

**Vol. 6, No. 2  
May 2011**

# **CEU Political Science Journal**

**Department of Political Science  
Central European University**

**CEU Political Science Journal**  
**Department of Political Science**  
**Central European University, Budapest**  
**May 2011**

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## THE ROLE OF OPINION LEADERS IN THE DISSEMINATION OF MEDIA MESSAGES DURING THE PRE-ELECTION PERIOD: THE CASE OF BOSNIA AND HERZEGOVINA

Davor Marko  
University of Sarajevo

### **Abstract**

*In the analysis of the media landscape and media reporting on political candidates in Bosnia and Herzegovina during the 2010 general election campaign<sup>1</sup>, it was noticed that major media were affiliated to various political groups and openly advocated for or riled against voter choices. As a result, the media market of the country is characterized by a high level of segmentation between media which exclusively advocates a nationalist position and media which maintain a 'civic' orientation. These media organizations, according to their orientation, favor certain personalities that are deeply embedded in the favored national, cultural, or religious position. This paper examines the role of opinion leaders who represent dominant ethno-political groups in BiH via the dissemination of media messages during the pre-election campaign.*

**Keywords:** media, opinion leaders, clientelism, ethno politics, elections.

### **1. Introduction**

Bosnia and Herzegovina (BiH) is a divided society.<sup>2</sup> Many authors argue that religion is the main marker of difference between the

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1 General elections in Bosnia and Herzegovina were held on Sunday, 3 October 2010.

2 BiH is comprised of two entities – the Srpska Republic and the Federation of BiH – and the District of Brčko in the north, which is an autonomous unit and does not belong to any entity. In the Srpska Republic the majority of the population are ethnic Serbs, while in the Federation the majority are Bosniaks and Croats.

three constitutive peoples of BiH – Serbs, Croats and Bosniaks.<sup>3</sup> Religion, usually considered as a strongpoint for determining a group's collective identity, is reduced further to ethnicity and used by political elites as valuable political capital.<sup>4</sup> Post-Dayton BiH has been characterized by politically promoted inter-ethnic cleavages, weak state institutions and the absence of an integrative national ideology, such as that represented by "socialism" during the Yugoslav era.

The media follows the logic of ethno-political divisions and operates according to political affiliations to certain political options. The media market in BiH is segmented, while the audience is divided along ethnic lines and consumes only that media with whom they are affiliated.<sup>5</sup> Insisting on divisions, especially during election campaigns, political leaders and their parties are employing ethno-based rhetoric in order to stay in power. They consider the media as an important tool in the dissemination of their political messages during campaigns.<sup>6</sup>

This paper examines the link between the media and opinion leaders in BiH in the pre-election period in an attempt to identify the main factors that determine their interaction and the way media messages are interpreted as result. Opinion leaders will be

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3 Asim Mujkić uses a term Ethnopolis to describe the post-Dayton Bosnia and Herzegovina, while his colleague Dino Abazović equates ethno-politics with religious nationalism, describing it as the type of modernist paradigm that serves as a substitute for classic models of nationalism: civic and ethnic. See in: Asim Mujkić. *We, the citizens of Ethnopolis* (Sarajevo: Centar za ljudska prava, 2008), 23; Dino Abazović. *Za naciju i Boga [For Nation and for God]* (Sarajevo. Magistrat/CIPS, 2006), 17.

4 See in: Tarik Haverić. *Ethnos i demokratija [Ethnos and Democracy]* (Sarajevo: Rabic, 2006), 20 – 21; Vjekoslav Perica. *Balkan Idols: Religion and Nationalism in Yugoslav States* (New York: Oxford University Press, 2002); Srđan Vrcan. „Faith and State: the Exemplary Case of Former Yugoslavia“, *Transeuropeennes*, Vol. 23 (2003): 51-63.

5 Sandra Bašić-Hrvatini, Mark Thompson and Tarik Jusić, eds., *Razjedinjeni propadaju: Javni radio-televizijski servisi u multietničkim državama [Divided They Fall: Public Service Broadcasting in Multiethnic States]* (Sarajevo: Mediacentar, 2008), 81–118.

6 See in: Zoran Slavujević. *Političko komuniciranje, politička propaganda, politički marketing [Political Communication, Political Propaganda, Political Marketing]* (Beograd : Grafocard, 2009); Zoran Tomić. *Odnosi sa javnošću [Public Relations]* (Zagreb: Synopsis, 2008); Nail Kurtić. *Politički marketing [Political Marketing]* (Banja Luka: UPIM, 2007).

understood as described by Katz and Lazarsfeld being “the agents who are active media users and who interpret the meaning of media messages or contents for the ordinary audience(s)”.<sup>7</sup> For this reason, the ethno-national affiliation of both the media and politicians will be considered as a necessary indicator of how to perceive their engagement and mutual relations. Political and religious leaders in BiH also assume that the media are influential social tools for shaping and altering people’s choices. What makes their power even greater is the fact that the media is affiliated and embedded into the cultural, national and social milieu to which leaders belong. In light of this reality, this paper seeks to examine their mutual relations, tactics and trends in (mis)using the media in order to promote preferred political views and opinions. Thus the main research question is whether the personal characteristics of selected leaders, their social milieu, or the character of the media (meaning its political orientation) determine the media content and the way in which information in the media is interpreted. Therefore, I would like to stress out the importance of all three segments in an examination of opinion leaders’ roles. This is because of (a) a socio-political environment with dominant patterns of attitudes and behavior that promote authority and totalitarian interpretations<sup>8</sup>, (b) leaders’ significant visual, persuasive and personal qualities (that make the leaders attractive for both media and their publics), and (c) the way in which certain media are affiliated to certain political options within BiH. I analyze how two prominent public figures in BiH use ethnic-based media to promote their own visions and ideas. One is a politician, the newly elected president of Republika Srpska

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7 Elihu Katz and Paul Lazarsfeld. *Personal Influence: The part played by people in the flow of mass communication* (New York: The Free Press, 1955): 32.

8 According to Stewart Hall, media language is encoded (or provided with meaning by producers). Recipients, that is, the media audience, is decoded by using the three possible codes – dominant, negotiated and oppositional. The dominant code is the most widespread one, and we could apply it to the situation in BiH where ordinary people are passive consumers of the media contents, which in turn enables opinion leaders to disseminate the messages according to their interests. There is no systematic and scientific research in BiH on how the media audience in this country use/perceive media contents. Significant findings that might be useful for this analysis have been achieved by two colleagues of mine, both PhD candidates at the Faculty of Political Sciences in Sarajevo. While Mr. Emir Vajzović focuses on media democracy and media (i)literacy of ordinary people, Mr. Radenko Udovičić investigates the accountability of media in BiH.

Milorad Dodik, and the second is the head of the Islamic Community of BiH (or Reisu-l-ulema) Mustafa ef. Cerić. Both are attractive to the media and highly influential within their national or religious communities.

The relationship between ethno-based media and leading political and religious figures, and their impact on the media's audience, has not been researched previously in BiH. For this reason it is important to conduct a systematic exploration on this topic. It would be a complex task to research and evaluate the assumed potential of the media to influence people's attitudes, beliefs and behaviour. Therefore this paper instead attempts to investigate media functions through a nexus of additional factors of mediation, such as opinion leaders.

Both quantitative content analysis and qualitative discourse analysis of selected media samples are used. The quantitative data comprises the number of media articles or packages that were taken into consideration for further analysis, while for the qualitative part is an extensive discourse analysis that will be applied in order to define the connection between a certain leader, his message, the overall socio-economic environment where he operates and the role and position of the media within it. This research took place during September 2010, the time of the official election campaign in BiH. The content of 10 selected media outlets – 7 print and 3 Public Service broadcasters (central prime-time news) – were analyzed. Out of a total of 2.640 analyzed articles in print media, and 253 features in prime-time news on TV, 648 in print and 129 on TV concerned opinion leaders as the central subject of reporting.<sup>9</sup>

The following section summarizes the role of opinion leaders in media theory. This is achieved by introducing the main ideas of Lazarsfeld and Katz and their intermediary theory. In the same section, I emphasize the importance of belonging to the primary group in examining the leader's role. Also, the relationship

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9 Radenko Udovičić, ed., 2010 Elections in BiH: How the Media Covered the Election Campaign (Sarajevo: Media Plan Institute, 2010), 97-133.

between leaders and journalists is explained. A third section explains the context of ethno-based journalism, which is the main characteristic of post-Dayton BiH. The contextualization of the research issue leads to the selection of two persons from the Bosnian-Herzegovinian milieu that I consider act as opinion leaders. I then discuss their role in the ethno-politically divided state and society of BiH. Finally, I analyze the reasons why the two selected persons are attractive for the media, examining their personal characteristics and the wider socio-political milieu within which they operate. The strategies these leaders have employed during the electoral campaign in September 2010 will also be discussed in order to draft a final conclusion as to their impact on the media's content and political analysis.

## **2. Opinion Leaders in Media Theory**

Nowadays, the media is no longer just a mere reporter of reality. Indeed, they are creators and their power in a world of globalization and technological development is increasingly manifest. Jean Baudrillard says that, thanks to the media, "postmodern societies have entered the phase of simulation". According to Baudrillard, the third order of simulacrum, currently in effect, is essentially a simulation of reality in which the media use signs to cover up for the absence of reality.<sup>10</sup> This active role of the media is manifested in the principal idea of McCombs and Shaw, who developed "the agenda setting" theory, claiming that the media has the power to impose topics and issues on a daily basis, and thereby influence audiences and the public as a whole to accept the issues they highlight and impose, as the 'naturally' most important ones.<sup>11</sup> This paper investigates media functions through a nexus of additional mediating factors such as personal and interpersonal communication and the ability to interpret media contents.

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10 Jean Baudrillard. *Simulacra and simulation* (University of Michigan Press, 1994).

11 Maxwell McCombs and Donald Shaw. "The Agenda-Setting Function of Mass Media". *Public opinion Quarterly* 36 (1972): 176-187.

## 2.1. Characteristics and Importance of Belonging

Inter-media theory claims that leaders are those mediators who essentially intervene between mass media messages and the way in which they are interpreted by the audience. Therefore the concept of "opinion leadership", which derived from the theory of the "two-step flow of communication", developed by Paul Lazarsfeld and Elihu Katz, will be considered in this paper. The authors describe the opinion leader as "the agent who is an active media user, and who interprets the meaning of media messages or content for ordinary media users".<sup>12</sup> He or she holds a high reputation among those that accept his or her opinions or interpretation. Katz outlines three aspects of opinion leadership. The first is the personification of his/her values (*who one is*), the second is his/her competence (*what one knows*), and the third is his/her reputation based on networking (*who one knows*). According to Katz, their role and influence on the audience has much more significance than that of the media.<sup>13</sup> What Katz and Lazarsfeld also emphasize is the fact that opinion leaders are "an integral part of the give-and-take of everyday personal relationships" and, therefore, their opinion is highly respected within the Self-group.<sup>14</sup>

Groups in which leaders are embedded are important as a source of legitimacy for several reasons. First, people belonging to a certain group benefit from sharing the opinions, attitudes and behaviors of those with whom they want to be identified with. This is especially typical for societies with a high level of authoritarianism where individual attitudes towards authorities, politics and political system are being shaped under the dominant type of subject political culture.<sup>15</sup> Primary groups constitute their

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12 Katz and Lazarsfeld. Personal Influence.

13 Elihu Katz, "The two-step flow of communication: An up-to-date report on a hypothesis," Public Opinion Quarterly, Vol. 21 (1957): 61-78.

14 Katz and Lazarsfeld, Personal Influence, 33-44.

15 Almond describes the "subject" type as one in which institutional and role-differentiation exist in political life, but towards which citizens stand in largely passive relations. What is more interesting is the fact that citizens, as their attitudes and behavior are shaped by this type of culture, seek authorities and leaders

social reality and, as such, conduct themselves in validation of their own interpretations and evaluations. People with permanent dilemmas (usually manifested as being moral in nature) seek instruction on how to go about things. Therefore opinion leaders, both political and spiritual, present perfect role models. Also, these groups can serve as channels for mass media transmission where opinion leaders are acting as gatekeepers – at the same time they spread the messages they favor and prevent those whose effects they want to neutralize. The leader of the Bosnian Muslims, Reis-I-ulema Mustafa Cerić, and his treatment of “Islamophobia”, is a perfect example of this. While the media affiliated with him, or to his way of perceiving Bosniak politics, are treated as “good” and “positive”; those who criticize him (like the daily *Oslobođenje*, magazines *Dani* and *Slobodna Bosna*, or the TV show *60 minutes* on Federal TV) are accused by him of being “Islamophobic”.<sup>16</sup>

## 2.2. The Relationship between Journalists and Media

The relationship between journalists and opinion leaders is two-fold. On the one hand, journalists, editors and reporters inform the public and pass on the standpoints and attitudes of opinion leaders while, on the other hand, leaders rely on the media in order to spread (or even to impose) their worldview. Some media recognize the significant role of opinion leaders as filters of ideas and information, as change agents and active media users and who, together with the media, “spread to the wider world of those who care about the industry, issue, interest or ideology”.<sup>17</sup> Spreading ideas in this manner, they expand public conversation, affect policy decisions and also influence debate.

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who will provide them with a sense of security. See in: Gabriel Almond and Sidney Verba, eds., *The Civic Culture: Political Attitudes and Democracy in Five Nations* (Thousand Oaks: Sage Publications, 1989), 19.

16 Davor Marko, "Alterization of Islam: Borders between Islam and other Faiths, defined by Media", in *Spaces and Borders. Young Researchers about Religion in Central and Eastern Europe*, ed. András Máté-Tóth and Cosima Rughinis. (Berlin: De Gruyter, forthcoming Summer 2011).

17 As it is the case, for example, with *The Washington Post*.

Many journalists, especially columnists and those with much work experience, are themselves opinion leaders as they come to be recognized as experts on a particular topic.<sup>18</sup> Those journalists are often invited by the media and the public to represent their valued opinions or to participate in ongoing public debates. Another theoretical approach that supports this role of the journalist is the one of "personae and para-social interaction", generated by Donald Horton and Richard Wohl. According to them, "para-social interaction refers to the apparent familiarity between media personalities and audiences that can be established through the routine use of radio and TV".<sup>19</sup> The *personae*, as they emphasize, offers a continuing relationship which means that his/her "appearance is a regular and dependable event, to be counted on, planned for, and integrated into the routines of daily life".<sup>20</sup> As a consequence, the "fan" (or the "devotee") comes to believe that he/she 'knows' the persona more intimately and profoundly than others do, and therefore his/her level of trust increases.

Media exposure, as Mondak confirms, fuels public recognition and societal (though not necessarily political) discussion.<sup>21</sup> An analysis of those who are exposed and recognized has to be evaluated on two levels. At the first level, we can explain this cause-effect influence through the personal qualities and characteristics of a certain person (such as communication skills, visual appearance, educational background, level of expertise, etc.). At another level, in order to contextualize this link between the flow of information and "more-than-average" personalities, we have to expand it with

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18 In this sense, Carrie Bradshaw, from the "Sex and the City" TV series, is some sort of opinion leader since she sets up the trends (and influences the public) by examining the issues such as sexual relations, safe sex, promiscuity, female/male relations, and, in more general terms, the lives of big-city professional women in the late 1990s/early 2000s and how changing roles and expectations for women affected the characters.

19 Donald Horton and R. Richard Wohl. „Mass Communication and Para-social Interaction: Observations on Intimacy at a Distance", *Psychiatry* 19 (1956): 215-217.

20 Ibid.

21 Jeffery J. Mondak. „Media Exposure and Political Discussion in U. S. Elections", *The Journal of Politics* 57 (1995): 62-85.

the claim that opinion leadership is tied with the socio-political context (milieu) of the chosen society. Both levels will be taken into consideration in the following analysis of two selected opinion leaders.

### **3. Context: Media and Opinion Leaders in BiH**

The media landscape of BiH is determined by the country's complex political arrangement. As a result, the media market is divided along territorial, ethno-national and political lines. One of its most significant characteristics are the linkages between certain media outlets and various ethno-political groups.<sup>22</sup>

#### **3.1. Media Affiliation to Primary Groups**

Recent studies that analyzed the phenomenon of media affiliation have coined the term *media clientelism* to reveal the nature of the relationship between the media and political subjects. Referring to different sources, Brankica Petković from the Ljubljana Peace Institute, describes "clientelism" as "a form of social organization and influence where access to (re)sources of economic and political power has been controlled by certain authorities (or patrons) and they allow these (re)sources only to their clients or to those who support them without exception".<sup>23</sup>

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22 In the Federation of BiH, FTV (or Federal TV) is by far the most trusted medium, followed by BHT with a much smaller percentage. In the Republika Srpska, citizens trust RTRS the most, and after that the private Television BN from Bijeljina. However, when we compare the ethnic structure of respondents, it becomes clear that only 6 percent of Serbs and 10 percent of Croats trust FTV. At the state level, this media outlet enjoys the dominant trust among Bosniaks, at 60 percent, and Bosnians, at 16 percent. Bosniaks have most trust in NTV Hayat, at 81 percent, but Serbs and Croats do not trust it at all. The same can be said of TV BN from Bijeljina, which is exclusively trusted by Serbs, with 0 percent among Bosniaks and Croats. Croats have most trust in HRT and TV Nova, two stations based in Croatia, which indicates the strength of identification with the 'kin-state'. This variable shows that Bosnia-Herzegovina's media landscape continues to be divided. See in: Media plan institut, Medijske inicijative, Odnos građana prema sistemu socijalne politike i inkluzije za djecu u BiH [Attitudes of BiH Citizens towards the System of Social Protection and Inclusion of Children] (Sarajevo: Media plan institut, 2009).

23 She is referring to two texts of regional research – the first was conducted by the Peace Institute in 2004, on the topic of media ownership, and the second, in 2005, intended to investigate the business

Various research on the media in BiH<sup>24</sup> clearly indicates this phenomenon of "clientelism" in practice. Very good illustrations are found in the print media. Of the 168 different print publications in BiH, 11 are daily newspapers.<sup>25</sup> The editorial policies of most of these papers match the interests of separate ethno-political groups, that is, political parties representing exclusive ethno-national interests. Such orientations, for example, can be found with the pro-Bosniak *Dnevni Avaz* based in Sarajevo, owned by local tycoon Fahrudin Radončić. Due to the manner in which *Avaz* articulates the Bosniak policy, changing the course of support and bad-mouthing certain Bosniak politicians<sup>26</sup>, and due to his ideological and political connections with the Reis Mustafa ef. Cerić, Mr. Ivan Lovrenović, a BiH intellectual and publicist, coined the term *avazovština* (engl. *avazianism*).<sup>27</sup> In contrast, the most influential media outlets from the Srpska Republic are under the control of Milorad Dodik's regime and his party, the SNSD (Savez nezavisnih socijaldemokrata [*Alliance of Independent Social Democrats*]). According to the latest report from Freedom House, BiH is at the bottom of the list of countries in the region – ranked

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ethics of the media as part of the bigger project of SEENPM (South East European Network for Professionalization of Media).

24 For example: Media plan institut, *Cultural Sensitivity: Analysis of Media reporting in Bosnia and Herzegovina* (Sarajevo: Media plan institute / UN Millennium Development Goals Fund, February 2010); Lea Tajić, ed., *Media and religion: Treatment of religion, churches, religious authorities and communities in BH media* (Sarajevo: Konrad Adenauer Stiftung, June, 2007); Udovičić, 2010 Elections in BiH.

25 Source: Press Council of BiH, [www.vzs.ba](http://www.vzs.ba) (accessed on January 24, 2011).

26 The best example for this is support for Haris Silajdžić unambiguously provided by *Dnevni avaz* and Fahrudin Radončić in 2006 thanks to which Silajdžić and his party - Stranka za BiH [Party for Bosnia and Herzegovina] - convincingly won the elections. This year, Silajdžić was called by this newspaper a member of the so-called "energy mafia", and Radončić was his political adversary in the race for the Bosniak seat on the tripartite BiH Presidency.

27 According to Lovrenović, *avazovština* is "a symbol embodying all the worst features of unscrupulous petty politics, chameleon-style serving of all regimes, systematic violation of fundamental postulates of the journalist profession (credibility, verifiability, truthfulness, and so on), and sometimes the cruelest public lynching methods. Not to mention those higher levels of editorializing and editorial philosophy, which comprise a professionally devised promotion of general social and cultural values. For *Avaz* and *Avazovština*, this is uncharted territory". See in: Vildana Selimbegović, "Bosna u Radončićevoj suri" [Bosnia in the verse of Radončić], *Oslobođenje*, 24 January 2009, 25.

as 97<sup>th</sup>, and described as “a partially free country”.<sup>28</sup> One of the reasons for such a rating is the situation in the Srpska Republic where absolute power is in hands of a single party, which controls the media by distinguishing them as either ‘eligible’ and ‘enemy’ media.<sup>29</sup> In addition, *Dnevni List* and *Večernji List*, based in Mostar, promote the interests of the Croat people in BiH while the oldest print daily in BiH, the left-oriented and Sarajevo-based *Oslobođenje*, is linked with Social Democratic Party.

### **3.2. Media Favorites and Spokespersons of Primary Groups**

I focus on two prominent public figures in BiH and their use of ethnic-based media. One is a politician, President of the Republika Srpska Milorad Dodik, and the second is the head of the Islamic Community of BiH, Mustafa ef. Cerić. There are several reasons for such a choice. First, their influence derives from the wider context within which these leaders operate. Both are strongly embedded into the ethnic, national, cultural, and religious layers of their primary group. They are a kind of personification of this context and, in this way, role models for members of their communities. In this paper both personalities are analyzed as opinion leaders who, within certain contexts, are regarded as undoubted authorities – Dodik as political and Cerić as spiritual - and as guardians and interpretators of the national or religious interests of their own group. Both of them enjoy huge trust among “their” people. They are attractive to the media (whether to those which support them or those which criticize them).

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28 Source: Freedom House web page, [www.freedomhouse.org/template.cfm?page=251&year=2010](http://www.freedomhouse.org/template.cfm?page=251&year=2010) (accessed on 20 December 2010).

29 That the leading party in Republika Srpska, SNSD, divides media into eligible and enemy media is confirmed in the most recent statement of the SNSD spokesperson, Rajko Vasić who refused to give an interview for a Sarajevo weekly magazine Start, explaining that he does not want to speak to any media from Sarajevo and that the Federation of BiH is “another world” for them. He also added that some media from Banja Luka such as Alternativna televizija, BN TV and Daily newspapers Euroblic are not welcome at their press conferences either.

Table 1 shows the number of articles on major political leaders in Bosnia, published during the election campaign 2010. The media sample consisted of prime-time news programs of the Public Service of BiH, as well as of the most relevant print media.<sup>30</sup>

**Table 1. Political leaders (articles/features per media)**

<b>Political leaders</b>	<b>Glas Srpske</b>	<b>Dnevni avaz</b>	<b>Dnevni list</b>	<b>Večernji list</b>	<b>Oslobođenje</b>	<b>Euroblic</b>	<b>Nezavisne</b>	<b>BHTV1</b>	<b>Federal TV</b>	<b>RTRS</b>	<b>Total</b>
Milorad Dodik	50	26	11	18	45	26	28	8	12	26	<b>250</b>
Haris Silajdžić	36	25	14	6	24	17	14	5	8	12	<b>161</b>
Željko Komšić	14	7	4	14	21	7	3	3	7	0	<b>80</b>
Borjana Krišto	4	1	6	32	0	1	2	3	0	0	<b>49</b>
Fahrudin Radončić	7	22	3	1	19	3	1	1	1	1	<b>59</b>
Nebojša Radmanović	26	6	2	4	12	7	15	4	4	14	<b>94</b>

These results clearly show that during the campaign Milorad Dodik dominated the media space – 36 percent of analyzed media announcements reported on him out of 6 political leaders. He was the subject of reporting of both politically inclined media (those from Republika Srpska – *RTRS*, and dailies – *Glas Srpske*, *Nezavisne novine*, and *Euroblic*), as well as of the media that constantly criticized him or his politics (for example, daily *Oslobođenje* and *Federal TV*).

Second, both leaders are visually recognizable and have a specific way of addressing their audiences. Behind Reis Cerić's exterior there is an exceptional and intellectual mind, while Milorad Dodik,

30 Udovičić, 2010 Elections in BiH.

although a holder of University diploma, does not play on the card of intellectual in his public appearances but instead cultivates the air of an arrogant, indolent and sometimes even primitive<sup>31</sup> – although decisive – leader. Mustafa ef. Cerić is one of the most significant personalities in contemporary Bosniak history. The most divisive issue in the electoral campaign was the involvement of Mustafa ef. Cerić. Many Bosnian Muslims, politicians and academics criticized him since he openly agitated for a particular political option for Bosnian Muslims, and because he used his position to send overtly political messages to believers during regular Friday prayers.<sup>32</sup>

Thirdly, they have media outlets that are profoundly loyal to them. While Dodik was the most exposed political candidate in media during the 2010 campaign, Cerić and his support for certain political options among Bosniaks is important in a more than symbolic sense. The results of the research I conducted in 2008 and 2009 about the media treatment of Islam in BiH shows a trend towards personalized presentation of this religion. This means that Islam is usually (mis)represented through the representation of important figures such as the Reis Mustafa Cerić and other imams of the Islamic Community of BiH (See Table 2). Consequently, Cerić's support has been complemented by the support of entire Islamic community of BiH.

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31 Dodik has been known in the BiH public for his uncontrollable behavior and tactless statements. On several occasions at public meetings his swearing was recorded (on 10 November 2008, in Odžaci, after a meeting with other BiH politicians, he said to the journalist of Federal TV, in front of the cameras, "f\*\*k your question"), or threats to his opponents (the best example, was the threat addressed to the editor of TV show "60 Minutes" Bakir Hadžimerović that he, Dodik, "would punch him when he meets him"). The denial of crimes, particularly the genocide in Srebrenica, during the campaign for elections in 2010, has been observed as inhumane and uncivilized acts of this controversial politician.

32 On the eve of the general elections in 2006, in an interview for the weekly magazine Dani, Irfan Ajanović, one of the leading Bosniak politicians, stated that it is unbelievable for such a religious authority to agitate for this particular option, because by doing so he is dividing Bosniaks, not unifying them. He claimed that the themes and contents of Cerić's speeches were not suitable for a religious authority, and that Cerić should be aware of the Islamic community instead. See in: Senad Pećanin "Džamije nisu reisove prćije" [Mosques are not the property of the Reis], Dani, 18 August 2006, 14-15.

**Table 2: Reporting on Islam**<sup>33</sup>

Subject of Reporting	Journalist / Media Tone Towards them						Total	
	Positive		Neutral		Negative			
	2008	2009	2008	2009	2008	2009	2008	2009
Male individuals (Religious leader(s), servants, or ordinary believers)	49	16	107	105	31	22	<b>187</b>	<b>143</b>
Female individuals (Religious leader(s), servants, or ordinary believers)	3	2	7	7	5	0	<b>15</b>	<b>9</b>
Organization (Local, Regional or International)	1	3	132	55	5	8	<b>138</b>	<b>66</b>
Community (Religious or Social)	47	2	95	41	10	6	<b>162</b>	<b>49</b>
Government	0	2	45	39	2	15	<b>47</b>	<b>47</b>

33 Data presented in this table are the results of the media content analysis conducted in 2008 and 2009 on the treatment of Islam in BiH media. Both researches aimed to discover how media in Bosnia and Herzegovina present Islam and cover the issues related to this religion and the Islamic community of BiH. See: "Treatment of Islam in Bosnian, Croatian and Serbian media – treatment of "religious others" in islamic media" (April 1st – April 30th 15th 2009). Part of the REVACERN 2007 – 2009 (Religions and Values: Central and Eastern European Research Network), implemented by University of Szeged (Hungary) and University of Vienna (Austria); "Treatment of Islam in B-H and regional media". July 15th – September 15th 2008. Sarajevo: Media plan Monitoring Center.

The same research studies show that photos of Reis Cerić were often used in BiH media as illustrations and additions to the articles reporting on Islam. In 2008 out of 580 photos used in this way, 13.9 percent were of Reis Cerić, while in 2009 the leader of Bosnian Muslims was illustrated in 9.6 percent of a total of 333 photos. By way of comparison, in 2008 other attractive themes for the visualization of Islam in the media were massacres, usually from the Middle East (8.1 percent), mosques (7.4 percent), terrorists (6.2 percent), while in 2009 religious authorities and leaders, other than Cerić were presented in 10.5 percent, terrorist in 6 percent, and mosques in 5.7 percent of illustrations.<sup>34</sup>

Beside many similarities between these two persons, especially the manner in which they present themselves as spokespersons of the self-identified community, it should be noted that they are not entirely of the same stature and position in relation to their communities, nor do they have the same capacity to cause effects. It is worth acknowledging the limitations of making exact comparisons between the two figures when, for instance, one is a publicly elected representative (Dodik) and the other (Cerić) is elected through an 'internal' procedure within the Islamic community of Bosnia.

#### **4. Opinion Leaders and Dissemination of Messages in Affiliated Media Space**

This section elaborates on the initial hypothesis and to identify the main trends among opinion leaders, media relations and behavior in the course of the 2010 pre-election campaign. Media analyses, conducted by the research team of the Sarajevo Mediaplan Institute and NGO ACIPS<sup>35</sup>, pointed to several trends in this campaign. The first trend is the domination of topics irrelevant for the nature of general elections. Discussions boiled down to *ad hominem* attacks, trading barbs and humiliating

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34 Idem..

35 ACIPS is acronym for the Alumni Association of the Centre for Interdisciplinary Postgraduate Studies

adversaries, producing a lot of hot air (e.g. *"It is only us who can save the country/entity from misery"*, *"We have the best candidates"*, etc.), and focusing very little on relevant topics or specific solutions to topical issues in BiH.<sup>36</sup> The second trend relates to the nationalistic rhetoric, chauvinism and even primitivism in the actions of political representatives, among which the most notable was the leader of SNSD Milorad Dodik. The nature of his rhetoric, the media attractiveness of his public appearances and his overall influence on the electorate of the Republika Srpska shall be the focus of later analysis.

The third trend is the fact that in BiH, due to its internal divisions, there were several campaigns running simultaneously: the first in the Republika Srpska, the second in the Federation and the third completely separate "battle platform" for the parties with a Croat prefix.<sup>37</sup> Media reporting on issues related to the campaign was of similar nature with the dominant media discourses being divided.

Based on thorough monitoring and analysis of BiH media during this year's pre-election campaign one could draw another inevitable conclusion, crucial for this paper: the level of ethno-political affiliation of the media in BiH with the existing political options and candidates has never been so strong or apparent. On the one hand, the media evidently favors certain political parties and candidates, while on the other hand, politicians had "their" media which they publicly supported.

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36 This was confirmed in an analysis conducted by the NGO ACIPS, which during September intensively analyzed the statements of political candidates. In the conclusion of the analysis it was stated that "all observed parties, with the exception of SDP and Narodna stranka radom za boljitak [People's Party – Work for a Better Future], have conducted extremely aggressive campaigns against their oponents". According to the ACIPS analysis, the most relevant campaign was conducted by People's Party – Work for a Better Future with 56% of statements about one of 8 topics defined as the most important for citizens of BiH. The least relevant campaign was that of SNSD with only 9% of relevant statements. SDP conducted the most specific campaign with 7.2% of statements offering specific solutions to one of the 8 topics. On the other hand, the least specific was SNSD with 0.9% of such statements. See: ACIPS, [www.acips.ba](http://www.acips.ba)

37 See: ACIPS, [www.acips.ba](http://www.acips.ba)

The following sub-sections include an analysis of the context and personal characteristics of selected leaders and, consequently, their role in the dissemination of media messages will be elaborated throughout their public visibility, communication strategy and the level of ethno-political affiliation of the media outlets analyzed.

