

The Georgetown PUBLIC POLICY REVIEW

Global Climate Finance, Accountable
Public Policy: Addressing the Multi-
Dimensional Transparency Challenge

Patricia Blanc-Gonnet Jonason and Richard Calland

Socially Responsible Investing
3.0: Understanding Finance and
Environmental, Social, and Governance
Issues in Emerging Markets

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The Effect of Danish Active Labor
Market Programs (ALMPs) on Natural
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Post-Referendum South Sudan: Political
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Nation-Building

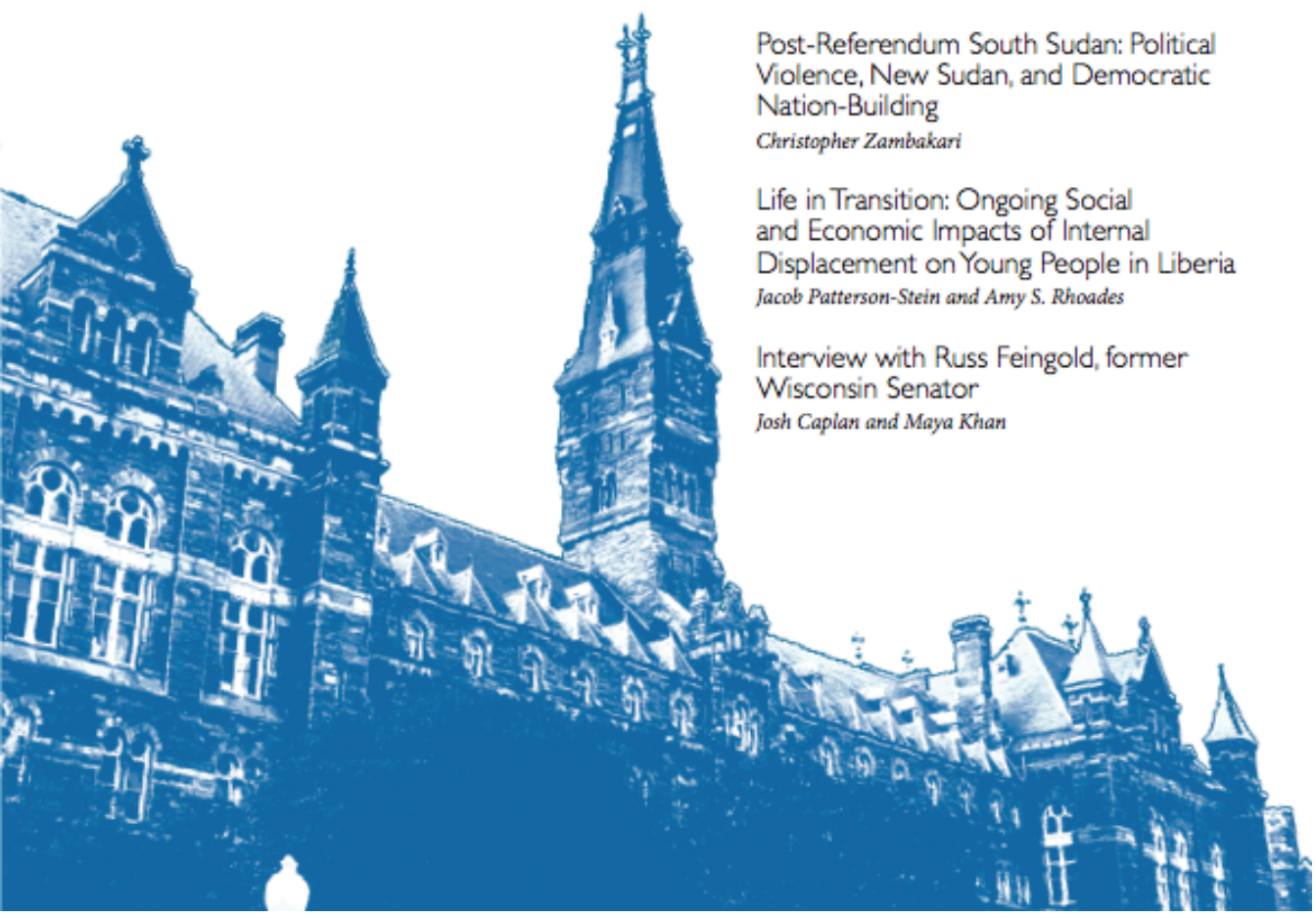
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SPRING EDITION

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Interior Design & Layout	Nora Gregory and Danielle Parnass
Cover Design	www.acecreative.biz
Printer	Print I Printing & Copying

The Georgetown Public Policy Review publishes articles that contribute to the thoughtful discourse of public policy. Each year, our spring journal addresses pertinent public policy issues with interviews, relevant research articles, book reviews, and opinion pieces. Research articles undergo a comprehensive peer review and selection process led by *Review* editors and Georgetown faculty. For more information visit www.gppreview.com.

