard to the role of the majority, and the position of the minority within a society vis-à-vis human rights.

In certain occasions, including the drafting of a Bill of Rights, it may be said that a government aims at creating what could be termed a 'constitutional moment'. There is a substantial mythical allure surrounding such events; a component of their significance lies in their power of evoking images of national concord, where the collectivity of the populace gathers together to solemnly express its own conception of social life; a fortiori so if the outcome of that 'gathering' is a legally binding text.

Two pertinent English examples, given my Mr. Speaight, are the Magna Carta (1215) and the – historic – Bill of Rights (1689). A repercussion of such narratives is their endowment with a 'founding effect', a sense that the rules governing specific sectors of society are established, either ab initio or by properly assessing pre-existing

practices, there and then. While the importance of constitutional moments as a general justificatory tool for nations cannot be overstated, one might imagine cases where conveying that founding effect would be a misleading simplification, since relevant social amalgamations have occurred well prior to the government's initiative.

Case in point, the relatively harmonious conceptions of the idea of human rights among the plurality of Council of Europe ('CoE') Member States ('MS'), a task which was, anyway, easily imaginable since Britain was never in major divergence with those countries in that field. Mr. Speaight proposes to equate influential common law courts to the ECtHR regarding the protection of human rights in the United Kingdom, failing to distinguish between what he calls 'persuasive authority' – a purely moral judgement – and jurisdiction; in doing so, he adds a layer of confusion, while ignoring the openness that the Strasbourg Court has demonstrated with reference to the views of their American – and not only – 'counterparts'.

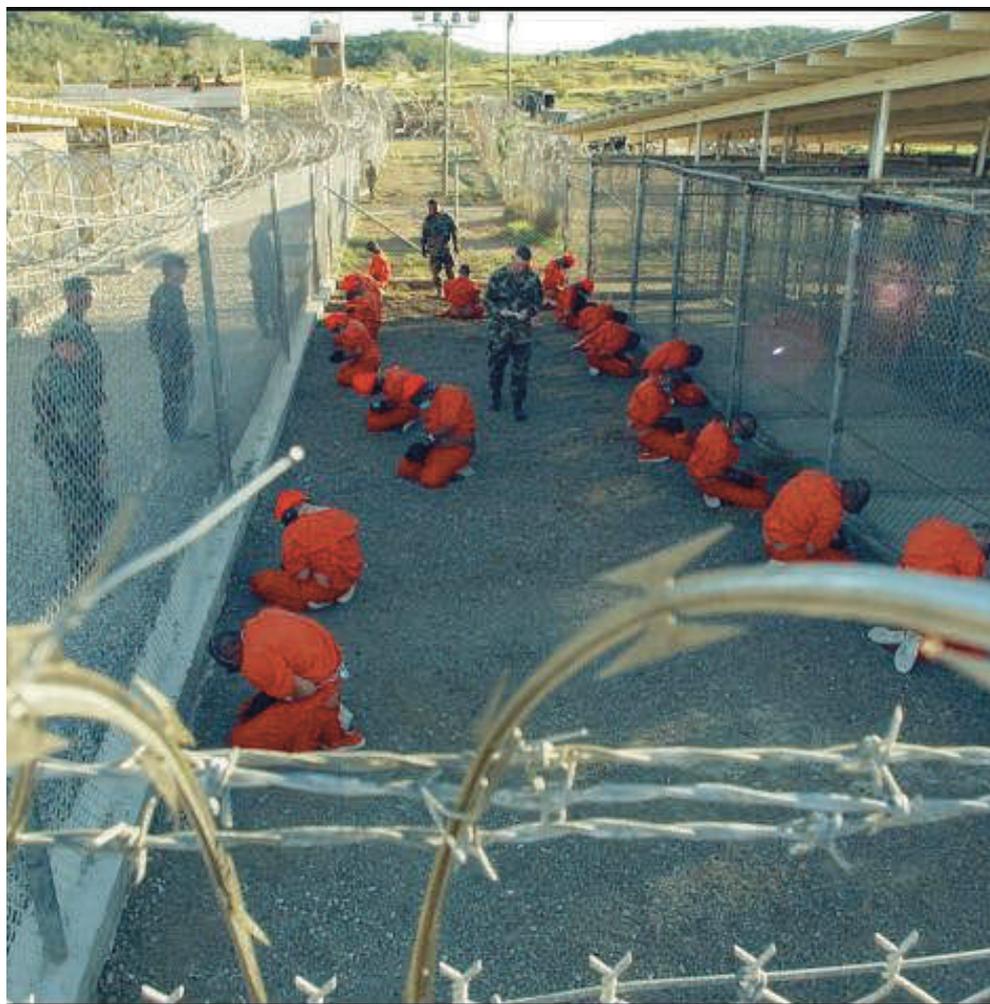
In a similar vein, the report of the 'Commission on a Bill of Rights' seems ideologically dominated by the theme of 'Britishness', an idea 'unlegally' disorienting for contemporary purposes. Notwithstanding the inevitable inference that the motive behind engineering a false perception of normative polarisation, and consequent innovation, is overwhelmingly political, one could reasonably ask: 'Does this matter, provided the government offers its people the same level – indeed, potentially, in many respects, the same kind – of human rights protection compared to the previous legal scheme of such safeguarding?' Stemming from the need for one to be inherently sceptical about one's government's largely self-serving enterprises, the consequences of convincing the collective conscience about the existence of a considerable moral human rights-related chasm between the UK and the rest of the CoE MS, ultimately leading to the rejection of the ECtHR's jurisdiction, I would answer that question to the affirmative. For one, this is so since some degree of obsession with cultural differentiation and

uniqueness may ricochet, leading to the political parochialisation of human rights, and their detachment from the local spirit; the expression of the latter purportedly being the government's utmost aspiration. Partaking in the ECtHR may be more 'British' than one might think...

Moreover, irrespective of the success – or not – of the cultural refinement attempted by the government in the milieu of human rights, by getting rid of the HRA 1998, and replacing it by a rather culture-specific framework of protection, the goal of adequately offering a minimum of protection to social dissenters – widely accepted among modern liberal democracies – could be jeopardised as well. Should the government decide to go down that road, even if the internal social majority does not object to the participation of the UK in the ECtHR, doubts over the – by then – potentially dubious levels of human rights protection in Britain might be raised from abroad, the other CoE MS expressing their unease, and contemplating the UK's expulsion therefrom.

If reaching that point is not among the government's oblique desires, it is hard to conceive why upsetting the current human rights settlement binding Britain would be preferable to continuing to resort to the Parliament in Westminster – still considered legislatively 'sovereign' – to incorporate cultural particularities within – among others – human rights-concerning legislation. In this respect, it might be useful to highlight that the ECtHR's decisions are not directly effective or binding, allowing the MS found in breach of the ECHR to get away with nothing more than a 'criticism'. Hence, accepting such potential risk, while shunning away an intellectual world not too alien to the British contemporary tradition of human rights protection, might not be worth avoiding making David Cameron 'physically ill'.

Nonetheless, while I find the ECHR a fitting background in the British human rights context, doubtlessly, for more or less principled reasons, relevant local culture-oriented particularities may develop which should be somehow addressed. Consequently, while I oppose the supplanting of the HRA 1998 by a Bill of Rights – thus possibly putting the jurisdiction of the ECtHR over the UK



Guantanamo Bay: For many the perfect symbol of why an independent Court of Human Rights is so important.

in question –, I would wholeheartedly support the promulgation by Britain of a human rights text of 'declaratory value', operating as cultural guiding light for British Members of Parliament, while avoiding the instigation of a defining 'constitutional moment'. In my view, this idea would adequately accommodate the proposals and concerns of many of the authorities utilised by Anthony Speaight: Lord Lester, Lord Devlin, and the 2008 all-party Parliamentary Joint Committee on Human Rights.

For the same reason, it is conceded that, as argued by Mr. Speaight, occasionally, the ECtHR should be seen as operating *ultra vires* in unilaterally – and unacceptably – raising the bar of human rights recognition. However, adequately dealing with the 'kompetenz-kompetenz' practice of the Court could entail some executive intra-CoE action, such as the issuing of guidelines designating the limits of the ECtHR's mission, rather than the permission of meddling with the Convention's original text by individual MS.

Britain has a tradition of fundamental rights, we do not need others to protect them.

George Kestel

Oliver Sells QC saliently reflects that "this country has enjoyed such rights for many hundreds of years and the idea that a bountiful European Court [is] conferring them now on UK citizens was never likely to be a popular one."

A British Bill of Rights is needed to safeguard 'rights in our heritage' and to ensure that the Westminster Parliament is truly sovereign over human rights laws in Britain. This can only be properly achieved through replacing the Human Rights Act with a British Bill of Rights, and concurrent withdrawal from the European Convention on Human Rights (ECHR).

The activist jurisprudence of the ECtHR has led to a diminished respect for human rights in the UK.

Lord Faulks QC has noted that an obligation by the UK Courts to apply the judicially creative jurisprudence of the Court, has served to undermine and diminish the cause of human rights in a corrosive and divisive manner.

Jurisprudence regarding prisoner voting rights and the expansive interpretation given to Article 8 of the Convention (the right to Privacy and Family life) has arguably led to the devaluation of human rights in the eyes of the public. Indeed, Lord Sumption has criticised the Strasbourg court for regarding the ECHR as a 'living instrument' which has led to the recognition of new rights that are not provided for in the Convention, resting on the sole authority of the judges of the ECtHR. He has even extra-judicially suggested that according to the rules of treaty interpretation under the Vienna Convention the Judges of the ECtHR have exceeded their power and questions the legality of some of their rulings. Further, perceptions of the UK's historical protection of fundamental freedoms and civil liberties have been degraded over the course of the often fractious relationship the UK has with the activist ECtHR.

A British Bill of Rights should include traditional and domestic common law rights, indeed, a synthesis could exist between placing rights 'in our heritage' on a robust statutory footing while concurrently giving weight to other courts besides for the ECtHR which have shaped our legal heritage.

This concept finds strong support in practice, for example, the right of access to the courts is enshrined in the ECHR Article 6(1) and Lord Steyn has stated that 'the right of access to justice...is a fundamental and constitutional principle of our legal system'. However, given the differences between legal systems across Europe, a British Bill of Rights could make this provision stronger and give it specific meaning in the context of 'our legal heritage'. It is suggested that a possible inspiration for the exact wording could be drawn from other systems and courts which have shaped our legal heritage such as Article 34 of South Africa's Bill of Rights.

Trial by jury is an archetypal 'British' right not protected under the ECHR and which could be protected under a British Bill of Rights. This right has been expressed in the legal systems of other

countries e.g. the 6th Amendment of the US Constitution, s24(e) of the New Zealand Bill of Rights Act 1990 and s80 of the Commonwealth of Australia Constitution Act 1900. The strong cultural attachment, stemming back to its inclusion in Magna Carta is one argument for inserting the right to jury trial into a British Bill of Rights. However, more fundamentally, the democratic nature of a jury trial where citizens sit in judgement of their peers, deciding issues legislated by parliament for the benefit of the people as a whole, leading to a strong sense of justice and democracy, would arguably help restore respect for human rights in Britain.

At the time of writing, a British Bill of Rights is proposed while the UK remains a signatory to the ECHR. It is argued that this is insufficient to protect human rights in our legal heritage. Baroness Kennedy, who chairs the Lords' EU justice subcommittee has commented that a British Bill of Rights as currently proposed is "about putting a gloss on, rather than radical change". Further, the ECHR's treatment of the convention as a "living instrument" means that "it is in practice incapable of being reversed by legislation, short of withdrawing from the convention altogether".

Overall, this author largely agrees with Anthony Speaight QC's proposal for a British Bill of Rights and believes that this could restore faith in human rights law enshrined 'in our heritage'. But for a British Bill of Rights to properly effectuate the above aims, a withdrawal from the ECHR is imperative.

George Kestel is Law Editor at King's Think Tank.



Until we end the stigma, treating mental illness effectively is but a dream

Professor Edgar Jones

In recent years, severe mental disorders have proved remarkably resistant to attempts to find effective medicines. The therapeutic revolution of the 1950s offered treatments for both psychosis and depression and it was expected that these pioneering drugs would be followed by a succession of innovative products. Although there have been a number of improvements, no step change in medicinal science has transformed the management of mental illness in the last half century.