### **3.3. Opinion Leaders and Media Visibility**

During the 2010 campaign Milorad Dodik dominated media content. His name, and especially his photo, was the most frequently published out of all politicians. Whether he was mentioned in a positive context (in the media in RS), a negative one (in the media in Sarajevo), or neutrally with reference to negative statements he made (in the media with Croatian prefixes), Dodik was at the epicenter of attention and his statements were automatically considered “facts” worth reporting.

Research conducted in September reveals that media from the Srpska Republic reported mainly with positive attitudes towards Dodik. The highest number of articles with positive attitudes towards Dodik was recorded in *Nezavisne novine* from Banja Luka (71 percent) followed by the Public Service, *RTRS*, and daily *Glas Srpske* (50 percent). There were no articles with negative attitudes or articles that criticized Dodik produced by these media outlets. In contrast, media outlets from the Federation of BiH reported in mainly negative terms on Dodik: in the prime time news show on *Federal TV* half of the packages about Dodik were presented with negative attitudes, while among dailies *Oslobođenje* (with 47 percent), and *Dnevni list* (with 27 percent) were the leaders in criticism of Milorad Dodik (Table 3).<sup>38</sup>

**Table 3. Media/Journalists Attitudes Towards Milorad Dodik**

Media	Positive attitudes	Neutral attitudes / professional	Negative attitudes	Total
Glas Srpske	50 %	50 %	0 %	100 %
Dnevni list	0 %	73 %	27 %	100 %
Dnevni avaz	0 %	82 %	18 %	100 %
Večernji list	0 %	94 %	6 %	100 %
Oslobođenje	0 %	53 %	47 %	100 %
Euroblic	46 %	54 %	0 %	100 %
Nezavisne novine	71 %	29 %	0 %	100 %
BHTV	0 %	88 %	12 %	100 %
FTV	0 %	50 %	50 %	100 %
RTRS	50 %	50 %	0 %	100 %
<b>Total</b>	<b>21,7 %</b>	<b>62,3 %</b>	<b>16 %</b>	<b>100 %</b>

In contrast, Reis Cerić was much more modest in his media appearances. Not a candidate himself, he gave his open support to the SBB's candidate and *Dnevni avaz's* owner Fahrudin Radončić. In fact, only *Dnevni avaz* reported on him frequently and in a positive manner while other media either criticized him or rarely mentioned his indirect involvement in political affairs. Therefore Reis's rhetoric parallels the party formed by the owner of *Dnevni avaz*, Fahrudin Radončić who, in the race for the Bosniak seat on the BiH Presidency, took second place with a surprising level of support some 30% ahead of the favored Haris Silajdžić, who in these elections lost not only Avaz's support but also – and crucially – the support of Reis Cerić. During the campaign Reis's statements for the daily *Dnevni avaz* did not overtly state his political favouritism, but careful analysis clearly indicates that his messages (“we need new people in politics”, “we have to plan a better and happier future”, etc.<sup>39</sup>) overlap with the rhetoric and

39 This is not coincidence, since this was noticed on several occasions – during the Muslim holiday Bairam a major interview with Reis was published with the title “We have to find new people, those who want, know and can!” (*Dnevni avaz*, September 8, 2010, cover page). Two days later his speech (khutba or

especially with the name of the party: the Alliance for a Better Future for BiH. Such messages, though 'coded' and covert, would have had clear overtures to the media audience who were following the election campaign.<sup>40</sup>

A large number of photos and recorded statements of Dodik and Cerić, participating in an event contribute not only to development of their visual image but also makes an impression that these two persons are an inevitable part of BiH public life. In this respect, one can gain an impression that even the mere appearance or presence of these two persons is sufficient to ensure legitimacy for:

- (a) Discussion on the status of the Srpska Republic or denial of the State of BiH, in the case of Dodik, or
- (b) Discussion on the status of Muslims in BiH, the treatment of Islam and the identification of its enemies (proclaimed as "Islamophobes"), in the case of the Head of Islamic Community of BiH.

Depending on their ethnic affiliation or political orientation, the media reported on Dodik and Cerić in various ways and with different attitudes. Reporting in an apologetic or affirmative way is a striking characteristic of the media which supported them (*Avaz* on Reis, or *Glas Srpske / RTRS* on Dodik), while on the other hand the media outlets that opposed their ideas and politics make this implicitly known through their coverage.

The media outlets benefit from this kind of affiliated or biased reporting for several reasons:

- (a) To prove their loyalty to certain political options, or to the regime, mainly because, they are dependent on the financial support of certain regimes or political options.

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sermon) was published and where he mention that we should strive for a better and happier future (*Dnevni avaz*, September 10, 2010, 2); and, finally, on the last day of campaign one more interview with Reis was published where he said that people should "not be afraid of changes" and invited them to vote "to create better future..." (*Dnevni avaz*, September 10, 2010, 4 – 5).

- (b) To present themselves as suitable and legitimate voices of an entire ethno-national group (which was the case with media in RS in favor of Serbian people, with *Dnevni avaz* in protection of Bosniak interests) or specific political option (it was already mentioned that *Oslobođenje* is known for its links with the Social Democratic Party of BiH, while media from Mostar, both in favor of Croatian national interest, during the campaign reported differently – while *Dnevni list* was in favour of HDZ 1990, *Večernji list* supported HDZ BiH and his leader Dragan Čović).
- (c) For ideological reasons: while some media outlets (*Glas Srpske*, *Dnevni avaz*, *Večernji list*) promote ethno-nationalism as the legitimate pattern of behaviour in post-Dayton BiH, some media (*BHTV*, *FTV*, *Oslobođenje*, and *Nezavisne novine*<sup>41</sup> from Banja Luka) report in favor of non-ethnic and non-national, more civic oriented, options.
- (d) To gain support from their audience. By supporting the preferred and the most popular political options, and promoting their leaders, media are at the same time facilitating empathy with their viewers, readers or listeners by sending the message "We are all on the same side".

### 3.4. Opinion Leaders and Communication Strategies

Their public recognition and authority as leaders who interpret things allows them to build a basis for their communication strategy towards their media audiences. News, especially during the election campaign, is not evaluated on the importance of the information it provides but rather by whether their source is Dodik or Reis. For example, if Dodik said that "stability of Republika Srpska is a condition for the existence of the Serbian people", this unfounded claim does not receive a critical review by those media that supports his regime. Instead, it automatically

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41 In spite of the fact that *Nezavisne novine* has a moderate image of media which does not advocate nationalism and intolerance toward "others", during the election campaign in 2010 this media in a very explicitly manner supported Milorad Dodik and his party. See in: Udovičić, 2010 Elections in BiH, 61 – 67.

becomes news worthy as a headline or 'leading story'.<sup>42</sup> Journalists, readers and viewers that are continually exposed to this on a regular daily basis sooner or later begin to believe that this is true. If we refer to Baudrillard, we could say that it is "made true" through constant and uncritical repetition. The same pattern applies to the statements of Reis Cerić, which are accorded automatic and unquestioned authority.

Moreover, both have in common the fact that their communication with media outlet audiences is based on a similar strategy. The main elements of this strategy are:

(a) The identification of one's own goal, i.e. the goal of the political option advocated by the opinion-leader. In the case of Milorad Dodik that would be the preservation of the Srpska Republic and the diminishing in importance of the State of BiH, while in the case of Reis Cerić that would be whichever political option will ensure "a better future for Bosniaks".

(b) The identification of an "internal" enemy which usually boils down to political adversaries. In the case of Milorad Dodik these included Mladen Ivanić, an opposition candidate in RS for the Serb seat on the BiH Presidency, and Ognjen Tadić, an opposition candidate for the president of Republika Srpska. When it comes to Bosniaks, Reis skillfully avoided publicly discrediting Radončić's adversaries – Haris Siljadžić and Bakir Izetbegović – but, on several occasions, he pointed out that he was disappointed with the governance of the representatives of the two candidates' parties in the period from 2006 onwards. However, Radončić, whom Reis supported, did not hesitate to defame these two politicians in his newspapers frequently accusing them of crime and misuse of public office.

(c) The identification of an "external" enemy, which in the case of Milorad Dodik and RS media was Haris Siljadžić. In the case of "Dnevni avaz" this was partly Milorad Dodik (as someone who undermines BiH), but more often those who are against Islam

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42 Goran Maunaga. „Štitiću RS jer je ona uslov opstanka srpskog naroda“ [I will protect RS because it is a condition for survival of the Serbian people], Glas Srpske, Banja Luka, 1 October 2010, 6 – 7.

and the Islamic Community of BiH, that is those who were marked as "Islamophobes".

#### **4. Conclusions**

Milorad Dodik, president of Republika Srpska, and Mustafa Cerić, head of the Islamic Community of BiH, are public figures whose actions and public statements are far from indifferent to the media. They clearly occupied the media space in BiH and their statements and interpretations, especially during the election campaign, have been considered of the highest importance.

Taking into account the context of this ethno-politically divided society, as well as the dominance of subjective patterns of political behavior, Dodik and Cerić are evidently more than political and spiritual leaders. Their activities, their undisputed authority, and their personal characteristics have two-fold consequences for their relations with the media. On the one hand they are effectively utilizing the media to promote and expand their ideas, whilst, on the other hand, the media in turn use them and their public image and reputation to give their reporting more "weight" and significance.

This paper examined opinion leader's role in the dissemination of media messages during the pre-election campaign in BiH. In order to analyze the way in which the two leaders use the media to articulate their ideas and how the media uses their visibility and capacity to promote their editorial policies, I focused on their visibility in media (and, as a consequence, their public image as core, unavoidable subjects in the BiH political arena) and secondly on their communication strategy with the public through the media. As was claimed in the introduction, there are three important reasons why the role of chosen opinion leaders is important. The first is the specific socio-political environment in which they act as spokespersons of the self-identified group. The second is their recognizable visual identity. The third is the lack of critical and 'active reading' of media contents by the ordinary citizens of BiH, which allows leaders to act as the most relevant,

authoritative and unquestionable “decoders” of the media messages.

This mutually-reinforcing relationship between key public figures on the one hand, and the media which reinforces their centrality on the other, may be – as we have seen in the analysis above – beneficial to both sides. Ultimately, however, as has been indicated through this analysis, it is the general public of BiH who lose out from this close interplay between political and media forces. Its continued presence is one of the core factors in the entrenchment of ethno-political divisions and political passivity, among the general public. The dynamic explored here between key political and community figures and the media that unquestioningly accept their ‘centrality’ has significant consequences for BiH’s political climate and, indeed, on democracy in BiH itself.

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## **CHALLENGING THE EAST-WEST DIVIDE: INSIGHTS FROM A COMPARISON OF UKRAINE AND ITALY**

Nicole Gallina  
University of Fribourg

### ***Abstract***

*This article examines how political behaviour has impeded the functioning of political institutions in Ukraine and Italy. It applies an actor-centered institutionalism and argues that even non-democratic political elites can co-exist within a democratic framework. It analyzes actors' conduct in regard to the democratic institutions of the constitution, judiciary and media. The paper concludes by identifying three pillars of political elite power.*

**Keywords:** political elite, Italy, Ukraine, informal power

### **1. Introduction**

Italy is one of Europe's problematic children: in this country, a veritable crisis of the political system has provoked the rise to power of Silvio Berlusconi. As of the date of writing, he has been sixteen years in power, a term few communist leaders managed to reach. In spite of his questionable conduct regarding proposed laws and rhetoric, he has managed to stay in office. Public protest has existed but has been too weak to oust the incumbent. Similarly, instability from within the political elite emerged as a threat to his rule with the split of the Fini-party from the Berlusconi coalition in 2010 being the decisive element. In Ukraine, the crisis of the political system after the break-up of the Soviet Union paved the grounds for a rise to power of Leonid Kuchma who was about to install an authoritarian system.<sup>1</sup> However, he underestimated the degree of public frustration and

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1 Steven Levitsky and Lucan Way, "The Rise of Competitive Authoritarianism," *Journal of Democracy* 13 (2. 2002): 51-65.

his powerful clan was stripped off power through public protests in December 2004 following the manipulation of the presidential elections. Subsequent democratic governments were unstable, partly due to the attempts to introduce a parliamentary-presidential system and inter-elite struggles. This paved the way for the old elite to return to power: Viktor Yanukovich, a representative of the "old" system, won the presidential elections of January 2010.

This paper concentrates on a core problem of democratizing countries and established democracies noting that in both cases unsuitable and inadequate political behaviour has impeded the functioning of political institutions. The purpose of this paper is to show that even non-EU members and ex-Soviet Union states may have much more in common with countries that are considered the "core" of Western Europe.

## **2. Theories and Concepts**

This paper applies an actor-centred institutionalism to reveal the reasons for poorly functioning political systems in Western and Eastern Europe. I concentrate on political elites, "persons who are able, by virtue of their strategic positions in powerful organizations and movements, to affect political outcomes regularly and substantially".<sup>2</sup> They are the decision-makers and the drivers of a country's development. In certain states political elites affect politics in rather undemocratic way and put themselves above the democratic structures they operate within. This means that the actors do not behave according to their democratic mandate, in particular their mandate to advance the common good; instead they have in regard their personal well-being. The article argues that political elites instrumentalize democratic political institutions for personal power purposes in countries with different political backgrounds. In Italy, the democratic framework has deteriorated in the decades after the Second World War. In Ukraine, an efficient democratic framework

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<sup>2</sup> John Higley and Michael G. Burton, *The Foundations of Liberal Democracy* (Lanham: Rowman and Littlefield, 2006).

has never been introduced. Western researchers of elites have underlined the necessity and desirability of an elite-institution unity in maintaining democracy.<sup>3</sup>

The article contributes to the knowledge we have on political elites in showing that undemocratic political elites are capable of co-existing with a democratic institutional framework. This is an aspect that has been neglected in Western elite research: the existence of democratic regimes where non-democratic political elites co-exist with a democratic framework, i.e. the possibility that elites are guided by different parameters than the institutions they act within or cooperate with. Eastern European scholars have discussed visible problems between actors and structures in (Central) East European countries – particularly in the context of the twenty year anniversary of the fall of the communist regimes.<sup>4</sup> Here, formal democratic systems with free elections, political party systems and civic freedoms have been established. But political elites do not fully subordinate to formal democratic provisions as one might assume to get a greater gain (influence, power, monetary advantages) in not acting according to democratic rules. This latter constellation is quite typical for East European democratic regimes, including Ukraine.

In this sense it would be desirable to merge Eastern and Western schools of elite research in order to profit from the insights of Eastern elite research. The Western school contributes the insight that political elites are fundamental for the functioning of a political system, the Eastern school that there might be problems with the functioning of a system if rules and goals of political elites and democratic institutions do not match. Parting from an actor-based institutionalism, the non-accordance of political elites' conduct with the democratic framework avoids the pitfall of a concentration on the formal characteristics of elite (and political) systems that can lead to quite misleading research outcomes.

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3 Heinrich Best and John Higley, *Democratic Elitism: New Theoretical and Comparative Perspectives* (Leiden: Brill, 2010).

4 Nicole Gallina, *Political Elites in East Central Europe* (Leverkusen: Budrich UniPress, 2008).

An actor-view examines elites' conduct and values – in this case the political elites of Ukraine and Italy. Elite theorists have rarely focused on elite values. Therefore, this paper includes political culture approaches and combines them with political elite theory.<sup>5</sup> These approaches center on the citizens of a given state and analyze their attitudes toward the political system.<sup>6</sup> But political culture concerns political elites. A democratic political system in this regard would require elites with a democratic political culture who rule within democratic institutions. What can be said about political elite culture in Italy and Ukraine: do the elites succumb to a democratic culture?<sup>7</sup> A model democratic culture would be a civic culture.<sup>8</sup> For the elite this would mean the orientation towards public well-being and institutional functioning. However, the state has been a distant concept, and personalized power connected to political offices and networks is more important.<sup>9</sup>

*If power concepts are essential for political elites the question is how power structures are organized. They are not necessarily connected to political parties, but in a party-based political systems they normally are.<sup>10</sup> Power and the will to be close to it are a strong incentives for political actors in every political system. This paper argues that in the cases of Italy and Ukraine,*

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5 C. Wright Mills, *The Power Elite* (New York: Oxford University Press, 1956). He speaks of power elites who rule the country being not necessarily democratic.

6 Gabriel Almond and Verba Sidney, *The Civic Culture. Political Attitudes and Democracy in Five Nations* (Princeton: Princeton University Press, 1963). One example of their study was Italy. Banfield, 1976, 105, identified the familismo amorale, i.e the concentration on the family and the understanding of the family as social center as the basis for political conduct based on distrust, corruption, clientelism and cynism.

7 Koff et al, *Italy*, 2000, 24f. on political elite culture in Italy. A similar account does not exist for Ukraine. However there is some information in Kuzio, *Ukraine*, 1998 and Kuzio et al, *State and Institution*, 1999; and Nicole Gallina, *Institutional Change and State Capacity in Ukraine: A Study of Ukrainian State Building, 1991–2004* (Bern: Peter Lang Verlag, 2006).

8 According to Gabriel Almond and Sidney Verba, *The Civic Culture*.

9 Nicolas Hayoz, "New Democracies and the Persistence of Old Power Structures in East Central and Eastern Europe", in *Central Europe Two Decades After*, ed. Rafał Riedel (Warsaw: Center for Europe, 2010). Giovanni Sartori, *Il Sultanato* (Roma: Laterazo, 2009) on Italian power circles

10 See the policy-making under Silvio Berlusconi and Leonid Kuchma/Viktor Yanukovych. Taras Kuzio, "Viktor Yanukovych's first 100 Days. Back to the Past, but what's the Rush?" *Demokratizatsiya* (June, 2010).

*the striving for power has been disconnected from the formal democratic system. The closer people get to the center of power, the more they get involved in informal structures and systemic corruption.<sup>11</sup> The following paragraphs analyze the general interplay between the conduct of political elites and the institutional system. I use case-studies and secondary literature content analysis, including print media, to identify a gap between political elites' behavior and democratic institutions.<sup>12</sup>*

### **3. Elites between East and West**

At a political science level, the comparison between Western European countries that until recently were considered consolidated democracies and democratizing countries from Eastern Europe might be a rather unusual and awkward enterprise. What first looks like an unsuitable comparison on the grounds of different political structures and different origins of informality (and diverging histories), is justified by the similarity of actors' instruments and conduct.

The two countries at first sight have little in common. Italy has been a Western parliamentary democracy since 1945 and is considered to be an old democracy, even if it politically developed into a cemented one-party system with all its vices. The Soviet Union was a totalitarian system; Ukraine is one of its successors and has been a (pre-dominantly) presidential democracy since 1991 – the current problems of Ukraine are much connected to this non-democratic past. Both countries have very different traditions concerning political culture, political party structures or political ideologies. Researchers who analyze post-Soviet countries usually mark a break at the year 1991, the date when the Soviet Union dissolved. In Western Europe, it is normally 1945, the end of the Second World War. On those grounds it

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11 Nicolas Hayoz and Nicole Gallina. "Beyond Democracy: the Relevance of Informal Power in Eastern Europe," in 1989 in Central and Eastern Europe: Implications and Meanings Twenty Years later , Nicolas Hayoz and Jęzek Lesien (Bern: Peter Lang, 2011).

12 Such a gap has never been considered on a more general level between political elites and democratic institutions.

would be inappropriate to undertake a comparison. However, this paper proposes to make a break when the established Italian political party system collapsed in the early 1990s due to a corruption scandal. This meant the breakdown of the First Republic and a significant rupture in the post-1945 development of the country. In Ukraine, the collapse of Soviet structures in 1991 signified a complete socio-economic and political re-orientation.

Both events were crucial for the development of each country. In Italy, the breakdown of the political party system meant a re-consideration of democracy – legacies of the right-left split of the country provoked the rise of Silvio Berlusconi to power and a profound crisis of the political system. The independence of Ukraine led to the introduction of democracy but the legacies of the totalitarian past have not ceased to affect the state negatively.

The two countries have in common that political party structures are volatile. Independent institutions, such as media and the judiciary, are contested by the highest political offices. Moreover, the conduct of political elites provokes institutional distortions which result in a defective relationship between political elites and democratic institutions. In particular, the political “strong men”, the presidents of Ukraine and prime ministers of Italy, are responsible for the malfunctioning of the political system. Silvio Berlusconi and the Ukrainian presidents have actively sabotaged democratic and independent institutions, examples being constitutional struggles, the rule of law, the judiciary and the media. On a more general scale, I show where and why political elites operate contrarily to an established democratic framework.

#### **4. Political Systems and Elites in Crisis: Ukraine and Italy**

In Italy, much debate occurred over whether the great break of the early 1990s would change politics for the better, especially the functioning of the political party system and the role of the prime minister. In Ukraine, the declaration of independence in 1991 allowed a certain euphoria about future politics and the

establishment of a democratic system (noted again in 2004 with the Orange Revolution) to develop but the institutional focus was on political party stability and presidential leadership.

Ukraine as a part of the Soviet Union was a fully state-led socio-economic system, and politics was relegated to administering larger and larger amounts of money which led to more and more corruption as there was no control of the state.<sup>13</sup> In Ukraine, change came from the outside, as the umbrella construct of the Soviet Union collapsed. The Soviet leaders had underestimated the economic downfall and the destructive effects of corruption and clientelism that were associated to the endemic shortages, but also the strengths of nationalities.<sup>14</sup> As the Soviet Union quickly dissolved, Ukraine declared its independence. This fact evoked hopes that the new political systems would get rid of the most pronounced vices connected to the old system, in particular corruption and clientelism. However, the new clothes did not make the state: there were neither functioning parties (besides the Communist Party) and party system, nor institutionalized executive and legislative bodies, nor an independent judiciary or media system. Worse than institutional matters was the question of adequate personnel that weren't connected to the old system. The question was how state and nation-building would continue under those circumstances.

Italy had been governed by one single party the Democrazia Cristiana (DC), which integrated all the center-right-powers, since 1958. This was provoked by the strength of the Italian Communist Party that had developed to the position of the hegemonic left wing party. The powerful Communist Party unwillingly supported the rise of the Democrazia Cristiana, and ultimately cemented political power which led to bureaucracy,

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13 In Ukraine this indicator was 100% before 1991, today it is above 30%. In Italy, more than one third of the industry, services and production belonged to the state. See <http://www.imf.org/external/pubs/ft/pdp/2008/pdp01.pdf> (accessed 10 January 2011).

14 See the importance of the Rukh movement for Ukraine. Taras Kuzio, Robert S. Kravchuk and Paul d'Anieri, eds. *State and Institution Building in Ukraine* (New York: St. Martin's Press, 1999).

clientelism and corruption (*sottogoverno*).<sup>15</sup> The result was a political stalemate and the more immobile the system seemed, the more the political establishment discredited itself.

In Italy, the revelation that the political elite was highly corrupted led to the downfall of the First Republic and the political party system that had governed the country for half a century.<sup>16</sup> At the heart of the *mani pulite*<sup>17</sup> process was the judicial prosecution of a large section of the political class (termed Tangentopoli). As a consequence, 70 per cent of the members of parliament lost their seats, major parties disappeared, competition patterns were changed to a bipolar mode, and the head of state became more powerful.<sup>18</sup> The crisis altered the composition and recruitment patterns of political elites, the party system, electoral rules, patterns of electoral behaviour, relations between institutions (in particular between the head of the state and the government) and the role of the judiciary. In these years the old establishment faced multiple challenges, such as how to include regional movements (e.g. the Lega) and demands for federalization into central policy-making. The question was whether Italy could succeed with its new start after the collapse of the old system.

In spite of those difficulties, Italy and Ukraine tried to organize themselves anew: Italy, in the form of a parliamentary democracy and Ukraine in the form of a presidential democracy. Formal arrangements were built on the checks and balance principle of democracy: executive and legislative institutions control each other through formal regulation. An independent

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15 The term *sottogoverno* is used to describe the informal rules of patronage and clientelism that have infiltrated the political party system and the state administration.

16 In Italy, the DC had ruled for 35 years, until 1990. On the left side the Communist Party openly fraternized with the Soviet model. The result of this constellation was a long-term exclusion of the left opposition from government that came to an end only in 1996, when the party had changed its identity and turned into the party of the Democratic Left.

17 For *mani pulite* see Gianni Barbacetto et al, *Mani pulite* (Roma: Editori Riuniti, 2003). The successful investigations of a group of Milanese investigating judges against corrupt politicians and political parties led to the breakdown of the First Italian Republic.

18 Independent judicial institutions appeared and the immunity for politicians was restricted. Maurizio Cotta and Luca Verzichelli, *Political Institutions in Italy* (Oxford: Oxford University Press, 2007).

judiciary should be the formal watchdog of the democratic institutional system, with the media as a core control institution. On the personnel side, there was no choice: Italy and Ukraine had to get along with former "second-class" elites as the top political representatives and most powerful parties had discredited themselves completely and were even arrested in the case of Italy.<sup>19</sup>

## **5. Playing with Democracy: The Role of the Political Elite**

In Italy, the First Republic made consensus impossible and the political discourse was extremely polarized; those are also characteristics that were observed in Ukraine after 1991. In Italy, the breakdown of the First Republic led to a disillusion with the whole political system in spite of numerous reform efforts; in Ukraine the breakdown of the Soviet Union and the never-ending political quarrels on necessary and unnecessary institutional reforms had similar effects, even if this collapse was a completely separate story.

However, there has been a lack of agreement on the fundamental rules, political mechanisms and institutions in both countries.<sup>20</sup> A showcase was the repeated, but never successful in the sense of political outcomes, "co-governing" of President Viktor Yushchenko and Prime Minister Yulia Tymoshenko after 2004. Personal animosities and informal arrangements dominated politics. There were uncountable efforts to reform both systems in a state of political elite polarization and institutional struggles (for Italy between the executive and the judiciary, for Ukraine between the legislative and the executive branch). Beyond those "human factors", the question remains interesting as to what has been the orientation for political elites then if it were not positive (and constructive) attitudes toward the democratic political system (and the citizens)?

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19 Taras Kuzio, *Ukraine. State and Nation Building* (New York: Routledge, 1998); Sondra Z. Koff and Stephen P. Koff, *Italy: from the First to the Second Republic* (London: Routledge, 2000).

20 Martin J. Bull and James L. Newell, "Still the Anomalous Democracy? Politics and Institutions in Italy," *Government and Opposition* 44 (1. 2009), 42f. Gallina, *Institutional Change*, 143f.

## 6. The Role of Political Parties and Political Leaders

Political actors mostly rely on de-structured informal ties, for example networks and circles, according to personal or social needs. Examples for Italy and Ukraine would be ties to organized crime or strong organized business groups.<sup>21</sup> They also act through political parties which might play a decisive role in the relationship between the conduct of informal actors and formalized political structures. In Ukraine, the party system has been fragmented according to regional influences. The relationship between national-democrats and post-communists and their parties in the 1990s proved that balanced interactions were possible in Ukraine. However, political parties with strong ties in business-relevant geographical areas gained overweight in the 2000s, and the current leading "Party of the Regions" has extended its influence from the Eastern part of Ukraine to the whole country.<sup>22</sup> The regional concentration of industry-based parties has led to the misuse of political parties. On a central political level, political parties are the informal instruments of "oligarchs" to secure their business and personal interests.<sup>23</sup> Also, political parties have not reached an institutionalized and accepted status as a necessary pillar for the democratic political system. In Ukraine, formal legislation concerning political parties and government formation has been altered repeatedly according to political needs.<sup>24</sup>

In Italy, similar power requirements exist. During the First Republic, the Democrazia Christiana had a monopoly on power

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21 Berlusconi has been suspected of ties to organized crime. Viktor Yanukovich, the current president of Ukraine, is openly a member of the Donetsk clan whose members he supports politically and economically.

22 In the late Kuchma-period, the United Social-Democratic Party (USDP) played the role of selecting power elites and securing power through informal provisions in relevant political and economic areas. The party was involved in lucrative privatizations and the party leaders were strongly represented in the presidential administration, Gallina, *Institutional Change*, 189.

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24 See the decision of the Ukrainian Parliament on 9 March 2010 to alter the rules for government formation in order to enable a parliamentarian majority for the presidential "Party of the Regions".

decisions. Berlusconi filled the vacuum after the breakdown of the First Republic, and created Forza Italia (FI) just before the 1994 elections and ran under a reformed electoral system. Berlusconi used the traditional left/right divide in Italy, anti-communism, and the high level of politicization in Italian society to provoke a strong left-right electoral competition and to come to power. The party system has been built on a few stable parties that are joined by others acting as free riders, and the result was an overall fragmentation of the political party system. However, parties are not the only "intermediary" institution. In Italy under Berlusconi, media influenced by the prime minister has evolved into an institution that links the formal power institutions with the informal political elite sphere. This means that whoever wants to belong to the "system" and to influence decisions on the distribution of power and wealth is obliged to enter into the media business or into politics.<sup>25</sup> In Ukraine, the intermediary function of political parties has been replaced by large industrial corporations and their interest representations.<sup>26</sup>

The role of the political opposition, or of potential counter elites, has to be seen in this context.<sup>27</sup> In Ukraine and Italy the political opposition in general has had no clear understanding of its role, because networks and informal agreements are of more relevance. Therefore, power arrangements with elites in power are more important than formal (party) programmes and detailed policy reforms. Part of this "disorientation" is engagement in a destructive self-finding process, for example the liberal and leftwing parties in Italy or the (national)democratic parties in Ukraine.<sup>28</sup> On those grounds many small parties with narrow interests have been involved in policy-making which has led to

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25 Paul Ginsbourg, *Silvio Berlusconi: Television, Power and Patrimony* (London: Verso, 2005).

26 Heiko Pleines, "Manipulating Politics. Domestic Investors in Ukrainian Privatisation Auctions 2000–2004," *Europe-Asia Studies* 60 (7. 2008), 1177f. Rosaria Puglisi, "The Rise of the Ukrainian Oligarchs," *Democratization* 10 (3. 2003), 99f.

27 The deep divide between the party in power and the "rest" structured politics for approximately forty years and made alternation in power impossible in Italy. In Ukraine, a "rest" was even not existent

28 See the Italian debates whether the opposition will be in line with liberalism, socialism, left-wing catholicism.

lower stability of the party system.<sup>29</sup> Neither the political opposition in Ukraine or in Italy has managed to offer alternative programmes. Besides, oppositional forces have tried to understand politics according to the rules established by Silvio Berlusconi and Viktor Yanukovich, and have tried to participate in a political game built on personal interests. The perceived necessity to form informal coalitions or separate networks has provoked that oppositional fractions and parties are at odds with each other and concerned with their own best access to power. Both the opposition and the governmental elites engage in egoistic navel-gazing which leads to the alienation of the real problems, the de-politization of politics<sup>30</sup> and the ignorance of the fundamental political crisis of the respective country. As a result, strong leaders have managed to build-up organized power structures in the form of personalized political parties.<sup>31</sup>

“I am the best prime minister ever”. This declaration by Silvio Berlusconi illustrates most precisely his understanding of politics. The result has been the personalization of political power. Insults toward independent institutions are common, in particular the judiciary, political opposition and media that does not belong to his Mediaset enterprise.<sup>32</sup> The whole political elite orientation toward the democratic system is based on cynicism and instrumentalization, mainly toward history. In Italy some ministers don't participate in the celebrations of the anniversary of the liberation from Fascism (25 April) and neo-fascist ministers were part of the first Berlusconi government in 1994. Another important orientation is the attitude toward the inhabitants, building on populist measures and emotions tied to the nation,

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29 E.g. the Italian Democratic Party that merged the two largest centre-left parties. As a result of the 2008 parliamentary elections, the number of parties in the Chamber of Deputies dropped from 26 to 6.

30 The private scandals of the Italian prime minister are a good indicator here. For example, in the year 2009 he pointed with his gun-like formed hands at a Italian journalist during a press-conference with Russian Prime Minister Putin and pushed prostitutes into political positions.