However, an area where it is possible to implement significant change without resorting to expensive research and development is the issue of stigma. Deeply embedded in Western culture is a widespread prejudice against mental illness. Depression, for example, is often interpreted as a sign of personal weakness, whilst psychosis is commonly equated with violent or dangerous behaviour.

Society is generally sympathetic to those who have recovered from a severe physical illness and yet those who have suffered from a psychological disorder are rarely given equivalent consideration. Indeed, a worker who discloses a history of mental illness to an employer may find that it has an adverse impact on their career. And yet, self-stigma, judgements that people make about themselves, can often be more damaging than the opinions of others. People with mental illness often feel a sense of shame and disgrace. Self-stigma, or perceived stigma as it is sometimes known, prevents people

from seeking or accepting help. For some this delay in receiving treatment may mean that their illness become more severe and may even require a hospital admission with time away from family and work.

The benefits to both individuals and society as a whole of reducing the stigma of mental illness are clear. People will be treated earlier and suffer less distress. Yet stigma, like the discovery of new medicines to treat mental illness,

"Stigma of mental health goes to the root of Western culture"

has proved a tough challenge. A series of educational campaigns has sought to change the beliefs and behaviour of the public: England ('Changing Minds' a five-year campaign launched in 1998 by the Royal College of Psychiatrists), Scotland ('See Me' , 2002); the USA ('What a Difference a Friend Makes' , 2006), England ('Time to Change' , 2007-11), and Canada ('Opening Minds' , 2009).

Drawing on the findings of previous attempts to address stigma, the 'Time to Change' campaign sought to design a best practice model that would address attitudes and behaviour. The campaign was well funded (close to £21

million for the four years to 2011), led by major mental health charities, had clear objectives, and was subject to careful evaluation. The results reveal a mixed picture. The positive outcomes included a small reduction in discrimination reported by service users and improved recognition of common mental health problems by employers. However, some initial gains (such as improvements in the attitudes of medical students) proved short lived. Despite best efforts, the campaign had no impact on a range of key issues: there was no improvement in knowledge or behaviour among the general public, nor any reduction in reports from patients of discrimination by mental health professionals.

As well as analysing the results of the campaign, the researchers sought to explain why it had failed to shift public opinion. They found that people without professional knowledge of mental illness had their own culturally-determined explanations for human behaviour that were rooted in their understanding of peoples' life histories. So well established were these beliefs that they were reluctant to reconsider. People in large towns were convinced that there was a sharp dividing line between mental illness and normality and repelled efforts to change that view.

Stigma of mental illness goes to the root of Western culture and has existed from the Middle Ages when people suffering from psychiatric illness were often interpreted as suffering from demonic possession. Until 1770, the public were allowed to visit the Bethlem Hospital in central London as a form of entertainment, reinforcing prejudice

against those suffering from psychosis. To create a quieter, therapeutic environment, self-contained asylums were built in the nineteenth century but this had the effect of marginalising the mentally ill and removing their treatment from mainstream medicine. Only after considerable debate were psychiatric services included within the remit of the National Health Service on its formation in 1948. Hence, we should not under-estimate the effort required to shift beliefs and opinions relating to those with mental illness.

Research shows that the best way to challenge these stereotypes is through first-hand contact with people with experience of mental health problems, though a key factor is knowing a person who has had helpful treatment for episodes of psychological illness.

Evidence confirms the value of local initiatives, either in schools, colleges and places of work, including hospitals. Reducing the level of stigma in the general population will not solve the enduring problem of how to treat severe mental illness but it will temper some of the distress and anguish that accompanies psychiatric disorders. Whilst it requires us to re-examine deeply-held or long-established beliefs, there is no fundamental reason why these cannot be modified as there are benefits not only for patients, employers but also broader society.

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"There's no point in solving the stigma if there isn't enough treatment"

Austin Luce

Initially, I was reluctant to offer a response to Professor Jones' recommendation regarding stigma around mental health. I face a conflict of interest, in that Edgar Jones is not only a professor in my programme (War & Psychiatry) but happens to be my

supervisor as well; and to criticise his opinions openly would be akin to shooting myself in the foot academically (He marks my essays after all.) And since self-preservation is an instinct I do indeed possess, it behoves me to offer an unrelated, if only slightly contrary recommendation for improving the effectiveness of the mental health field.

While stigma is indeed a serious problem facing mental health practitioners and those in need of them, I would argue that two problems potentially bigger than stigma are matters of the lack of availability and length of tours of duty; and in the context of the military, these can be especially harmful. I will first clarify these issues, and then offer my own solutions.

First of all, tangible differences exist in how the U.S. military and the British operate when it comes to their personnel. Recently, the U.S. military's standard tour of duty, in Iraq and Afghanistan for example, is 12 months, although that being extended to 15 months is not unheard of. The UK military's is half that, at around 6 months. It goes without saying that if the military demands that soldiers deploy for longer and longer periods they dramatically increase the risk of traumatic exposure; not to mention the potential for either getting killed or wounded, or witnessing some horrific event befall their comrades or civilians. This problem is exacerbated due to the shortage of mental health practitioners currently serving. According to reports, the U.S. Army has a 30% shortfall in recruitment of clinical psychologists, followed by the Navy and the Air Force with 2X and 1Y% shortfalls respectively. So the problem of stigma is rendered moot when their aren't enough mental health professionals and treatments available in the first place. The notion that stigma is the absolute #1 problem in mental health is sort of like the old adage: 'You can lead a horse to water, but you cannot make him drink;' but if there isn't enough (or any) water to begin with, it doesn't really matter what the horse will or will not do. In this, I am sure Professor Jones would agree.

The scarcity of mental health services is not limited to only those



currently in active duty. The U.S. Department of Veteran's Affairs faces a similar problem: one that impedes veteran's access to help is geographic location and distance. Most major cities in the U.S. have a V.A. medical centre (Or in the U.K., the NHS.) However, those living in rural locations have no resources available to them and have to travel (sometimes hundreds of miles) to the nearest clinic or centre.

Another problem with this arrangement is the waiting list some veterans encounter. Imagine a queue that is months long, and once you finally get an appointment, you get a bottle of pills and told to wait several months more until your next appointment. In 2014, several dozen veterans passed away while waiting out the delays in receiving their treatment in Phoenix, Arizona. While many of these veterans were physically sick, this is also germane to the issues of mental health. If a veteran is suicidal, they may not be willing to wait 6 months to a year for an appointment. Solutions to this problem involve common sense (which seems to be in short supply these days.) and a massive



"The military needs a cultural change, mental health must not be marginalized"

Anonymous

The military by its very nature is a reflection of society. It is recruited from the population of the country it represents. Therefore the same societal values, attitudes and prejudices that exist within that national social demographic will by right exist within its armed forces. This includes views on mental health.

What makes the military different from the rest of society is the role it is required to fulfil and the price it asks of its members in obliging that requirement. The stresses associated with combat in all environments are unique, in order to be able to perform the function of fighting effectively arduous training is required, a robust team ethos (usually based on unit/regimental values) and a desire to be the very best. Defence is built on deterrence This can only be achieved from a position of strength which may be real or perceived – weakness either

priority shift by those government. Policy makers should no longer be permitted to appear at veteran's events, shake their hands, and smile for the cameras unless they are willing to do right by them.

Firstly, the problems with recruiting shortfalls of psychiatrists and psychologists can be solved by offering a competitive enough salary commensurate with their value. A doctor is not going to serve in the military for less than 60K a year when they can work elsewhere for over 100K. Secondly, shortening the length of tours of duty; putting a cap of 4 months might greatly reduce the amount of mental breakdowns (psychiatric casualties) amongst those serving overseas. Thirdly, more centres, clinics, and hospitals built in rural locations made accessible by those that need them, in addition to easier transportation going to and from; and a re-evaluation of triage for those facilities, to prevent those with more serious ailments going without attention. Finally, more combat veterans can be encouraged to pursue careers in medicine and mental health by offering more scholarships and

‘You can lead a horse to water, but you cannot make him drink;’ but if there isn't enough (or any) water to begin with, it doesn't really matter what the horse will or will not do.

funding for those that choose to do so. This would solve two problems: The lack of qualified professionals in an already limited pool, but also the issue of stigma Professor Jones mentioned. Perhaps soldiers and veterans would be less reluctant to talk to someone with similar experiences; someone they might deem as 'one of us' rather than a newly qualified 26 year old who, although meaning well, may not be who a veteran of combat is looking for when wanting to open up and establish trust; somebody with little to no life experience outside of school. I must admit I face a similar problem.

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physical or mental cannot be carried forward without undermining that position.

This is true from the strategic to tactical level. It is within this context that mental health stigma within the military is to be realised. Stigma is arguably a natural by-product of the military system.

Combat is based around trust. Resilience within this domain requires endurance against the multitude of hardships associated with an operational environment; this is borne of complete faith with your immediate comrades. Compromise of this represents significant damage to the dynamics of the team. However a juxtaposition exists with regards to mental health. The reaction of the collective would differ in relation to a seasoned admired, professional admitting psychological impairment versus someone less respected and potentially more junior. For the former,



More needs to be spent to prevent Fort Hood-style tragedies

the admiration conflicts against the damage to the team.

The hierarchical system of the military requires the Officer or Soldier to be 'better' than his peers to progress further up the rank structure. Any divergence or faltering along a fairly well set career pathway will have consequences. Although medical confidentiality largely guards against managerial irregularities, admission of mental health problems could perceptively be considered as damaging to future career progression. How to counter the stigma that clearly exists has, as a result of recent operations (Iraq and Afghanistan) been scrutinised and examined in a depth not yet experienced in the UK from previous conflicts. From a military perspective it makes absolute sense addressing this issue to maintain and improve combat effectiveness. Military fighting power is based around three components; the physical (the kit and weapons used), the conceptual (doctrine, tactics and procedures) and the moral (how to motivate people to sustain the fight). Mental health fits firmly within the moral; the most elusive and difficult to articulate. Yet it is without rebuke that poor mental health degrades fighting power.

Society has a part to play, but within the introverted world of military life the most beneficial methods of dispelling stigma

come from within. The military is largely trained and educated by itself. This internal response can be split down into two parts, policy and personal.

From a 'higher' perspective the Ministry of Defence must implement policies to accept mental health as a standard subject, it remains too alien and misunderstood. Operationally this will mean mental health assessments becoming as common as inoculation injections, Trauma Risk Management (TRiM) being conducted as part of routine training and not only bolted onto training in an enduring operation such as Afghanistan.

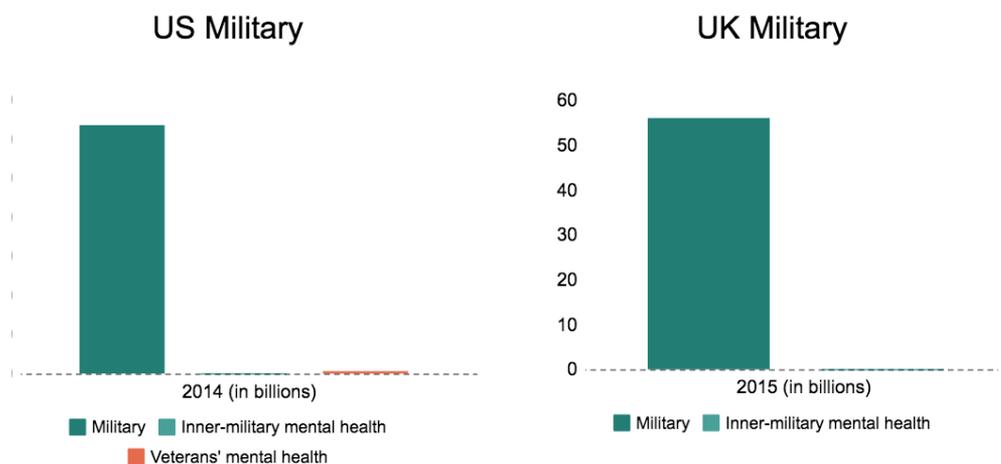
In 2014 UK Defence introduced Stress Resilience Courses. Although still voluntary and small in terms of numbers it is a step in the right direction. Training and education at phase 1 and 2 must include awareness on the subject of mental health so it is ingrained into recruits from the very first base. However the balance must be struck between this awareness and preserving resilience within military formations.