31 Forza Italia has been considered Berlusconi's personal party and the “Party of the President”– a similar function has the “Party of the Regions” in Ukraine.

32 Interview with Umberto Eco, L'Espresso, 19 March 2009. He blames Silvio Berlusconi to be obsessed with his own appearance.

the ignorance of history and the creation of "enemies".<sup>33</sup> Hypocrisy is part of politics: since the establishment of the Italian Republic an important part of the state has been under (quasi-)control of organized crime. However, the feeling of insecurity of Italians is almost pathologically connected to the presence of foreigners, ignoring the self-made problems.

In Ukraine, cynicism and indifference toward the democratic political system are prevalent.<sup>34</sup> Viktor Yanukovych has not concealed his preference for the Donetsk clan. This can be considered as strong elite arrogance that plays with image, promises and "enemies". Politics is based on personality and show in Italy, in Ukraine on personality and hate politics.<sup>35</sup> The concept of politics as an extrovert show has not yet fully reached Ukraine, but it has played a role to promote Viktor Yanukovych to become president of Ukraine in 2010 and, beyond that, as a capable politician.<sup>36</sup> Theoretically, democracy depends upon rearing, choosing and supporting leaders who can protect and perfect its values and institutions. On the contrary, in Italy and in Ukraine, egoistic leaders with personal defects hold power.<sup>37</sup> Rhetoric, the high corruption rates and incapability to establish a functioning political system<sup>38</sup> underline the perception of the democratic state as something alien that is not part of the political elite realm. Instead, political elite "values" are based on personal gain, proximity to power and indifference toward formal regulation. The following paragraphs describe how those

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33 Among Berlusconi's most favored enemies have been the Milan prosecutors: "Italy, its Prime Minister, and the Law," *The Economist*, 17 January 2002 and "Berlusconi Faces Inquiry in Prostitution Case," *The New York Times*, 14 January 2011.

34 Mykola Shulha et al, *Ruling Elite in Contemporary Ukraine*. (Kyiv: Ukrainian Center for Peace, 2008).

35 The culmination has been the judicial persecution of the former Prime Minister Tymoshenko and some of her ministers by Viktor Yanukovych. The former Minister for Economy was granted political asylum in the Czech Republic, on the grounds of political persecution.

36 "Topped in Ukraine but Nearing a Comeback," *The New York Times*, 15 January 2010.

37 Harold D. Lasswell, *Power and Personality* (New Brunswick: Transaction Publishers, 2009).

38 The 2006 referendum in Italy (Bull et al, *Democracy*, 2009); the return to the 1999 Constitution in Ukraine: Andrew Wilson, "Turtles in the Twilight Zone. Politics in Ukraine and Change," *Osteuropa* (2-4. 2010).

orientations stand in contrast to the pillars of formal democratic institutions. They also show how those informality characteristics seriously influence the functioning of key formal democratic institutions necessary for a stable democratic system.

## **7. Combining Elite Conduct with Formal Democratic Institutions**

To control for elite conduct, a rule-of-law based institutional framework is essential. This means a working Constitution, the adoption and application of laws, independent structures such as an independent judiciary, corruption control agencies and an independent media. Similarities between the two countries include regular changes in formal provisions, such as the electoral law or even governments.. In Italy, government instability is caused by each chamber of parliament's right to force the government to step back. This provoked much instability and frequent no-confidence votes.<sup>39</sup> In Ukraine, government instability has been caused with the right of the president to dismiss the prime minister. Moreover, those characteristics are the expression of an already destabilized system. Disputes around the constitutions of both countries bring light to this connection.

### *The Constitution and the Stability of Elite Representation*

How have political actors influenced the very institutional framework of both countries? The Constitution of Ukraine was adopted in 1996 five years after the country's independence and after long elite struggles. However, the division of power between the president, the prime minister and the parliament has not been solved in a comprehensive manner. The process of compiling and discussing the drafts in parliament proved the many weaknesses of Ukrainian political elites. Power groups, in particular the president and the different parliamentary fractions sought to realize their own interests, and the drafting bodies were

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39 Examples: "Berlusconi Survives No-confidence Vote," Der Spiegel, 14 December 2010 and "Berlusconi Survives Parliament No-confidence Vote," BCC, 10 August 2010.

heavily politicized. Thus, many actors were never fully aware of the necessity to have firm formal regulation.<sup>40</sup> Much the same happened after the democratic revolution in 2004: amendments to the constitution weakened the power of the president, but didn't bring a clear division between the rights of the president, the prime minister, and parliament. The result of the mixture between "power politics" and "personal interests" led to institutional chaos. Moreover, the protagonists were not really interested to solve the institutional deadlock (which underlined their indifference toward formal regulation). In 2010, the country returned to the "old" Constitution of 1996 with all its weaknesses. The constitution doesn't explicitly establish a presidential system as it focuses on executive-legislative control between parliament, government and the president. Nevertheless, the president has the option to rule with decree to outweigh the parliament. This gives substantial power to the presidential administration meanwhile the government has to cope with an overload of administration.<sup>41</sup> The shortcomings of the existent constitutions have had two effects: little respect for the document, and periodical efforts to question the whole institutional framework expressed in discussions on parliamentarism and presidentialism.

In Italy, the Constitution lays the foundation for a parliamentary system. It has also been an issue of discussion, and the debate over the rules of the game "shows no sign of ending".<sup>42</sup> Beyond those issues, the parliament has been a source for informality: Italy has the biggest and best remunerated parliament in Europe but perhaps the least effective. This is because its two chambers are of a homogeneous composition and have the same legislative

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40 Kataryna Wolczuk, *The Moulding of Ukraine: The Constitutional Process of State Formation* (Budapest: Central European University Press, 2001). Oleh Protysk, "Constitutional Politics and Presidential Power in Kuchma's Ukraine," *Problems of Post-Communism* (2005) 23f.

41 The ministers concentrate more on administration than on policy-making. This is illustrated by the current Azarov cabinet which has 29 ministers and 7 Vice-Prime Ministers.

42 Bull et al, *Democracy*, 2009, 66. Also: Martin Bull and Gianfranco Pasquino, "A Long Quest in Vain: Institutional Reforms in Italy," *West European Politics* 30 (4. 2007): 670-91. For example, towards the end of the 14th Legislature the Berlusconi Government managed to pass a broad reform of the Italian Constitution, which was, however, rejected by the Italian public in a referendum held in June 2006.

duties. Each bill proposed must be approved in an identical form by both chambers. Groups wishing to oppose a given bill can hinder its progress since the slightest modification made to the wording of the bill in one chamber automatically requires the bill's re-examination by the other chamber.<sup>43</sup> As a consequence, there has been a shift of legislative functions from the parliament to government and the latter has acquired greater agenda setting powers. The bipolar system has also strengthened the prime minister's position within the cabinet – which has been used by Silvio Berlusconi to accumulate personal power (in particular since 2001) and avoid pursuing reforms of the political system. The decisive rejection of institutional reform in 2006 symbolizes the failure of the political elites to achieve constitutional reform.<sup>44</sup>

In Italy and Ukraine, weak institutional structures point at an important link between the formal institutional framework and the (informal) political elite role. Another indicator is the stability of governments. Since 1991, there have been 17 governments in Ukraine and in Italy 13 since 1989 (but over 60 since 1945).<sup>45</sup> The volatility of governments can point to the weak and little-accepted institutional role of governments, to struggles between parliament and government, and to political party or coalition partner disagreements. On all those points informal structures and networks are of relevance. The less stable democratic governments are then the more important informal structures become.

Another sensitive issue has been the electoral system: in Italy, reforms of the electoral system were important in 1993 and

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43 Salvatore Vassallo, "Government under Berlusconi: The Functioning of the Core Institutions in Italy," *West European Politics* 30 (4. 2007), 693.

44 Bull et al, *Institutional Reform*, 2007.

45 Ilvo Diamanti, "The Italian centre-right and centre-left: Between Parties and 'the Party'," *West European Politics* 30 (4. 2007), 757. Coalitions and leaderships are 'finalized' in order to win elections, and coalition agreements focus almost exclusively on the distribution of governmental posts. This appears to be a constant over a long period of time in Italy. There were eleven governments between 1993 and 2010 (Ciampi, Berlusconi I (1994/95), Dini, Prodi I, D'Alema I&II, Amato, Berlusconi II (2001/05) and III (2005/06), Prodi II, Berlusconi (2008-?).

2005, but were highly destabilizing as the strictly proportional electoral system favoured the fragmentation of the political party system.<sup>46</sup> In Ukraine, the system changed from majoritarian to mixed, then to a proportional system with closed proportional electoral lists. The lists have led to confusion as the voters did not know how to vote and who was on the lists.<sup>47</sup> Electoral reforms were instrumentalized in order to prevent political opponents from becoming a threat to own political power and to foster the development of certain political power networks. Recently, the president proposed a return to a mixed system.<sup>48</sup>

## 5. The Rule of Law and Corruption

The rule of law is a crucial prerequisite for a democratic system. However, high rates of corruption in both countries indicate that there is something wrong with the principle of the rule of law. Corruption in this context signifies the private sale of public services and distorts the functioning of the state. In Italy elites have used democratic processes to generate financial resources and to maintain clientelistic connections.<sup>49</sup> Part of this policy has led to over-regulation and even more corruption. The economic and political elite accept this informal measure as a part of daily policy-making, even if the independent media reveal corruption episodes on an almost daily basis.<sup>50</sup>

In Ukraine, corruption is enabled by the informal organization of the political elite. Additionally, the fight against corruption

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46 Vasallo 2007, Government, 693.

47 The result was a criminalization of parliament (as parliamentarians have been guaranteed immunity dubious persons sought to get a seat). Louise I. Shelley, "Russia and Ukraine: Transition or Tragedy?" in *Menace to Society: Political-Criminal Collaboration Around the World*, ed. Roy Godson (New Jersey: Transaction Publishers, 2003). 214f.

48 "Yanukovych: Ukraine should return to mixed electoral system of parliamentary elections," *Kyiv Post*, 7 April 2011.

49 Della Porta, Donatella and Alberto Vanucci, *Corruzione politica e amministrazione pubblica* (Bologna: Il Mulino, 1994).

50 On the mechanisms and scale of corruption, and for the systemic character of Italian corruption Alberto Vanucci, "The Controversial Legacy of Mani Pulite: A Critical Analysis of Italian Corruption and Anti-Corruption Politics. *Bulletin of Italian Politics*. 1 (2.2009), 233f.

regularly falls hostage to political confrontations in Ukraine despite being an official government priority. The rhetoric of political elite can correctly indicate the most important factors of corruption, also the lack of political will to combat it, the “ineffectiveness” of the judiciary or the absence of control over the income of high officials. As a rule, draft laws for anti-corruption packages have been compiled under each president and the presidents have also adopted anti-corruption decrees. In most cases, the cabinet failed to implement the according draft laws.<sup>51</sup> During the Yushchenko presidency, the government could counteract the process by simply ignoring the draft laws on anti-corruption. Interestingly, a working group on anti-corruption was chaired by the prosecutor general and the head of the security service, persons that had no real interest in anti-corruption, as they have been deeply involved in informal and corruptive networks.<sup>52</sup> Anti-corruption laws are counteracted by the actual elite conduct who can seek private personal interests in spite of the law.<sup>53</sup> In this line stands the anti-corruption policy of President Viktor Yanukovich who has concentrated on his “enemies”, in particular Yulia Tymoshenko and members of her former government.

In Italy, elites have used democratic processes to generate financial resources and to maintain clientelistic connections. This policy resulted in overregulation and even more corruption.<sup>54</sup> Ordinary institutional mechanism to control corruption have failed. Since the mid-1990s, Italy has occupied one of the lowest places among Western European countries in corruption ratings. The country’s elites accept corruption as a part of daily policy-

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51 Grzegorz Gromadzki et al, *Beyond Colors: Assets and Liabilities of 'Post-Orange' Ukraine* (Kyiv: Stefan Batory Foundation 2010). For Italy Vanucci, Mani Pulite, 2009, 249f.

52 Freedom House, *Nations in Transit: Report on Ukraine*, 2009, 572.

53 And the fact that an independent institution, for example an anti-corruption bureau does not exist.

54 Donatella Della Porta and Alberto Vanucci. *Corruzione politica e amministrazione pubblica* (Bologna: Il Mulino, 1994).

making, even if independent media reveal corruption regularly.<sup>55</sup> The lack of any outcomes of anti-corruption initiatives indicates their symbolic nature to ensure public visibility and pretend political action.

Generally, the efficient adoption and implementation of laws is not the case in both countries. Italy and Ukraine are both over-regulated states, this signifies multiplication and overlapping. The indecisiveness of the parliament in both countries makes the situation even more complicated.<sup>56</sup> When a law is actually adopted, however, the process is often haphazard. There are no simple processes for law adoption. In Ukraine, an abbreviated discussion of bills is therefore standard. Much of the current legislation is of insufficient quality and major elements are often missing.<sup>57</sup> The president has used decree power to avoid lengthy processes, amendments or rejections.<sup>58</sup> In Italy, the problem of the rule of law is connected to the inefficiency of the system. Since the beginning of the 1980s, Italian governments have made broad use of their power to promulgate "decree laws" for presumed reasons of urgency. In practice, the governments used decree laws because they were not capable of getting their bills approved in parliament quickly enough and without amendments.<sup>59</sup> However, governments still had to go back to parliament in order to convert the decrees into laws, but often failed to do so within the required 60 days. Governments, at the same time, have often continued with their policy of legislating through decree law, or forcing parliament's hand with the vote of confidence mechanism.<sup>60</sup> In particular, the Prime Minister

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55 Alberto Vanucci, "The Controversial Legacy of Mani Pulite: A Critical Analysis of Italian Corruption and Anti-Corruption Politics. *Bulletin of Italian Politics*. 1 (2.2009), 233f.

56 In Ukraine, in 2008 and 2009 coalition disruptions diminished the real number of coalition members to the minimum requirement of 226 persons (a majority of all deputies 226 out of 450 must approve of any decision) which made the parliament the least productive among all previous in terms of laws drafted, submitted, debated, and adopted. See: Freedom House, Ukraine, 573. In Italy, the quarrels around the 2006 referendum are a good example. Bull et al, *Institutional Reform*, 2007, 43.

57 Grzegorz Gromadzki et al, *Beyond Colors*, 55f.

58 Gallina, *Institutional Change*, 177f. Kuzio, *100 Days*.

59 Cotta et al, *Political Institutions*, 2007, 259.

60 Vassallo, *Government*, 2007, 698.

Berlusconi has pressured for selective laws favoring his enterprises and interest groups.<sup>61</sup>

## 6. The Judiciary and Political Elite Influence

In Italy, independent judges have done much to combat organized crime, in particular the mafia. How could their independence be ensured? The main reason has been the DIA, the Direction for Anti-Mafia Investigation. This agency concentrates on organized crime, and stands quite separate from the rest of the institutional system.<sup>62</sup> Its strength has been ensured with formal regulation: the agency has no obligation to report to the judiciary or the interior ministry and it is only obliged to inform the independent Supreme Court. Those provisions have ensured a minimum of political elite influence, and the DIA has been termed the "third power" of the Italian state. Politicians can nevertheless try to influence it via the media or the parliament that has to approve its budget and the laws that guarantee its functioning. The question is whether independent institutions like the DIA would function in a post-communist setting.<sup>63</sup>

In Italy, the *mani pulite* scandal provoked a series of measures to ensure the independence of the judicial system: In 1998, the justice police was created for investigating judges. But also before the scandal, much had been done to foster the independence of state prosecutors and judges. The CMS (*Consiglio Superiore della Magistratura*) assures that judges and state attorneys are a "separate class" and independent of social or political influence (e.g. the justice ministry).<sup>64</sup> An additional

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61 For example Fininvest. Gianni Barbacetto, Peter Gomez and Marco Travaglio, *Mani Sporche* (Milano: Chiarelettere, 2007). Interestingly, the political opposition did not abolish those laws while being in power.

62 Swiss Radio DRS 2 on Italy and organized crime, 11 March 2010. <http://www.drs2.ch/www/de/drs2/sendungen/kontext/5005.sh10126140.html> (accessed 20 February 2011).

63 There are examples from Central Eastern European countries. In Slovakia, a similar institution has functioned quite well, in the Czech Republic it has not, because it is not independent from political influence.

64 Stefano Livadotti, *Magistrati: l'Ultracasta* (Milano: Bompiani, 2009).

justice reform has been proposed with the separation of judges' and state attorneys' powers. However, a main problem remains which is the slow speed of the judiciary system, in particular in conducting trials, one reason for this slow speed being the relatively low number of judges.<sup>65</sup> Quite impressive is the figure of pending trials in front of the European Court of Human Rights: Italy has the highest number of suits lodged due to the excessive length of judicial processes among Western European countries.<sup>66</sup>

Regarding the list of judicial processes Berlusconi has been facing personally<sup>67</sup> the observer might have doubt on whether Italy has a functioning judiciary and investigative organs as he remained in office in spite of being sued and sentenced twice.<sup>68</sup> The prime minister actively impeded processes against himself, also by trying to limit the power of the investigating judges, hindered the news coverage of the media on current investigations, and relied on his political immunity. His influence on the parliament was strong enough to order respective laws: the Italian Parliament accepted an immunity law in summer 2008. Still, he could not influence the Constitutional Court which ruled that decision unconstitutional in October 2009. He proceeded with other tactics: draft laws on the limitation of time in order to end

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65 11 judges on 100.000 inhabitants (the European median is 19.8), see the 2010 Report of the European Commission on the Efficiency of Justice CEPEJ. [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2010/Synthese\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2010/Synthese_en.asp) (accessed 20 January 2011). Daily, around 500 processes have to be closed due to limitation of time. Only three out of ten processes were terminated orderly with a court decision in 2008. "Italiens Justiz unter Anklage," Neue Zürcher Zeitung, 10 July 2010.

66 See the Pending Cases Fact Sheet under [http://www.echr.coe.int/NR/rdonlyres/C2E5DFA6-B53C-42D2-8512-034BD3C889B0/0/FICHEPARPAYS\\_ENG\\_MAI2010.pdf](http://www.echr.coe.int/NR/rdonlyres/C2E5DFA6-B53C-42D2-8512-034BD3C889B0/0/FICHEPARPAYS_ENG_MAI2010.pdf) (accessed 15 February 2011).

67 "Die Berlusconi-Prozesse," NZZ am Sonntag, 11 October 2009. The processes have been: P2 membership, corrupting members of the finance/tax police, bribing former socialist president and Prime Minister Bettino Craxi to build up his media empire, money laundering through Fininvest (including the so-called Lex Berlusconi that guaranteed himself immunity), bribing judges to buy the Mondadori Publishers, bribing David Mills who built up a money laundering empire for Berlusconi.

68 The first was a fine of 750 Mio Euro to compensate corruption during the tender of the publisher Mondadori. The second one was to deprive him of immunity in order to retake a row of judicial processes against him. David Lane. Berlusconi's Shadow: Crime, Justice and the Pursuit of Power (London: Allen Lane, 2004).

processes or a regulation that the prime minister has the right not to appear in front of a judge if his time schedule does not allow it (passed in the Senate in March 2010). In January 2011 Italy's highest court revoked his immunity.<sup>69</sup> His reaction was to blame the judiciary, to pose as a victim and to exaggerate the conflict, for example in 2009 he said: "I am absolutely the politician most persecuted by prosecutors in the entire history of the world throughout the ages."<sup>70</sup> The relationship between the judiciary and Berlusconi has been one of animosity. As the government and the prime minister have equalled the judiciary with the political opposition, there has been a constant struggle between them and actors from within government institutions which absorbed much energy. The practical outcome of the quite complicated relationship between the representative of the judicial system and Silvio Berlusconi has been that courts have tried to impose rules, but Berlusconi has always found a way to overrule them with formal (using existing law) and informal measures (buying parliamentarians).

Contrary to Italy, where judges are tied to the political opposition, and identified as "enemies" by the government, in Ukraine, judges have been systematically corrupted and courts and politics have been intermingled more systematically. There is no independent, central and powerful auditing authority as there has been no serious judicial reform, in spite of constant efforts.<sup>71</sup> The consequences of this reality have been that the competences are not divided clearly and different formal procedures exist, for example to reject a judge. Judges are appointed by political bodies and the Supreme Council of Justice (also influenced by

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69 "Automatic Immunity for Berlusconi Revoked," The New York Times, 13 January 2011.

70 He added that he had spent "200 million euros on judges... excuse me, on lawyers." Luciano Violante, *Magistrati* (Milano: Einaudi, 2009): Elites have to accuse the office of the public prosecutor of partiality, because it is part of the game that officially does not accept independent and not corrupted institutions.

71 Three concepts have been approved in the period 2006–2008 alone. Two of the most urgent formal problems, insufficient financing of the court system, and an inefficient and nontransparent process for appointing judges, have remained untouched. No serious discussions on criminal justice reform, such as replacing the Soviet-era criminal procedure code, took place. Gromadzki et al, *Beyond Colors*, 2010.

politics) approves them. Legislative barriers do exist that prevent the execution of court judgements against the state. According to a survey on corruption within the judicial system, almost one third of lawyers and prosecutors believe that corruption is widespread at all stages of court proceedings. The most common form is the use of personal connections. The court system is one of the most pervasively corrupt parts of the political system, and subject to commercial and political influences.<sup>72</sup>

The influence of political elites on the justice system is most significant at the level of constitutional justice. The Constitutional Court has decided in line with presidential policies and especially, when it came to the possibility of extending the term of the presidency.<sup>73</sup> The Court suffers from so-called "institutionalized" judges who decide according to political needs. The most recent case has been political influence on the Constitutional Court to return to the Constitution of 1996.<sup>74</sup> The justice system has been highly politicized, and misused by key political players (in particular the state president) to solve political disputes and to calm political opponents.<sup>75</sup>

## 7. The Political Elite and the Media

Italy has been characterized as a mediocracy: Politics are tightly connected to the media, not only informally, but also formally.<sup>76</sup> The media has been used as an official instrument of influence by the prime minister and he has communicated and sold his political project via his media empire Mediaset. Judges,

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72 2010 Report of the European Commission on the Efficiency of Justice CEPEJ. [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2010/Synthese\\_en.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2010/Synthese_en.asp) (accessed 20 January 2011).

73 A „hot“ issue in the second Kuchma-presidency, Gallina, *Institutional Change*, 2006, 156f.

74 "Return to 1996 Constitution," *Kyiv Post*, 1 October 2010.

75 Currently, this can be observed in the prosecution of the former Prime Minister Tymoshenko and ministers. See "US concerned over Politicization of Legal System in Ukraine," *Kyiv Post*, 19 January 2011.

76 Erik Gandini, *Videocracy*, [http://www.youtube.com/results?search\\_query=videocracy&aq=f](http://www.youtube.com/results?search_query=videocracy&aq=f) (accessed 20 February 2011). Tomasz Bielecki, "Berlusconi: Jestem Chrystusem włoskiej polityki," *DF Gazeta Wyborcza*, 24 February 2011, 2-4.

journalists and intellectuals have been scandalized through the TV channels Rete 4 and Canale 5, and the journal *Il Giornale*.<sup>77</sup> The selection and recruitment of electoral candidates was managed by media professionals from Publitalia, the advertising arm of Berlusconi's company Fininvest. The independent channel Rai 3 has tried to follow its own line, but has been under continuous attack.<sup>78</sup> The Institute Vidierre has conducted a survey on the media visibility of Italian elites, and found that Berlusconi spoke almost one thousand minutes in the (seven) mostly watched TV news programs in the first nine months of 2010.<sup>79</sup> It is partly because of this tightly controlled media landscape that Italy is considered only partly free by Freedom House along with Ukraine.<sup>80</sup>

In Ukraine, independent print media has had a decisive influence on political developments, in particular the emergence of the democratic movement leading to the Orange Revolution. According to Freedom House the legal framework provides for media freedom and is one of the most progressive in Eastern Europe, but respect for these laws has remained low since the 2004 Orange Revolution. Oligarchs and political elites have tried to control the media, especially at a regional and local level. Financial and industrial groups own most nationwide media which allows them to place biased content and to highlight subjective preferences in media coverage. At a regional and local level, state administrations own newspapers and TV channels or fund TV channels through the state budget. They affect editorial policy, something which has been clearly evident in the Kyiv media

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77 Diamanti, Italian, 2007, 736. Cases of in which the Prime Minister himself intervened have been for example the talkshow *Annozero* (RAI).

78 The daily newspapers *La Repubblica* and *Corriere della Sera* are in opposition to Berlusconi, but most Italians prefer TV (only 10% of the Italians read newspapers)

79 997 vs. 1051 for the three oppositional parties PD, IDV and UDC with all their representatives. "Il premier straripa nei tg. 1.000 minuti in 9 mesi," *Repubblica*, 5 October 2010.

80 Freedom House, Map on Press Freedom, 2010 (Rank 73 out of 178 countries). <http://www.freedomhouse.org/template.cfm?page=251&year=2010> (accessed 20 December 2010).

during electoral campaigns.<sup>81</sup> The 2010 World Press Freedom Index noted that Ukraine “fell sharply” as a result of the slow and steady deterioration in press freedom since the election of Viktor Yanukovich in 2010.<sup>82</sup> *Telekritika*, a Ukrainian monitor, quantifies the number of television news items that have characteristics of being ordered or censored.<sup>83</sup> Instruments to harass the media under Kuchma and Prime Minister Yanukovich have included lists with approved topics, tax police and violence, an example being the murder of the journalist Gongadze. The current president has used state security and tax police to intimidate opponents.<sup>84</sup> Even if we cannot speak of a “mediocracy in Ukraine”, the media have been an example for intermingling public and private interests, instrumentalization and politicization.

## **8. Looking Behind the Facade of Democratic Power: Pillars of Elite Power**

As the above paragraphs have argued, in both countries, political elites do not accept the formal institutional framework; indeed, they even provoke shortcomings, for example constitutional or electoral law-provisions. Additionally, this overview of institutions vs. elites’ conduct indicates that elite conflict in the form of lacking agreement on the fundamental pillars for the democratic political framework is a crucial element of political elite culture. An actor’s conduct is based on power considerations that have been detached from institutional regulations and abstract state

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81 In the capital local media (newspapers *Khreshchatyk*, *Vechirniy Kyiv*, and *Ukrayinska Stolytsia*) were used to promote acting Mayor Leonid Chernovetsky, while attacking his opponents during the pre-term municipal electoral campaign in May 2008. In 2009, attacks against the media continued (and the country’s politicized criminal justice system failed to protect journalists). Freedom House, *Press Freedom*, 2009.

82 *Press Freedom Index*, ed. *Reportes without Borders*, 20 October 2010. *Ukraine is ranked 131 out of 178 countries (2009, Ukraine was ranked 89)*.

83 The Institute for Mass Information (IMI) also examined interference in and by printed media in Ukraine concerning the upcoming presidential elections See [http://eng.imi.org.ua//index.php?option=com\\_content&task=view&id=173575&Itemid=1](http://eng.imi.org.ua//index.php?option=com_content&task=view&id=173575&Itemid=1) (accessed 10 December 2010).

84 At the end of July 2010 militia officers damaged the offices of the newspaper “*Svobodnaya Odesa*”. In another case the security service SBU pressured on a blogger who posted critical material on Viktor Yanukovich in the internet. Additionally, the Kharkiv-based journalist Vasyl Klymentyev disappeared on 11 August 2010.

models. The formal framework is mostly a façade of democratic institutions and has been re-modelled to serve as a stage for personal power gains and to enable a proximity to power. Democratic norms and moral categories are too weak to constrain political actors' behavior. The case of the Italian justice system underlines that only strong, independent institutions force actors to adapt their conduct to the principles of the rule of law.

The conduct of political elites has different impacts on formal institutions. The constitution and rule of law-principle are used as subversive institutions; institutions are deliberately transformed to serve political elite needs, in particular to corrupt other institutions, including the parliament, the judiciary, or the media.<sup>85</sup> Political parties/media (Italy) and political parties/oligarchs (Ukraine) act as intermediary institutions. This means they link formal power with informal political elite spheres. The judiciary (mainly in Ukraine) and the parliament are co-opted by offering power or financial incentives. Another aspect of the informal dimension is the "emotional" dimension: some actors emotionalize institutions in order to gain the electorate or to achieve certain political or personal goals. This includes the way how politicians confront history or the role the "nation" plays in politics.

The analysis of the two cases makes clear that there are different dimensions to how elites influence institutions with their conduct: The first dimension is the "subversive" institution dimension. In the case of Ukraine, the constitution and laws have been used to undermine the justice branch and the whole administrative apparatus; attempts in this direction have been also undertaken by Italian political leaders. The second dimension is to accept the formal façade, but to instrumentalize it occasionally (the media in Ukraine) or systematically (the media in Italy). The third

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85 Vladimir Gel'man, "Subversive Institutions and Informal Governance in Contemporary Russia," *The International Handbook on Informal Governance*, ed. Thomas Christiansen and Christine Neuhold (Edward Elgar, 2010). See also Berlusconi finding it morally acceptable not to pay taxes, "It's ok to Dodge Taxes, Says Berlusconi" *The Guardian*, 18 February 2004.

dimension is the emotionalization of institutions, for example, the office of the president or the prime minister. Those dimensions of elite conduct are based on informal power networks, not on the formal institutional framework. They could be used as a framework for the analysis of democratic political systems where political elites' conduct and structures do not fully match with democratic political institutions and where elites's conduct expresses a non-accordance with democratic institutional regulation.

In both Italy and Ukraine, political actors have declared their commitment to democratic norms and reforms but they ignore them mostly when acting in real life. In sum, political elites conduct runs diametrically to the requirements of democracy. While democratic processes build on a great extent on horizontal cooperation and concepts of power restrictions, the analyzed elites base their interactions on vertical relations and an absolute understanding of political power. The highest political "executors" personalize, incorporate power and have a high degree of liberty to use their legal and illegal competences. This vertical understanding of political processes hinders the work of parliament, such as finding a common stance on law proposals or policy guidelines, and affects influential decisions on public tenders or privatizations. As a result of this power-based elite "codex" and the respective conduct, the whole political framework is instable and has been questioned by the very elites. In essence, political elites do not accept the restrictive power of democratic political institutions. Real change can come only with an institutional reform from the top in which the functioning of rules will be overseen by independent and integer agencies: the DIA and the state prosecution in Italy has proved this is the way forward.

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# **A CABALISED REGIME: NEOPATRIMONIALISM, PRESIDENT YAR'ADUA'S HEALTH CRISIS AND NIGERIA'S DEMOCRACY**

J. Shola Omotola  
Redeemer's University

## ***Abstract***

*This article analyses President Yar'Adua's health crisis, defined not only in medical terms, but also the "cabalic" politicisation of his unconstitutional absence from duty, and the attendant unconstitutional efforts to sustain an absentee presidency. These efforts were sustained through lies, propaganda, threats and constant violations of the constitution, which refreshed the centrifugal tendencies of the country to a dizzying height. The article also evaluates the role of various actors in the management and mismanagement of the crisis. The case illuminates the complexity of democratic transitions, showing simultaneously the reality and limits of neopatrimonialism under a hybrid regime. The important lesson is that in the face of regime-threatening development as the case illustrated here, a vibrant and united civil society can make a significant difference.*

**Keywords:** cabalisation, neopatrimonialism, democracy, civil society, Save Nigeria Group (SNG), Yar'Adua.

## **1. Introduction**

Despite the fact that the late Nigerian President Umaru Musa Yar'Adua assumed power through a highly discredited election amidst deep-seated legitimacy crisis, Nigerians still welcomed the regime with open arms and high expectations. This was possible for a number of reasons. First, the effervescence and efflorescence of social action that attended the garrisoned electoral process assured Nigerians of new opportunities for real regime change. Second, the rising profile of the judiciary as

probably the bastion of Nigeria's democracy<sup>1</sup> aided rising expectations. The judiciary made positive interventions in the face of transitional threatening executive recklessness, for instance, one that disqualified Alhaji Abubakar Atiku, then Vice-President (VP) of Nigeria, from contesting the Presidency in 2007. In a widely celebrated landmark judgment, the Supreme Court overruled the illegal disqualification and restored Atiku's rights to the presidency. The judiciary was, therefore, trust-worthy for being able to restore stolen mandates to their rightful owners. Third, Yar'Adua's responses to the electoral and legitimacy deficit were somewhat positive. In his inaugural speech, Yar'Adua admitted that the election that brought him to power was deeply flawed and promised to reform the electoral process. He also declared rule of law as one of the cardinal elements of his administration. In a reassuring move, Yar'Adua quickly set up the Electoral Reform Committee (ERC), consisting of people of proven integrity across all walks of life, including Muhammed Uwais, a retired Chief Justice of Nigeria, as its chairman. Apart from promising to govern as a "servant leader", he also declared transparency and accountability part of the cornerstones of his administration. In June 2007, after barely a month in office, Yar'Adua publicly declared his assets, becoming the first Nigerian President to do so.

Between May 2007 and October 2009, these and related steps impacted the political landscape positively. Some of the attendant gains included stable legislative-executive relations, respect for the judiciary, the slow electoral reform process, and most importantly, the Niger Delta amnesty programme, which sought to find a lasting solution to the Niger Delta question. Underneath these achievements and despite Yar'Adua's reputation as a gentle man and a democrat were underground/ clandestine networks of individuals occupying formal and informal positions from which they influenced government activities. In Nigerian political lexicon, such networks are called "the cabal", those who enjoyed

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1 Rotimi Suberu, "The Supreme Court and Federalism in Nigeria", *Journal of Modern African Studies*, 46, 3 (2008): 451- 485; H. O. Yusuf, "The judiciary and political change in Africa: Developing transitional jurisprudence in Nigeria", *International Journal of Constitutional Law*, 7, 4 (Oct 2009): 654-682.

not only the confidence of the President on crucial policy issues, but also his patronage to help build an extended network of loyalists.

The stronghold of the cabal on Yar'Adua's presidency soon began to manifest itself. For example, the trial of some ex-Governors and top government functionaries for alleged corruption was said to have been frustrated because they belonged to the cabal. A second prominent example was that of James Ibori, a former Governor of Delta state, 1999-2007, who enjoyed a sort of "presidential immunity" that shielded him from prosecution. This was despite overwhelming evidence against him at home and abroad<sup>2</sup>. However, the Yar'Adua health crisis, including its medical and political dimensions, exposed, more than anything else, the activities of the cabal. This article, therefore, deals with a situation whereby the President, the chief patron, was seriously ill and hospitalised. In his absence, the cabal was able to hold the country to ransom, holding tenaciously onto power and frustrating all attempts to invoke relevant constitutional provisions to deal with the matter for more than three months.

This article argues that the handling of Yar'Adua's health by the cabal suggests the weak institutionalisation of political power, which poses serious challenges to the consolidation of Nigerian democracy. The threats came from diverse sources from which the cabal drew its membership, including the military, raising again critical questions about the state of civil-military relations in Nigeria; the National Assembly (NA), the Federal Executive Council (FEC), the ruling People's Democratic Party (PDP); the Governors' Forum (GF), the Arewa Consultative Forum (ACF); and Turai Yar'Adua, the all powerful First Lady. However, a number of events happened that helped reduce the effect of the nefarious activities of the cabal on Nigeria's democracy. These included the intervention of the Save Nigeria Group (SNG); fractionalisation within the PDP, the FEC and the NA, for example

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2 Dayo Aiyetan, "End of the Circus: Desperately, President Yar'Adua's handlers continue their game of deception, even as the Nation continues to decidedly, move forward", *Tell* (19 April, 2010): 20-24.

the activities of the National Interest Group (NIG) in the NA; and the ACF's policy summersault on the matter. This article critically examines the role of each of these actors in the political turbulence, underscoring the forces that accounted for the failure of the cabal, which peaked with the "sudden" death of Yar'Adua and the swearing-in of Goodluck Jonathan as the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria on 6 May 2010.

The Nigerian case study has comparative significance, especially from an African perspective. Nigeria not only boasts itself as the largest Black Country in the world, but also sees itself as the giant of Africa, with associated regional leadership responsibilities. Moreover, the case also illuminates the complexity of democratic transitions, showing simultaneously the reality and limits of neopatrimonialism, even in the face of the coexistence of authoritarian and democratic tendencies, what many called hybrid regime. The important lesson is that in the face of regime-threatening development as the case illustrated here illustrates, a vibrant and united civil society can make a lot of difference. The article adopts a combination of process tracing and historical institutionalism, supplemented with content analysis. It draws its data essentially from newspaper editorials, published interviews of key actors in the process, and media coverage and reportage on the crisis.

This article is divided into sections. The first theorises neopatrimonial regimes, underscoring their basic features. The second historicises Yar'Adua's ascension to power and how his presidency was blighted by a medical, but deeply politicized health crisis that pushed the country neck-deep into a constitutional crisis of immense proportion. This is followed by an analysis of the constitutional crisis and the role played by the cabal and the oppositional forces. The concluding section teases out the wider ramification of the study in the understanding of neopatrimonial politics in Africa.

## 2. Recognising a Neopatrimonial Regime in Africa

Whatever its nomenclature, *-clientelism*, *neopatrimonialism*, or *"big man" rule*, the patron–client relationship is understood to be the principal mechanism regulating political and economic life in African countries<sup>3</sup>. This is largely because formal institutions in Africa are considered "to be generally too weak to perform the functions associated with their counterparts in the industrialized world— that is, aggregation, mobilization, and representation"<sup>4</sup>. In attempting to fill the gap, patrons rely heavily on "a system of relations linking rulers not with the 'public' or even with the ruled (at least not directly), but with patrons, associates, clients, supporters, and rivals, who constitute the 'system'"<sup>5</sup>. In such a system, as rightly argued by Arriola, "patrons offer resources to their clients in exchange for their loyalty, and clients support their patrons to access rewards that cannot be readily attained in a weak formal economy"<sup>6</sup>.

*Neopatrimonialism* denotes rent-seeking behavior, which many consider to be integral to the very nature of African culture

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3 Leonardo R. Ariola, "Patronage and Political Stability in Africa", *Comparative Political Studies*, 42, 10 (2009): 1339-1363; Marcus, R. R. "Marc the Medici? The Failure of a New Form of Neopatrimonial Rule in Madagascar", *Political Science Quarterly*, 125, 1 (2010): 111-131; Adebayo Olukoshi, "Changing Patterns of Politics in Africa", in *En libro: Politics and Social Movements in an Hegemonic World: Lessons from Africa, Asia and Latin America*, eds. Boron, Atilio A. and Lechini, Gladys (Junio, Argentina: CLACSO, Consejo Latinoamericano de Ciencias Sociales, Ciudad Autónoma de Buenos Aires, Argentina. Junio, 2005): 177-201. Available at <http://bibliotecavirtual.clacso.org.ar/ar/libros/sursur/politics/Olukoshi.rtf>; Michael Bratton & Nicholas van de Walle, *Democratic experiments in Africa: Regime transitions in comparative perspective* (Cambridge, UK: Cambridge University Press, 1997); Michael Bratton, "Beyond the state: civil society and associational life in Africa" *World Politics* XLI, 3 (April 1989): 407-430; Michael Bratton and Nicholas van de Walle, "Neo-patrimonial regimes and political transitions in Africa", *World Politics*, 46 (July 1994): 453-489; Robert Jackson and Carl Roseburg, *Personal rule in Black Africa: prince, autocrat, prophet, tyrant* (Berkeley: University of California Press, 1983); Lemarchand R Lemarchand, "Political Clientelism and Ethnicity in Tropical Africa: Competing Solidarities in Nation-Building", *American Political Science Review*, 66, 1 (1972): 68-90; Lemarchand R. Lemarchand and Keith Legg, "Political Clientelism and Development: A Preliminary Analysis", *Comparative Politics*, 4, 2 (1972): 149-178.

4 Ariola, L. R. "Patronage and Political Stability in Africa", 1344.

5 Jackson & Rosberg, 1982, 19; quoted in Arriola, "Patronage and Political Stability in Africa", 1344.

6 Arriola, "Patronage and Political Stability in Africa", 1344.

and/or society. It denotes a situation where the political/policy elite are the self-conscious producers of niches of opportunity, which they exploit together with their clients/cronies<sup>7</sup>. Clapham defines it as:

...a form of organization in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines. Officials hold positions in bureaucratic organizations with powers which are formally defined, but exercise those powers, as far as they can, as a form not of public service but of private property. Relationships with others likewise fall into the patrimonial pattern of vassal and lord, rather than the rational-legal one of subordinate and superior, and behavior are correspondingly devised to display a personal status, rather than to perform an official function<sup>8</sup>.

In Africa, neopatrimonialism has been viewed from two perspectives, namely the society-centric approach and the state-centric approach<sup>9</sup>. The former, according to Adebayo Olukoshi, "points to practices and norms in African society that prevent the embrace and sustained application of 'rational' policy choices capable of promoting economic development and political liberalisation"<sup>10</sup>. This approach is what Marcus termed "cultural representation in the political process"<sup>11</sup>. It contrasts sharply with the state-centric approach, which "locates the problem of neopatrimonialism not in the society but in the state itself, pointing to the ways in which the state constitutes a burden on society on account of the politics of predation which it nurtures"<sup>12</sup>. The

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7 Marcus, R. R. "Marc the Medici? The Failure of a New Form of Neopatrimonial Rule in Madagascar", *Political Science Quarterly*, 125, 1 (2010): 111-131; Goran Hyden, *African Politics in Comparative Perspective* (Cambridge: Cambridge University Press, 2006).

8 Clapham, C. *Third World Politics: An Introduction* (London: Helm, 1985) quoted in Marcus, "Marc the Medici?...", 117.

9 Olukoshi, "Changing Patterns of Politics in Africa", 182.

10 Ibid.

11 Marcus, "Marc the Medici?...", 117.

12 Olukoshi, "Changing Patterns of Politics in Africa", 184.

connection between the two perspectives is that the patrons survive through patronage and close links with their clients.

Since the return of multiparty politics to Africa in the aftermath of the Cold War, neopatrimonialism has been closely connected to the question of popular legitimacy. As Adebayo Olukoshi argues, "neo-patrimonialist pressures are also fuelled by the insatiable craving of the power elite for popular legitimacy. For this reason, layers and networks of patron-clientelism pervade the entire socio-economic and political system". This was particularly the case when Yar'Adua came to power via a seriously discredited electoral process, the outcomes of which were overwhelmingly rejected by almost all other stakeholders except the ruling PDP<sup>13</sup>. But often, patron-client networks may prove to be inherently self-insufficient for generating adequate legitimacy for the consolidation of power in a democratic setting. Often, patrons may be compelled to make certain democratic concessions, no matter how limited, to the larger society in democratic decision making and actions. This partly explains why the flowering of hybrid regimes in Africa's new democracies has been linked with neopatrimonial rule. A hybrid regime can be identified in a number of political arenas: the electoral arena, the executive and legislative arena, and the judicial arena<sup>14</sup>. In a hybrid regime, elections are hardly participatory, competitive and legitimate. Moreover, the legislature is often very weak and subjected to the whims and caprices of the executive and the ruling party. The judiciary usually lacks independence and is often manipulated and/or disregarded by the government. Finally, the public (civil

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13 J. Shola Omotola, "Garrison" Democracy in Nigeria: The 2007 General Elections and the Prospects of Democratic Consolidation", *Commonwealth and Comparative Politics*, 47, 2 (2009), 195-221; Cyril Obi, "International Election Observer Missions and the Promotion of Democracy: Some Lessons from Nigeria's 2007 Elections", *Politikon: South African Journal of Political Studies*, Vol. 35, 1 (2008), 69-86; Kunle Amuwo, "The Political Economy of Nigeria's Post-military Elections, 1999-2007", *Review of African Political Economy*, Vol. 36, 119 (2009), 37-61; Paul F. Adebayo and J. Shola Omotola, "Public Perceptions of the 2007 Nigerian General Elections", *Journal of African Elections*, Vol.6, 2 (2007): 201-216.

14 Steven Levitsky and Lucan A. Way, "The Rise of Competitive Authoritarianism", *Journal of Democracy*, 13, 2 (2002), 51-65; Steven Levitsky and Lucan A. Way, *Competitive Authoritarianism: the emergence and Dynamics of Hybrid Regimes in the Post-Cold War Era* (New York: Cambridge University Press, 2009).

society) is seen as probably the last hope in a hybrid regime to initiate social action and demand for real regime change<sup>15</sup>.

Generally neopatrimonialism has also been seen as counter-productive for Africa. The main argument is that patronage politics promotes political instability and has been linked with civil wars and trapped transitions in Africa<sup>16</sup>. Some studies have also pointed to the divisive capabilities of patronage politics. VonDoepp<sup>17</sup> articulated this tendency in the politics of third term constitutional amendments in Malawi, Zambia and Namibia. Similar distabilising tendencies also played out during Obasanjo's third term bid within the PDP<sup>18</sup>. Adebayo Olukoshi captures this perspective thus:

Africa's economic development and political transition from authoritarian rule have been stymied and obstructed. The intellectual roots of Afro-pessimism can be traced to this perspective insofar as it represents a frame which, in treating rent-seeking behaviours, neo-patrimonialist practices and post-colony syndromes as ubiquitous and all-pervasive, almost sees no way out of the 'dead end' to African development<sup>19</sup>.

Nevertheless, the relationship between patronage politics and political stability is conditional. Depending on the prevailing realities, neopatrimonialism can serve as a tool for the consolidation or the loss of power. Neopatrimonialism

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15 Joakim Ekman, "Political Participation and Regime Stability: A framework for Analysing Hybrid Regime", *International Political Science Review*, 30, 1 (2009), pp. 7-32.

16 Larry Diamond and Michael Plattner, eds. *Democratization in Africa* (Baltimore, MD: Johns Hopkins University Press, 1999); Tetan Mentan, *Held Together by Pins: Liberal Democracy under Siege in Africa* (Trenton, NJ: Africa World Press, 2007"; Ariola, L. R. "Patronage and Political Stability in Africa".

17 Peter VonDoepp, "Party Cohesion and Fractionalization in New African Democracies: Lessons from Struggles over Third Term Amendments", *Studies in Comparative International Development*, Vol. 40, 3 (2005): 65-87. See also Daniel N. Posner and Daniel J. Young, "The Institutionalization of Political Power in Africa", *Journal of Democracy*, Vol. 18, 3 (2007): 126- 140.

18 J. Shola Omotola, "Constitutional Review and the Third Term Agenda: Nigeria's Democracy at the Crossroads", *The Constitution: A Journal of Constitutional Development*, 6, 3 (2006a): 57-77.

19 Olukoshi, "Changing Patterns of Politics in Africa", 184-185.

unsupported by some form of institutional legitimacy will only strengthen the rank and file of the opposition and spell doom for the network.

### **3. Umaru Musa Yar'Adua: A Presidency Blighted by a Health Crisis**

Before assuming office as Nigeria's president in May 2007, there were already growing concerns about Yar'Adua's health. As Governor of Katsina state between 1999 and 2007, Yar'Adua was said to have regularly been absent medical reasons. In the course of his election campaign in March 2007, Yar'Adua took ill and was flown to Germany for medical attention. While there, a rumour broke out that he was dead, forcing the now infamous Obasanjo's telephone call and public outburst in one of the campaigns at the June 12 Cultural Centre in Abeokuta, Ogun state capital: "Umoru, are you dead?"<sup>20</sup>. This cast question marks on his candidacy, especially given the array of healthy and vibrant aspirants for the position across the country. But most often, as a popular Yoruba adage goes, *Olokurun koni iku kangun si*, meaning that the closest person to death (or the next person to die) may not necessarily be the person who is sick. What is more, Obasanjo claimed to have obtained in 2007, a medical report certifying Yar'Adua medically fit to be Nigeria's president, before the announcement of his candidacy.

On assumption of office, Yar'Adua did not show any serious sign of ill-health of the magnitude that could render him permanently incapacitated to govern the country. Though reputed as slow in action, Yar'Adua gradually started addressing matters of national importance in both the political and economic spheres, most notably a commitment to the rule of law and electoral reform, the seven point agenda and the Niger Delta question. Whether these policies were theoretically well grounded, effectively and efficiently enforced, adequately monitored and evaluated, and yielded desirable outcomes, is another thing entirely. Whatever the scorecard, which for many, is far below expectations, indeed,

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20 Adewuyi, O. "What Yar'Adua Taught Nigerians", *Tell*, 17 May 2010, 23-24.

“the most incompetent and colourless” administration in Nigeria’s history<sup>21</sup>, Yar’Adua took some concrete steps that should have, ordinarily, positively impacted the political economy of the country. He was also reputed as a democrat and a gentleman, who meant well for the country but hindered by his health conditions<sup>22</sup>.

This can be illustrated with two examples. After admitting in his inaugural speech of 29 May 2009 that the election that produced him fell short of acceptable international standards, he made a commitment to address the contradictions of the electoral process. This self-admittance was unprecedented in Nigeria’s political history. On 23 August, 2007, Yar’Adua constituted a 23 man ERC, with a comprehensive mandate “to evolve an electoral process that will enable us anchor democracy as the framework for national integration, sustained growth and national development”<sup>23</sup>. This action was widely hailed locally and international partly because the ERC consisted of notable and credible Nigerians and drew representatives from diverse interests groups, including civil society, mass media, academia, women, trade unions, and professionals. The way the panel handled its businesses from its inception, conducting public hearings across the country and collating memoranda from diverse stakeholders, suggested the panel enjoyed some level of autonomy. The far-reaching reform measures recommended by the ERC, aimed at making the Independent National Electoral Commission (INEC) truly independent in all ramifications, among others, added weight to this perception. Yar’Adua received the report with an assurance that it would be implemented. Secondly, Yar’Adua also tried to address, in a concrete and possibly permanent way, the enigmatic Niger Delta question. Apart from

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21 Amuta, C. “Beyond Yar’Adua”, January 2010, <http://us.mgl.mail.yahoo.com/dc/launch?.gx=1&.rand=cpllm8sfm05cq>. (accessed on 16February).

22 Yusuf, A. “At Last, Catharsis: The death, though painful, of President Yar’Adua ends the apprehension in the polity and the era of foot-dragging in governance”, *Tell* (17 May 2010):19-22.

23 Umaru Musa Yar’Adua, Presidential Address at The Electoral Reform Committee’s Inauguration Ceremony, 2007, available at <http://electoralreformsng.org/speech.php>. Accessed on 15/05/2008.

resort to dialogue with actors in the crisis, Yar'Adua also established the Ministry of the Niger Delta, with a cabinet rank Minister. He also initiated the Niger Delta amnesty programme, packaged not only to demilitarize, but also engender the development of the region.

Both programmes and several others on the seven-point agenda, the main development plan of the administration, were gradually on course before Yar'Adua's health crisis. Yar'Adua was flown to the King Faisal Specialist Hospital in Jeddah, Saudi Arabia, on 23 November 2009, for the treatment of acute pericarditis. The ailment had reportedly troubled Yar'Adua from time to time. As Governor of Katsina state between 1999 and 2007, he took protracted medical leave at least twice, to seek medical solution to the problem. It was the clean bill of health he claimed to have received from these treatments that persuaded then President Obasanjo, who was desperately in search of a "reliable" successor, to sanction his candidature. Yar'Adua's health crisis was, therefore, not so much about his illness *per se*. Instead, it has to do more with his failure to transfer a letter to that effect to the NA, as constitutionally mandated, so that his VP, Goodluck Jonathan, could automatically assume office in acting capacity. Yar'Adua was away from his duty post, without respecting the constitutional basis for such absence, for 93 days. The crisis also embodies the "cabalistic" politicisation of Yar'Adua's unconstitutional absence from duty and the attendant efforts to sustain him in power as an absentee president. Worse still, most of these efforts were, in most cases, unconstitutional and criminal, and had to be sustained through lies, propaganda, threats and consistent violations of the constitution<sup>24</sup>.

At the peak of the crisis, the centrifugal tendencies of the country became refreshed and reanimated and the stability of the country was severely threatened. Nigeria once again, as under the Abacha's regime, became the butt of the international

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24 Aiyetan, D. and Suleiman, T. "The North's Big Dilemma", *Tell*, 16 April 2010, Lagos, pp. 22- 25; Aleem, M. "The Lies they Told about Yar'Adua", *Tell*, 19 April 2010, pp. 22-23.

community's jokes. Democracy was on trial. It is, therefore, outright reductionist to define Yar'Adua's health crisis simply in medical terms. It is a combination of the medical and the political, which threatened the political economy of the country domestically and internationally.

#### **4. The Cabal, the Opposition and the Constitutional Crisis**

The failure of Yar'Adua to transmit a letter to the NA generated a serious constitutional crisis. It meant that Jonathan could not step in as Acting President. A presidential vacuum was, therefore, in the offing. Dealing with the problem became extremely difficult, because as it later crystallised, the presidency had been cabalised. Section 145 of the 1999 constitution mandates that for the President to proceed on leave for whatever reasons, he or she must transmit a letter to that effect to the NA to enable the VP assume office as Acting President: "Whenever the President transmits to the President of the Senate and Speaker of the House of Representatives a written declaration that he is proceeding on vacation or that he is otherwise unable to discharge the functions of his office, until he transmits to them a written declaration to the contrary such functions shall be discharged by the Vice-President as Acting President"<sup>25</sup>. This is to ensure there is no vacuum in the structure of power in the Nigerian presidency. In the event of failure to honour this provision, as Yar'Adua's, Section 144 (1) of the constitution stipulates how to deal with the situation:

The president or Vice-President shall cease to hold office, if (a) by a resolution passed by two-thirds majority of all the members of the executive council of the Federation it is declared that the President or Vice-President is incapable of discharging the functions of his office; and (b) the declaration is verified, after such medical examination as may be necessary by a medical panel established under subsection (4) of this section in its report to the President of

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25 Section 145 of the 1999 Constitution of the Federal Republic of Nigeria, Lagos: Government Printers, 1999.

the Senate and the Speaker of the House of Representatives”<sup>26</sup>.

Yar’Adua’s failure to respect section 145 of the constitution created a vacuum in the presidency. This is because without the letter, Jonathan could not become Acting President. In the absence of both the substantive and an Acting President, there was no C-I-C of the armed forces. Consequently, there was no one officially vested with presidential powers. Nigeria operates a presidential system of government where power is over-concentrated in the presidency. The presidential vacuum and the attendant struggle to fill it became unnecessarily mired in serious controversy over its constitutionality or otherwise. This was so because the crisis was hijacked by stark opportunism. Both the FEC and the NA failed to invoke relevant sections of the constitution. On two different occasions the FEC met but resolved that Yar’Adua was not medically unfit to continue as president. This generated heated constitutional controversy along political divides.

For the cabal<sup>27</sup>, Yar’Adua’s presidency must be protected till the end, come what may and at all cost, even if it means subverting the constitution. The cabal succeeded in running an absentee presidency for over four months. The composition of the cabal cuts across the formal and informal institutions of the state, including the First Lady, the FEC, the NA, the GF, the military, the ACF, traditional rulers and executive in-laws of Yar’Adua, with each playing different but complimentary roles in sustaining an absentee presidency. Membership of the cabal may not

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26 Section 144 (1) of the 1999 Constitution of the Federal Republic of Nigeria, Lagos: Government Printers, 1999.

27 The cabal consists of Turai Yar’Adua, the wife of the president (as the mastermind), Gen. Sarki Mukhtar, the National Security Adviser (NSA), Taminu Yakubu Kurfi, the Chief Economic Adviser to the president, Dr. Abba Sayyad Ruma, the Minister of Agriculture,, Senator Adamu Aliero, the Minister of the Federal Capital Territory and a son-in law to the president, Mr Michael Aondoakaa, the Minister for Justice and Attorney General of the Federation (AGF), Senator David Mark, the Senate President, Dimeji Bankole, Speaker of the House of Representatives, Prince Vincent Ogulafor, National Chairman of the PDP, the Governor’s Forum, among others. For an informative idea on this, see Yusuf Alli, “Ministers in Showdown over anti-Jonathan plot”, *The Nation*, 19 February, 2010, Lagos, pp. 1-2.

necessarily be by special design, but rather by political exigencies, positions occupied in government and personal closeness to the president. For example, apart from his position as the AGF, Aondoakaa was very powerful in the cabal as a nominee of James Ibori in the FEC. Yet, the ethnic foundation of the cabal became visible, given that its core actors were of northern extraction<sup>28</sup>. It was, therefore, difficult to ascertain whether the cabal represented particular forces in Nigerian politics, or the neopatrimonial basis of politics. However, the cabal relied heavily on propaganda, distortion of facts, official secrecy, executive threats against perceived opposition and litigations<sup>29</sup>.

The First Lady<sup>30</sup>, for example, was reputed as the mastermind and *defacto* leader of the cabal. During the crisis, she single handedly determined who would see the president and who would not. The security operatives attached to the president reportedly took orders from her, failure which could lead to their removal from the juice appointment such security officers were occupying. On five different occasions various institutions of government made unsuccessful official representations to the King Faisal Specialist Hospital<sup>31</sup> at Turai's instance. Her overbearing influence was partly historical. Before her, the office of the First Lady had become enigmatic, exemplified by the strong role of Mariam Babangida, Marriam Abacha and Stella Obasanjo during the regime of their husbands. Additionally, the office has become a

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28 This was the case with all members of the cabal listed in note 3 above except Dimiji Bankole and Vincent Ogbulafor, who were from the South west and South east respectively.

29 Alli, Y. and Ikuomola, V. "Akunyili under attack over Yar'Adua's stand", *The Nation*, 4 March 2010, Lagos, pp. 1-2.

30 For her strong grip on the cabal, Turai Yar'Adua has earned herself the reputation of the most powerful First Lady Nigeria has ever had. For a comparative analysis of First Ladies in Nigeria from Maryam Babangida, who popularized the office, to Turai Yar'Adua, see Avwode, 2010: 2-3.

31 The first visit was by the GF on 29 November, 2009, led by its chairman, Dr. Bukola Saraki of Kwara state. The second was on 26 December 2009, when David Edevbie, the President's Principal Secretary went with the supplementary budget for Yar'Adua's signature. The third was by the HoRs on 9 February, 2010; the fourth was the by PDP on 11 February, 2010; and the final visit was by the FEC on 22 February, 2010. For detail, see Yusul Alli and Vincent Ikuomola, "Federal Govt delegation off to Saudi Arabia", *The Nation*, 23 February, 2010, Lagos, p. 2.

powerful arena for the struggle over resources, given the enormity of resources at its disposal. Also, being a mother-in-law to two serving Governors also served to expand her circumference of power. More importantly, the ill-health of Yar'Adua worked in her favour as it afforded her wider latitude to influence official decisions of the government. She was reportedly instrumental to the appointment of some members of the FEC and politicians patronised her in order to gain the attention of the President. John Campbell, a former U.S. ambassador to Nigeria, now a fellow with the New York-based Council on Foreign Relations, said: "She is indeed the person I think is calling the shots... The basis of her ability to do it is because she controls access to the president"<sup>32</sup>.

Although none of these official delegations saw Yar'Adua, two of them are significantly illustrative. The first was the visit by David Edevbie, Yar'Adua's Principal Secretary on 26 December 2009. The mission was to sign into law the  $\text{N}353.60$  billion Nigerian naira (about \$235.733 million) 2009 supplementary budget. David admitted not seeing the president, but returned with the budget duly signed. This was at a time when there was still a presidential vacuum, since Jonathan had not become Acting President. This raises the question: who signed the budget? Nigerians are still awaiting an answer to this question. Suspicion was rife in some quarters that the cabal forged the signature of the president in order to raise enough money to fund the invisible presidency project and enrich the personal pursues of core members of the cabal.<sup>33</sup> The second was the delegation by FEC,

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32 See, "Hajiya Turai Yar'Adua; the Rise and Downfall of her imperial Majesty", available at [http://www.elombah.com/index.php?option=com\\_content&view=article&id=2983:turai-yaradua-the-making-of-an-empress&catid=36:omoba&Itemid=83](http://www.elombah.com/index.php?option=com_content&view=article&id=2983:turai-yaradua-the-making-of-an-empress&catid=36:omoba&Itemid=83). Accessed on 2 July, 2010. See also. "Turai takes over". The Daily Sun, 25 February, 2010.

33 As a national daily reported: "Several billions of Naira was spent and the Presidency is demanding for answers. In fact, the Presidency is interested in knowing who authorised the release of the funds, the reason for the release and what the money was spent for". See, "Yar'Adua: Presidency probes missing security vote", The Punch, 27 March, 2010. Available at <http://h2.punchng.com/Articl.aspx?theartic=Art201003276512121>. Accessed on 2 July, 2010. See also "Yar'Adua's top aides loot N70bn in his name", available at [odili.net/news/source/2010/apr/4/512.html](http://odili.net/news/source/2010/apr/4/512.html). Accessed on 2 July, 2010.

which arrived Jeddah on 23 February, 2010, the same day Yar'Adua arrived Nigeria midnight. After all, the Saudi embassy in Nigeria issued visas to the delegates a day earlier. This reinforces the conspiratorial thesis that Jeddah<sup>34</sup> was assisting Turai to shield Yar'Adua from the government and people of Nigeria.

The FEC<sup>35</sup> also failed in its constitutional responsibility to invoke the relevant sections of the constitution to resolve the matter. Despite the fact that everything else pointed to the contrary, particularly the total invisibility of Yar'Adua since his departure to Saudi till his death, the FEC on two different occasions met, first on 2 December 2009 and second on 27 January 2010 and resolved on both occasions, without benefit of a medical report, as constitutional mandated, that Yar'Adua was not incapacitated to function as president. With these resolutions, it became difficult for any further step to be taken in that direction, since every other action on the matter is, constitutionally, contingent upon the resolution of the FEC. The FEC could not have acted otherwise because most of them owe their membership to the president, who appointed them to political office. Declaring him permanently incapacitated would throw them into the troubled marketplace of political uncertainty. It was, politically speaking, more rewarding for them to fight for the retention of the status-quo, where they had established sound footing.

There were also the executive in-laws of Yar'Adua. These were Governors Issa Yuguda of Bauchi state and Saidu Usman Dakingari of Kebbi state, both of whom married Yar'Adua's daughters. These elements added new dimensions to the activities of the cabal. On 29 December, for example, Issa Yuguda told Nigerians that he and his Kwara state counterpart,

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34 The Saudi government vehemently denied this conspiratorial thesis. It claimed if there was any restriction at all, it must be from the president's personal physicians or his family. Insisting the Saudi King had no hand in the restriction and was not interested in intervening in the matter. See Dele Anofi and Onyedi Ojiabo, "Our Stand on Yar'Adua, by Saudi Arabia Govt", *The Nation*, 23 February, 2010, Lagos, pp. 1-2.

35 The FEC, according to section 144 (5) of the 1999 constitution of Nigeria, "is a reference to the body of Ministers of the Government of the Federation, howsoever called, established by the President and charged with the responsibilities of the functions of government as the President may direct".