Combat is stressful, this must be accepted to be able to endure it and avoid becoming complicit to the effects.

The personal angle in combatting mental health stigma is the most effective. Recent campaigns have caused mental health casualties in the very best of the UK armed forces. And as tragic as this is; it perversely furthers the cause of acceptance of the threat of psychological damage within military circles.

The response of some of these casualties in educating the wider military has been nothing short of admirable, yet these critical voices need amplifying beyond the realms of unit meetings, social media and confined working groups. A soldier has been trained to receive direction from other soldiers. This target audience is becoming increasingly more receptive but it requires the resources equal to those distributed to physical injuries to ensure that mental health is considered a core function within UK Defence.

How much do our militaries spend on mental health?



Yian Qiong Hu

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Access to medicine

The year of 2015 marked the 20th anniversary of the Agreement on Trade-Related Intellectual Property Rights (TRIPS). The impact of TRIPS on access to medicines and innovation has triggered international activism and resistance, especially from developing countries. Essentially, medicines that were once excluded from patent protection in many countries are now subject to patenting as required by TRIPS. Following the HIV/AIDS epidemics in Sub-Saharan areas during the 1980-90s, the patent monopoly and high prices of newly marketed HIV/AIDS medicines made the treatment out of reach for many. This public health crisis pushed the only normative development under the Doha negotiation of the WTO leading to the adaptation of the Doha Declaration of TRIPS and Public Health in 2002, and consequently the protocol amendment of TRIPS itself in affirming certain flexibilities in balancing the public health needs of its members. Some argue that the current mechanism of TRIPS, which contains a number of flexibilities on patenting, is good enough for members to use according to their needs, and others disagree, arguing that global political economy and patenting practices have presented a rather more complex picture concerning the debates on intellectual property, access to medicines and innovation.

The first question one might consider asking is the extent to which patent could be used on medicines, and why it matters. While TRIPS only sets the minimum and general standards, countries can decide the specific criteria in judging whether something deserves a patent. The current



practices tell us that nearly every step of development and manufacture of a chemical pharmaceutical product could potentially be subject to patent protection. Variations exist among different countries depending on national patent law specifics, but the industry will pursue patents by submitting applications on the chemical compound, derivative forms such as selective salt, polymorphs, ester, crystalline forms, pro-drugs, process of making the compounds, formulations, different dosages forms, and the intermediate chemicals and so on. Many such applications are not approved in countries where those are considered merely as small changes on

industry gets prolonged monopoly in those markets for another 20 years and beyond. This is the so-called 'ever-greening' strategy that is functioning as an unwritten norm in practice.

For the debates over access to medicines and innovation, the 'ever-greening' practice plays a vitally important role. On one hand, it delays the forming of generic competition medicines that is critical in improving affordability of medicines in the market. On another hand, more fundamentally, it constructed a misleading message of how patent systems treats inventions. While small and obvious practices in the laboratories can easily find their ways to legal recognition and

thus form a commercial monopoly, the very understanding of what is innovation gets further blurred. The question of whether the objective of scientific research for innovative outcome is to get more patents as the indicator, or to aim for continuously making progress by quickly publishing the results for public and peers scrutiny, has become indecisive. The possible scope of patenting, with clearly commercial motivations, keeps intruding into every corner of innovation practices.

The technical side of the question as previously mentioned is closely linked to the broader policy debate in the context of global trade and public health. First of all, if talking about the global governance structure of intellectual property in relation to public health, a more nuanced picture has been presented to us in addition to looking at TRIPS alone. While TRIPS deals with rules and principles of intellectual property law specifically in the context of trade liberalisation, the substantive rules and principles have also reflected the old 19th century Paris convention concerning industrial property that is now administrated by the World Intellectual Property Organisation (WIPO). The political relevance of WIPO's normative discussion has been eventually consummated with those of the WTO.

At the same time, the increasing trend of creating new legal obligations on intellectual property through bilateral negotiations on Free Trade Agreement (FTA) and Investment Treaties have gradually overtaken the WTO's central role in the debates over patent and access to medicines and innovation. While the WTO and WIPO are products of multilateralism of a kind and subject to some levels of sovereign and public scrutiny, the bilateral and regional FTA processes on another hand are carried on with no clear global governance structure above them.

The unclear global governance structure as above mentioned has also demonstrated the importance of looking at global health challenges to access to medicines and innovation in a more holistic way in the face of the indifferential expansion of patent norms on medicines. Since the 1990s, the debates have mainly focused on the public health crisis facing developing countries. For instance, the report of

Public Health, Innovation and Intellectual Property' published by the World Health Organisation (WHO) in 2002 has rightly captured the root causes behind the lack of access to existing medical tools and neglected research and development on new medical tools that address health problems disproportionately affecting developing countries. Instead of arguing which level of intellectual property protection would do the job as one might often find in industry-led publications, the WHO report concluded by pointing out the commercial motivation behind the contemporary drug discovery business, which is driven primarily by the weighting of whether a market exists to buy rather than whether people are dying from no tools to treat. Patent has played a central role in enabling the pharmaceutical industries to direct their investment to where the market is bigger, rather than where the most people need it.

Patent intrudes "into every corner of innovation practices"

A few examples in recent years have repeatedly rung the bell of developed countries, and yet they have been insufficiently addressed. While generic competition, by using TRIPS flexibilities, has helped the scaling up of HIV/AIDS treatment at global level, this could not occur so easily now in the case of a different epidemic, as more countries have started adapting stringent patent norms on medicines and the using of TRIPS flexibilities have been put on hold in some occasions. For instance, Hepatitis C has been considered as one of the emerging killer diseases in many low income as well as high and middle income countries, as the infection can eventually develop into critical situation with liver cancer.

The old interferon based treatment is intolerant and painful, and oral treatment had been long wanted. The situation started changing when the

drug company Gilead introduced its new medicine Sofosbuvir to the market in 2015, but was priced at 1000 USD per pill in the US market. The same medicine is offered at different tiers of discounted and yet still very high prices in different countries by Gilead. For instance, the UK was offered a price of £35,000 per patient per treatment for 12 weeks, or 24-weeks for about £70,000, all for one drug alone. The high price as such had delayed NICE (National Institute for Health and Care Excellence) in concluding its recommendation to include the new medicine into NHS scheme until an increased £190 million fund was put in place in covering 'these very expensive new drugs' (by Richard Jeavons, NHS England Director of Specialised Services). Facing the same frustration and pressure with high prices of sofosbuvir, France introduced a new tax tackling high prices of medicines, and patients in Spain have brought law suits to the Supreme Court demanding access to the new expensive sofosbuvir after the public health agency had failed to bring the drug in time to the public health system. And yet, other sides of the story have revealed that while sofosbuvir is a new treatment for Hepatitis C, its patent applications do not stand strongly in many countries. The patent on sofosbuvir has been rejected in Egypt for lacking novelty and inventiveness, one of its patents has been rejected in China for failing to fulfil technical criteria, rejected in India for the very same reasons, and is subject to more than 10 patent challenges before the European Patent Office.

Technically speaking, someone else has discovered sofosbuvir earlier than Gilead, who owns sofosbuvir by virtue of acquiring the small firm who developed sofosbuvir in the first place. So there are pretty good chances for countries with stricter patent criteria to screen out sofosbuvir patent as underserving and thus allow generic competition into the market. There is also a chance for countries to use mechanisms such as compulsory license when public interests and policy prevails over the commercial interests on patents. Both possibilities exist for developed and developing countries to explore and use for the purpose of balancing private proprietary protection with public interests.

In the past decade, compulsory license for public health purposes and the stricter patent criteria on medical inventions have been used in many developing countries to address the public health needs and to strike the balance of private rights on patent, access to medicines and the real meaning of innovation. Notably, Indian patent law has made it clear that small changes on old medicines would not deserve a patent protection unless firm evidence could prove the significant therapeutic improvement it could bring. Those legal innovations and experiences of using the existing flexibilities of patent law are critical in leveraging the public policy spaces for all nations who are facing public health needs. But for the future prospect, something new needs to come.

The above example of sofosbuvir is only the tip of the iceberg. It is also only one such case of many that proves the detrimental impact from some of the restrictive intellectual property rules proposed by ongoing FTAs negotiations. In all those regards, the unregulated expansion of concentrated commercial interests through a globalising patent regime on medicines has been standing at the centre of the problem.

Recognising the very nature of this increasing symptom as a collective system failure is vitally important if we consider the possibilities of the way out. One might find it interesting and helpful, in such a context, to revisit a very basic question of why a patent system came to exist in the first place, and thinking about the extent to which the claimed public interests orientation of granting a patent, by exchanging for public disclosure and technology progress for all with granting a temporary legal monopoly, has been misused and gone too far from its origin. One might also find it inspiring to look back at those historical grand debates on whether and how a patent system is needed or should be placed in driving innovation, and found a number of similar arguments and debates from old times to the ones we are facing today. Reviewing history in the context of the present struggle would perhaps redirect our thoughts to questioning the inherent inconsistency of the current patent regime on medicines in which the tensions between public and private, the twists between enclosure and sharing, and

and the different claims over intellectual creations and innovation are not conciliated. It is perhaps also high time to note that at the 20th year of TRIPS with struggles get intensifying at a global level with further diversified forums of debates, to look for an alternative model of public oriented medical innovation while the lost ethical ground and connections concerning the distinctive nature of medicines as a lifesaving necessity rather than luxury commodity could be redefined.

"Before worrying about patents, we need to worry about WHO will distribute the medicine, and with what money"

Sakshi Jain

Much of what Yuan Qiong Hu is entirely correct. However, the reality is that although patent is a hugely important obstacle which we must circumvent, there is little point in liberalising patent law and skirting around it if, once this is done, there is no global organisation sufficiently funded to implement lasting healthcare reform.

The World Health Organisation is the public health arm of the United Nations. It is the foremost organisation in the world that facilitates public health responses at the international and global health level, taking on the tasks of governance, emergency health responses and promoting the creation of sustainable public health systems. Most recently, it has been in the news for criticisms levied on it by public and private actors alike about its late response to the 2013-2015 ebola outbreak.

What hasn't been discussed as much, especially from an academic point of view, but remains an extremely interesting and important point of discussion is the funding structure of the organisation. This article focusses mainly on the inefficient funding structure of the organisation, how it affects the organisation's response to global health problems, what steps the organisation has been taking in response to disparate funding and what lies ahead.

The WHO divides its role into six main categories- communicable diseases, non-communicable diseases, mental health and substance abuse, violence, injuries and disabilities, promoting health, health systems, preparedness, surveillance and response, corporate services and enabling functions. It has retained a comparative advantage in the last few decades in its role as a steward of sorts of the global public health system, facilitating not just finances, but expertise and governance in the sphere.

The organisation's funding structure is currently divided into assessed and voluntary contributions. Assessed contributions are the dues paid by member countries (mostly health ministries) in order to remain a member of the WHO, the amount paid is determined by their wealth and population. Assessed contributions are important in maintaining stability and predictability in funding, reducing dependence on a narrow donor base, and providing flexibility to the organisation in aligning resources with its Programme Budget. Voluntary contributions are those made by development ministries or other agencies. These contributions have increased from contributing almost no part to the WHO's approved budget, to contributing 54% in 1990, and almost 80% of the current (2016-2017 biennium) budget.

The organisation is headquartered in Geneva, but almost all of its operations are conducted via regional centres. The headquarters acts as the convening administrative, and more importantly in this case, fund disseminating governance unit. Since contributions are collected at, and then disseminated from Geneva, rather than regional centres, they have relatively lesser autonomy on their spending choices. Detailed finances remain opaque, with information provided at the regional levels also limited. If countries actually provide the funds that they pledge, and do so timely, the WHO would probably be in a better position to handle global health crises.

The World Health Assembly, the governing body of the WHO, determines only the use of the assessed contributions- the use of voluntary contributions is decided upon by negotiations between the donor and

the Secretariat. The donor can earmark funds for certain activities, such as communicable diseases, curbing the organisation's flexibility in assigning funds, whereas assessed contributions are used to fund administration and to tackle the 'global burden of disease'. This leads to a disproportion in the amount of funds needed to tackle some issues, and to high transaction costs, because of the separate memorandums of understanding with each contributor. Finally, donor funds are sometimes used to fund politically popular campaigns rather than creating sustainable and stable public health systems.

For 2016-2017, the proposed budget is almost USD 4.4 billion, an increase over the 2014-2015 biennium, with a shift of administrative units to lower staffing cost countries, along with strengthening of partner relationships with agencies such as the GAVI Alliance and the Global Fund to Fight AIDS, Tuberculosis and Malaria. During this time, the organisation's reform objectives include better health outcomes, greater coherence in global health led by the WHO, and efficiency, transparency and accountability. However, a recent Chatham House report observes that the staffing cost alone is double the amount of assessed contributions, even though it has fallen from 47% to 41% of total expenditure in the last three years. In the last few years, the organisation has been moving to a 30/70 spending pattern, attempting to allocate no more than 30% of all funding to headquarters, but this goal has proven to be elusive. The funding base also remains vulnerable because 20 contributors (public and private) contribute almost 75% of the base budget.

The recent Ebola outbreak was an example of the WHO's inadequate and late response to issues, but it also highlighted the importance of such an organisation in containing threats, and its ineffective response proved that we still need it. That is not to say that the organisation hasn't learned from this blunder. Most notably, in May 2015, the organisation launched the WHO Contingency Fund for Emergencies to provide the first three months of emergency responses to disease outbreaks. This venture is to be funded completely with voluntary, flexible



funding, in order to retain predictability, and timeliness. This fund was activated most recently in response to the Zika virus outbreak in South America, giving the organisation some time to gather the USD 56 million in funds it needs to implement its strategic response. However, this doesn't solve the problem of the organisation's reliance on voluntary funding- it only solves immediate funding problems. What happens if the organisation is unable to raise the voluntary funding it needs to respond effectively in the interim three month period?

To counter the problem of disparate funding, country funds are being earmarked as flexible or highly flexible. While this is good in theory, the actual contributed amount turns out to be a

fraction of the expectations, and the commitment of contributors to increase flexibility in funding is yet to be demonstrated.

The amount of funding available at the start of bienniums has also increased, making for increased predictability. Several contributors have also pledged to increase their contributions, encouraging the Secretariat to incentivise flexible funding options. Policy recommendations in the past have spanned the gamut from setting higher assessed contributions to restructuring the organisation to reduce administration and management costs. In fact, the most recent funding reforms, including the funding dialogue in November 2015 tried to address the very problem of the disproportional funding



practices and management costs, with the WHA approving the entire budget, and the WHO attempting to align funds through a dialogue with the funders, among other measures. But it is early days yet to realise the real effect of this experiment.

These are just some examples of the organisation's attempts at reducing organisational inefficiencies. Apart from those already mentioned, funding problems directly undermine the organisation's transparency, accountability and internal status quo. The WHO has a long way to go in overcoming its many bureaucratic, financial and public image challenges it faces, but as no real alternative to the WHO has emerged- or is likely to emerge in the near future- the organisation

currently remains the world's most important overarching global health coordinator, and needs to take every step possible to continue to do so.

Sakshi Jain is Global Health Editor at King's Think Tank.

"We can't abolish it, but we must fundamentally change the patent system"

Melanie Flury

Recently having celebrated the 20th anniversary of the Agreement on Trade-Related Intellectual Property Rights (TRIPS, 1994), it seems fitting to reflect

back on the justification, misuse and consequences of the current patent system.

The example of Sofosbuvir (Hep C therapy) is not an uncommon one and countries public health agencies having to delay access to medication to wait for funding (UK), call for law suits in supreme courts (Spain) and outright reject patents (China, India and potentially the EU Patent Office) is unsustainable and ethically questionable.

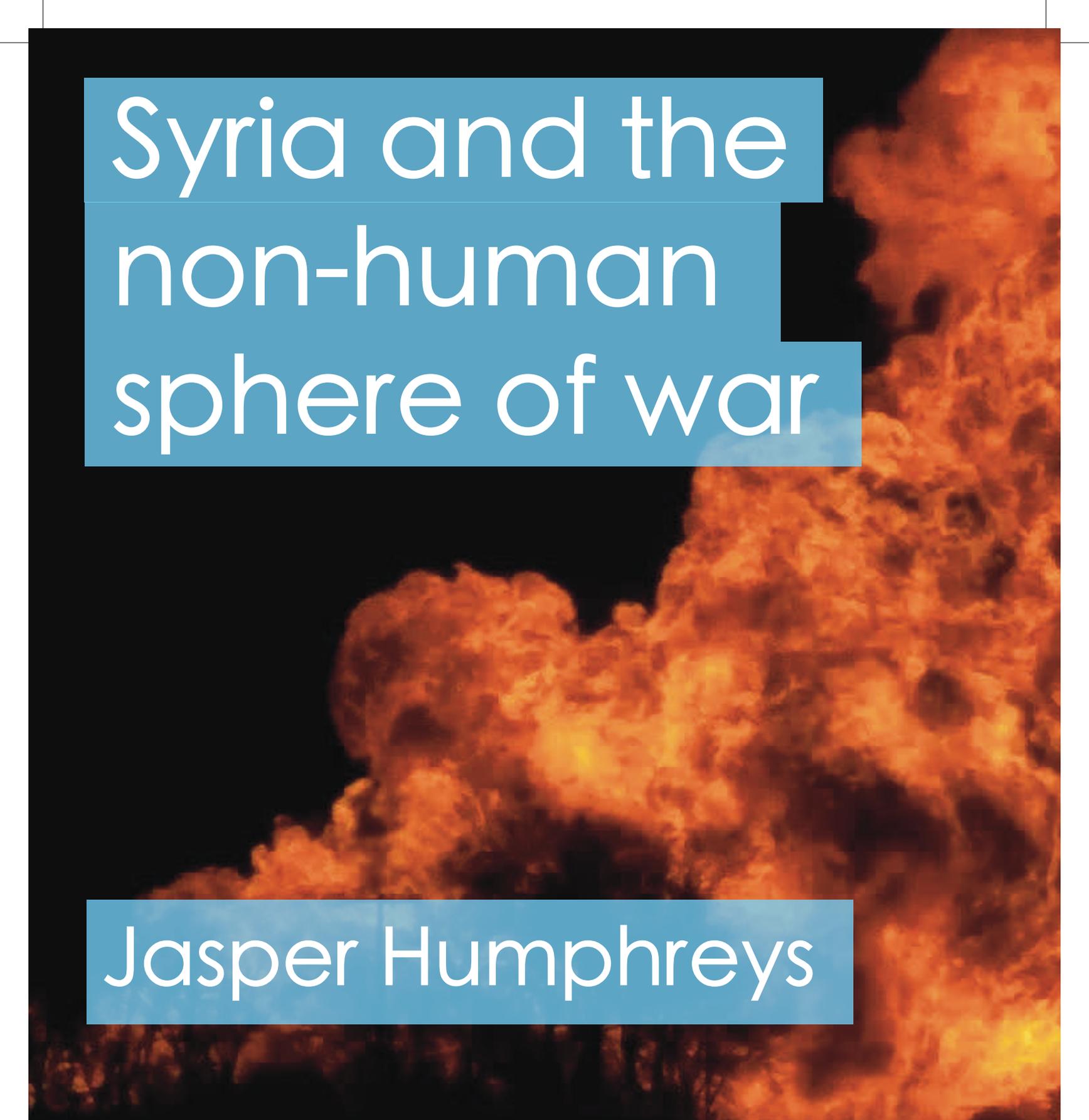
Postulated by Yuan Qiong Hu (MSF Access Campaign Legal and Policy Advisor), 'alternative models of public orientated medical innovation without losing ethical ground and connections concerning medicine as a lifesaving necessity rather than luxury commodity' are the aim.

Being an incredibly complex issue, the major debates involve largely public health, intellectual property and international trade policymakers, who are struggling to strike a balance between spurring medical innovation while ensuring access to the new medications/technologies globally.

A system failure however is not complex to diagnose. This is largely due to the disproportionately low amount of new medicinal products entering the market, despite rises in medical research expenditure. However using neglected tropical diseases as an example model, partnerships between non-profit organisations, the private and public sector are proving to be effective. Vaccines, drug development and diagnostic technologies for malaria and TB have seen significant advances in recent years and are reaching areas in need.

While patents promote innovation (R&D investment incentive), it also commercially motivates pharmaceutical industries to target large market areas as opposed to areas where people are most in need. Patents' impact on access to medication is complex and much debated; nevertheless abolishing them requires an alternative solution, which is yet to be put forward.

However a current issue that while simple could potentially have a significant effect on medicine availability would be an international consensus on the definition and minimum criteria of a 'new patentable drug or technology'.



Syria and the non-human sphere of war

Jasper Humphreys

We had a discussion with Jasper Humphreys on the natural resources and environmental aspects of the war in Syria, spanning Colombia and India. Humphreys is Director of External Affairs of the Marjan Centre for the Study of Conflict and the Non Human Sphere within the Department of War Studies. The Marjan Centre looks at the relationship between war and conflict with biodiversity and the atmosphere: issues such as climate change, the

illegal wildlife trade, water shortages and other natural resources from coltan to rhino horn. Prior to setting up the Marjan Centre, Humphreys worked as a news journalist on a variety of national newspapers, including the London Evening Standard. Positioned in a drought zone, Syria has a long standing history of water shortages. Coupled with the growing consensus and increasing concern around global climate change, Syria has been made a

reference point in the emerging climate security discourse. On the other hand, an appreciation for the increasing complexity of contemporary conflict, combined with ethical claims made by competing actors such as policy makers, advocacy groups and international organizations have deepened interest in environmental matters in conflict. With these complex issues in mind, we have talked about the multi facets of the conflict in Syria.



Oil as a central theme in discussions on conflicts in the Middle East is commonplace. Yet, the environmental impact of the scramble for oil in Syria has been understudied, though the ad hoc management of oil refineries and illegally operating make-shift refineries are likely to cause prolonged environmental damage.

Drawing from Colombia and Nigeria, Humphreys demonstrates the environmental implications of the

tactical exploitation of energy resources. Damage done by the repeated targeting of pipelines has been to such an extent that the issue has been brought up in the United Nations peace talks with regards to the responsibility for clearing up the spills in Colombia. In Ogoniland, the southern region of Nigeria, regular attacks on pipelines have resulted in reductions in Shell's operations. While these advances have placed rebel groups

high up in the agenda of the United Nations and the oil giant, along the way, environmental integrity has been grossly compromised. The tactical exploitation of energy resources is not confined to ISIS. Aerial bombardment of oil refineries by the Allied forces has aimed to choke off the financial capabilities of ISIS, of which oil revenues are a significant part. In the process, environmental shocks have been overlooked and still ambivalent is the extent of pollution

and contamination. Not only the toxic leftover from the munitions used in the bombing, but the chemicals emanating from the destruction of industrial plants have the potential to drive wildlife away – perhaps permanently. There is another side of the coin; the secondary effects of the war, which might supersede those of the fighting itself. Taking the example of east Congo, Humphreys explains that the hundreds of refugees fleeing genocide were forced to move into dense, inhospitable jungles for safe haven. Food and shelter pressures have resulted in deforestation and gorilla-hunting, which have been detrimental for wildlife.

Although post-conflict environmental assessment is a financial complication, as the definitions of conflict are being expanded, the United Nations is “wising up” and starting to respond to these revisions more earnestly, as demonstrated by the launching of the United Nations Environmental Programme. The game-changing moment can be traced back to the nation-tearing war in the former Yugoslavia. The particular instance that caught the headlines was the Allied bombardment of the Serbian industrial complex and the chemical spill over into the Rivers Sava and Danube that followed, bringing home the knock-on effects of war: “you don’t drop bombs and walk away as has been the tendency.” Civil society has responded more robustly to the imperative to protect the environment – not just wildlife but rivers and trees – in order to increase the chances of survival of those lives undermined by conflict.