Bukola Saraki, visited and saw Yar'Adua at the hospital in Saudi Arabia<sup>36</sup>. The name of these Governors featured prominently among likely successors of Yar'Adua, especially as VP to Jonathan, when it became obvious that it may be impossible to sustain an absentee presidency for too long.<sup>37</sup>

The NA did not perform any better. It was not until it became obvious that David Mark and his loyalists in the Senate had lost control over the majority that he decided to act by invoking the Doctrine of Necessity to make Jonathan an Acting President on 9 February 2010. The action may have been taken as a face saving move to avoid being defeated on the floor of the Senate, which would not only have meant that Mark was no longer popular, but could also threaten his position as the Senate President. The Doctrine of Necessity could, therefore, be seen as an arrangement for a safe landing. The situation was worse in the lower chamber of the NA, the House of Representatives (HoRs), where Dimeji Bankole, the Speaker of the House, refused to read the resolution of the House making Jonathan the Acting President. He abdicated his responsibility to Mr. Akogun, the majority leader, who read the resolution. This amounts to a demonstration of disloyalty to and contempt for not only the House, but also the constitution he had sworn to uphold. But as an unknown quantity in Nigerian politics until his sudden emergence as Speaker of the HoRs in 2008, following the removal of Patricia Etteh for alleged misconduct, it must be understood that Bankole came to the job with a very thin political resume.

The Ministry of Justice and office of the Attorney General of the Federal (AGF) were both cornerstones of the cabal. Michael Aondoakaa, the then AGF, exploited all available avenues to keep the invisible presidency. Some of his most memorable salvos included his declaration that the president was not constitutionally mandated to be in the country to govern it; that

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36 Aleem, M. "The Lies they Told about Yar'Adua", Tell, 19 April 2010, p. 22.

37 See, "Jonathan's VP's spot: Yar'Adua's daughters, Zainab, Nafisatu in fight to finish... ..Turai wants to them to agree on one of her sons-in-law, Yuguda or Dakingari", available at <http://www.pointblanknews.com/os2960.html>. (accessed on 2 July, 2010).

he could govern from any part of the world<sup>38</sup>. This probably provided an additional justification for taking the supplementary budget to Jeddah for Yar'Adua's signature. Aondoakaa also fought many legal battles to frustrate the emergence of Jonathan as Acting President, arguing that he did not have to be Acting President to carry out presidential functions in the absence of the president. In this respect, Aondoakaa got a favourable pronouncement in *Onwukwe vs Attorney General and FEC*, on 13 January 2010, when Justice Dan Abutu, Chief Judge of the Federal High Court, ruled that the VP needed not become Acting President to carry out the functions of the president in his absence, adding that the Vice President was already doing so and should continue to do so<sup>39</sup>.

In order to sustain the struggle, the cabal at times relied on security breaches. For example, on 12 January 2010, Yar'Adua allegedly granted the BBC an interview, claiming to be responding well to treatment and that he would return to the country to continue as president as his condition improved. Nigerians wondered why Yar'Adua opted for the BBC at the expense of the Nigerian Television Authority (NTA) and other local news outlets. The failure of the plot, exemplified by widespread skepticism and condemnation that attended it, made the cabal resort to announcing, intermittently, the arrival date of Yar'Adua, claiming his health condition had improved. On one occasion, the GF<sup>40</sup> addressed a press conference where Bukola Saraki, Governor of Kwara state and chairman of the forum, claimed that Yar'Adua had been communicating with some key officials of government

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38 Aleem, M. "The Lies they Told about Yar'Adua", *Tell*, 19 April 2010, 22.

39 The Nation, "Key Dates in the Controversy", *The Nation*, 24 February, 2010, Lagos, p.4. See also, "Nigeria: The Political Crisis of an Ailing President Chronology of Events ", available at [http://www.imdiversity.com/Villages/Global/Global\\_Politics/NigeriaPowerVacuumChronology.asp](http://www.imdiversity.com/Villages/Global/Global_Politics/NigeriaPowerVacuumChronology.asp). Accessed on 2 July, 2010.

40 The GF has been described as the real cabal because they wield more power than can be imagined: "Governors are so powerful that they control presidents and parties, and no one controls them. The system is so structured in their favour that the kind of hold the have over higher authorities at federal level, cannot be duplicated at state levels". See Festus Eriye, "The Real Cabal", *The Nation*, 7 March 2010, p.11.

on telephone, including Goodluck Jonathan, David Mark, Dimeji Bankole, among others.

On another occasion when Dora Akunyili, the Minister for Information, decided to take the "bull by the horns" at the FEC, Michael Aondoakaa, as other members of the cabal, accused her of seeking cheap popularity. Aondoakaa further advised her to go and deal with the rot she left as Director General of the NAFDAC<sup>41</sup>. When Yar'Adua was smuggled into the country midnight on 23 February 2010, it was without the knowledge of Jonathan, who was at that time the Acting President and, to that extent, the C-I-C of the armed forces of the federation. Yet, the military was deployed to the airport both in Lagos and Abuja without Jonathan's knowledge, let alone approval. The deployment of the military meant that it was a planned arrival. The fact that some key figures of the cabal were present at the airport, including Adamu Aliero, the FCT Minister and General Murktar, the National Security Adviser (NSA), is further testimony. This is obviously mutinous on the part of the military and raised questions about the state of civil-military relations in the country<sup>42</sup>. Since his arrival till his death, the cabal kept Yar'Adua away from public glare, including Goodluck Jonathan, but kept informing the public that he was getting better.

These and related steps were either preemptive, or reactive strategies, depending on the particular issue at hand, to neutralize the efforts of the opposition and the increasingly restive political community. With the passage of each day, the crisis assumed dramatic turns, especially of ethno-religious colouration. This gained increasing currency with the invitation by Turai of four Muslim clerics to the Presidential Villa to pray for

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41 NAFDAC is the acronym for National Agency for Food, Drug and Control, where Professor Akunyili served as Director General to the admiration of most Nigerians. It was, therefore, shocking when Aondoakaa made such an allegation. See Alli, Y. and Ikuomola, V. "Akunyili under attack over Yar'Adua stand", *The Nation*, 4 March 2010, Lagos, pp. 1-2.

42 Adeoye, A. "Taming the Military", *The Nation*, 7 March 2010, Lagos, pp. 17-18 & 53.

Yar'Adua<sup>43</sup>. This was not totally unexpected, given that the *dramatis personae* in the cabal were of northern extraction. The plot to frustrate the emergence of Jonathan as Acting President was therefore seen as a plot against the minorities, particularly the ethnic Ijaw where Jonathan hails from. Added to this was the fact that Jonathan is a Christian. The attempt to downplay this perception may have compelled Turai to later extend invitation to four Christian clergymen to visit Yar'Adua<sup>44</sup>. This was despite the fact that no one in official government circle, including Goodluck Jonathan, was allowed to see Yar'Adua.

For the opposition forces, Nigeria must be rescued from the strong grip of the cabal. This is important, given that one of the main problems of the democratisation process in Nigeria is the weak base of opposition politics. The definition of opposition here is not strictly in party terms. It also encompasses civil society groups and individuals committed to democracy promotion. Despite its history of fragmentation, the opposition has, on a few occasions, proven that they remain the hope of democratic survival in Nigeria. This tendency of the opposition to rise to the occasion at critical moments, in some ways, is historical. In the recent past, Nigerian opposition elements fought successive military regimes to a standstill, forcing General Babangida to step aside after the annulment of the 12 June, 1993 presidential election and attendant impasse. They also engaged the self-succession bid of General Sani Abacha till his sudden death in 1998<sup>45</sup>. In short, the opposition forced the re-democratisation of Nigeria in 1999, though with some reasonable measure of

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43 The clerics were Ustaz Musa Muhammed, chief Imam of National Mosque, Abuja; Datti Ahmed, president, Supreme Council of Sharia in Nigeria; Sheikh Yakubu Musa and Sheikh Isa Pantami. The revelation of the group was, however, contradictory and deeply enmeshed in controversy (See Aiyetan, 2010a:20).

44 The clergymen were Arch Bishop John Oniyekan, president, Christian Association of Nigeria (CAN); Bishop David Oyedepo of the Living Faith Church; Yusuf Obaje, former Aso Rock Chaplain; and Emmanuel Kure of Throneron Trust Ministry. The group considered its access to the ailing President as a privileged thing and declined to comment on his state of health (See Aiyetan, 2010a:20).

45 J. SholaOmotola, "The Civil Limitations of Civil Society: Insights from Nigeria". *Unilag Journal of Politics*, 2, 1 (2005); J. Shola Omotola, "From Importer to Exporter: The Changing Role of Nigeria in Promoting Democratic Values in Africa". In Pretorius, Joellen. (ed.), *African Politics: Beyond the Third Wave of Democratisation*. Cape Town, SA: Juta Academic Press, 2008a pp. 32-54.

international goodwill. More recently, Nigerian opposition elements were united for the defeat of the third term agenda that sought to elongate Obasanjo's presidency beyond the statutory two terms of four years each<sup>46</sup>. Given the grave consequences of the activities of the cabal for the corporality of Nigeria and its democratic development, the opposition was once again united to fight the cabal to a standstill. The strategy of the opposition included litigations, peaceful protests, press conferences, as well as popular sensitization and mobilization through aggressive media and publicity.

The SNG was one of the leading opposition groups that engaged and precipitated the collapse of the cabal. The SNG is a coalition of civil society groups and notable democracy and human rights activists.<sup>47</sup> The primary mandate of the SNG is to challenge and change the status quo by encouraging political participation and promoting political knowledge through various activities. In its widely publicized manifestos for liberty, security and prosperity christened "A Contract to Save and Transform Nigeria", formally released on 5 May 2010, the SNG bemoans the deepening crises and contradictions of governance in Nigeria, exemplified by widespread poverty, entrenched corruption, decayed infrastructure, bad leadership and politics of exclusion. The SNG, therefore, called on Nigerians to take their destinies in their own hands by collaborating with popular movements committed to the entrenchment of good governance, via the creation of a "politically friendly environment of liberty, security, and prosperity for all Nigerians", and to "subscribe to SNG's vision of

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46 J. Shola Omotola, "Through A Glass Darkly": Assessing the "New" War against Corruption in Nigeria", *Africa Insight*, 36, 3-4 (2006b), pp. 214-229.

47 The SNG consists of notable people, including the Nobel Laureate, Professor Wole Soyinka; radical lawyer, Femi Falana; founder of the Latter Rain Assembly, Pastor Tunde Bakare; president of the Nigerian Bar Association (NBA), Rotimi Akeredolu; former Governor of Kaduna state and chairman of Conference of Nigerian Political Parties (CNPP), Balarabe Musa; Pat Utomi, a renowned economist; and Ayo Obe, a former President of the Civil Liberties Organisation (CLO).

a new Nigeria and participate in its mission to save and transform Nigeria"<sup>48</sup>.

The SNG embarked upon an aggressive media and publicity to sensitise and mobilize Nigerians to join it in rescuing Nigeria from the jaws of the cabal<sup>49</sup>. To this effect, the SNG organised peaceful protests in Abuja, Lagos and Port Harcourt. In the Abuja rally of 11 March, 2010, the SNG, speaking through Pastor Bakare, demanded three things: first "an end to the invisible presidency of Yar'Adua by activating section 144b of the constitution so that presidential powers will be fully accountable"; second, "the dissolution of the present Executive Council of the Federation which has largely collaborated with presidential aides to foist this crisis on the nation"; and third, "quick and thorough implementation of the Uwais report on reform starting with the immediate removal of Professor Maurice Iwu as chairman and the reconstitution of INEC with persons of impeccable integrity and competence"<sup>50</sup>. Pat Utomi remarked: "the only thing that will save Nigeria is for the people of Nigeria taking over the streets...demanding that the constitution be upheld; that the rule of law be respected, and those at the helm of affairs do what is right and just"<sup>51</sup>. Similarly, Professor Wole Soyinka lamented:

Nigerians should rescue the nation from the cabal of reprobate gangsters, extortionists and even political murderers responsible for some of the assassinations we've witnessed in Nigeria in the last 10 years...by any legitimate means you are capable of. You should demand your nation back and don't just sit and watch it being degraded and

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48 Save Nigeria Group, "Action to Save and Transform Nigeria ( Manifesto for Liberty, Security and Prosperity Nigerians Must Insist On)", 5 May 2010, Abuja: SNG, pp. 19-20.

49 Save Nigeria Group, "Action to Save and Transform Nigeria

50 Agbo, A. "Red card for Mr President. Civil society groups insist that President Umaru Yar'Adua leaves the scene for Acting President Goodluck Jonathan to take full charge". Tell, 22 March 2010, Lagos, pp. 32 and 34.

51 Sawyer, S. "Now, the People Power. After many years of watching democracy from the sidelines, Nigerians are being roused once again to defend the nation's constitution in the struggle to wrestle the Presidency from a cabal", Tell, 22 March 2010, Lagos, p. 33.

expropriated by people who have absolutely no respect for you, no respect at all even to their own<sup>52</sup>.

Responding, the Secretary to the Government of the Federation (SGF) saluted the courage of the SNG at a critical time like this when sycophancy and opportunism had completely enveloped the country. Earlier, the PDP had begun to show signs of fractionalisation at various levels, including the FEC, the NA and the presidency itself. In the FEC, the most significant development was the now famous Dora Akunyili' memo of 3 February 2010 which sought to introduce a motion in FEC about Yar'Adua's health<sup>53</sup>. Although she was not allowed to table the motion and was later called names by key members of the cabal, Akunyili was able to dissociate herself from the plans to perpetually maintain an invincible presidency by the FEC. From that time, Akunyili stopped acting as the spokesperson of the FEC after its council meetings because, as she submitted in her famous memo to the FEC: "If we fail to act now, history will not forgive us"<sup>54</sup> Aondoakaa took over the job, together with his original portfolio and this helped to sharpen the division in the FEC<sup>55</sup>.

In the NA too, a pro-Jonathan faction, the NIG, had emerged in both chambers, demanding that the right thing be done. The insistence of the group on invoking the relevant sections of the constitution to declare Yar'Adua permanently incapacitated partly forced the resolution to make Jonathan Acting President. The public outrage by ex-President Obasanjo, against popular condemnation that he imposed an infirm person on the country, also contributed to the weakening of the cabal. Obasanjo said

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52 Sawyer, "Now, the People Power...", 33.

53 Dora Akunyili's role in the saga, particularly the memo, was unsuccessfully invoked on the floor of the Senate to deny her the opportunity to return to the reconstituted cabinet under Jonathan. She was accused to have been very close to the Yar'Adua's family such that she allegedly cooked for them. But for Nigerians, this was political blackmail at its peak.

54 See "The Dora Akunyili Memo", available at <http://healnigeria.blogspot.com/2010/02/dora-akunyili-memo.html> (accessed on 30 January 2011).

55 Omosho, G. "A Cabinet in Disarray", *The Nation*, 11 February 2010, Lagos, p. 40; Gbadegesin, S. "Lamentation of a crippled Nation", *The Nation*, 19 February 2010, Lagos, 40.

God should punish him if he deliberately imposed Yar'Adua, revealing what he knew about his health conditions:

So, to say that I, Olusegun Obasanjo, deliberately picked somebody who is an invalid, is the height and height of insult. How can I put so much into this country both in peace and in war, and give the running of the country to somebody who will run it down? ...If I did that, God will punish me. Yes, because I love this country so much, and there is no reason why I should do that"<sup>56</sup>.

The cabal was shocked when Obasanjo, speaking on the basis of privileged information about the deteriorating state of health of Yar'Adua in Saudi Arabia, urged him to do the right thing, that is, to resign. This caught the cabal unaware and was even considered as a betrayal of trust.

It would seem, however, that the final straw that broke the camel's back was ACF's sudden change of position on the matter.<sup>57</sup> The ACF was founded in meeting held in Kaduna, the capital of the defunct Northern region, on 7 March 2000 under the leadership of His Eminence, Alhaji Muhammadu Maccido, the then Sultan of Sokoto. To underscore the significance of the body, the meeting was attended by nine emirs, two former Presidents and 31 prominent personalities from all over the North. Its primary mandate was to promote unity among Northern leaders, working through elected officials to achieve progress in the Northern area within the democratic framework<sup>58</sup>. Initially, the ACF was the vanguard of protecting Yar'Adua's presidency as a Northern agenda. But in a sudden twist of fortune, the ACF withdrew its support for an absentee presidency in response to growing oppositional pressures for the right thing to be done. The

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56 "Resign on health grounds, Obasanjo tells Yar'Adua", *The Punch*, 22 January 2010. Available at [www.punchng.com/Articl.aspx?theartic=Art20100122233656](http://www.punchng.com/Articl.aspx?theartic=Art20100122233656) (accessed on 12 January 2011).

57 The ACF is an elitist and highest socio-political organization in Northern Nigeria. The group is known to wield enormous influence in the governance of the country and functions as a powerful pressure group on policy processes in the country.

58 See "History of Arewa Consultative Forum", available at [www.nigerianbestforum.com/index.php?topic=5103.msg149097](http://www.nigerianbestforum.com/index.php?topic=5103.msg149097). Accessed on 7 June, 2010.

withdrawal was powerfully expressed in a communiqué issued on 4 May, 2010 by the ACF at the end of the meeting of a special committee it set up to look into the problem, asking Yar'Adua to resign so that Jonathan could effectively take over as President and address crucial national questions<sup>59</sup>. Barely two days after the communiqué, the death of Yar'Adua was announced. Nigerians woke up to the news of Yar'Adua's death on 6 May 2010.<sup>60</sup> This has prompted suspicion about Yar'Adua's death, leading the Action Congress (AC), a leading opposition party, to demand for presidential investigation into the circumstances surrounding the death.

But before the end of the crisis, the cabal held the country hostage. It was such that even the making of Jonathan as Acting President could not totally leverage the political terrain, until he finally assumed office as president and C-I-C of the armed forces of the federation, following the death of Yar'Adua.

## **5. Conclusion: Neopatrimonialism as Double-Edged Sword**

Neopatrimonialism is like a double-edged sword. As it serves the interests of the patron and his/her clients, it can also serve to induce social action for democratic reform. In the Nigerian case illustrated above, the two contrasting scenarios played

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59 Amongst the ACF chieftains who attended the Special Committee meeting were its Chairman and former Chief of Army Staff, Lt. General Mohammed Inuwa Wushishi; former Inspector General of Police, Ibrahim Coomassie; Alhaji Adamu Fika (Wazirin Fika); Senator JKN Waku; immediate past General Secretary of the Forum, Col. Hamid Ali; Alhaji Sule Yahaya Hamma; former Military Administrator of Kebbi State, Col. JIP Ubah; Col. Mohammed Abdu, Bitrus Gwadah, Malam Lawal Idris, Professor B.D. Musa, Ambassador Adamu Mohammed, Alhaji Aliko Mohammed, Alhaji Adamu Attah, Brig. Gen. Mohammed Umar and Malam Bukar Zarma, who is the secretary of the committee. See Olatunji, 2010. Olatunji, S. "Row over Yar'Adua's health status, threat to Nigeria's corporate existence — ACF", *The Punch*, 5 May, 2010, Lagos, 2010, pp 1-2. Available at

[www.punchng.com/Articl.aspx?theartic=Art201003052524910](http://www.punchng.com/Articl.aspx?theartic=Art201003052524910). Accessed on 27 June, 2010.

60 The news of his death was not shocking to many. For some, it has been long awaited. Many others doubted whether he was returned alive to the country on 23 February 2010. I share this latter perspective and no one has been able to make me think otherwise. I am persuaded that the cabal only chose to announce his death when it was obvious that the game was up. The agonies of an invisible presidency imposed on the country by the cabal took the shine off Yar'Adua's death.

themselves out. In a system where neopatrimonialism has become deeply entrenched, almost becoming a political culture, it is pretty difficult, if not impossible, to completely stamp it out overnight. The problem becomes more difficult in the face of weak institutional design and effective institutionalization of power where the rule of law streamlines and regulates political actions. In the circumstance, mobilising along only institutional lines becomes grossly deficient. By implication, the resort to patrimonial networks becomes inevitable. Nevertheless, the political class is not always as united as classical elite theorists would have us believe. Rather, the political class can also fragment along several fault lines of cleavages, including region, ethnicity and religion. Depending on the availability of resources and its effective management by the patron, neopatrimonialism can engender or retard political stability. If well managed, it can help expand the patron's networks of reciprocity at both the official and unofficial levels. Unfortunately, Yar'Adua's henchmen did not manage the situation well, thereby unable to build sufficient personalized networks of reciprocity in defence of the absentee presidency project.

The limits of neopatrimonialism were exemplified by the inability of the cabal to perpetually sustain an invisible presidency, given attendant polarizations within its rank and file at various levels. It suggests that neopatrimonial rule unsupported by some degree of political institutionalization can hardly stand the test of time. It is also a reflection of the balance of forces in Nigerian government and politics, suggesting that opposition forces, including the civil society, can be formidable pillars of sustainable democracy provided they are able to rise above the dividing lines, be united and committed to their roles.

More importantly, the Nigerian experience suggests a very strong relationship between neopatrimonialism and hybrid regimes. The continuous cohabitation of democratic indices, for example, the existence of democratic institutions such as the legislature, political parties and election management body, along with undemocratic ones such as the institution of the First Lady, together with authoritarianism dispositions, including disrespect

of rule of law, elections without choice, was largely fuelled by the cabalisation of power and politics. While the Jonathan" presidency is still too young to warrant any definitive position, the signs are already emerging that it may not be significantly different from its predecessors. It too may continue to radiate contradictory features of democracy and authoritarianism. It will take the unrelenting efforts of the civil society, as they did during Yar'Adua's health crisis, sensitising and mobilising the people, to alter the situation. But this may not be the case. From recent history, opposition forces in Nigeria only rise to the occasion at very critical moments only for them to relapse to inactivity after temporary victories. Sustainable regime change does not come that way. One important lesson for the consolidation of Nigeria's democracy is that opposition forces, including civil society, cannot afford to go asleep after a temporary victory. The struggle must be sustained when seasoned and not.

One particular area that must be thoroughly engaged, in the light of the Yar'Adua's health crisis, is the unconstitutional yet enigmatic office of the First Lady. If the office is going to be retained, it is important to constitutionalise it and specify, in unambiguous terms, its functions. Over the years, it is an office that has been severely perverted to promote patronage networks for the service of self-regarding interests<sup>61</sup>. Turai has only elevated it to a dizzying height and steps must be taken to avoid future reoccurrence. The ambiguities surrounding sections 144 and 145 of the constitution should also be redressed. There is need to specify the number of days within which the President could be away without officially transferring a letter to the NA, failure which would warrant the automatic invocation of the relevant portions of the constitution.

Despite all its negativities, comparative insights reveal that informal patronage networks can also be exploited by patrons to rebuild collapsing or weak state institutions. What makes the difference is the political will on the part of the patron to do so. Whether Jonathan will toe this line or not only remains to be

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61 Avwode, A. "Who is Nigeria's Most Powerful First Lady?", *The Nation*, 16 March 2010, Lagos, 2-3.

seen. There is need for him to follow through on the implementation of the recommendations of the Uwais' reports on electoral reform. This way, he would have succeeded in repositioning INEC for effective electoral administration.

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## **ACCESS DENIED? EXAMINING THE LOANS BOARD FACILITY FOR HIGHER LEARNING STUDENTS IN TANZANIA**

Victoria Makulilo  
Dar es Salaam University

### ***Abstract***

*In 2004 the government of Tanzania introduced the Loans Board in order to manage funding for students in higher education. The main goal of this board is to identify poor and needy students so as to assist them in accessing higher education. This article examines the key instruments in providing loans to students, that is, the Higher Education Student's Loans Board Act No. 9 of 2004 and its related regulations and how they impact the access to education. Based on interviews, documents, and newspapers it is argued that the Loans Board has failed to meet its grand objective. Instead, it has turned to be a mechanism for limiting poor and needy students' access to higher education.*

**Key Words:** Tanzania, Loans Board, higher education, access, means testing

### **1. Introduction**

Education is one of the basic human rights as provided for in the Second Generation Rights. It should therefore be accessed and enjoyed by everyone without discrimination; this is the essence of inclusive education. The United Nations Educational, Scientific and Cultural Organization (UNESCO) defines inclusive education as a process of addressing and responding to the diverse needs of all learners by increasing participation in learning and reducing exclusion within and from education.<sup>62</sup> In increasing participation

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62 Overcoming Exclusion through inclusive approaches in education: A challenge and a vision, UNESCO, 2003.

various interventions might be applicable such as increasing the number of education providers and diversifying the financing of education through the private sector, students and /or their parents, government, and Non-Governmental Organizations (NGOs). The main goal of inclusive education is to accentuate education for all with clear emphasis on elimination of barriers to participation by disadvantaged groups like the poor, women, and people with disabilities. The world conference on higher education that was held in 1998 at Paris recalled the Universal Declaration of Human Rights which states in article 26 paragraph 1: "Everyone has the right to education" and that "higher education shall be equally accessible to all on the basis of merit." The same conference endorsed the basic principles of the Convention against Discrimination in Education (1960), which by Article 4, commits member states to "make higher education equally accessible to all on the basis of individual capacity."

Since one of the ingredients of democracy is fair and equal treatment of everyone in a society<sup>63</sup> it was therefore hoped that any government which claims to be democratic should treat all individuals equally. In order to comply with the international instruments that safeguard and promote human rights in individual countries, the World Education Forum, held in Dakar, Senegal in 2000, reaffirmed education as a fundamental human right and underlined the importance of "Rights-Based Education" system where governments need to apply a rights-based approach to education in their policies, programming and planning processes.<sup>64</sup> A rights-based education requires knowledge of human rights standards where promotion and protection of such rights at national level is done by respective governments. This point was recapitulated by the Vienna Declaration of the World Conference on human rights (1993) where it was held that "human rights and fundamental freedoms

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63 Oxford Advanced Learners Dictionary, 7th edition, 2006.

64 ISEC:2005 Strengthening Inclusive Education by Applying A Rights-Based Approach to Education programming.

are the birthright of all human beings; their protection and promotion is the first responsibility of the governments<sup>65</sup>.”

In this context, then, this article examines the impact of the law and regulations with regard to accessing education in Tanzania. It argues that the Higher Education Student's Loans Board Act No. 9 of 2004 and its related regulations limit poor and needy students to access higher education. In executing the study, the relevant population of key stakeholders in higher education were involved. These included students, service providers, government and experts. The selected sample size was 232 people. It constituted 8 service providers out of 19 universities,<sup>66</sup> four being from public and the other four from private universities<sup>67</sup>. The rationale behind this selection was that these universities had an operation of more than seven years, which is a reasonable period in order to have established links with the Loans Board. 30 people were purposely selected for this study to represent owners, management, and experts. Two (2) respondents were selected from the Ministry of Higher Education and the Loans Board. Moreover, a total number of 202 students were randomly selected through a stratified sample from each university. In soliciting data, the study utilized a number of techniques such as interviews, document analysis, and questionnaires. However, questionnaires were administered to students mostly and a guided interview through a face to face technique was administered to university owners, management, experts, and government people. To accomplish this work, the article is divided into four sections: theoretical framework, the Loans Scheme, means testing, the policy and conclusion.

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65 The World Conference on Human Rights (1993) Vienna Declaration and Programme of Action, adopted by the Conference in Vienna on 25th June 1993

66 Inter-University Council for East Africa Newsletter No.33, 2006; expanding access to higher education in Tanzania: A Reflection, (Abeli, S.W 2007).

67 These universities were the University of Dar es Salaam (UDSM), Mzumbe University (MU), Sokoine University (SU), and Open University of Tanzania (OUT) as public providers and Tumaini University (TU), Saint Augustine University (AU), Zanzibar University (ZU) and International Medical and Technological University (IMTU) as private ones.

## 2. Theoretical Framework

This study is founded on public good theory. In economics, public good is the one that is non-rival or non-excludable.<sup>68</sup> This means, consumption of the good by one individual does not reduce the amount of the good available for consumption by others; no one can be effectively excluded from using that good<sup>69</sup>. For example, if one individual eats a cake there is no cake left for anyone else; but breathing air or drinking water from a stream does not significantly reduce the amount of air or water available to others. Musgrave explains that

the condition of non-rivalness in consumption (or, which is the same, the existence of beneficial consumption externalities) means that the same physical output (the fruits of the same factor input) is enjoyed by both A and B. This does not mean that the same subjective benefit must be derived, or even that precisely the same product quality is available to both. Due to non-rivalness of consumption individual demand curves are added vertically rather than horizontally as in the case of private goods.<sup>70</sup>

There are actually two major categories of public goods; pure public goods and non-pure public goods. Pure public goods are like national defense.<sup>71</sup> The other category is that of service provision and thus can be provided by either public or private. The main difference between public good and private good revolves around the issue of who should pay for service. In the case of the public good, the citizen enjoys the service without any direct costs. But in non-pure public good the citizen has to pay for the service under market forces of supply and demand. The question of education and more specifically higher education, as a

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68 Kaul, Inge. (2000) *Global Public Goods: A New Way to Balance the World's Books*, New York, Oxford University Press; also see Paul, Samuelson (1954) "The Pure Theory of Public Expenditure" *A Review of Economics and Statistics* 36(4): 387-389.

69 Paul Samuelson, "The Pure Theory of Public Expenditure"...1954

70 Musgrave, Richard.A (1969) "Provision for Social Good" in Margolis, J. and Guitton, H. (eds.), *Public Economics*, London, McMillan.

71 Johnson, P.M (1994-2005) *A Glossary of Economy Terms*, Haley Center, University of Auburn.

public good has been debated for some time. However, the debate has ended justifying higher education as a public good. This is well illustrated by Kaul, *et al.* under what they call, 'A triangle of publicness' which is put as follow:

The triangle looks at public good from three perspectives. The first is *publicness in consumption*: is a good consumed by all? The second is *publicness in net benefits*: are the goods' net benefits equitably distributed? The third is *publicness in decision making*: who decided to place this good in the public domain?<sup>72</sup>

The above illustration justifies higher education as a public good in two main ways. The first is the availability of higher education to all members of the society. It is necessary for majority of citizens to receive education, especially in this era of globalization, in order to realize individual as well as national development. The second is the relation between higher education provision and the realization of a democratic polity. The aspects of equity of access and people's participation in decision making on issues that are for people's benefits can only be maintained when higher education is for all. This proposition is well summarized by Lumumba-Kasongo who asserted that, "the issues of democratization of education and collective well-being are related to the notion of public good."<sup>73</sup> In a way of simplifying, Kent explains that "public good requires that the individual has a place in society, a basis for belongingness, for self-esteem and self-support."<sup>74</sup> It can be argued thus, that higher education as a public good for national development should be accessible by all members of the society.

Moreover, higher education as public good is also justified by the existence of a government which is capable of maintaining accessibility, equity and affordability of the service to be

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72 Kaul, Inge. et al., eds., (2003) *Providing Global Public Goods: Managing Globalization*, New York, Oxford University Press.

73 Lumumba-Kasongo, T., (2000) *Dynamics and Policy Implications of the Global Reforms* at the end of the second millennium, Brill, Leiden, Boston.

74 Kent, T. ed., (1997) *In Pursuit of the Public Good: Essays in honour of Allan J. MacEachen*, Montreal, Buffalo, McGill-Queen's University Press.

provided. One of the justifications for the existence of the state is the provision of services like education, transport, health and water. Similarly, Gandhi argues that, the key basic justification remained for the role of government is the provision of public goods.<sup>75</sup> Thus, the main financier of these services is the government on behalf of the citizens. For example, Omari asserted that traditionally education in general and higher education in particular is to a large extent funded by the state in all countries of the world, and that about an average of 85% of the fund is provided in the USA and Europe (not UK).<sup>76</sup> Again, it is in Lockean perspective that the state is legitimated by its redistribution and provision of public goods to the whole society. From his theory of human nature and contract theory this justification is in two parts: teleological and emergent<sup>77</sup> as it is perceived in moral philosophy. It is via both avenues that the state is justified in the provision of public goods. Garrett has expounded the state's justification to provide public goods as follows:

The public goods justification for the state, so impressive to economists and political scientists, goes roughly like this. While a market system may allow self-interested individuals to create and allocate many goods optimally, there exists a class of goods collective or public goods that are not produced adequately in a market system. These collective goods are goods that all individuals want but for whose production it is often not individually rational for people voluntarily to do their part to secure a collectively rational outcome. The state can step in and force us all to contribute toward the production of these goods, and we can all thereby be made better off.<sup>78</sup>

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75 Gandhi, M. (2000) "Improving Public Administration in a competitive World," in ADB (2000), *To Serve and To Preserve*.

76 Omari, Issa. M. (1991) *Higher Education at Crossroads in Africa*, Nairobi: Mangraphics Ltd.

77 Schmitz in Garrett, D. (1992) A Review of David Schmitz's, *The Limit of Government: An essay on The Public Goods Argument*, Westview Press, in *Humane Studies Review*, Vol. 7 No. 2 Spring 1992.

78 Garrett "The Limit of Government: An essay on The Public Goods Argument, 1991.

The above submission explains two important issues as a way of justifying the financing of public goods by the state. The first explanation is anchored on tax collection by the state. The tax collected by the state is meant to improve the well-being of the society and this can be realized through quality service provision, with education as one example. The second explanation is directed towards the producer of the service and it is assumed that the state is better able to distribute equally services to all people than the other private producers. Therefore, with state provision of public goods, there are many considerations over the accessibility, equity and affordability in the society concerned.

In advancement of the same, Samuelson puts a contrast between private and public goods that “many though not all of the realistic cases of government activity can be fruitfully analyzed as some kind of a blend of these two extreme cases”; the mixtures of private and public goods (education, the courts, public defense, highway programs, police and fire protection) have an “element of variability in the benefit that can go to one citizen at the expense of other citizens”.<sup>79</sup> This argument suggests the inability of private provision of the public goods to realize equitable access of the goods by every citizen. Education as a public good once provided and/or financed by the private, equity of access is under arrest and the majority poor can’t access higher education.

Generally, public good theory explains largely the role of the government in the provision of basic social services like education but it is silent on the part of weak governments; in terms of policy making, resource mobilization and allocation and political stability which, where lacking, do not guarantee every citizen to access higher education. However, the problem of free riders has been one of the major weaknesses of this theory even though it has been neutralized by taxes that are applied by government in securing revenues for the provision of the service.

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79 Paul Samuelson, “The Pure Theory of Public Expenditure”...1954

### 3. The Loan Scheme

Accessing loans is very challenging since it concerns opportunities and ability. Usually every person struggles in order to have such an opportunity. Sometimes, cheating might be a strategy. In light of this, it became necessary to establish a students' Loans Board that would guarantee the poor's access to loans. The Loans Board was established under the Act No. 9 of 2004 of the parliament for the purpose of distributing loans to the poor and needy students who would otherwise be denied access to the commercialized higher education.

However, the main rule that regulates students' access to loans is contained in section 16 (1) of the Loans Act. This rule provides that for a student to qualify for a loan from the Loans Board she/he must be a needy and eligible student. Surprisingly, the term "needy student" is neither defined in the Loans Act nor in the associated regulations. It was only in the 2006/2007 Guidelines<sup>80</sup> that the term "needy student" came to be defined. It means a student who really deserves financial assistance. This definition presupposes a poor student to be from a low economic class (socio-economic status) Contrary to this, the guidelines provide further in paragraph 3.10, groups of students who fall within the definition of the term "needy student." There are five groups, these are: (a) an orphan, (b) a disabled student or a student who has disabled poor parents, (c) a student from a poor single family, (d) a student from marginalized and disadvantaged groups and, (e) a student from a low income threshold family earning national minimum wage or below. Similarly, the 2007/2008 and 2008/2009 Guidelines<sup>81</sup> define the term needy student to mean a student who really deserves financial assistance.<sup>82</sup> However these guidelines slightly modified the groups of students who fall within the definition of the term

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80 See paragraph 2.3.1 of the Revised Guidelines and Criteria for Granting Student Loan Starting 2006/2007 Academic Year.

81 See Guidelines and Criteria for Granting Student Loan for 2007/2008 and 2008/2009 Academic Years.

82 See paragraphs 2.3 and 2.3.1 of 2007/2008 and 2008/2009 guidelines respectively.

needy student. In these guidelines, a poor orphan and a poor disabled student have been substituted for an orphan and a disabled student respectively.

It is clear, then, that the term "needy student" has been somewhat dynamic. While the 2006/2007 Guidelines define the term needy student with reference to "physical disability," "orphanage" and "low income", the 2008/2009 Guidelines qualified 'physical disability' and 'orphanage' with the "poor." This means, students from lower social status (i.e. students from low income threshold that are not orphans or disabled would have lesser priority and chances to access higher education, and may even be denied access). Furthermore the term "needy student" under the guidelines is not clear and simple. Therefore, in its current form, it is restrictive and exclusive to a great number of needy students who really deserve financial assistance.

Like "needy student", the term "eligible student" is not defined in the Loans Act and in the regulations. However section 17(1) of the Loan Act provides criteria for determining an eligible student. However, eligibility and conditions for loans are governed by sections 17 and 18 of the Loans Act as well as rule 38 of the regulations. Section 17 lays down the criteria for eligibility for loans while section 18 outlines conditions for access to loans. However, rule 38 of the regulations governs criteria for eligibility for the advancement of loans to postgraduate students.

Section 17 of the Loans Act lays the foundation of determining equitable access among students. Specifically, there are five criteria under section 17(1) of the Loans Act for eligibility for a student loan: (a) he is a Tanzanian student (b) he has been admitted to an Accredited Institution (c) he has made a written application in the prescribed form (d) he is a person who has no financial assistance from any other source or sources to cover the item or items of cost for which the application is made (e) he is a continuing student applicant, who has passed the examinations necessary to enable him to advance to the following year or stage of study. As can be seen, these criteria are cumulative. This means, any loan applicant must fulfil all criteria in paragraphs (a)

to (e) before he/she can be considered for loan. It is quite astonishing, then, that the Loans Board invites applications even before students who intend to apply for loans have received their final results in order to qualify for the university admission. One may depict this as the beginning of a trend to deny access to education to the majority poor. A closer examination of the criteria for student loans provides an assessment of the poor's chance to access university.

A deeper analysis of the above criteria indicates exclusion. To be sure, the first criterion for eligibility is that the loan applicant must be a Tanzanian student.<sup>83</sup> By the term Tanzanian student, it simply means that the student must be a citizen of the United Republic of Tanzania (URT) whether or not he is a resident of the URT.<sup>84</sup> Since Tanzania has currently no citizenship identification cards, it is practically difficult to determine which applicant is a Tanzanian and which one is not just on the basis of information supplied by the loan applicants. The second criterion is that the loan applicant must have been admitted to an accredited institution.<sup>85</sup> An accredited institution may be a university or college. Admission to any of these institutions automatically fulfils the requirements of section 17(1)(b) of the Loans Act. It must be pointed out that admission criteria vary from one institution of higher learning to another. Verghese<sup>86</sup> submits that "in many countries, the competition for admission to public universities is very high. In general, those who do not get admission to public universities seek admission in private universities. In other words, chances are that the academic profile of the participants may be lower when compared to those of their counterparts in the public universities."<sup>87</sup> Admission officers in private universities

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83 Section 17(1) (a) of the Loans Act.

84 Ibid, section 3.

85 Section 17(1) (b) of the Loan Act.

86 Verghese "Private Higher Education in Africa, UNESCO grant or IIEP, International Institute for educational Planning" <http://www.Unesco.org/> (accessed: 03.03.2008).

87 The Exception is with the USA where private universities outrank public universities in quality of applicants

admitted this during my field research<sup>88</sup>. It suggests that the entry qualifications or cut-off points for admission in private universities are lower than those in public universities. However, such variations are not supposed to deviate from the entry qualifications for admissions approved by the Tanzania Commission for Universities (TCU).<sup>89</sup> Thus, admission to an accredited institution puts all applicants at an equal level.

Inconsistently, the guidelines<sup>90</sup> include academic merits as one of the criteria for eligibility for a loan. There are two categories of academic qualifications. The direct academic qualifications for Advanced Secondary School Leavers (ASSL) or form six leavers<sup>91</sup> and equivalent qualifications for holders of an Ordinary Diploma and Full Technician Certificate (FTC). The 2006/2007 Guidelines provide that first applicants with direct qualifications must possess academic scores between 6 and 15 for physical sciences and between 8 and 15 points<sup>92</sup> for humanities to be eligible for a loan.<sup>93</sup> The score points are weighed out of three highly performed principle subjects giving a maximum of 15points. However, academic scores between 6 and 15 points are classified as first and second divisions/classes. Applicants with equivalent academic qualifications must possess a minimum of second class grades or an average of a "B" score, if the equivalent qualification is not graded.<sup>94</sup> Based on the above argument of varying criteria in admitting students, it is appropriate to say students admitted with third division/class like those in private universities and the Open University of Tanzania (OUT) are definitely denied access to loans.<sup>95</sup> One may conclude that most students from poor families

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88 The research was done among these private universities; Tumbaini University in Dar es Salaam, Saint Augustine University of Tanzania in Mwanza, International Medical and Technological University in Dar es Salaam, and Zanzibar University in Zanzibar

89 TCU is a statutory body charged with the function of accrediting higher learning institutions in Tanzania.

90 2006/2007; 2007/2008 and 2008/2009

91 Form six leavers are also known as A-level students.

92 The score points are weighed as A=5, B=4, C=3, D=2, E=1, S=0.5 and F=0

93 See paragraph 3.8 of the 2006/2007 Guidelines

94 Ibid

95 Field data, 2007

who do not get division I or II in their A-level results, cannot access loans, hence they are denied access to higher education.

Again, the modifications in the 2007/2008 Guidelines continued restricting poor students based on gender. For first applicants from form six, they were required to possess first division/class if they were males and division two if they were females.<sup>96</sup> However, applicants with an Ordinary Diploma were supposed to possess at least second class grade or an average of "B" scores if the Diploma is not graded. Applicants with FTC qualifications were supposed to possess an average of "C" grade.<sup>97</sup> The 2008/2009 Guidelines<sup>98</sup> retain the academic qualifications from the 2007/2008 Guidelines with slight modification. The Guidelines have abolished the differences between male and female applicants with regard to their academic qualifications. In the next academic year 2008/2009 both male and female applicants were supposed to possess either division one or division two to be eligible for loans.

Therefore, the academic merit rules introduced by the Loans Board through the guidelines are inconsistent with the requirement of section 17(1)(b) of the Loans Act and eventually inhibit the poor's access to university. While the former provision of the law requires applicants to obtain only admission to an accredited institution<sup>99</sup> to be considered for a loan, the guidelines demand the applicants to have additional academic qualifications which are restrictive and stringent. It is argued that in most cases the academic criteria demanded by the Loans Board are always higher than academic qualifications needed for admission purposes at OUT<sup>100</sup> and in private universities and thus denies the majority of the poor access to university education. For example, the minimum general entry requirement at OUT for direct entry

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96 See paragraph 3.3 of 2007/2008 Guidelines.

97 Ibid, paragraph 3.5.

98 Ibid, paragraph 3.3.

99 Private university or public university.

100 The Open University of Tanzania is a public university offering education on open and distance learning model.

from school<sup>101</sup> applicants are passes in five (5) approved subjects in Ordinary Certificate of Secondary Education Examination (OCSEE) and two principal level passes in Advanced Certificate of Secondary Education Examination(ACSEE).<sup>102</sup> Accordingly, a student with third division/class in Advanced level secondary school education is admitted at OUT and private universities in Tanzania;<sup>103</sup> but not in other public universities.

#### **4. Means Testing**

Starting from the 2007/2008 academic year, the Loans Board introduced the "loan formula" or "Means Testing." This is a mechanism employed by the Loans Board to determine who is a needy student.<sup>104</sup> It assesses the financial ability of a student and his parents or guardian in order to determine whether an applicant is a needy student. As pointed out previously, an applicant is supposed to supply certain information in the application forms to enable the Loans Board to make this assessment. In practice, loan application forms are the means-testing instrument. However, the means testing results form the basis of the amount of loan to be awarded to loan applicants.<sup>105</sup> Accordingly, means testing results have been categorized as A (100%), B (80%), C (60%), D (40%), E (20%), and F (0%).<sup>106</sup>

There are two major problems emanating from the application of the instrument that hinders the actual assessment of the students and their families. These include the accuracy of the supplied information and its verification. Starting with the problem of accuracy of information supplied, the instrument requires evidence such as a birth certificate, salary slips, a house title deed, and receipts for expenditure. Since the applicant's ultimate

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101 Students who have completed form six.

102 The Open University of Tanzania Prospectus for 2007/2008 at p. 12

103 Field data, 2007

104 See Paragraph 6 of the 2005/2006 Guidelines.

105 See paragraph 4.1 of the 2007/2008 Guidelines; see also paragraph 4.1 of the 2008/2009 Guidelines

106 Ibid

goal is to obtain a loan, he/she is likely to supply false information which would justify a student as needy. In Tanzanian environment, most people live without birth certificates, house title deeds, and work in the informal sector where actual income aggregation cannot be determined<sup>107</sup>.

It is very difficult for the Loans Board to obtain this information correctly. Otieno strongly argues "obviously the information provided by the students (even when full objectivity is assumed), is not representative enough to place students into realistic, nationally accepted norms of income and expenditure groups. If adequate information could be obtained on the financial backgrounds of students, it would be more practical mechanism for determining need and hence allocation of loans."<sup>108</sup> The experts from both public and private universities responded that the current environment of Tanzania does not allow proper functioning of means testing in a structured form.<sup>109</sup> Although, the Loans Act creates an offence under section 23(1)(b) for providing false information<sup>110</sup> the Loans Board has no sufficient mechanism to verify the correctness of information supplied by loan applicants.

The second problem is on verification of information. The means of verifying correctness of information is poor since there are not enough resources, time and enough skilled labour. For instance, there is no valuation team for the assets that students and their families have. The time for assessment by the Loans Board is usually short, hardly one month for freshmen and two months for continuing students. It is a huge task, for instance, to process about 55,576 loan applicants in 2007/2008 based on inadequate

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107 This is supported by Dr. Agnes Akosua Aidoo when addressing at the Conference on Draft of Law of the Child Act. 2009. She made a remark that Tanzania has the lowest rate in child registration. It is only 6% of every 100 children who have birth certificates.

108 Wycliffe, Otieno "Student Loans in Kenya: Past Experiences, Current Hurdles, and Opportunities for the Future" Boston College & Council for the Development of Social Science Research in Africa, 2004 (JHEA/RESA Vol. 2, No. 2, 2004, pp.75-99).

109 Field data, 2007

110 See also paragraphs 5.1 and 5.1 of the 2007/2008 and 2008/2009 Guidelines respectively.

data and poor information to applicants. Geoffrey Kiwele complained, "the Loans Board has the poorest information dissemination strategy, only meant for students who live in urban areas with access to televisions, radios and newspapers." He further commented that even if such important information for students was communicated via newspapers, not many of them could get it on time."<sup>111</sup> Again, responses from students, potential beneficiaries, university management, and private owners amplified the notion that the Loan Board has the poorest information system. This reality explains the unnecessary delays, students' day-to-day demonstrations, and the ongoing misunderstandings between students and managements.<sup>112</sup>

This study observed that the Loans Board's assessment is not properly done. For example, a student made his application for loan and submitted all necessary documents that could be used as evidence to his inability to pay even 20%, yet the Loans Board gave him 60% after "means testing." However, the student made an appeal with the same documents. The corrections were made after one semester and he got 100% instead.<sup>113</sup> There were many similar examples offered by students from public universities concerning the appeals against earlier Loans Board assessments. Many students got their grades changing from grade B to grade A or from grade C to grade B after the appeal. Additionally, there was a claim by students from the College of Business Education (CBE) who posited that they know some students who were studying Diploma courses and who accessed loans from the Loan Board illegally in 2005/2006 academic year.<sup>114</sup> Therefore, the inability of the Loans Board to assess students properly makes it difficult to identify the poor and needy students. This is to deny poor and needy students the right to access higher education.

Otieno argues that "the inadequacy of means-testing instrument is that it fails to categorize the students in realistic clusters such

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111 Sunday Observer, 16 September, 2007

112 Field data, 2007

113 Field data, 2007

114 MwanaHalisi, 2-8 April, 2008, p.14

as expenditure groups.”<sup>115</sup> This is to say, means testing is practically unworkable in Africa. In Tanzanian context the Loans Board advances loans just on assumptions based on unverified information. In effect, loans are granted to many students who do not qualify as needy students. It was supported by the Prime Minister, Mizengo Pinda, that:

the formula which is currently used by the Loans Board is inefficient and ineffective since it fails to identify the real needy students and those who are not. And it is true that the formula is not proper in identifying the needy students. It is our objective to make sure that the loan beneficiaries are really the students from poor families.<sup>116</sup>

**Table 1. Access to Public Universities as Influenced by**

		<b>Access to Public Universities</b>					
		Loan	%	Other Sources	%	Total	%
<b>Family Social Status</b>							
<b>Wealth Level</b>	<b>H</b>	95	68	30	83	125	71
	<b>L</b>	45	32	6	17	51	29
<b>Total</b>		140	80	36	20	176	100

Source: Field data, 2007

Note: “H” means high and “L” means low

## 5. Family Wealth Status

From the Prime Minister’s words, one may argue that, means testing does not democratize access to loans by the majority poor. Therefore, private financing of education in Tanzania limits the poor’s access to universities. As is always the case, education is an expensive endeavour. As such, wealthy families are more likely to afford it relative to poor families. Table 1 illustrates how wealth status determines students’ access to university education.

115 Wycliffe, Otieno “Student Loans in Kenya: Past Experiences, Current Hurdles, and Opportunities for the Future” ...2004.

116 Mwananchi, 4 May, 2007, p.3

The above table indicates that students access public universities via loans and other sources. However, it is about 80% of students who access public university education through government loans against 20% of them who access university through other sources like parents/guardians, private organizations, NGOs and other government organizations. This is one indication that most Tanzanians depend entirely on loan facility. Thus, the establishment of the Loans Board was quite appropriate. The study also noted that students from wealthy families due to easy access to information and ability to misinform the Loans Board have a higher chance of accessing loans and university than the counterpart students from low socio-economic status. It is about 68% of students from wealthy status who managed to access loans against 32% of students from low status families<sup>117</sup>. Therefore, the inability of the Loans Board to identify the really need students through means testing restrains students from accessing higher education through the loan facility.

The reality is even more apparent in the private universities. These universities can be categorized into three based on the nature of the institution. There are state-supported private universities, non-for-profit private universities and for-profit private universities.<sup>118</sup> There is a correlation between the nature of the institution and the access to it in the sense that the nature of the institution determines the sources of finance for the institution to operate, with an effect on the end tuition fees. State-supported institutions receive funding from the government which might be minimal or substantial but the government can regulate the amount of fees levied by the institution. Non-for-profit institutions are owned and operated by trusts that rely heavily on endowments and fees collected from students. Some of these are self-financing institutions and some are supported by religious agencies. For example, SAUT, TU, and Zanzibar

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117 The data was obtained from a field research conducted by the author among university students from eight universities in Tanzania. These were TUMAINI, SAUT, IMTU, UDSM, MZUMBE, SUA, OPEN UNIVERSITY OF TANZANIA AND ZANZIBAR UNIVERSITY. The universities are located in the major cities of Tanzania and thus they accommodate students from all over regions of Tanzania.

118 Varghese, 2004, p. 8

Universities in Tanzania are supported by religious agencies like the Roman Catholic Church, the Evangelical Lutheran Church and 'Daar-ul-imaan', respectively. The for-profit institutions were granted legitimacy in 1990s following to the involvement of publicly traded corporations that own and run multi-campus universities. According to Ruth<sup>119</sup> these universities trade the stocks and shares of educational institutions. They mostly rely on student fees as their major source of financing, and at times are affiliated to universities based abroad.<sup>120</sup> This is the case for IMTU Dar es Salaam which is a product of the Vignan Educational Foundation from Bangalore, India.

It is convenient to argue that most private universities depend substantially on student fees as their major source of institutional funding. It is equally important to say that tuition fees in private universities are much higher as compared to the public universities. For instance, Tuition fees at IMTU are 5,400,000Tsh while UDSM is between 600,000Tsh and 1,200,000Tsh. Arguably, given the higher level of fees levied by these institutions, especially the for-profit ones, they attract and encourage students from a better socio-economic background. This is supported by Varghese's observation that since private universities are self-financing institutions, fees charged will also be high and students coming to those institutions are those with paying capacities.<sup>121</sup> This situation creates a cleavage between those who can afford and those who can't, and in the long-term impacts on equity of access to the private institutions.

In Tanzania, for instance, for about seven years (from 1997/98 to 2003/04) students in private universities incurred all study-related costs with their families and it simply implies that they were students from wealthy families.<sup>122</sup> Even after the commencement of the Loans Board there were limitations in ensuring access to private universities by the majority poor. The

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119 Ibid

120 Ibid

121 Ibid

122 Field data, 2007

first limitation is insufficient finance to meet all costs for the education by the poor, and second is the ineffective means-testing that can't identify the poor and needy as explained above. The findings of this study point out that majority of students who access private universities are those from high social status families. This is due to the fact that they can afford to secure various sources of finance including government loans, in the presence of ineffective and insufficient means testing. Table 2 shows such variation very clearly.

**Table 2. Access to Private Universities as Influenced by Family Wealth Status.**

		<b>Access to Private Universities</b>					
<b>Family Social Status</b>	<b>Wealth Level</b>	Loan	%	Other Sources	%	Total	%
		<b>H</b>	34	67	32	86	66
<b>L</b>	17	33	5	14	22	25	
<b>Total</b>	51	58	37	42	88	100	

Source: Field Data, 2007.

Note: "H" means high and "L" means low

Table 2 shows that the number of students who access private universities through loans is 58% whereas those who access private universities through other sources are 42%. It implies that students who access private university education are not solely dependent on government loans and that many of them are from families that can pay for their education. It may be argued that the inability of the designed means-testing to have the needy students could have largely excluded the poor, and at the same time enable many students from high wealth status backgrounds to have better access to private universities. Table 2 demonstrates the same as it shows 67% of students from high wealth families access private university education at the expense of the majority poor students. This is to say, means testing is not functioning well as poor students are denied access to university.

The Minister for Education, Professor Maghembe, admitted this when talking to Mzumbe university community. He said, "Again

the problem emanates from the students themselves, they do not give concrete information about their family social status, as many tend to identify themselves as orphans especially when they are here; and thus it becomes very difficult to identify who is a liar and who tells the truth."<sup>123</sup> It can be submitted that in the presence of unworkable means-testing, students from poor families are denied access to private universities so greatly. Worse still, the fund provided is inadequate as shown in table 3.

**Table 3. Showing Inadequate financial Support Provided by the Loan Board**

<b>Access to Loan (in percents)</b>	<b>No. Students in Public Universities</b>	<b>No. Students in Private Universities</b>
41- 60	42	22
61- 80	70	20
81- 100	28	9
Total	140	51

Source: Field Data, 2007.

The above responses suggest that about 80% of students from public universities get between 40% and 80% of their fees in loans and only 20% students receive 100%. On the other hand, about 86.3% of students from private universities receive loans of between 40% and 80% and only 17.7% students receive 100%. This implies that the Loans Board advances loans to students who are able to supplement the remaining percent of education costs. However, students who really deserve financial support live miserably in the course of study. Responses from university management survey participants attest to this point. They demonstrate that these students usually have one meal per day. They expressed further the severity of the situation by noting that the most needy students, who depend entirely on loan need, use part of it to cover the remaining percent of tuition fees to the institutions. Further, about 40% of those students supplement tuition fee with a loan for meals and accommodation.<sup>124</sup> This has

123 Mwanachi, 7 March, 2008.

124 Field data, 2007

a severe impact on their living standard as well as the quality of their education. It was similarly put by Nyaigotti-Chacha that:-

most students contend with harsh lives in universities during the tenure of studies, with some engaging in corrupt business deals in the campuses in order to supplement their finances. On the other hand, those unscrupulous who 'cheat' their way into getting loans at the expense of deserving cases tend to have excess money, which encourages many, vices at the various universities.<sup>125</sup>

The Director for Planning in the Ministry of the then MSTHE, and private universities owners responded during an interview with the author that about 70% of Tanzanians are not able to pay for their education.<sup>126</sup> It is, therefore, proper to argue that there is a systematic denial of the poor's access to higher education through private financing.

Yet the condition that an applicant must be a continuing student, who has passed the examinations necessary to enable him to advance to the following year or stage of study,<sup>127</sup> is also problematic. This criterion excludes freshers<sup>128</sup> from applying for loan. Although in practice freshers are allowed to make application for loan, it is not clearly known which enabling provision of law allows the Loans Board to grant loans to this group of applicants. Such inconsistencies may lead to the denial of access to loans to the majority poor.

Moreover, the Guidelines have three more criteria for guiding the issuance of loans to poor students. These are full-time programmes versus part-time programmes; quota allocation; and priority courses. Starting with full-time programmes versus part-time programmes, with the exception of the 2005/2006 Guidelines, the 2006/2007, 2007/2008 and 2008/2009 Guidelines

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125 Nyaigotti-Chacha (2002:143) "Tuition Fees In Universities: Parental Contribution," A Paper Presented at the International Conference on Financing of Higher Education in Eastern and Southern Africa, 25th-26th March.

126 Field data, 2007

127 Ibid, 17(1) (e).

128 Freshmen are first year students who have just been enrolled to a university.

require an applicant to be registered for full-time programmes. There is, however, one exception to this requirement, with part-time students from OUT allowed to apply for a loan<sup>129</sup>. This criterion is neither found in the Loans Act nor the regulations. In practice, however, this provision restricts part-time and on-line students from accessing loans. This is to deny access to the poor who will have an opportunity to study on-line or on part-time bases.

Second, the Loans Board is vested with power to determine the maximum number of eligible students to be granted loans in any one particular year.<sup>130</sup> For the first time, the Loans Board invoked these powers to limit the quota of loans allocation to higher education institutions in the academic year 2006/2007. This was for only public universities. The following guidelines have no mention of any exact number the Loans Board could disburse to needy students. There are only projections of the number of total applicants in each year set by the Loans Board. It was responded by the Director for Planning, Research and Consultancy of HESLB during a face-to-face interview with the researcher that the Loans Board has no exact number of the students to be granted loans in each year. He said in 2005/2006 the Loans Board granted loans to about 42,729 students; whereas in 2006/2007 about 47,554 students got loans from the Board; and in 2007/2008 the estimate was 55,981 students by the end of May or early June 2008. However, in the mid-march 2008 about 55,576 students had already got loans from the Loans Board.<sup>131</sup> This has an impact of denying access to higher education as private universities receive only a small proportion of quota allocation due to the "division criterion"<sup>132</sup>.

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129 See paragraphs 6.7, 3.2 and 3.2 of the 2006/2007, 2007/2008 and 2008/2009 Guidelines respectively.

130 See section 7 (1)(i) of the Loans Act; See also paragraph 7 of the 2006/2007 Guidelines.

131 Field data, 2008

132 The criterion was put by 2007/2008 Guidelines to loan applicants so as to access loans. This criterion states that for the first applicants from form six have to possess first division/class if they were males and first/second division/class if they were females

Third, the Loans Board has blended some courses through its guidelines as priority courses. Such courses include medicine, pharmacy, engineering, architecture, agriculture and science. In practice, when the qualifications of students in humanities collide with a student in science subjects, the latter will prevail. This has in effect discriminated access by students in the humanities. On the other hand, private universities which offer medical science courses are still priority courses. The Loans Board does not give full support to such courses. For instance, IMTU charges tuition fees of approximately 5.6 mil. Tsh per year. However, the Loans Board grants a maximum loan of 2.6 mil Tshs. only for the student with grade A after means-testing. The rest of the amount (3 mil. Tsh.) has to be paid by the students and/or their parents/guardians.<sup>133</sup> Students from poor families automatically can't afford to supplement the remaining 3 mil Tshs. as their income households does not exceed 300,000 Tshs per month. It was generally put by the World Bank that countries that have introduced or raised fees are at risk of experiencing an increase in access disparities in absence of effective and well-targeted student aid mechanisms.<sup>134</sup> One of those mechanisms is the prioritization of courses. It is submitted that, the Loans Board through prioritization of courses has restricted access to loans by the poor students and denied potential access to higher education eventually.

Apart from the inadequacies of the means-testing instrument, there are two main conditions imposed by the Loans Board in granting loans.<sup>135</sup> These conditions do limit access to university education by the poor. The first condition is that the Loans Board may demand security to be furnished in order to secure the loan.<sup>136</sup> Security is a valuable item like a house, a commercial premise, a big building, or a motor vehicle. The question here is does the poor person have security? Why does the Loans Board

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133 Field data, 2008

134 World Bank (2000) Higher Education in Developing Countries: Peril and Promise The Task Force on Higher Education.

135 See section 18 of the Loans Act.

136 The loan is interest-free

invent this condition? Is there a commitment to assist the poor? However, it is proper to argue that poor students are denied access to university education with the application of this condition. From 292 sampled students, who were asked on whether their families own movable or immovable properties, modern houses, big shops, and the like 36% of all sampled students said they have none and only 29% students among them managed to secure loans illegally since they had not fulfilled the condition.<sup>137</sup> This scenario suggests denied access to loan by the majority poor.

The second condition is the requirement of a guarantor. This condition requires every recipient of the loan to have a guarantor who will be liable to the Loans Board in case of the loan falling into default. The usual practices show that sometimes students indicate their fellow students to be guarantors, and this distorts the whole meaning of imposing this condition. With such inconsistency, therefore, there will be more cases of default for repayment, which will eventually reduce the amount of funds that would be used to assist other poor students and thus inhibit democratization of their access to universities.

Generally, the guidelines which are issued in each academic year restrict the chances of poor students to access higher education. One may probe whether the issuance of such guidelines in each academic year intends to guide applicants in the process of accessing loans or to deliberately discriminate the poor from accessing loans. It is suggested that the practice of the Loans Board to issue guidelines has to be stopped since it has no legal justification and denies access by the poor. Therefore, in the absence of viable mechanism to assist the poor to access higher education, private financing of the education limits the poor access to the education.

## 6. The Policy

The National Higher Education Policy<sup>138</sup> reaffirmed the expansion of higher education five fold by the year 2005 through commercialization of the sector. One of the strategies recommended for the realization of this objective was to broaden the base for financing higher education, that is, diversifying the source of higher education finance through the contribution by owners,<sup>139</sup> beneficiaries<sup>140</sup> and the private sector. The government, on the other hand, would provide and/or facilitate loans and/or scholarships for students in higher education. The main objective for this diversification was to ensure that at least 12.5% of form six leavers get access to higher education by 2025.<sup>141</sup> The government was expected to fully assist students from poor families to access higher education who would otherwise be denied such access due to inability to pay for the commercialized education.

The government invests in higher education for development purposes. It was argued by the Director for Planning in the then MSTHE that the government considers education as an investment<sup>142</sup>. Similarly, the Minister for Education, Professor Maghembe, affirmed this when addressing the MU community on 5 March, 2007. He said, "the government usually spends up to USD \$17 million each year for financing university students."<sup>143</sup> Recently, the minister informed the public through the Tanzania Broadcasting Crevice 1 (TBC1) News bulletin that the Ministry has appropriated 30% of the total budget for education, which is

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138 The National Higher Education Policy (1999), p. 89

139 The Higher Education Policy states that owners of institutions of higher education shall be the public and private sectors or partnership, p.16

140 The Higher Education Policy points out that beneficiaries are the government, private sector, individual students and their families, p.17

141 Abeli (2007) Expanding Access to Higher Education in Tanzania: A Reflection. A paper presented at the 14th Annual Consultative Meeting on Institutional Transformation Programme, 16th-17th August, p. 18-22.