The ‘ecocide’ movement, led by British lawyer Polly Higgins is pursuing the establishment of large scale destruction of ecosystems as the fifth crime against peace. The campaign is getting publicity, yet norm settlement is going to be a long process.

From a broader perspective, environmental interest in conflict is part of an overarching discourse of climate securitization. From policy makers to media channels, a wide range of actors have advertised the link between conflict and global climate change, which boils down to the need to protect from the security implications of climate change; whether it is the protection of the environment or populations, Humphreys wasn’t explicit. Presently

understood, climate change is a driver of conflict and not a trigger. Yet, Humphreys presents India and Pakistan as potential precedents to the latter case. With the glaciers in the Himalayas that feed into the Rivers Brahmaputra and Indus melting at a much faster rate, the flow of water the two countries depend on for energy is being put at greater risk year by year.

Against the backdrop of long standing inhospitality between the two countries, Humphreys predicts that water can potentially replace Kashmir as the number one source of grievance between the neighbours.

This scenario features two issues: climate refugees and ‘ecological intervention’. Yet, let us elucidate the wider discourse that attends to these matters. The securitization of climate has been a discursive process perpetuated by a range of actors from international organizations, think tanks and the academia.

"Presently understood, climate change is a driver of conflict and not a trigger. Yet, with the glaciers in the Himalayas that feed into the Rivers Brahmaputra and Indus melting at a much faster rate, the flow of water India and Pakistan depend on for energy is being put at greater risk year by year."

Prince Charles has said [it](#), empirical studies have quantified [it](#) and the link between climate change and conflict has become clear as daylight, with Syria its point of reference. Humphreys is rather optimistic about the developments, holding that it is the availability of data on global climate change as well as Syria that has brought about the conditions which have deemed Syria the first climate change war. A more cynical interpretation begs the question of the interplay between climate refugees, the climate securitization discourse and ecological intervention.

In the current domain of refugee statuses, ‘climate refugee’ is the least desirable of the options available to those fleeing life-threatening circumstances. The political conjecture largely favours the narrowest definitions of refugee, whereas global climate

change calls for a proliferation of refugee claimants. Although the official refugee status is a scarce resource, mass refugee movements have attracted calls for military action; the insistence of Turkey for a more assertive Allied presence in Syria is no exception. The curiosity accompanying the connection between climate refugees and the securitization of climate is doubled when one considers the emerging concept of ‘ecological intervention’. Motivated by the up-and-coming international legal norm Responsibility to Protect, ecological intervention, led by Professor Robyn Eccerly from Melbourne University, explores the circumstances in which states that fail to provide its citizens bare necessities such as water and clean air lose their legitimacy.

While concepts such as ‘ecological intervention’ may still be embryonic, the climate security discourse has gained much traction, partly due to

growing awareness around global climate change. Yet, a critical appraisal is also needed to explore the implications of discourse for conflict and the environment. Moreover, while the conflict in Syria has increased the potency of environmental concerns around conflict, with the eagerness to rid ISIS from the face of the earth as soon as possible, it is worth remembering another forgotten lesson from Kuwait and Vietnam; that much of the fate of Syria’s wildlife and natural habitats is at the mercy of this conflict.

Begum Icelliler is Energy & Environment Editor at King's Think Tank.

Best of the blog

Christmas and Star Wars: a tale of economics

With Black Friday as the starting point of retailers' Christmas season and mythically their starting point for making a profit over the whole year, the December period seems like a blessing for economists. If wishing made it so.

All those gifts that you just bought, do the recipients really want them? Maybe yes, but more important for your favourite sleigh-borne economist is the following question. Would they have paid the same amount of money for it? According to a study by Joel Waldfogel, they wouldn't. He calculated the gap between the money spent and the value it has for the receiving one to be around 10-20%. This percentage is what economists call a deadweight loss and it amounts to billions of dollars in the US alone.

Additionally, Christmas buying does not add pure extra revenue to the stores, as the money for presents is saved up during the rest of the year. Christmas therefore, is an "orgy of wealth destruction".

Your friend studies Economics; what can you expect from them, and what to give?

Economists may shun gift giving, but even they want to be socially accepted as well. This poses a moral dilemma for them. Giving cash is the best rational option, as it can then be used to buy something really valuable without any loss. Gift cards are second best, albeit less versatile.

However cool the ratio, economists are humans in the end and will value the human touch of gifts. The economist's inability to quantify this emotional value drives them mad. It therefore depends on their level of believe in the invisible hand of the market what you will get, but you can expect the receipt to come along just in case you just don't value it as much as expected.

Christmas therefore, is highly confusing for the economist. Besides the gift giving torture, he will be torn apart by the loss of



GDP caused by the few days of public holiday. He'll be glad when it's all over and everybody is at work again, fighting for a future with more holidays (huh?!).

The economics of Star Wars

Even though it is far, far away and happened a long time ago, the world of Star Wars exhibits remarkable similarities to ours in terms of the annals of their economy. As your editor has not seen the new episode yet, this piece is on the first two trilogies.

The Economist points out that much like our own lands, the Star Wars galaxy has advanced technology while at the same time sustainable economic growth is lacking and inequality mounting. Even though droids and robots are omnipresent, Anakin Skywalker still had to work as a slave before he was freed to become a Jedi master. This has much to do with inefficiencies (the hyperdrive to travel at light-speed is for example not widely available), but also with the power of the Trade Federation.

At the beginning of Episode I: The Phantom Menace, The Trade Federation has become a powerful organization. Where on earth we have trade between countries (which have their own saga), trade between planets (and systems) helped spawn a merchant conglomerate and lobby

and lobby group that controls whole planets and even solar systems. A conflict with the government started the Clone Wars, after which Darth Vader managed to consolidate power.

Free trade, as on earth, has the power to develop the economies of poorer planets by letting them focus on their strengths. Star Wars takes the theory of comparative advantage one step further where it applies to planets rather than countries. Tatooine, the desert planet where Luke and Anakin both grew up, has resources to mine. Coruscant, the Empire's capital, is literally a planet-sized city, devoted to politics and bureaucracy. Planets with more favorable climate, such as Dagobah perhaps, could devote themselves to agriculture.

The power of the Trade Federation however, makes this free trade not as efficient as it might be. It charges high monopoly prices and leaves Tatooine as poor as it is, while simultaneously giving rise to smugglers such as Han Solo.

Luckily, the much more social-minded-looking rebels take over control and might be able to distribute wealth more equally.

Joris Bucker, Business & Economics Editor

Toward more per



EU Wo

Perfect union



Whether Britain stays or leaves, the EU needs reform. Six King's students set out how, and why, we should do so.

Working Papers

Tackling Migrant Smuggling

Olivia Johnson &
Jakob Muratov

Policy Recommendation: *The King's Think Tank recommends that the EU's Action Plan Against Migrant Smuggling include:*

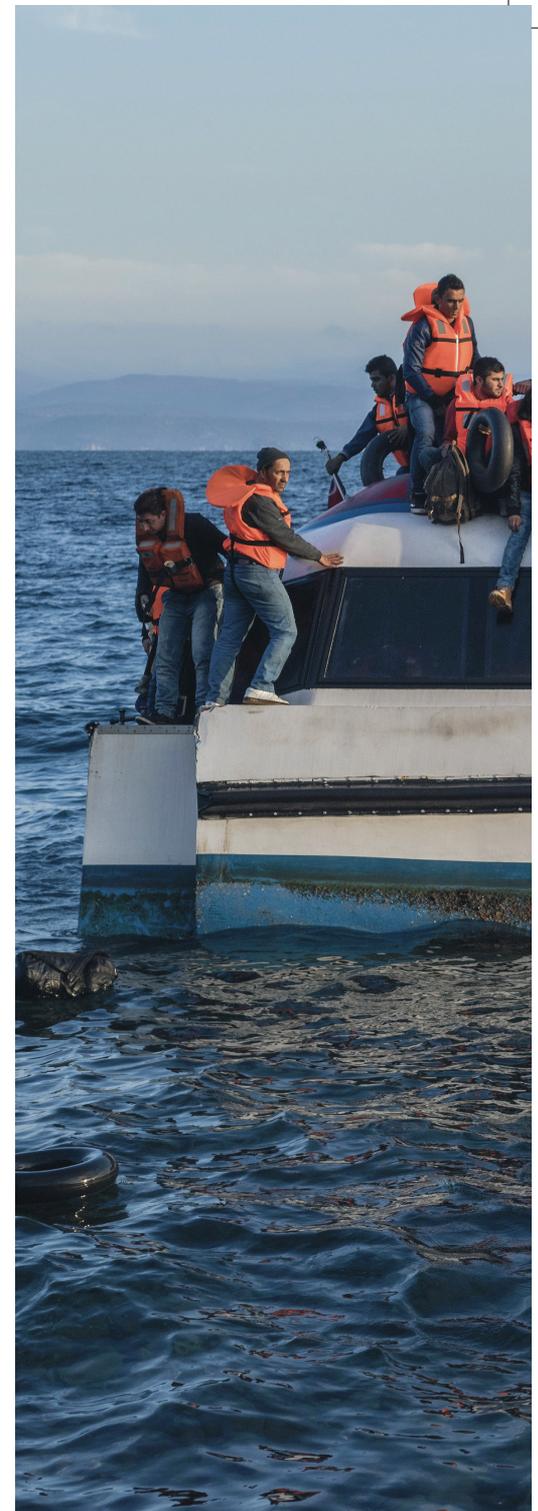
- 1. a provision for migrants' rights to be upheld, in the form of an appeals*
- 2. an explicit provision on mechanisms which enhance financial investigations option, in cases where migrants' application for asylum is rejected; and undertaken for the purpose of freezing and confiscating the assets of migrant-smugglers.*

Over the past three years, the European Union (EU) has seen an exponential rise in the smuggling of migrants and asylum seekers into the EU, which has raised both security and human rights concerns. As a consequence, the EU is looking to implement policies that can effectively deter criminal smuggling, whilst ensuring the rights of smuggled migrants are protected. This Policy Paper will address the effectiveness of the EU legislation to adequately address migrant smuggling in the EU, focusing specifically on the legislation's provision to uphold the rights of migrants and financial deterrence mechanisms, and suggest two changes to the existing legislation to promote the EU's ability to meet its policy objectives.

In the face of rising political and regional insecurity, paired with selective and lengthy asylum and migration processes, migrant smuggling has become a growing and pressing issue for the EU. The number of people being illegally transported into the EU has exponentially risen over the past three years. As an example, according to the International Organization for Migration (IOM), more than 920,000 migrants arrived into the EU by sea between January and November 2015, compared with 280,000 detections by land and sea for the whole of 2014. Moreover, these figures do not include

those who entered the EU undetected. Many of these migrants enter the EU with the assistance of migrant smugglers. In 2014 around 80% of migrants illegally entering the EU from Africa were assisted by smugglers. However, entering the EU with this assistance is extremely dangerous. Migrants and asylum seekers are often subject to significant human rights abuses and dangerous conditions, and the possibility of death as a result of these conditions is high. The United Nations Office on Drugs and Crime estimates that 1000 people lose their lives each year crossing from Africa to Europe by sea, and that in May 2011, for example, 61 people died of dehydration and starvation on board a boat in the Mediterranean Sea. This figure is insignificant compared to the recent mass irregular migration from Syria and neighbouring countries in Europe. The IOM estimates that over 3000 migrants lost their lives in the Mediterranean Sea in 2014, and around 1700 are thought to have drowned in the first four months of 2015.

It is therefore difficult to monitor by the EU and its member state authorities, not least because the criminal migrant smuggling operations currently in existence are illegal. In addition, the EU and its member states previously lacked the necessary mechanisms to provide a comprehensive response to the issue of



migrant smuggling. In response, the European Commission adopted the “European Agenda on Migration” and the “European Agenda on Security” to promote more effective measures to prevent migrant smuggling.