142 Field Data, 2008

143 Mwananchi, 7 March, 2007, p.11

Tshs. 119 billion. for assisting the poor through loans. Therefore, up to 60,000 students would get loans in the academic year 2008/2009.<sup>144</sup> The query here is whether these students would be poor and needy, given the ineffective and inefficient means-testing used by the Board.

However, there has been noticeable growth in enrolment by universities which is partly explained by the introduction of private financing. For instance, enrolment increased from 43% in 1995<sup>145</sup> to about 72% in 1999. Mkude, *et al.* (2001) advance that enrolment in higher education during 1998/99 was very limited indeed with only 6,500 undergraduate students<sup>146</sup> but there has been a rapid expansion to 20,000 students.<sup>147</sup> It was expressed in the UDSM ITP, ten years of experience<sup>148</sup> that privately sponsored undergraduate student enrolment increased from 62 in 1998/99 to 1,800 students by 2006/07. In addition, Ishengoma<sup>149</sup> argues that most of the expansion in enrolment has been through privately sponsored candidates. This explains how private financing has contributed to increased access to university, even though it is not clear "whose access has been increased, the rich or the poor?"

Following the establishment of the Loans Board, one may ask whether or not this rapid expansion of access to university is a result of the Loans Board. Even more intriguing is whether the expansion democratizes access by the poor. In order to answer these questions promptly one has to trace the growth before and after the founding of the Loans Board as shown in table 4.

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144 News Bulletin, 26 July, 2008, TBC1 8:00PM.

145 Luhanga, Mathew, *et al.* (2003). Higher Education Reforms: the University of Dar es Salaam Experience, Dar es Salaam University press, Dar es Salaam.

146 Mkude, Daniel. *et al.* (2001) The Partnership for Higher Education in Africa: Higher Education in Tanzania: A case study, James Currey Ltd, UK

147 Mshana and Mashala, (2004). Donor Policies for Higher Education: A case for University of Dar es Salaam. Nyerere Week Conference, University of Dar es Salaam.

148 UDSM ITP, ten years of experience (2004), p. 10.

149 Ishengoma, J. (2004) "Cost sharing in Higher Education in Tanzania: Fact or Fiction?" *Journal of Higher Education in Africa* 2(2).

**Table 4. Enrolment Rates for the Academic Years 2003/2004 and 2007/2008**

Academic Year	UD SM	SUA	MU	OUT	TU	SAUT	IMTU	ZU
2003/2004	4470	700	368	1567	82	218	67	156
2007/2008	5816	682	1011	1033 2	1350	1768	167	439
Growth Rate (%)	13.1	-1.3	37.9	73.6	88.5	78.0	42.7	47.5

Source: Field data, 2008.

The above table reveals that three universities had rapid growth rate and the other three had average growth rate after the commencement of the Loans Board. It suggests that access to university education is partly due to the introduction of the Loans Board. Other explanations to such expansion have been given by university managements during a field research. They enlisted the minimum general entry requirements to the private universities, which is much lower than that of the public universities (with the exception of OUT). This is to say OUT accommodated those who did not meet entry requirement to other public universities.

Second, the introduction of new and interesting courses like BALIS<sup>150</sup> and BMC<sup>151</sup> at TU, BAE<sup>152</sup> and BAP<sup>153</sup> at ZU and BAED<sup>154</sup> at SAUT. For example, BAED at SAUT attracted about 36.56% of the admitted students in the academic year 2007/2008.<sup>155</sup> Third, the practice of "double intake"<sup>156</sup> at OUT and ZU; "session

150 Bachelor of Arts in Library and Information Studies.

151 Bachelor of Arts in Mass Communication.

152 Bachelor of Arts in Economics.

153 Bachelor of Arts in Public Administration.

154 Bachelor of Arts in Education.

155 Field data, 2007

156 Done in January/March and September/October at OUT and ZU respectively.

study"<sup>157</sup> at TU; and "Campus intakes"<sup>158</sup> at MU also made a significant impact on enrolment. However, in assessing whether the poor gained access or not one may have to refer to the criteria and eligibility for loan put by the Loans Board. Since there is a great restriction on the poor to access loans, then it is arguable that the increased access to university has not been democratized to the majority poor. It is proper to submit that students from wealthy families have accessed and are still accessing higher education at the expense of the majority poor in Tanzania. This is verified by the findings of this study. Table 5 hereunder illustrates the situation.

**Table 5. Family Status of Students who Access University Education in Tanzania**

<b>No. Students (wealth level)</b>	<b>UDSM</b>	<b>MU</b>	<b>SUA</b>	<b>OUT</b>	<b>TU</b>	<b>SAUT</b>	<b>IMTU</b>
High	49	18	17	31	26	20	20
Low	29	11	6	15	2	10	10

Source: Field data, 2007.

The above table shows clearly how the poor have been denied access to higher education. It can be depicted that such denial is more acute in private universities than the public ones, with the exception of OUT. It is submitted that private financing of higher education does not democratize access to the majority poor Tanzanians. It was reported by all respondents, except the Loans Board and MSTHE, that the policy of private financing does not democratize access to the poor; rather students from wealthy families have been able to access higher education with greater ease and in greater numbers. Thus, the increased access to university through private participation in the financing of the education has not been realized for the majority poor in Tanzania.

## **7. Conclusion**

157 There are two sessions, i.e. Morning session as it is likely to accommodate full time students; and Evening session that accommodate workers as part timers.

158 MU Mbeya Campus was established in 2005/2006 academic year with about 100 students.

The Loans Board was established under section 4 of the Loans Act. The main objective for its establishment is to facilitate poor and needy students with loans so as to access university education. The Loans Board therefore formulated the mechanism for determining eligible students for payment of loans under the Act. The process of determining the poor and needy students is inadequate and vague.

The Loans Board imposed means testing instrument as a proper mechanism that identifies the poor and needy students. Apparently, the Loans Board lacks viable means of verifying the information submitted by the applicants in a prescribed form. Thus, means testing becomes ineffective and inefficient in the Tanzanian environment. However, the instrument works subjectively and it is highly exposed to manipulation and misinformation.

The Loans Board Act and its related regulations and guidelines limit the access of higher education by the poor and needy students. The study found that the Loans Board, contrary to its primary goal of accentuating access to university education by the majority poor, is weak in terms of finance and its legal instruments in granting loans to poor students and thus is unable to identify the needy students. This suggests that loans are disbursed to students on assumptions which deny the poor access to university education. The means-testing instrument is dysfunctional in the Tanzanian environment. Therefore, the Loans Board facility limits access to universities by the majority poor in the country.

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## **BOOK REVIEWS**

**Mabel Berezin, *Illiberal Politics in Neoliberal Times. Culture, Security and Populism in the New Europe* (New York, Cambridge University Press, 2009).**

Adriana Marinescu  
Paris East University

In the aftermath of the Second World War, right-wing movements were a synonym for genocide and racism and a dark stain on the history of Europe. Scholars such as George Mosse, Roger Griffin or Eugene Weber have tried to explain the roots and causes of this phenomenon in order to prevent its reoccurrence. Nevertheless, a few decades later, extremist groups have begun to take over European politics, in spite of the supposedly learnt lessons of the past. What are the legacies, if any, of the former fascist movements and what are the new features of these parties? To what needs do they respond, who is their public and by what means is their message conveyed? *Illiberal Politics in Liberal Times* tries to provide an answer to these questions, as it focuses on the rightwing movements through the lens of Europeanization and political culture. They have so far been analyzed from various perspectives, but mainly as arising from expected events and relying only on their inner constituencies to act upon domestic and foreign policies.

In the 1990's right-wing populism and EU integration were the outstanding events in European politics. As the author argues, this is not a mere coincidence but a proof that they influence each other in a cause-effect type relationship. While the question of immigration certainly offers the perfect pretext for rightwing views, the author questions the assumption that it represents the actual cause. Moreover, EU integration, as an instance of enforced transnationalism, has allegedly challenged the standard prerogatives of the nation-state and has thus tilted the conglomerate of national cultures and legal norms which governed the states. Europeanization has altered the people's standards of self-perception by shifting them from the polity to

the person and from the state to the market. It has consequently compromised the bonds of democratic empathy and provided the opportunity for right-wing populists to deliver a discourse of fear and insecurity. The book primarily focuses on the analysis of these movements in relation to the broader context of Europeanization and globalization. It aims at revealing the political and cultural processes that evoke the thin commitments of citizen support and at highlighting the role of the historical legacies and practices as a framework for the analysis of rightwing populist movements in Western Europe (France and Italy) in the 1990's.

The book is divided into three interrelated parts, which deploy as follows: while the first sets the time and space frame for the right-wing populist movement, the second focuses on the trajectory of the National Front (FN) in France and secondly on some trans-European extra-parliamentary movements (anti-globalization protestors) that have also manifested against neoliberalism. The third and last part places these movements within the broader context of Europeanization (with an insight on the Italian case as compared to the situation in France).

Berezin's approach is essentially a critical reading of historical contexts which builds upon events as principal parameters, without neglecting individual and collective actors. It describes the manifestation of right-wing populism as a political phenomenon; nevertheless, it does not extend to party strategies, voting behavior and political attitudes, as they are not within the scope of this book. Berezin's main arguments are based on some particular events that she deems important, as they have altered world history (9/11), European history (the rejection of the EU constitution in 2005) and the history of France and perception of self and politics of the French people (the World Cup victory in 2000, LePen's election score in 2002 and the FN Congress in 1987). The author sets a critical eye on them through the lens of certain socio-political theories such as organizational theory, agenda setting theory and labor market theory. The arguments that Berezin uses have a slightly different range, going from the economic-related (supply-demand axes) to political

culture and political symbolism, and further on to psychological input approaches such as rational/non-rational political behavior and resentment theory.

What distinguishes her analysis is its configuration through a historical and narrative methodology that enables a closer look at events. The cross-sectional focus on them reveals not only the structure and culture but also the institutions and actors of a given society. Events echo the voices of multiple subjects and can be a subject matter of their own (Durkheim's approach on events as social facts, also known as *la chosification des faits sociaux*, which states that events are social facts and have therefore enough identity and coherence if the social collectivity recognizes them as important (p.11)). Seeing events as templates of possibility and sites of collective evaluation means that they speak to the collective resonance, they offer possibilities and visions of possible paths; that is, they show what *might* happen, rather than predict what *will* happen. They develop into a *path dependence* that engages the collective imagination and has therefore the power to change the public perceptions that will later on turn into political actions. This is consequently the main factor of interest in this framework of analysis and its interpretation key.

Although the book uses specific concepts and phrases such as *imagined communities*, *consolidation regimes*, *thin* versus *thick commitment* and *sites of sociability*, the analysis is focused on events that appeal to the average individual's capacity to understand and engage with, therefore becoming a useful tool to explain the "bigger picture" and the intricate implications of external phenomena on domestic political life. It is thus an appropriate reading both to the unacquainted reader, eager to know more about populism, and to the researcher in a quest for a more suitable matrix of interpretation in sociology and political science. The explanations are thorough and clearly chained in a logical argument structure. Berezin succeeds in explaining the connections between external events such as Europeanization, similar trends in European politics, international events and populism. Her methodology is innovative and well documented

both with primary and secondary data, especially concerning France.

Nevertheless the book lacks a more detailed comparison between the French and the Italian cases. It starts to inquire on Italy, it continues with France, giving a complete account for some outstanding events and their significance, but it ends up in a blurry comparison of the two, which is based on unbalanced datasets and appears rushed. The French events are better documented, whereas the Italian ones hold a poorer place in the first and last chapter of the book, thus making the comparison inadequate. The brief and superficial mentions of the other Western European right-wing movements and their places in the respective countries fails to provide an insightful look at the linkages between them. The book's major goal has been fully achieved only in the case of France, where the analysis is broader and goes deeper. The fundamental question could therefore be rephrased to whether there would be a right-wing populist movement in France, and Le Pen a political force, had it not been for the accelerated pace of European integration.

Irrespective of these flaws, the book provides the opportunity for the average reader to get acquainted to the background of the right-wing in Western Europe and to its current manifestations. The introduction and the first chapter are useful tools for anybody interested in the history and the scientific approach to this subject. As for the scholars, we would suggest reading the book as a research text focused on the French case in a larger European perspective, rather than an extrapolation of the French conclusion to the whole of European politics. In short, the *illiberal politics in neoliberal times* is a well-chosen trope for an event-focused account that encourages engagement with recent methodological moves in historical and cultural sociology, therefore exploring the relation between narrative and explanation.

**Fred I. Greenstein, *Inventing the Job of President: Leadership Style from George Washington to Andrew Jackson* (Princeton, New Jersey: Princeton University Press, 2009).**

Mihail Chiru  
Central European University

Fred Greenstein is one of the most influential presidential scholars in the United States. In his most recent work, he takes on the role of 'archeologist' of the oldest trademarks left on the presidential institution, by the first seven chief executives: George Washington, John Adams, Thomas Jefferson, James Madison, James Monroe, John Quincy Adams and Andrew Jackson.

The methodological approach of this book is a provoking experiment in itself: the author assesses the early presidents' tenures through the conceptual lenses of leadership qualities invented for his renowned analysis of modern presidents, *The presidential difference: leadership style from FDR to George W. Bush*. Hence, all seven chief executives are evaluated on public communication skills, organizational capacity, political skill (tactical and strategic), policy vision, cognitive style and emotional intelligence. Additionally, each chapter has sections about the 'formative years' of the presidents and their public careers prior to election. The seven 'presidential' chapters are complemented by an introductory chapter that depicts the political background of the early republic: the Federalist/Republican divide as the main cleavage, the fragility of the new nation, or the general virulence of the political discourse. The final chapter makes a review of the way in which the first chief executives construed their role and influenced the American political development.

The book is mainly addressed to scholars and students, but its concise and easy-to-read style makes it appealing for a much larger audience. Although it is evident that the author masters a vast body of literature, which enables him to make remarkable

parallels with previous scholarship - from the official biographers to the most recent contributions on each of the presidents - *'Inventing...'* remains a light, accessible book. At the end, Greenstein presents succinct biographies of the presidents, chronologies of the significant events that happened during their terms, as well as their most important appointments and the structure of the Congresses they had to work with. These are truly valuable for comprehending the contexts of the presidencies. The author also provides all-inclusive lists of further readings for each chapter. All these elements add to the feel of a textbook or introductory volume.

An element which helps the reader to better understand each episode and its relevance is the fact that the personalities of the presidents and their political trajectories are systematically weighted against those of twentieth century chief executives. For instance, Thomas Jefferson is compared with FDR for his excellence in public communication, while the ups and downs of his terms are related with the mandate of Lyndon Johnson. James Madison is connected to Herbert Hoover, both declared guilty of 'failing to respond adequately to troubled conditions' (p. 55), whereas John Adams' is considered on a par with Richard Nixon for their 'defective emotional intelligence' (p. 33). Such bold verdicts are more the rule in Greenstein's approach than the exception, but they are always supported by convincing arguments and factual judgments.

One of the merits of the book is that it illustrates how diverse the respective leadership styles were, despite the generally shared assumption that the epoch's presidential mandates have been rather undistinguished, emasculated by the popularity of the 'seventeenth century ideal, that a chief executive should be a politically detached arbiter of the other forces in the political system' (p. 97). The choice to abide or not by this model directly affected the efficacy of the presidents. For example, while James Madison refrained from having any legislative influence, Thomas Jefferson had hidden legislative initiatives and Andrew Jackson made extensive use of his veto rights, transforming it into a powerful policy instrument.

Greenstein offers no grand theory by which to make sense of the logic of the seven presidents' actions or of the relations between their terms. Sticking to the analysis of how personal qualities and dispositions have influenced their leadership, the author avoids any historicist or determinist interpretation, explicitly contrasting his work with the cyclical theory of Stephen Skowronek's *'The Politics That Presidents Make...'* (p. 4).

As a matter of fact, Greenstein is as far as possible from a determinist standpoint, since he stresses contingency as an essential factor in the presidents' success and the very survival of the new nation. Thus, it matters who is president, but it matters also a lot when this happens: John Quincy Adams failed also because he proposed an agenda that was too visionary and ahead of his time, while the qualities that have served Jefferson well in his first term, gave him a troubled time in the second. Moreover, the order of presidencies is believed to have influenced greatly further institutional developments, a sort of unspecified path dependence.

*'Inventing'* is innovative even in comparison to other presidential scholarship that took into account the personality and political qualities of the leaders. An appropriate argument is that such authors, as Richard Neustadt or James Burber, have ignored the communication abilities or organizational capacities of the presidents. Fred Greenstein is successful in showing how relevant these aspects were, in an epoch when there was no Executive Office of the President and consequently no built-in institutional memory, and when it took 6 days for a letter from New York to reach Boston and 6 months for a diplomatic exchange with a European nation.

Only one thing appears confusing inside the theoretical apparatus with which the author measures the strengths and weaknesses of presidents: the operationalization of the concepts 'policy vision' and 'strategic skill' – described as the ability to advance attainable policies (p. 3) – overlap to a large extent. Although the author acknowledges this, he does not choose to refine his analytical categories. Despite the recurrent analytical insights

which result from the application of the 'leadership qualities' scheme and the historical institutionalist review of the early presidencies and their consequences, made in the last chapter, the book appears closer to a classical historical account, both in its taste, and in its ability to make such a distant past acquire up to date importance.

The book is written in an elegant and clear manner, facts which together with the selection in each 'chronicle' of the most momentous events and noteworthy personal traits, makes it a captivating and, at the same time, easy-to-digest lecture. The portraits dedicated to each and every chief executive are full of substance and informative historical details, although their brevity would not normally allow for more than hasty sketches. All in all, *Inventing the Job of President* is a valuable resource for both presidential scholars and for those who had never read anything about the subject.

**Richard Stahler-Sholk, Harry E. Vanden, and Kuecker, Glen David, (eds), *Latin American Social Movements in the Twenty-First Century: Resistance, Power, Democracy* (New York: Rowman & Littlefield Publishers, Inc. 2008).**

Alexander B. Makulilo  
Dar es Salaam University

After the end of the Cold War imperialism in the form of neo-liberalism exerts its hegemony over the entire world. Under what came to be known as the "Washington Consensus", which emphasizes liberal democracy, market economy and foreign capital investments, the U.S sought to enhance and consolidate its access to cheap natural resources and raw materials from Latin America, thereby capitalizing its domination over the region. Challenging the neoliberal paradigm, the masses in Latin America developed a series of social movements to protest this form of foreign domination. In line with this move, contemporary scholarship in the region is preoccupied with theorizing and understanding the nature, development and impact of these

social movements in emancipating the region. Merging theory and practices, *Latin American Social Movements* provides an in-depth and comprehensive analysis of social movements in the region. It traces the historical origins, evolution, strategies and implications of social movements and their resistance to neoliberal and global capitalism. And therefore, the book challenges the mainstream literature that focuses on "transition to democracy" and that views social movements as merely temporary resistance to authoritarianism and electoral politics that unseat repressive regimes.

The book is an edited volume of seven sections and twenty essays including the introduction. The editors provide a concise introduction to each of the book's seven sections. Section One focuses on the historical origins of Latin America's social movements. Section Two dwells on the neoliberal policies and their impact. Sections Three, Four, Five and Six concentrate on the strategies of emancipation. Finally, Section Seven discusses the challenges and prospects of social movements in Latin America. Throughout the book, each essay locates the case within a theoretical and global historical context. The essays are organized from general to specific issues of social movements such as race, gender, Zapatista, movement strategies and political parties. The book is written in a very fluent and accessible style, combining primary and secondary sources of data.

*Latin American Social Movements* is one of the recent books written about social movements in Latin America and which contributes much to our understanding of this subject in the region. Importantly, the book provides a critical challenge to capitalism as a system and, more particularly, to U.S imperialism in Latin America. The first major contribution of this book is that it adopts a genuinely pluralistic approach to knowledge. Contributors are drawn not only from a wide range of disciplines but also from scholars who are well versed with Latin America's context. There are no weak essays. Second is that the book engages well with the way capitalism has been able to mask itself and play with words. For example, capitalism and imperialism,

both of which connote negative meanings, have changed to globalization. The authors of this book maintain that the content of globalization is the very same as that of imperialism (p. 233). Through positive vocabularies like investments and export of finance capital the authors see the potential danger of a re-colonization of the South. Third is the manner in which the book intelligently looks to the future. The authors acknowledge the strength of 'the enemy', that is, neo-liberalism and global capitalism, and hence see the need for unity to fight them through the transnational resistance networks (p. 323). But they contemplate the challenges to social movements such as poverty, ethnicity, racism and the fear to be re-colonized by the North. True to this fear is the fact that the countries in the South, and particularly Africa, depend heavily for their national budgets on the capitalist countries of the West and their giant financial institutions like the IMF and the World Bank. The aid provided by these actors is normally found to be attached to conditionalities which seem to consolidate the objectives of the "Washington Consensus".

Like all good books, *Latin American Social Movements* provokes as many questions as it answers. One of the pitfalls of the book is its failure to link the social movements in Latin America to macro-level revolutionary change and the waging of world-wide resistance to neo-liberalism (p. 339). Most of the claimed achievements of these social movements are localized to individuals and countless communities which are probably still fragmented. While the social movements have a far greater voice in decision making and hence in challenging authoritarianism in Latin America, they have not gone beyond this in order to impact other societies worldwide. As a result, neo-liberalism is likely to persist despite the efforts of the social movements in Latin America. Another shortcoming is that most of the essays see the origin of social movements to be conditioned by neo-liberalism and particularly the U.S. Attributing the economic, social and political problems of the region solely to neo-liberalism is narrow. The authors ought to point out the internal challenges within Latin America which seem to give rise to social movements. In short, the movements are only outward-looking. Moreover, neo-

liberalism should be treated as a world phenomena. Blaming the U.S under the “Washington Consensus” seems to undermine the efforts to fight all forms of social injustice, including those injustices beyond the U.S.

This well-researched and convincingly argued book will be of interest to a wide audience, particularly those who seek to understand the root cause of social movements, their development and impact in emancipating marginalized groups against imperialism. It would be particularly interesting for college students and practitioners who are involved in day-to-day movements against all forms of social injustice. To specifically understand the experience of social movements in Latin America, *Latin American Social Movements* is a must read book.

**Loic Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (London: Duke University Press, 2009).**

Christopher Herring  
University of Berkeley

At the beginning of 2010, the State of California in the throes of fiscal crisis decided that it will open its prison doors to some 6,500 prisoners from its bloated penal system, the largest in America<sup>159</sup>. Yet the savings from this endeavor will only put a small dent in the ballooning budget that is forecasted to continually swell over its current \$8 billion price tag and will devour an even greater proportion of its state budget on top of the 11 percent it already consumes next year. As for next steps, the governor proposes handing prisons over to private contractors and opening up a US prison in Mexico for illegal immigrants. None of the plans include reducing judicial sentencing or increasing funds for rehabilitation and counseling for the growing prison population. At the same time, the state

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159 Archibold, R. (2010, March 23). California, in Financial Crisis, Opens Prisons Doors. New York Times.

legislature continues to slash welfare and education expenditures as Governor Arnold Schwarzenegger proposes to completely eliminate the state's welfare program for families, medical insurance for low-income children and Cal Grants cash assistance to college and university students<sup>160</sup>. The proposals would completely reshape the state's social service network, transforming California from one of the country's most generous states to one of the most tightfisted, while the release of a few prisoners does nothing to curb the sentencing structures that continue to overcrowd the state's penitentiaries.

Loic Wacquant's newest book *Punishing the Poor* offers a forceful re-conceptualization of this dual shift in neoliberal governmentality: the withering of the welfare state and the development of the penal state. Conjuring a wealth of statistical and empirical evidence over the decade spent preparing this work, Wacquant shows that America's widening penal net is not simply catching the social fallout from the welfare state's implosion, but rather that "prisonfare and workfare are two sides of the same coin." The book levels a strong argument against the several scholars who have interpreted big penal government as an anomalous sector, accidental symptom, or contradiction to Western countries touted neoliberal creed of small government and fiscal constraint. Instead Wacquant convincingly claims that the welfare and penal policy domains are two construction sites of a single political project geared towards managing America's underclass, and to a lesser though increasing extent, Europe's immigrant minorities.

The work attempts to define an epoch, both historical and transatlantic. Not only does Wacquant describe the hydraulic shift between welfare and imprisonment: pointing out that American prison expenditures doubled from 1980-1990 while public housing funding was halved, or that those under probation and parole grew from 1.84 million in 1980 to 6.47 million in 2000, but also describes qualitative shifts towards revanchist

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160 Bailey, E. (2009, May 21). Governor Plans to completely Eliminate Welfare for Families. Los Angeles Times

punishment in each sector. While parole officers had formerly been in the business of rehabilitation, holding degrees in social work and psychology, their caseloads are now doubled and come with the suggested requirement of certifications in criminal justice. At the same time, welfare provisions are no longer entitlements but rewards for fulfilling obligations in underpaid, unskilled, and insecure jobs, *sans* benefits or healthcare. This epoch stretches beyond any partisan differences, with the greatest leaps in this penal/welfare double movement occurring under Reagan and Clinton.

The book accomplishes its task in showing the functional interlocking of America's welfare and penal state over the last four decades, and indicates its increasing transposition across the Atlantic following the "planetary spearhead" that is America. He specifically highlights the French case, where bureaucrats have directly adopted US policing and penal policies in the wake of the *banlieu* uprisings. Yet, as Wacquant points out in earlier works, America's color line casts its new prison system as a particular historic descendant of Jim Crow that does not translate into the European cases. He also illuminates in his new book the deadly symbiotic relation between the prison and the ghetto, with the former serving as the surrogate to the latter. This makes the argument of planetary diffusion a bit more complex than Wacquant seems willing to suggest. However, whether or not this neoliberal reality materializes across Europe and beyond, Wacquant shows that the penal shift on both sides of the Atlantic has more to do with changing attitudes towards the sub-proletariat blacks in the US case and immigrant minorities in Europe than any rise in criminal activity.

Wacquant's work not only integrates a vast array of statistics and empirical evidence, but is sprinkled with numerous ethnographic fragments, taking the reader inside LA's super-high-tech Twin Towers correctional facility, beside the "sex-offender database booth" at the California State Fair, and into the saga of the New York Penal Barges. While some critics fault his prose as excessive, it is equally provocative, colorful, and filled with insightful metaphors that many a social researcher would envy to

coin. Not only is his material eclectically well-choreographed but the methodological pluralism Wacquant deploys is an important theoretical innovation in and of itself – not only claiming that an analysis of one side of the penal/welfare nexus must necessarily include the other, but insisting on a combined materialist and symbolic approach. According to Wacquant, “The traditionally hostile separation of these two approaches, the one stressing the instrumental role of penalty as a vector of power and the other its expressive mission and integrative capacity, is but an accident of academic history artificially sustained by stale intellectual politics.” Wacquant masterfully demonstrates this integrative approach, operating just as much in the tradition of Marx and Engels as Durkheim and Bordieu, an example that more academics should follow.

Perhaps most provocative and worrying, is that this crafting of the welfare/penal state is tangled tightly with class restructuring. At the forefront of Wacquant’s analysis is the connection of the neoliberal leviathan with the ever more precarious flexible wage-labor contract that pervades American and, increasingly, European workforces. One in three working Americans are non-standard wage workers, and the country’s largest employer is no longer GM, but Manpower Inc., a multi-national temp agency. As a former college instructor in a state prison, this reviewer will never forget that the Federal government’s restrictions on funds towards college education in prisons was not due to its ineffectiveness; in-fact college education was proven to be one of the most effective means of reintegrating former inmates into their communities. Rather the program was cut because working class Americans found it increasingly hard to fund their own children’s college education and found it unfair to be providing prisoners with this free service that not even their own children could access.

According to Wacquant “castaway categories – unemployed youth left adrift, the beggars and the homeless, aimless nomads and drug addicts, postcolonial immigrants without documents or support – have become salient in public space, their presence undesirable and their doings intolerable because they are the

living and threatening incarnation of generalized social insecurity produced by the erosion of stable and homogenous wage work." In the wake of the contemporary crisis there runs the virulent threat of increasing tension between the imagined "deserving working poor" and the "undeserving underclass". As welfare services and programs are cut by every state, Wacquant's book is a must-read for all students of criminal justice, the welfare state, and citizenship as well as policymakers and analysts who should not fear Wacquant's unflinching account or radical politics.

**Bonnie Honig, *Emergency Politics: Paradox, Law, Democracy* (Princeton and Oxford: Princeton University Press, 2009).**

Karina Shyrokykh  
Stockholm University

The state of emergency is a situation when an ordinary life and ordinary laws are not valid any more, and thus, the situation demands emergency decisions. The question is how we deal with such situations and what principles and laws we follow. Discussion of emergency politics has always been a complicated and essential issue for every country, especially so for democratic countries nowadays. It contains many controversial dimensions and inevitably involves us in a discussion of democratic principles, sovereignty, law and human rights. Bonnie Honig enters the discussion with a clear emphasis on democratic values and human rights.

Her book, *Emergency Politics: Paradox, Law, Democracy*, consists of articles which are linked by problematic aspects of emergency politics, democracy theory, the issue of sovereignty and human rights. Honig speculates broadly on emergency politics including the moral aspects of the issue, food politics, animal welfare, and immigration issues, arguing throughout for the absolute value of human life. Honig provides no explanations and definition of the main concepts and terms (this makes us think that the book is aimed for a prepared reader) well-aware of classical political

theories on emergency politics, political philosophy and Jewish political thought. She takes on the ambitious task of exploring an alternative to deliberate democracy, and deals with the normative question of when it might be permissible or even necessary to torture, detain, or violate the rule of law. In order to deal with moral aspects of the politics of emergency she turns to Bernard Williams's moral philosophy of tragic situation.

The main focus of the book is the analysis of the classical emergency theories of Carl Schmitt and Giorgio Agamben. Honig tries to find an alternative, more democratic and humanistic conceptualization of emergency and sovereignty by applying Jewish political philosophy represented by Moses Mendelssohn, Hermann Cohen, and Hannah Arendt. In this respect, the author argues for the necessity of a new theory that may better fit the needs of democratic theory in practice. She elaborates on principles of emergency politics in the context of the recall of Jacques Derrida's explications of the French word survival: *survivance* (as sur-vivance), being more life and surplus life. The author mobilizes democratic theory on behalf of the double-meaning of survival as mere life and more life. In the book she tries to overcome the principle of emergency politics based on 'mere life'; and proposes an alternative more humanistic and democratic way of dealing with emergency situations which implements her principle of 'more life' *sur-vivance*, both like *plus de vie* and *plus que vie*.

Honig elaborates on the emergency situation from a 'more life' perspective. Usually emergency situations are seen as situations when ordinary democratic laws are not valid and as situations which demand more harsh politics and acts. However, Honig argues that even in such situations democratic principles of human dignity and rights should remain valid. The issue of democracy in the situation of emergency is coupled with the question of the nature and frames of democratic politics. In the first chapter of the book, which is the most satisfactory part, she discusses the paradox of politics which lies at the very basis of democracy and is "a fundamental problem of democracy in which power must rest with people but the people are never so fully

who they need to be (unified, democratic) that they can be counted upon to exercise their power democratically” (p. xvi). In other words, the problem is posed by the mutual inhabitation of the people/multitude and the effects on democratic politics.

Honig diagnoses rather than solves the main theoretical problems of deliberative democracy. She successfully describes the main theories of democracy (mainly Rousseau’s) and points out that very often principles and conditions of democracy may be found to offend some of its own commitments. Moreover, the author describes the paradox of politics in the way that good citizens presuppose good law in order to shape them, but good law presupposes good citizens to make good law. In other words, the paradox of democratic politics highlights the chicken-and-egg argument in which people (*demos*) are law’s authors and law’s subjects.