- The European Agenda on Migration, which was adopted on 13 May 2015, identified the fight against migrant smuggling as a priority, to prevent the exploitation of migrants by criminal networks and reduce incentives to irregular migration. This set the goal to transform migrant smuggling networks from 'low risk, high return' operations into 'high risk, low return' ones.



- The European Agenda on Security, adopted on 28 April 2015, singled out cooperation against the smuggling of migrants inside the EU and with third countries as a priority in the fight against organized crime networks.

These measures were consolidated in the “EU Action Plan against Migrant Smuggling”, which outlined the four specific actions (each with their own specific sub-actions) that the EU will undertake over the next five years: 1) Enhanced police and judicial response; 2) Improved gathering and sharing of information; 3) Enhanced prevention of smuggling and assistance to vulnerable migrants; 4) Stronger cooperation

with third countries.

These initiatives are intended to provide concrete actions to counter and prevent migrant smuggling, while ensuring the protection of the human rights of migrants. These rights are set out in the Council Directive 2004/83/EC, which enacted a common EU policy on asylum and a minimum standard for the rights of individuals seeking asylum in the EU. The European Commission has worked to ensure it is based on a multidisciplinary approach, involving actors and institutions at local, regional, national and international level, and covers all phases and types of migrant smuggling, and all migratory routes. The Action Plan came into immediate effect from May 2015.

In reviewing the issue of migrant-smuggling, the King’s Think Tank believes that the EU Action Plan fails to address the issues of appeals for negative decisions in asylum applications as well as the classification method for confiscating smugglers’ assets. The European Agenda on Security and the European Agenda on Migration do not adequately address the rights of migrants to appeal rejections of their applications, and this may act as a barrier to genuine humanitarian cases.

Including a provision that reinforces Council Directive 2004/83/EC will ensure that member state authorities are well informed of the legislation focusing on rights of refugees and have a process to

to regulate cases of administrative error. Additionally, the Action Plan neglects to address the nature by which member states' policing and financial authorities can freeze and confiscate migrant smugglers' assets, thereby potentially allowing national agencies to overstep their jurisdictions. This provision ensures that national authorities have a clear guideline for enforcing their actions.

Policy

1) To include a provision for migrants' rights to be upheld, in the form of an appeals option in the respective interior ministries of member states, in cases where application for asylums are rejected

By including this provision, action taken is in line with the EU Return Directive (Directive 2008/115/EC), which outlines the common standards and mechanism for returning illegally staying third country nationals in member states, whilst member states and application seekers are guaranteed that administrative error has not affected the judgment of their application. This ensures the Action Plan on enhancing the effective return as a deterrent to smuggling is upheld, while genuine humanitarian cases are not overlooked. The cost of this provision is low, as it requires a reminder of Council Directive 2004/83/EC whereby appeals are guaranteed to negative decision of seekers and the benefits are that genuine cases do not get ignored.

2) To include an explicit provision on how to enhance proactive financial investigation that aims to freeze and confiscate migrant smugglers' assets

The proposed Action plan of depriving smugglers of their profits promotes the EU's objective of transforming migrant smuggling into a high-risk and low-profit operation. However, the detection mechanism for smugglers' proceeds lacks substance and does not address how authorities could freeze or confiscate the bank accounts of smugglers' in the EU, member state or



or third countries. By establishing concrete classification methods, financial investigative units like the National Asset Recovery Offices and CARIN (Camden Asset Recovery Inter-Agency Network) can effectively disrupt the smugglers' business model and increase the cost of operation significantly. This reduces the avenues by which profits are stored and/or laundered, whilst clarifying the enforcement mechanisms for police and financial agencies.

The two policy recommendations focus on the immediate impact of the Action Plan, however, the King's Think Tank believes their implementation will ensure that the EU's Action Plan approaches migrant smuggling in a holistic manner.

By reinforcing the directives on asylum seekers and their right to appeal, the EU continues to guarantee that the rights of migrants are upheld and human rights standards are enforced in the long run within the Action Plan. This expresses continuity in the EU's status as a human rights guarantor and sets the norm for asylum-hit nations to follow. Similarly, by clarifying the conditions for which the EU and member state authorities can freeze and confiscate the assets of smugglers, the EU establishes the limits for this procedure, ensuring clarity in the bureaucratic procedure and provides a

protection mechanism against the overstep of authorities.

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Energy Union, Market, Design

Rocky Howe & Hilary Manning

Policy Recommendations: *The King's Think Tank recommends that the European Union incorporate into its Electricity Market Design:*

- 1. Provision of consumer-facing rebates for energy costs, adjusted to three criteria: (1) achievement of energy efficiency and consumption reduction goals by consumers; (2) the average energy consumption for the household or firm size in question; and (3) changes in market price for electricity.*
- 2. Reduction of complexity for consumers through the means of: (1) availability of pricing comparison tools to consumers alongside relevant information on their own consumption patterns; and (2) limiting demand response mechanisms to large industrial end-users.*

The European Union, according to the European Commission (2013) is the world's second largest economy and consumes one fifth of the world's energy. Moreover, its energy sector accounts for 80% of the EU's greenhouse gas emissions. In recognition of this, Europe has set itself an objective that one-fifth of energy consumed in the European Union in 2020 should come from renewable sources. In addition, Europe has undertaken to reduce its greenhouse gas emissions by 40% of 1990 levels by 2030 and to increase that figure to 85% and even 95% by 2050 (European Commission, 2013; Paris Climate Conference, 2015)

Europe's wholesale energy market is currently supply-driven. Although the energy preference and composition of each member-state varies, the base-load power stations supply the majority of electricity. These are power supplies that consistently generate electricity to satisfy minimum demand, notwithstanding any variations in the supply of renewable energy.

The wholesale electricity price reflects that, such that, when there is an over-supply, the wholesale price decreases. In August 2014, for example, DG Energy reported that: "due to the high amount of solar and wind generation, good hydro availability and significant nuclear power generation in France coupled with lower demand, there

were negative hourly prices in several wholesale energy markets in Central Western and Central Eastern Europe, and in Germany even the daily average price fell below zero" (DG Energy Quarterly Reports, 2014).

However, no one makes money from a negative price period, and consequently there is no financial incentive to continue to invest in anything which may cause a variable over-supply in the market.

Peak power stations, on the other hand, exist to supply peak demand, and only produce electricity when there is such demand. These can command higher peak prices, such that there is more incentive to invest in these power supplies, but the peak demand is, as its name suggests, only at peak times. The question is, how can we redesign the electricity market to better incorporate renewable energy as the base power source, given that climate, social and political imperatives make the inclusion of renewable energy into the core supply market absolutely necessary.

The European Commission's Directorate-General for Energy undertook a public consultation on the New Energy Market Design in October 2015, recognising that distribution grids "must make it possible to use electricity in a more flexible way so that peaks in demand can be better managed and must allow for individual micro-generation" (European Commission,

2013), and that the electricity market design be configured to allow for the variable supply of renewable energy. This public consultation sought feedback on:

- I. improvements to market functioning and investment signals;
- II. market integration of renewables;
- III. linking retail and wholesale markets;
- IV. reinforcing regional coordination of policy making, between system operators and of infrastructure investments;
- V. the governance of the internal electricity market; and
- VI. a European dimension to security of supply.

Most stakeholders who responded to the DG Energy's consultation on the State of the Energy Union supported the full integration of Renewable Energy Sources into the market, through full balancing obligations for renewables, phasing-out priority dispatch and removing subsidies during negative price periods. Stakeholders also agreed that scarcity pricing replacing current regulated prices would be critical to future market design, enhancing competitiveness even if it risks price volatility (DG Energy, 2015).

However, simply removing subsidies

and enabling scarcity pricing, so as to integrate renewable energy sources into the market mechanism, could lead to potential negative effects such as increased prices for consumers. This has a flow-on effect, as the complex market design does not encourage consumers to be more efficient in their use of energy. Behavioural research done by the European Commission has shown that complexity and informational effects in supplier choice often results in poor consumer choice over energy suppliers, and does not encourage energy-efficient behaviour.

Policy

- 1) Provision of consumer-facing rebates for energy costs, in the form of a lump-sum monthly rebate provided to consumers (both individuals and SMEs), adjusted to three criteria:
 - a. Achievement of energy efficiency and consumption reduction goals by consumers;
 - b. The average energy consumption for the household or firm size in question; and
 - c. Changes in market price for electricity.

Scarcity pricing which reflects actual demand and supply price formation, while increasing competitiveness in the market, would result in price increases hurtful to consumers. As such, alternative measures to price regulation that have the same effect of keeping energy affordable for the consumers are necessary.

Providing rebates direct to consumers do not have the same market distorting effects of price regulation. Behavioural research show that vulnerable and financially disadvantaged household consumers tend to significantly limit their energy use, for example, restricting heating to one room. A rebate tiered to the average household consumption would, in such cases, serve to help the disadvantaged marginally increase their energy use. It also visibly highlights to consumers who are over the average consumption for their household type, the need to reduce consumption.

2. Reduction of complexity for consumers through the means of:
 - a. Availability of pricing comparison tools to consumers alongside relevant information on their own consumption patterns; and
 - b. Limiting demand response mechanisms to large industrial end-users.

The EU needs to make the availability of pricing comparison tools compulsory to consumers alongside relevant information on their own consumption patterns. EU policy should also continue to focus on increasing energy efficiency, reducing the energy consumption of consumers, and limiting demand response mechanisms to large industrial end-users.

Consumers make poorer choices when given greater amounts of information and administrative complexity in the choice of buying and using a service. Research undertaken by the European Commission (2016) has shown that “current market arrangements do not effectively encourage or enable energy-efficient behaviour”, being linked to a number of factors –

- Lack of availability of clear consumer information in electricity bills;
- Non-optimal choices when the price structure of electricity offers is complex (for example, 11% drop in choice between least and most complex), with great variation in the use of price comparison tools across member states; and
- Consumers exhibiting inertia or status quo bias leading to non-switching.

This contributes to significant consumer vulnerability in the energy market, which increases with certain demographic characteristics, such as age, level of education and the population density of the region in which they stay. These characteristics further impact consumer access to the information necessary for helping them make better choices. A potential way to redress such vulnerabilities is the inclusion of mandatory price comparison tools

(presented in a simple and understandable fashion) tagged with information about consumption patterns accompanying the bills.

A further complexity in the energy market is tied to the demand response mechanism, where consumers are paid to reduce consumption during peak periods. A recent Deloitte report (2015) highlighted that, while intra-day and balancing mechanisms may stimulate demand response, these mechanisms are complex and provide little incentive for small end-users to participate in the market. The EU’s preliminary consultation similarly showed that the potential of demand response lies with industrial end-users. Allowing demand response for small household consumers and even SMEs therefore unnecessarily increases complexity and transaction costs.

All of this is detrimental to achieving the EU’s vision of an Energy Union “with citizens at its core, where citizens take ownership of the energy transition, benefit from new technologies to reduce their bills, participate actively in the market, and where vulnerable consumers are protected” (European Union, 2015). This vision sets up expectations of consumers who are able to make comparisons and know their contractual terms, expectations which actually disadvantage the demographic who are in financial difficulties, lack access to internet or other comparison services.

As such, the King’s Think Tank recommends that the EU’s Energy Market mechanisms and choices should be simplified to the benefit of consumers. This will also support the realisation of the EU’s Energy Consumer Rights and Protections, in which there is clear contract information and right of withdrawal, accurate information on a person’s consumption and billing based on it, and information on how to use energy more efficiently and on the benefits of using energy from renewable sources.

Hilary Manning and Rocky Howe are, respectively, the incoming President and Editor-in-Chief of King’s Think Tank for the year 2016/7.

Youth unemployment, Labour mobility, and your first EURES job

Alexander Botashev

Policy Recommendations: The King's Think Tank recommends the EU's future measures on intra-EU mobility include:

1. A recommendation in the Youth Guarantee to increase funding across all EU
2. A provision in the Youth Guarantee that seeks to combat indirect member states for higher quality vocational education and training and intra-EU apprenticeships; and discrimination across the EU in accordance with Council Directive 2000/78/EC by utilising the National Reform and Stability Programme to the EU.