The second chapter that discusses animal rights, the right to suicide, and food rights is not easy to follow. In this chapter the author speculates on the paradox of new rights which, according to political theory, are based on natural and transcendental grounds. Honig provides an interesting meditation on the issues, but compared to the other chapters, the second fits a bit less in the context of emergency politics. The third chapter looks at different cases of emergency situations and analyzes emergency actions and decisions that follow emergency circumstances. She focuses on the role of decision making in democratic actions and governance in the context of actions of the U.S. Assistant Secretary of Labor, Louis Post, during the United States’ First Red Scare. Chapter Four elaborates on the paradox of politics when people are both a multitude and a moving power, and argues that the people are not only a danger for the state, but also its source. Honig makes an interesting combination of Karl Schmitt’s political theory and Franz Rosenzweig’s philosophy that allows to “switch our gaze from sovereign to popular power or to sovereignty *as* implicated in and dependent upon popular power” (p. 89).

The last chapter considers the paradox of legislation in the context of universalism, cosmopolitanism, human rights and

genocide and argues that universalism causes the problem of democratic legislation. The paradox of democratic legislation lies in the assumption that the general will can never be a will of each member, and represent equally the interests of everyone. The author proposes two possible solutions to the paradox: first to diminish inequalities (p. 122) but, since the first strategy can ever be implemented, she proposes a second one which makes an emphasis on the importance of international support and democratic cooperation. She stresses here that all of us already are global neighbors.

This innovative approach to emergency politics is both an interesting philosophical approach and a well-organized theoretical endeavor in which Honig makes a valuable synthesis of democratic orientation and emergency politics. In the book she demonstrates awareness of democratic theory and political philosophy. She analyzes the political and moral dimensions of emergency politics and seeks opportunities to create democratic orientation in a context of emergency by applying Jewish philosophy. The main disadvantage of the book is a lack of substantial conclusions to her sophisticated and challenging claims on the issue of emergency politics.

Overall, the book is well-written and the reader can easily follow the main ideas. However, for the totally unprepared reader it would be difficult to understand the main concepts as far as she gives no definitions and no explanations, while operating with them. Despite the lacking explanatory element of the book, it is worth reading, it could be useful for those who are interested in political philosophy, political theory and Jewish political thought, in particular.

**Kevin E. Davis (ed.), *Institutions and Economic Performance* (Cheltenham, UK: Edward Elgar, 2010).**

Martino Bianchi  
Bristol University

The relevance of institutions for the economic analysis is a theoretical core issue within contemporary debate. Mainstream neoclassical economics, in fact, has traditionally considered institutions as a peripheral element: they are constraints, which can interfere with market outcomes, but that nevertheless are mainly irrelevant in understanding the inner mechanisms of markets. On the contrary, within the Institutional Economics, and later the New Institutional Economics (NIE) many scholars has tried to support the idea that institutions are the crucial element which explains economic performances: moulding actors preferences and behaviour, institutions directly affect each element of economics theory. In their analyses NIE scholars draws from various scientific disciplines, like political science, cognitive theories, social psychology and sociology: they make an attempt to abandon the thrifty descriptions produced by mainstream economists, giving a much broader insight in economic dynamics. At the same time, they try to outline an empirical description of market's configuration. In the last two decades NIE has gained considerable relevance and scientific recognition: first Ronald Coase, in 1991, then Douglass C. North in 1993, and finally Oliver E. Williamson and Elinor Ostrom who, in 2009, won the Nobel Prize for Economics. Despite this, NIE is still usually referred as a *heterodox* scholarship.

This new book, *Institution and Economic Performance*, edited by Kevin E. Davis, is a collection of twenty article published by leading NIE academics over the last three decades, with one significant exception: the opening paper, in fact, is the classic *Institutional Economics*, written by John R. Commons in 1931. It can be questioned whether it makes sense to include a single contribution from the Institutional Economics school within a book dedicated to NIE, as the two literatures cannot be seen simply as one being the evolution of the other, but as actually embedding

substantially different assumptions. However, Commons' paper is intended as a starting point to define institutions in an economics perspective, not to address core research issues. The four sections of the book are not closed: indeed, contributions have been chosen on the basis of their encompassing relevance, and generally cover various topics, or at least contain ideas that are developed more in depth by other authors.

The first section, "Institutional Economics Defined", presents Douglas North's lecture delivered in Stockholm, when he received the Nobel Prize, along with the mentioned Commons' paper. The second section contains six articles, which discuss the core question of institutional economics and the actual relevance of institutions in determining economic performance. It's particularly noteworthy that the oldest paper in this section has been written in 1998: the editor clearly tries to provide the reader with the most up-to-date contributions. The following section presents ten essays about the role of specific institutions. Particularly interesting is the fundamental *Dictatorship, Democracy and Development* written by Mancur Olson in 1993, which is - as usual when we observe this author - a milestone in social science. Another noteworthy contribution is Dani Rodrik's *Institutions for High Quality Growth* (2000), in which the author discusses the importance of participative institutions in order to achieve a sustainable development. The last section aims to explain institutional variation, presenting two seminal works of the early 1980's.

In comparison with mainstream economics, NIE's contributions are generally far more discursive. The reasoning is less grounded in mathematical logic while it is much more concerned with the empirical and inductive description of specific market configurations. In this respect, the book is a good example of the writing and reasoning style, sometimes vivid and intriguing, often used by NIE authors. Similarly, the book is a good sample of NIE's multidisciplinary approach to economics. However, while the quality of each contribution is not questionable, the underlining logic of this book is less sound.

As a general remark, we note that the book lacks a clear focus, as it contains outstanding contributions, but with a very broad scope. On the one hand, it is not an all-encompassing handbook, like, for example, the *New Institutional Economics: A Guidebook*, recently published by Cambridge University Press, as it is less systematic in covering the topic. On the other hand, it is also hard to consider it as a monograph: the topic covered is too wide and the contributions reported are too heterogeneous. In fact, the book explicitly addresses the links between institutions and economic performance: but the disclosure of these links is the fundamental underlining research question of all NIE literature, hence an encompassing and ubiquitous theme.

A second remark concerns the usability of this text, which is clearly designed for economics students and academics, not for a broad public. In fact, as it is a long and expensive book and highly theoretical, it is unlikely to be purchased *but* by academic institutions. The concern here is that each of this articles is already available in any main academic library and probably the majority of universities has also a web access to the journals where the contributions were first published. Due to the blurriness of the focus and the easy availability of the articles, it seems more a cherry-picking exercise, than a coherent and usable collection. The short introduction written by K. Davis is the only original essay present in the book, but it's unlikely to justify the cost of the purchase of this book.

Beside this, it has to be noted that no specific contribution about transaction cost theory is present in the book. This is probably due to the fact that the book is more concerned in describing the relations between institutions and economic growth, than in describing the functioning of organizations. The latter, in fact, are often treated as black boxes which are relevant to the research only in relation of the policies that are keen to enforce. Nevertheless, in the opinion of this reviewer this is a critical point: as in the introduction where the author tries to clarify the differences between institutions and organizations, it would have been useful to provide with one of the numerous paper written

about this by Oliver Williamson, or other scholars who looked at the rationale of organizations.

On the contrary, it is particularly interesting noting that the choice of articles tend to privilege contributions with different methodological backgrounds. The range of papers presented gives the reader a good picture of the variety of approaches used by NIE scholars, and their ability to integrate sociological and legal consideration within the economic analysis.

**Malik Mufti, *Daring and Caution in Turkish Strategic Culture. Republic at Sea* (New York: Palgrave Macmillan, 2009).**

Ömer Aslan  
London School of Economics

The post-Cold War endeavor not to take for granted the fundamental concepts in security studies that realism and its kinds had simply presumed, found its resonance in the study of Turkey's foreign and security policy. The scholarly engagements on that subject embracing a constructivist approach to security studies, or inspired from critical security studies, have recently proliferated.<sup>161</sup> Malik Mufti's *Daring and Caution in Turkish Strategic Culture, Republic at Sea*, adds to that suite by introducing the concept of strategic culture, a concept that has hitherto been poorly explored in previous studies on Turkey. In it, Mufti aims to explain the peculiar way in which Turkish security policymaking actors throughout the Turkish Republic perceive their external environment and conceive of what constitutes the most proper way to respond to the threats they subjectively perceive. In doing so, he also hopes to offer insights into some of the ongoing debates in the strategic culture literature.

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161 See Lerna K. Yanik. "The Metamorphosis of Metaphors of Vision: "Bridging" Turkey's Location, Role and Identity After The End of the Cold War". *Geopolitics*, 14 (3), 531-549; Pinar Bilgin, "Only Strong States Can Survive in Turkey's Geography': The "Uses" of "Geopolitical Truths" in Turkey", *Political Geography* (2007):740-756.

According to Mufti, there have so far been two strategic culture paradigms in Turkey: the 'Republican' paradigm and the counter 'Imperial' paradigm, which has had two distinct articulations. Asserting adroitly from the outset that strategic culture is 'historically conditioned' (p.3), Mufti in the first two chapters traces the genesis of the long-dominant Republican paradigm to the traumatic decades of the Ottoman collapse, World War I, and the Turkish War of Liberation. The same paradigm was transmitted to later generations by national education, rewriting of national history by the Republican elite, the establishment of the War College and Civil Service School, and military education.

The Democrat Party (DP), which rose to power after the multiparty elections of 1950, expressed the counter Imperial paradigm for the first time in Turkey. Their activist and daring involvement in the Middle East in the absence of any direct threat to Turkey from the region manifested the influence of their own unique paradigm. In stark contrast, the Turkish Armed Forces (TAF) and Ministry of Foreign Affairs (MFA), the primary institutional adherents to the Republican paradigm, viewed the same involvement as an 'adventure' into the 'Arabian swamp'.

The then President Turgut Ozal expressed the Imperial paradigm for the second time. He too opted for an activist foreign policy and saw opportunities around Turkey as the end of the Cold War, a systemic change, and the Gulf War unfolded. Mufti pays well deserved special attention to the ensuing severe institutional clash between the Presidency and the other institutional pillars of the Republican paradigm. Yet, although the Republican elite recaptured its power unchallenged after Ozal's death, Turkey became anomalously active in the Middle East, which Mufti perceptively argues, hints at the Republican paradigm crisis because "exogenous conditions change to such an extent as to undermine the functionality of the dominant paradigm in a polity's strategic culture" (p 5).

While Mufti deserves praise for being the first scholar to undertake the task of applying the concept to the Turkish case

and as such, providing the foundation for further scholarly research, his argument suffers from some weaknesses. To begin with, while answering the question "how strategic culture is transmitted through time"<sup>162</sup>, Mufti added Turkish society to the list of supporters of the Republican paradigm. But if the Republican paradigm powerfully resonated in the recent historical memories of the Turkish masses (p.28), why did the Republican elite have a "profound distrust of the masses", and perceive them as their "enemy" (p. 23)? The author, it seems, falsely assumes that "strategic decision makers and the public at large share a strategic culture".<sup>163</sup>

What is more, Mufti does not provide satisfactory answers to cases that run anomalous to his overall argument. For instance, in the case of the use of force in the Cyprus issue in 1960s, the approval by the TAF and MFA of the use of force in spite of the normative requirements of the paradigm, to which they adhered, Mufti attributes it to the lack of clear strategic guidelines for the security establishment because Cyprus was not included in the particular status quo settled after the Turkish War of Liberation (p. 43). However, if Meyer is right and strategic culture "also helps them [countries] to make choices at various junctures of uncertainty"<sup>164</sup> the author's explanation remains unsatisfactory.

Another such anomaly emerged when the TAF increased its sway in security policy making. According to Mufti, there might have been multiple factors behind this anomaly: individual predispositions, such as that of the former Prime Minister Tansu Ciller; the need to balance Iran, Iraq and Syria; and the commencement of negotiations between the PLO and Israel, which allowed Turkey to enter into military agreements with Israel. Yet, if they were indeed in play, this would not help his case manifest "the enduring impact of the Republican paradigm

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162 Alastair I. Johnston, *Cultural Realism: Strategic Culture and Grand Strategy in Chinese History*, Princeton University Press, 1998, p.14.

163 Ibid, p. 8.

164 Christoph O. Meyer. *The Quest for a European Strategic Culture: Changing Norms on Security and Defence in the European Union*. Basingstoke: Palgrave Macmillan, 2006

reflected in the attitudes of key institutions”, (p.6) and “the causal autonomy of strategic culture” (p.3).

Furthermore, the fact that Mufti brushes aside the genesis of both versions of the Imperial paradigm to remain satisfied with linking them merely to the temperament, skill and vision of individual leaders totally isolates the societal dimension involved. To do justice to the author, he traces the roots of Ozal’s version of that paradigm to the Democrat Party’s policies (p. 63) and later in the sixth chapter to Ozal’s admiration for “the expansive, acquisitive, ambitious spirit of the Ottoman Empire’s earlier years” (p. 125). But even if this is true, “how can we assess the influence of that [further] period with the influence of the more immediate past?”<sup>165</sup>

Finally, although Mufti sets out to put the interaction and tension between competing strategic culture paradigms at the center stage of his book (p.4), the primary question that the clash between the two competing paradigms on many occasions (pp. 30-36, 59-61, 65-80) generates, is left totally unanswered: when two rival strategic culture paradigms clash, what are possibly the domestic, regional, and international factors that influence which one wins?

In summary, the book should be applauded for pointing out that policies are made by the *enculturated* Turkish elite seeing security opportunities and threats that are themselves not objective through the prism of their strategic culture paradigms. However, its contribution to the strategic culture literature would have been greater if clearer criteria as to what counts as a strategic culture were set, the roots and transmission of the Imperial counter-paradigm were also explained and factors at different levels that determine the winner in case of paradigm clashes were pondered.

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165 McCauley quoted in Johnston, ‘Cultural Realism’, p. 14.

**Adam Dinham, *Faiths, Public Policy and Civil Society: Problems, Policies, Controversies* (Basingstoke: Palgrave MacMillan, 2009).**

Stephen Pimpare  
New York University

There may be no simple answer to why governments increasingly promote the participation of faiths in the design and implementation of public policies. For Adam Dinham, the “imperatives driving an interest in faith” are threefold: governments see faiths as a repository of resources (“buildings, staff, volunteers and relationships”), as a potential means of fostering “community cohesion,” and as part of a broader “extension of new forms of participative governance” (p. 5-6). The focus in *Faith, Public Policy and Civil Society* is on such matters in the UK over the past decade or so, and the attention he periodically pays to the US and Canadian cases is usually not much more than passing reference. They are useful and generally insightful references, typically helping to elucidate one aspect or another of the issue under consideration, but readers needing a thorough-going and systematic comparative study will need to turn elsewhere. But that’s not to suggest that those with interests outside the UK will not find much to value in this volume, and it should surely be required reading for those invested in “faith-based” service provision and political participation in the UK.

Dinham strikes a satisfying balance between theoretical and empirical concerns: his careful marshalling of demographic data on religious affiliation, sometimes parish-by-parish, highlighting religious diversity within and among communities connects with a much more abstract discussion of the dimensions of religiosity and its relationship to identity, identity formation, and affiliation, which then tacks back to a more applied analysis of what such data, history, and theory might mean for political actors seeking to engage (or re-engage) faith-based actors and institutions. It’s a deft performance, and I found myself increasingly noting with admiration the manner in which Dinham moved back-and-forth between the theoretical and the empirical in an effort to develop

ways to think more systematically about the role that faiths can, do, and should play in politics and policy-making.

But what principally distinguishes Dinham's account from most others is that he peers into what can often be something of a black box in discussions about the policy-making and implementation roles of faiths and their agents and institutions. Dinham problematizes much of what can be taken for granted elsewhere, demonstrating how thin and slippery the language of faiths and policy is, and undertakes to ask what it is that we mean (or, alternatively, should mean) when we talk about *community*: how do we define such a thing? who can be said to speak for it? which faiths (if *any*) should represent which neighborhoods? how representative are the leaders of such organizations, and how well do they speak for their diverse memberships? And just as faith communities and organizations are not monolithic, even within singular faiths there may cross-cutting cleavages of class, geography, gender, race, age, ethnicity, sexual orientation, and more: contestation for power and influence occurs not only across or between faiths, but within them, as well, and we do well to acknowledge this.

Further, how do we take seriously the fact that different traditions have differing capacities for engagement, and thus may have disproportionate influence when the public sphere reaches out to faith-identifies actors, and what of the fact that such weaker faiths may be home to disproportionate numbers of people of color? What does it mean for their action within the public sphere that different faiths have different theological understandings of what civic engagement is for, or what its ultimate end is? Is there actual policy expertise that faiths bring to the table on the issue at hand, or is their position too rooted in dogma to be treated seriously? How does a secular, democratic political process deal with partners who may exclude women and sexual minorities, or relegate them to the status of second-class citizens? And why should communities organized according to religion receive distinct attention over other categories of affiliation? I'm not sure that Dinham offers what we might identify as solutions to these dilemmas but what he does offer is a survey and exploration of

the kinds of questions that must be taken seriously if we are to arrive at satisfactory answers and, ultimately, better and more representative policy; and he does offer something of a roadmap for how we might get to those thorny answers.

These last questions point to one place where more in-depth attention to the American case might offer insight, in part because in the US so much of the faith-based initiatives of the George W. Bush Administration (themselves often the product of interests formed in the 1970s, that grew to power and influence in the 1980s, and rose to wage the “culture wars” of the 1990s) have been regressive actions seeking not to improve the delivery of services to their neighborhoods but were instead often coalitions using the presumed moral authority of their faith to mobilize on both the local and national level against a broad range of public policies regarding the reproductive health and healthcare of women in the US and around the world, the citizenship rights of sexual minorities, efforts to require indoctrination into their particular beliefs into the curricula of public schools, and much more. That is, some of these faith groups have functioned in a different manner than those considered by Dinham throughout most of the book. The risk for such intervention may be smaller in the UK, but there are likely lessons here (which he begins to get at in Chapter 6, and Dinham does, I hasten to add, recognize the risk more generally: as he writes early in the book (p. xi), “where dogma ends dialog we have a problem.”)

In his succinct conclusion, Dinham highlights what he identifies as three key paradoxes: (1) “faith is both embraced and repelled” (p. 206): that is, it may be useful for crafting public policies and for service delivery, but it also has its anti-modern side that can frustrate civic action; (2) faith can contribute to community cohesion, but can also work to “shatter” it (p. 206), seen in the mirror images of faith-based actors who foster civic participation, and those others who contribute to a rise in religious-based violence and extremism; and (3) the inclusion of faiths might expand participation in decision-making, but may thereby include actors working within a very narrow and, well, *parochial*, frame. A

quibble I'll lodge here is that this frames the issue largely through the eyes of government, and what such outreach may achieve for political, policy, and service-delivery ends; there is less attention to what faith organizations may want from government and how they negotiate the challenges that their interactions may present. This is not to say that such matters are ignored by Dinham, for they are not, but to suggest that they seem of secondary concern. That seems to me a missed opportunity to turn a rich account into an even richer one.

These modest complaints notwithstanding, *Faiths, Public Policy and Civil Society* deserves a wide readership within the academy, among politicians and policymakers, and by those faith communities seeking greater engagement in politics and policy-making.

**Bryan Mabee, *The Globalization of Security: State Power, Security Provision and Legitimacy* (Basingstoke: Palgrave Macmillan, 2009).**

Yuliya Zabyelina  
University of Trento

In his recent book *The Globalization of Security: State Power, Security Provision and Legitimacy* Mabee rethinks the impact of globalization on the traditional ability of states to provide security. Representing a new generation of scholars who argue in favor of the expanded interpretation of security, the author acknowledges that threats to the state in the era of transnationalism are critical. Security in this new age is more than just an object of national strategy but a matter of global vulnerability and interdependence. The central question of his book then is to explore the ways and the means states employ to react to globalizing threats. Do states hold the capacity to resist or adapt to transnational threats? Is the state legitimacy infringed when states lack the mechanisms to provide security and exercise a sovereign hold on matters of global concern? Does the state still remain the legitimate securing actor or whether it has been

removed from the Westphalian pedestal of the omnipresent higher political authority?

In search of answers to these questions that indeed evoke infinite angles and perspectives, Mabee gives us a good start in the framing of security in Chapter I, where he suggests that the globalization of security is a move away from traditional geopolitics towards more-inclusive and individualistic approaches to security. In Chapter II Mabee points out that security issues are to be taken away from the context of the state that is neither capable nor willing to promise security of transnational issues cross-cutting across its borders, jurisdictions, and strategies. Having painted the picture of state vulnerability, Mabee hypothesizes on two possible outcomes of the relationship between the state and the globalization of security. One of them follows the reproductive logic of *state retrenchment* that by the means of organizational outflanking would resist new understanding and new institutionalizations in favor of reproducing the security state. The other option of *transformative logic* diffuses governance strategies to other institutional configurations of collective power. Chapter III is the culmination of the theoretical part of the book with the argument that nation-states although weakened by the globalization of security are most likely to possess the capacity to adapt to the consequences of the globalization of security.

In the empirical part, Mabee draws upon the evidence coming from three cases that are examined to provide potential examples of the globalization of security: (a) *nuclear weapons and the globalization of threat*; (b) *the globalization of the arms industry*; (c) *and the global security aspects of migration and citizenship*. The findings suggest that although recognizing the threat of nuclear arms is beyond state control, the possession of nuclear weapons is what states have adapted to take as a symbol of legitimacy and authority. The globalization of the arms industry case demonstrates the transformative ability of states that adapt to the outsourcing security of security by approving privatization and commercialization of violence. The third case on migration indicates how the rights of citizenship are being de-linked from

national political participation, which, although inevitably damaging the state-society contract, helps states adapt to unwanted immigration and costly immigrant accommodating programs.

The book is academically remarkable for its several key contributions into understanding state powers in international relations. Important is Mabee's critique of state statism when the state is denied its capacity to transform. Rather, he argues in favor of seeing the state as a transhistorical institution – a dynamic institutional form, a political entity that has undergone transformations throughout history in terms of its capacities, purpose, and meaning. Worthwhile is Mabee's three-fold interpretation of globalization in terms of *transnationalism* (a causal power that has led to the transnationalization of threat – the intensification of alternative power centers threatening the security state “to the extent to which we begin to see a transformation in the institutionalization of the main networks of social power, away from nation-states” p. 40); *globalism* (the development of new ideologies of global security that “has the potential to overcome the ideology of the national security state” p. 41); and *institutionalism* (the emergence of global institutions of the governance of security matters that leads to the decline of state-centered security provision).

Although there are numerous merits to the book, it might be a point of interest whether one could generalize about all states having the transformative capacity or whether it is an exclusive advantage of the more developed and affluent states in the international system. Additionally, the dialectical relationship between states and transnational processes that Mabee has taken up to explore requires more sophisticated analytical mapping and conceptualization particularly with respect to such concepts as *transformative capacity* and *state legitimacy*.

Even if taking the most critical approach to Mabee's manuscript, the author's position is strong in bridging the existing gap between scholars who recognize states falling prey to globalization processes and scholars in favor of states holding on

their power and retaining capacity. Mabee's *third way* is promising and provides useful insights into understanding the contemporary security architecture and the role of the state in it.

**Daniel Heller-Roazen, *The Enemy of All: Piracy and The Law of Nations* (New York: Zone Books, 2009).**

Zoltán Glück  
Central European University

Perhaps the most misleading platitude that one hears all too often in discussions of the contemporary rise of piracy off the Horn of Africa is that piracy has been around since the beginning of recorded history. On the surface, the statement is of course true. But this truth comes at the tremendous price of conceptually flattening differences between diverse social and historical situations into a one dimensional legal category, thereby obfuscating the genealogy of a concept and a figure that has been formative to the history of nations. It is precisely this complex genealogy that Professor Heller-Roazen assails and reconstructs with tremendous acumen and subtlety in his latest work *The Enemy of All: Piracy and the Law of Nations*.

The argument that threads the sixteen chapters together is deceptively simple: namely, that the figure of the pirate, as the original *enemy of all* in Roman jurisprudence, is genealogically and structurally paramount to humanist thinking; moreover, that the figures and concepts which define much of the current ethico-political paradigm (the terrorist, the insurgent, crimes against humanity), owe much to the legal history of concept of *piracy*. In support of this argument the author musters an impressive arsenal texts and authorities from Roman legal codices, Homeric epics, and the emergence of the law of nations, to German idealist philosophy, and the modern history of warfare. In place of the uniform notion of piracy as a self-same practice of maritime predation extending back into the recesses of time, we are confronted with the variety of polities for which the notion of piracy was historically instrumental for various political and

economic reasons. As each discursive shift is contextualized in an historical moment of political and military struggle (e.g. Minos' conquests, the Barbary wars between Christian Europe and Muslim North Africa, or the charge of piracy in the crepuscule of the Atlantic slave trade), what emerges is a chronicle of the vicissitudes of the discourse of piracy in its relation to the historical evolution of polities and state structures.

The strongest parts of the work are clearly the chapters that weave detailed commentary on the writings of Roman and early modern jurists with theoretical interventions on the nature of and evolution of political order. In this respect *The Enemy of All* has much original material to offer students of state theory. Parting ways with the dominant trends of neo-Weberian and neo-Marxian theories of the state, Heller-Roazen nonetheless retains the term rather than following the Foucaultian trend of collapsing the history of the state into an historical binary of sovereignty and governmentality. By focusing on "the relations that obtain between pillage and polity," the author is able to open for view a whole history of struggles over the rights to and legitimate uses of violence (rather than, say, merely declaring the monopoly on this legitimacy to be the essential trait of statehood), tracing the titles and institutions that alternatively authorized and condemned the material social practice of pillage. The moral economy at the foundation of this discourse is laid bare. For the ancient Greeks using the term meant little more than the moral condemnation of acts of plunder when conducted at one's expense, and their celebration when one profited; Roman times produced the first properly legal definition of piracy as illicit plunder and, when in 67AD the Roman Assembly granted Gnaeus Pompey exceptional powers to combat the practice in the Mediterranean, piracy and its suppression, Roazen argues, became a paramount factor leading to the collapse of the Republic and the inception of the Roman Empire; the politics of legitimacy come to the fore powerfully in the early modern period, as such titles as 'corsair' and 'privateer' came to embody state sanctioned maritime predation and were alternatively granted or withheld depending on the current state of war or peace obtaining between the European powers.

Heller-Roazen is indeed at his best in his philological and genealogical work on the typology of 'others' against which political order must necessarily define itself. Here the legal figure of the pirate emerges in Roman law along side two other figures: the external legitimate enemy (*hostes*) and the criminal internal to the political order (*inimici*). While behavior towards the latter two is regulated by conventions of war and the rule of law within the polity, the pirate is precisely the figure with whom political, ethical, and military interaction has been historically problematic to codify. Incidentally, that this is still very much true of our contemporary world is clearly attested to by the sheer volume of international resolutions, declarations, agreements and "exchanges of letters" that have gone into creating a viable legal framework in which to try Somali pirates in Kenya and the Seychelles.<sup>166</sup> Heller-Roazen gives us the tools with which to understand—in all their historically situated complexity—the contemporary appeals to "universal jurisdiction" and "extraterritorial jurisdiction," as well as the categories of "private" and "political" as they pertain to piracy.

The major shortfall of the book is that it fails to complete the gesture of the demonstrating its ultimate thesis. It is only in the last twenty pages of the book that we finally encounter our current epoch and the connection between the legal paradigm of piracy and that of terrorism is left as a mere suggestion. One comes away with a wealth of empirical material but also with a feeling that a great theoretical breakthrough has been lost. One wonders why the author did not trim back the (admittedly interesting) seventy-five pages of notes, and allow himself more space in which to follow through with the argument. A lesser

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166 In addition to the United Nations Convention on Laws of the Sea, there have been six Security Council Resolutions (Nos. 1814, 1816, 1838, 1846, 1851, 1897), several European Union Council Decisions, Resolutions by the International Maritime Organization, and host of other formal and informal regional agreements including the Djibouti Code of Conduct and diplomatic "exchanges of letters" between the Republic of Kenya, the EU, Britain, and the United States. For an insightful summary of some of these documents see Douglas Guilfoyle, "Counter-Piracy Law enforcement and Human Rights", *International and Comparative Law Quarterly*, 59 (2010): 141-169.

complaint might be raised that strictly political-economic elements of the analysis are lacking, that in his accounts of the historical evolution of piracy they are touched upon only tangentially, often subsumed into purely political and military struggle. Also, a few chapters of the text are fully dedicated to chronicling in the figure of the pirate in literary works. While these are pleasant to read and impressive for demonstrating the sheer breadth of knowledge and linguistic versatility of the author (equally at ease with Latin, Greek, German, Italian, French and English sources), they seem to add little to the theoretical force of the book.

These latter complaints aside, the book is well worth reading for anyone interested in piracy, the state, border issues, the politics of legitimation, maritime commerce or the legal history of warfare. The book will also prove especially insightful for anyone seeking to understand the contemporary rise of piracy and the ideological framework in which it is being handled by the international community. During the course of my own research on the piracy trials in the law courts of Mombasa I have found myself turning back to the text frequently. It must be recognized that Heller-Roazen has produced the first serious genealogy of the concept of piracy, which in itself is a great achievement.

## **NOTES ON CONTRIBUTORS**

Omer Aslan is PhD student at the Department of Political Science, Bilkent University (Ankara). E-mail: [aslano@bilkent.edu.tr](mailto:aslano@bilkent.edu.tr).

Martino Bianchi studied Political Science at Milan University and Public Policy at Bristol University. He worked as a researcher for various organizations in Italy and abroad, addressing institutional change and policy making processes.

E-mail: [tino\\_bianchi@yahoo.it](mailto:tino_bianchi@yahoo.it).

Mihail Chiru is PhD Student at the Department of Political Science, Central European University Budapest.

E-mail: [mihail\\_chiru@yahoo.com](mailto:mihail_chiru@yahoo.com).

Nicole Gallina is Senior Lecturer on East European Politics, Institute of East and Central Europe at the University of Fribourg, Switzerland. E-mail: [nicole.gallina@unifr.ch](mailto:nicole.gallina@unifr.ch).

Zoltan Gluck is Student Coordinator at the Department of Sociology and Social Anthropology, Central European University Budapest. E-mail: [gluck\\_zoltan@ma.ceu.hu](mailto:gluck_zoltan@ma.ceu.hu).

Christopher Herring is PhD candidate in Sociology at University of Berkeley. E-mail: [christoph.herring@berkeley.edu](mailto:christoph.herring@berkeley.edu).

Alexander B. Makulilo is is lecturer at the Department of Political Science & Public Administration, University of Dar es Salaam.

E-mail: [makulilo76@yahoo.co.uk](mailto:makulilo76@yahoo.co.uk).

Victoria Makulilo is Assistant Lecturer at the College of Education, Dar es Salaam University Tanzania.

E-mail: [vmakulilo@yahoo.co.uk](mailto:vmakulilo@yahoo.co.uk).

Adriana Marinescu is PhD candidate in Political Science at Paris East, Marne-la-Vallée University. She holds an MA in Political Science at Paris East University (2009).

E-mail: [marinescuyvonne@yahoo.com](mailto:marinescuyvonne@yahoo.com).

Davor Marko is an academic tutor at the Center for Interdisciplinary Postgraduate Studies, University of Sarajevo.  
E: mail: davor@cps.edu.ba.

J. Shola Omotola is Lecturer and Acting head of the Department of Political Science and Public Administration, Redeemer's University, Redemption City, Ogun State, Nigeria.  
E-mail: sholaomotola@yahoo.com.

Stephen Pimpare is Adjunct Associate Professor at Silver School of Social Work, New York University.  
E-mail: stephenpimpare@yahoo.com.

Karina Shyrokykh is MA student at Stockholm University, Department of Political Science (MA program) and intern at Uppsala Center for Russian and Eurasian Studies (Sweden).  
E-mail: shi-karina@yandex.ru.

Yuliya Zabyelina pursues a doctoral degree in International Relations at the University of Trento, Italy.  
E-mail: yuliya.zabyelina@sis.unitn.it.

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