The European Union is facing a consistent youth unemployment problem. Compared to 9% of overall unemployment, rates of youth unemployment range from more than 23% in 2013 to less than 21% today, with peaks of more than 40% in some countries. Furthermore, more than 7 million people in the 15-24 age group are neither in employment or in training. Job mobility is a possible solution to this problem. And it is with this in mind that this policy paper seeks to fashion a stronger youth employment scheme across Europe in terms of reaching training and intra-EU apprenticeships, promoting stronger employment, as well as ensuring indirect discrimination can be properly combatted with the existing legislation (2000/78/EC).

In the face of sustained youth unemployment, paired with the recognised mismatches in the labour market, the EU has been pressed to find a solution. The Youth Guarantee, its response to the issue, was endorsed in April 2013, and is based on the Finnish and Austrian model which resulted in an 83.5% success rate in job-finding or placement in an apprenticeship or further education in those member states.

The EU believes the Youth Guarantee is crucial in solving labour-market deficiencies across the EU, by "making young people aware of job offers, traineeships and apprenticeships and available support in different areas, regions and countries". This



programme is designed to encourage young workers to get the skills they need – at home or abroad – and thus be able to come into employment abroad. This is supported by the 2013 UN World Youth Report, which notes that higher-skilled, more educated labour is more likely to get a job abroad, and that educational and skills profile plays a big role in employment outcome. Thus, programmes like the Youth Guarantee, which teach these skills, are paramount

in securing labour mobility.

The EU's Youth Guarantee offers promising solutions to a persistent problem, and represents significant savings. The plan will cost an estimated €21 billion a year (International Labour Organisation), compared to the cost of inaction – in terms of welfare and other transfer payments – of €150 billion a year. Nonetheless, there remain ongoing structural problems with the implementation and success of this

this venture, ranging from youth preference, employment discrimination and national training schemes.

Firstly, young Europeans are reluctant to move. For example, in the USA in 2011, 3.0% of US citizens lived in another state the year before, contrasted with only 0.3% of Europeans who lived in another member state the year before. This is supported by the overall statistics: across the EU only 3% of adults currently live in another member state.

Secondly, there is often a mismatch between the supply of labour market skills and demand for those skills in that country. There is a need to fill this void across Europe and move to a system that solves the problem of youth unemployment and increase job mobility. However, the current programme to increase mobility, EURES, has had little impact. Between January 2009 and November 2012 the number of people from Portugal, Spain and Greece that signed up to EURES increased from 60,000 to 300,000, but only 5,000 jobseekers found work through the programme.

Thirdly, structural reforms in public employment services are necessary for some member states to provide advice on the services provided by the national governments under the scheme. One of the main successes of the Guarantee so far is the use of apprenticeships and traineeships. However, member states must ensure skills are being taught to jobseekers in these apprenticeships and vocational education and training schemes.

Fourthly, there is a trend towards establishing employment conditions that potentially discriminate the employee. Private-sector initiatives have seen a greater number of people educated in the field than the public sector, which has surely increased mobility. However, some of the work schemes work as 'stepping stones' only, like 'zero-hours contracts' in the UK, and the system must be monitored properly to avoid employment traps and a more volatile labour market.

To prevent incidences like these, the Directive 2000/78/EC exists as a major part of the employment equality framework that makes up the EU's labour law. It aims to combat discrimination in terms of gender, disability, sexual orientation, religion, and age. This directive serves as a

cornerstone for equal worker rights. However, the 'age' clause of the legislation is rarely used as a reference, and the wording of the clause is highly ambiguous – allowing for volatile and changing indirect discrimination to appear across the EU. In addition, a major problem in clause 6 of the directive is that the definition of 'legitimate aim' is broad and leaves room for indirect discrimination, leading to irregularities in the labour market and further youth unemployment. Thus, extra measures must be taken in order to safeguard workers from age-based discrimination.

In reviewing the issue of Youth Employment Mobility, the King's Think Tank believes that while EURES is an efficient and effective scheme in the long run, it is not spurring labour mobility in the short run. As such, the King's Think Tank believes the Youth Guarantee should focus more on developed and comprehensive apprenticeship and traineeship schemes while ensuring the workers' rights to lack of discrimination.

Policy

1) A recommendation in the Youth Guarantee to increase funding across all EU member states for higher quality vocational education and training and intra-EU apprenticeships.

According to the Directorate General for Internal Policies, "apprenticeships and training in the private sector seem to create more permanent jobs than those in the public and not-for-profit sectors. More specifically, labour market outcomes for apprentices in company-run apprenticeship schemes are better than for those engaged in apprenticeships or traineeships provided as part of a government scheme in a training centre (school-based apprenticeships)."

As such, the Youth Guarantee programme should seek to allocate funds to this area of traineeships specifically so to increase mobility across Europe for these schemes as well as educate the workforce to a higher degree.

2) A provision in the Youth Guarantee that seeks to combat indirect discrimination across the EU in accordance with Council Directive 2000/78/EC by utilising the National Reform and Stability Programme to the EU.

The existing legislation (2000/78/EC) is ambiguous in nature in Article 6 with regard to 'legitimacy'. By recommending an oversight element that reinforces directive 2000/78/EC the European Commission will be able to ensure that member states are conforming to the directive correctly and, if not, take punitive measures at their discretion. This will combat indirect discrimination based on age.

In addition, by monitoring the output from each individual nation annually, the EU will be able to prevent schemes like zero-hours contracts from becoming merely a 'stepping stone' in employment, and will solidify the workings of the Youth Guarantee. In submitting this form, the EU can monitor, oversee and urge member states to integrate the economic and social objectives when creating flexible and reliable contracts.

Sources:

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E-democracy, Youth engagement, and secondary school

Sofia Kebede

Policy recommendation: The King's Think Tank recommends the mandatory inclusion of EU studies in all member state secondary schools, as a series of workshops, to provide foundational knowledge of EU institutions and processes and thus enhance greater citizen interest and involvement with the EU.

There is a recognised need to reduce the wide gap between citizens and European institutions, in order to address the lack of civic participation (European Civic Forum, 2016). This is a pressing problem for the functioning of the EU, as it represents an obstacle to the channels of democratic participation for European citizens, and exposes the issue of the lack of civic participation in EU decision-making processes.

This is why the King's Think Tank calls for the mandatory study of the EU on the national curriculum of all EU member states, making it a statutory requirement in all state secondary schools. In doing so, this will provide a foundation of knowledge through which greater citizen interest and involvement in the EU decision-making processes can exist. The EU recognises there is a strong perception that the European Union is undemocratic, and that its institutions supposedly suffer from a 'democratic deficit' (Eur-Lex). This democratic deficit is primarily centred on the structure of the institutions, in which the governance of the European Council, European Parliament and European Commission is considered to lack the democratic legitimacy otherwise conferred on its national counterparts through civic involvement.

The EU has undertaken numerous reforms throughout its history to address this democratic legitimacy, for example:

- Direct suffrage of European Parliamentarians to the European Parliament, the EU institution responsible for legislation within the EU and

and with direct executive oversight of the European Commission budget

- Creation of the (co-decision) ordinary legislative procedure, shared between the European Council and European Parliament, which is the main legislative procedure by which directives and regulations are adopted in the EU
- Creation of the European Citizens' Initiative, designed to increase direct democracy by enabling EU citizens to participate directly in the development of EU policies (through raising a petition of no fewer than 1 million signatures), and
- Creation of the EU Transparency Portal, which provides European citizens with an online window into information on how the EU prepares decisions, who participates, who receives funding from the EU budget, and what documents are held or produced to prepare and adopt the legal acts.

In addition, the EU has sought to promote civic associations and develop the notion of e-government and e-democracy. In 2009, Ministers responsible for eGovernment policy of the EU member states, the candidate countries and the European Free Trade Area, unanimously agreed to announce the Malmö Ministerial Declaration (2009), in which Ministers agreed that by 2015: "European public administrations will be recognised for being open, flexible

and collaborative in their relations with citizens and businesses...They (will) use eGovernment to increase their efficiency and effectiveness and to constantly improve public services in a way that caters for users' different needs and maximises public value, thus supporting the transition of Europe to a leading knowledge-based economy." The European Commission's eGovernment Action Plan 2011-2015 builds on the Malmö Declaration, to help national and European policy instruments work together "supporting the transition of eGovernment into a new generation of open, flexible and collaborative seamless eGovernment services at local, regional, national and European level" (European Commission, 2015). The Action Plan identifies four political priorities to support the provision of this new generation of eGovernment services, through:

1. Empowering citizens and businesses
2. Reinforcing mobility in the Single Market
3. Enabling efficiency and effectiveness, and
4. Creating the necessary key enablers and pre-conditions to make things happen.

The European Commission is currently developing the new eGovernment Action Plan 2016-2020, which is expected to address the current and future needs, requirements and expectations of European citizens and businesses with respect to the delivery of effective, efficient and user-friendly government services in the EU.

As outlined in the European Commission's eGovernment Action Plan, the diffusion of technologies is raising the expectations of citizens and businesses for user-friendly services, greater transparency and participation in policy- and decision-making. At the same time, the European Civic Forum, a civil interest organisation, works to bring together over 100 associations and non-government organisations across 27 countries in Europe to promote civic and popular ownership of Europe. Its 'Plan C for Europe' initiative seeks to build on 'citizenship, civic engagement and citizens' consultations' (European Civic Forum, 2016), recognising the need to construct a sense of belonging to a political community with shared values and rights in the EU.

However, these reforms are meaningless when European citizens remain generally ignorant of the EU's structure, decision-making processes and potential routes for civic involvement in EU decisions. Decisions made at the European level need to reflect the interests of the European civilians themselves, but this can only be done through the genuine involvement of citizens within the framework of political dialogue and deliberation. This is difficult to achieve when "seven-in-ten Europeans (71%) express the view that their voice does not count in the European Union" (Pew Research Center, 2014) amidst the "bureaucratisation of Brussels" (Wessels and Maurer, 2003: p. 43).

This issue is recognised by civil interest groups themselves – European Civic Forum notes how an attempt to construct "a sense of belonging to [a] common cause" is fundamentally missing within the European region (European Civic Forum, 2016). Also, in 2014, there was "declining public trust in the European project" triggered by the recent economic crisis, thereby further hampering the goal of the EU to "establish an ever-closer cooperation among nations" (Pew Research Center, 2014).

What is missing is the foundation on which European citizens can engage with the EU decision-making processes – the foundational education of civilians on the basic functioning of the EU and its institutions. The EU's desire to increase participation and interest in EU affairs

rests upon the assumption that citizens are already informed on the basics of such a body. However, without the foundational knowledge, these mechanisms cannot be exploited to their full potential. This problem primarily resonates in the ignorance of European citizens about the EU. The European Elections Study of 2009, which questioned European citizens of their knowledge of the EU, produced an average score of 2.05 (European Elections Study, 2009). This exposes the lack of understanding of the very union, which constitutes a significant part of the political-economic context encompassing their region.

Policy

In response to this issue, the King's Think Tank proposes the mandatory study of the EU in all secondary schools of EU member states. This can be achieved through a series of workshops within each member state national curriculum. This will build the foundation on which such mechanisms, civil societies and the like, can be strengthened, and correlates with the EU's current policies seeking to create greater integration and fix the 'democratic deficit'.

There are a number of advantages to how this policy could deliver better understanding of the quality of the EU's work:

- Firstly, with regards to a cost-benefit analysis, the implementation of a mandatory study of the EU comes at no direct cost. The policy is effectively accessible and meaningful to all member state citizens, providing a basis on which all citizens build their opinions and needs. Not only does this policy apply universality and equality among European citizenry, it also creates "a new element of European citizenship beyond the right to vote" (European Parliament, 2011: p. 1).
- Secondly, the teaching of such an important union will facilitate greater accountability in the long run, as well as a European identity, which lies at the heart of the Union's longevity. By increasing the visibility of the EU, there is more potential to foster common values,

thereby deepening the integration between nations. The mandatory study provides a bottom-up approach to dealing with the growing gap between the two groups and empowers those who effectively should dictate the union.

- Thirdly, the education of the young European citizens will generate the circulation of information among citizens. Citizens are more likely to exchange information and opinions on the EU once educated about it, which creates greater awareness and civil learning.
- Fourthly, it will produce more-engaged and better-informed voting, particularly by younger European citizens, which can only lead to more benefits in the future, dismissing misguided votes. Additionally, such policies will only further the success of policies such as e-democracy. The idea of e-democracy, in particular e-participation, cannot function properly without such basics, which can easily be answered by the inclusion of EU studies at a suitable age within schools.

Most importantly, there is huge potential for these policies to serve as a positive impact on European politics through greater accountability, dialogue, and the building of a European identity, and holds great potential as a means to advance political communication.

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Can Gove solve the prison crisis?

Last summer, Michael Gove received widespread praise in response to speeches made in his new capacity as Minister of Justice, making public the problem of the state of prisons in England and Wales. Addressing the Prisoners' Learning Alliance on 17th July, he identified that the 'prison estate is out of date, overcrowded and in far too many cases, insanitary and inadequate.' Gove has also begun to suggest how he feels the system may be improved, including lifting the ban on the number of books prisoners may own, increasing the number of pro bono hours lawyers work to enhance the failing legal aid system, and scrapping inner-city Victorian prisons for in favour of modern replacements. Gove's speech led Frances Crook, director of the Howard League for Penal Reform, to refer to Gove as 'a breath of fresh air', following the archaic and populist policies of Chris Grayling. Whether Gove's problematisation of the crisis is correct, and whether his suggested policy changes will be successful in solving the issues remains to be seen. This recommendation will track Gove's progress since this speech, and propose various alternatives to his thoughts and policies.

Admitting that you have a problem is always the first step to solving it, and Michael Gove has done exactly that. This immediately represents a fundamental break from the stewardship of Chris Grayling, who was

unwilling to admit to a crisis in English and Welsh prisons, despite an overwhelming body of evidence showing that this was the case. Rates of violence and suicide rates are at their highest for 7 years, and prisoners are spending less time out of their cells; both problems are exacerbated due to vastly reduced staffing. This means that there is less time for prisoners to train or work; an essential part of the rehabilitation process. Bringing this crisis to the attention of the public is vital exposure for a public service that is largely ignored by the public. The media focus on prison violence and prison gangs goes to show that beyond morbid curiosity, the public by and large ignore prisons; the welfare and rehabilitation of prisoners is rarely a burning topic of conversation in the media or parliament. If we are, as the Chancellor says, to fix the roof while the sun is shining, prison roofs should be high on the agenda.

Although Gove must be praised for finally bringing these issues to the fore, his ideas to better prisons require scrutiny. Many of the policy ideas he posited in his speech leave much to be desired in that many seem difficult to implement, and others would cause further harm to prisoners' welfare and prospects. The first of these policy ideas is the sale of inner-city Victorian prisons and the construction of new, better-equipped facilities in rural locations. Gove is right to recognise the shambolic state of many of these Victorian prisons (he mentions

Pentonville at length), because their poor condition facilitates nefarious activities such as drug taking and violence.

However, this policy has been slammed by Frances Crook, Chief Executive of the Howard League for Penal Reform and others on a number of counts. Some of the land on which the Victorian, inner city prisons are housed belongs to landlords, not the government, so the money yielding from their sale to property developers would not unlikely be sufficient for Gove's plans. Moreover, Crook explains that new facilities would have to be built before the old prisons were emptied. This raises further money problems for this proposal. Since Gove's proposal to build new prisons in the stead of ageing inner-city facilities, the Chancellor has approved a plan to build nine new prisons. The Ministry of Justice are able to sell the land vacated by these prisons to property developers to build 3,000 homes, but that is not to say that the money raised by selling the land covers the cost of the new prisons.

The project has been made economically viable by Osborne and, whilst Gove states that the new prisons will design out 'the dark corners that facilitate bullying, drug-taking and violence' the question as to whether new buildings will help solve more fundamental problems (namely overcrowding and understaffing) remains to be seen. In fact, Oliver

Wainwright has flagged concerns about the design of the new prisons, likening them to Jeremy Bentham's infamous Panopticon, placing a number of cell blocks in a circle around a central point. The purpose of this design is to make the prisoner feel constantly watched with the fewest staff possible, and has been dubbed 'The Haunted House of Jeremy Bentham' by Gertrude Himmelfarb, and similarly criticised by many others.

Grayling's introduction of scandalous court fees (£150 for a guilty plea and £1200 for a not guilty plea if found guilty) has given those without the financial means to risk £1200 an incentive to plead guilty to crimes they have not committed. The Secretary of State for Justice has since launched a review into all court-ordered financial charges, a welcome about turn in Conservative justice policy. However, Gove's suggestion is that wealthy lawyers should give more pro bono hours to compensate for a creaking legal system, and vast reductions to the legal aid budget have left many wishing to take legal action unable to do so. A knock-on effect of legal advice becoming less and less available under Conservative governments is that members of the public are being forced to represent themselves, clogging up the legal system and making it less effective. Gove's proposal to have "fat cat" lawyers increase their pro bono hours fails to differentiate between different areas of law. In saying that lawyers who have 'done very well' need to repay the legal system, Gove is actually singling out corporate firms, that do not necessarily specialise in areas of law that legal aid would cover. Financially, the criminal bar has been put under significant financial pressure due to cuts to legal aid and, as Angus McBride, a criminal barrister says, 'asking City law firms to do pro bono work in areas in which they do not practice is not the solution.' Simply put, legal aid needs more investment to provide comprehensive service as 'pro bono is never a substitute for a properly funded system of legal aid'. Moreover, this system would benefit from offering higher-paid jobs to its employees, attracting talented legal minds away from other, better-paid areas of law. One of Gove's key ideas on policy, however, regards earned release, a

strategy by which prisoners that show academic commitment and a 'wish to contribute to society' would be rewarded with privileges whilst serving their sentences, and ultimately early release from prison.

This policy is at odds with how the prison service is being run, with a large proportion of those imprisoned serving short sentences unable to complete courses and overcrowding, coupled with a clear lack of staff would make it very hard to implement educational change in prisons.

Furthermore, Gove bemoans a lack of innovation in the prison service, particularly in the education of prisoners. He blames this on a lack of autonomy given to prison governors, and also believes that involving other organisations in the prison service (from education to even managing prisons) would improve the service the Ministry of Justice can give. Giving governors more autonomy would create a disparity between different prisons. This is unfair, and would be a sore point for prisoners in institutions with education facilities that do not suit their needs. Rob Allen explains 'I'm not sure I'd like to stay in a prison longer because a Governor has not provided the opportunities for me to undertake the courses need to qualify for early release [sic].'

The involvement of private enterprise in prisons is a deeply worrying turn in regard to prison policy in England and Wales. Regardless of any innovation Gove claims businesses could bring to prisons, any incentive for profit is a highly dangerous concept to entertain in such an area of government. Private companies have an interest in the prison population remaining high, because the more prisoners there are, the more business they are able to do. This is harmful to a society that wants to see levels of crime and imprisonment reduced. Moreover, the level of service private prisons are likely to give is poor, as 'they exist solely to make a profit off of incarcerated individuals... cutting operating costs wherever possible.' One need look no further to see the negative effects of privatisation than the recent Panorama report into G4S's malpractice at Medway Secure Training Unit in Rochester, where officers physically and verbally abused the teenaged inmates, and doctored reports on violence in the institution to

to avoid fines from central government. The aforementioned policy ideas Michael Gove has put forward seem overly ambitious once one has taken the government's budget into account. Cutting £249m from its budget in 2015/16, following a £500m cut the previous year, the Ministry of Justice is facing basic problems with its facilities, legal aid and overcrowding that would inhibit more nuanced and helpful policies from coming to fruition. Either giving NOMS enough money to treat prisoners fairly or reducing the prison population sufficiently so the current budget can serve the remaining prisoners adequately are the only solutions that will truly improve prisons in England and Wales.

Alternatives to custodial sentences would help address the grave problem of overcrowding in English and Welsh prisons not only by freeing up the Ministry's budget, but by having fewer prisoners to tend to. If judges used community sentences more frequently the Ministry of Justice, and the British taxpayer would save "a fortune". As Rob Allen suggests, shortening prison sentences would also help alleviate overcrowding. An example of how pressing this issue is can be seen in the Independent Monitoring Board's annual report for 2014, in which the most salient point was that prisoners are, in some instances, sharing cells between three people that are designed for one or two. Reducing overcrowding would not only alleviate the squalid conditions prisoners are often subjected to, but would also enable more meaningful activity in prisons across the country.

There is also good evidence to suggest that other forms of rehabilitation provide better support for offenders than imprisonment, and also save taxpayers' money. The Ministry of Justice's Compendium of reoffending statistics in 2011 (doing unpaid work in your local community) cites an 8.3% lower rate of reoffending for those that served community sentences than offenders serving short custodial sentences. Using these alternative methods of dealing with crime that reduce the prison population is the easiest way of dealing with the failing prison estate, caused mainly by the understaffing and overcrowding in prisons, not merely renewing the facilities themselves. As Frances Crook notes

'it' s not prison buildings that make a difference; it' s what happens inside.' In sum, Michael Gove has a long way to go in solving the crisis that faces prisons in England and Wales. Despite the review into court charges for defendants, the legal aid system will remain to flounder without much-needed investment. Furthermore, the potency of his large-scale prison building project is compromised by the persisting fundamental issue of overcrowding and understaffing, which he failed to mention in his speech. With the Ministry of Justice facing deeper cuts and no relent of new offenders entering the prison system, this crisis looks very unlikely to be solved. Reducing the number of prisoners and increasing staff numbers is the first stumbling block for prison reform, and without addressing this problem other attempts of penal reform will be greatly hindered.

Will Farmer is a final year History undergraduate and has worked in African prisons.

Editor's Note

When I started putting together this journal, I was not going to write an editor' s note – I wanted the collective work to speak for itself, which I believe it does.

But, in the end, being the vain peacock that I am, I thought I might allow myself this final page for some rumination.



This is, I think, the best of the Think Tank publications so far. Not because of me, but because of the team assembled and the contributions they made. We have, in, I think, a break from the past, not just addressed the obvious issues, but also those of the future, whether that is basic income or e-democracy – and of that I think we can be proud. Students are the policymakers of the future, and so we should be thinking boldly.

The edition for this year – the class of 2015/6 – is also more obviously political, and progressive, than previous editions, and this was certainly a deliberate approach. In our quest for impartiality in previous years we certainly put people off – what student is really impartial – and I wanted to rectify that this year. Students tend to be on the left, and so their policy prescriptions are likely to be the same. There is no shame in that. This issue might be a little too leftie for some, but, as those who know me will attest, there was never really a chance of anything else happening once I was elected Editor-in-Chief last May.



Some of the contributions this year are fantastic. I think Steven Male' s interview with Dr. John Bew and the responses to academics by Matt Polacko and Joris Buckler are particularly interesting, as well as well written. If you didn' t read those first time round, I heartily recommend going back to them.



I' m writing this note two days after the Labour MP Jo Cox was gunned down in her constituency, and in some way re-reading the journal and designing the final bits of it has been a welcome kind of therapy to that. This year we have

contributions about liberalising patents, helping refugees and solving the problems of the Middle East, all things about which Cox was passionate. I am sure no more than a few hundred will read this journal – if only because that' s the print run we can afford – but I hope that our small, perhaps idealistic contribution, to the world of progressive policy, might help in some small way to solve the problems that she spent her life trying to alleviate.



Putting together this journal has not been easy. A designer flaked out on us, leaving me to design the bloody thing during and in the aftermath of my finals, and funding, as always, has been somewhat elusive. But, I want to thank everyone that' s contributed, and all those, particularly Margot, Erica, and Hilary, who have been so patient with me. The quality of the writing in this year' s journal is very high, and they allowed me to do it justice by giving me more time to complete than I perhaps should have been allowed. I, and all other members of the Think Tank, would also like to thank our Patron, Tim Hailes, who has supported the Think Tank for a long time now. Long may this fruitful relationship continue.



Thank you all, and good luck to all of those carrying on this endeavour next year, particularly Rocky Howe, our next Editor-in-Chief.

George Houghton,

Editor-in-Chief