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One issue of *The Review* costs \$10.00 for an individual and \$20.00 for an institution. For individuals and institutions outside the United States, rates are \$17.00 and \$27.00, respectively. This includes postage and packaging. To order or renew a subscription, please send a check payable to *The Georgetown Public Policy Review* to our mailing address above.

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THE GEORGETOWN PUBLIC POLICY REVIEW (ISSN 1083-7523) SPRING 2012-13 VOL. 18, NO. 2.
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EDITOR'S REMARKS

In an effort to continue growing the influence and relevance of our work in the public policy sphere, this volume of *The Georgetown Public Policy Review* diverges from our journal's tradition of dedicating each issue to a specific policy topic. The decision to pursue a more general approach to policy research and insights arose from the increasingly diverse and multidisciplinary nature of the policy problems our global community faces. It also coincides with the Georgetown Public Policy Institute's addition of the Master of International Development Policy degree in the interest of tending to the breadth of policy interests of our future leaders. The result has been a compilation of work that spans issues of environment, finance, economy, development, education, and youth, among others. We hope our readers similarly find this volume of *The Georgetown Public Policy Review* rewarding and thought provoking.

We begin our research for this volume with the work of Patricia Blanc-Gonnet Jonason and Richard Calland, who assess the viability of the newly established Global Climate Fund in the wake of a complex climate finance structure. Their analysis highlights the importance of transparency and freedom of information in ensuring successful and sustainable development.

Elaborating on this theme, Jacob Park and Sonia Kowal delve into the emerging market for socially responsible investing (SRI). They offer insight into current SRI trends in the social, environmental, and ethical realms, as well as suggestions on how this investment process can impact and be integrated into emerging economies.

Our next piece focuses on the effects of labor policies, specifically Denmark's active labor market program (ALMP) aimed at reducing the unemployment rate. Adina Serbanescu conducts a robust review of the literature and provides evidence on the mixed results of such schemes on individual and economy.

We then turn to Christopher Zambakari's analysis of the determinants of violence in South Sudan, which challenges mainstream notions of the source of such conflict. His policy suggestions for solving the political crisis in Sudan and South Sudan enlighten the debate on nation-building in countries with diverse populations.

Our final research piece highlights the impact community-based groups can have in helping displaced youth in Liberia. GPPI's Jacob Patterson-Stein and colleague Amy S. Rhoades dovetail their experiences at the More than Me Foundation with research on the benefits of community-driven development in the context of education and labor policies.

We then turn to our headlining interview for this issue with former US Senator Russ Feingold, a Democrat from Wisconsin who has since founded the political action committee Progressives United. Feingold offers insight into a wide range of pertinent policy issues including

foreign policy, national security, and campaign finance. He also discusses the challenge of policymaking in a hyperpartisan Congress and possible solutions to reforming the US system.

Our next two interviews elaborate on the youth theme: Art Rolnick, former senior vice president and director of research of the Federal Reserve Bank in Minneapolis, provides an economic case for investing in early childhood education; and Shay Bilchik, founder and director of the Center for Juvenile Justice Reform, offers solutions for crossover or at-risk youth. Both discussions help inform policymaking to best address the outcomes of future generations.

On behalf of *The Review*, I would like to thank our authors and interviewees for working with us throughout the editorial process. I am most grateful to have worked with a remarkable group of peers to carry on *The Review's* high-caliber contributions to public policy discourse. This publication is the result of the particular dedication of Michelle Wein, Noora AlSindi, Josh Caplan, and each member of our exceptional print, interview, and copy editing teams.

Finally, I would like to extend special thanks to the Executive Team: Noora, Lauren, Michelle, Alex, Josh, Kim, Tom, and Sarah. Thank you for your unwavering support and inspiring leadership at every turn, and congratulations on another successful year.

Danielle Parnass

Editor in Chief

GLOBAL CLIMATE FINANCE, ACCOUNTABLE PUBLIC POLICY: Addressing the Multi-Dimensional Transparency Challenge

By Patricia Blanc-Gonnet Jonason and Richard Calland

ABSTRACT

Patricia Blanc-Gonnet

Jonason is an assistant professor in the Public Law Department at Södertörn University, Stockholm, Sweden. Her main research interests are on the right of access to information and environmental governance.

Richard Calland is an associate professor in public law at the University of Cape Town. He is a member of the World Bank's Independent Access to Information Appeals' Board and a founding director of the African Climate Finance Hub.

Calland and Jonason are co-directors of the International School for Transparency.

A concrete result of the 2011 United Nations Climate Change Conference in Durban (COP17) was the establishment of the Green Climate Fund (GCF), with the aim of channelling \$100 billion per year from developed countries to developing countries to support their efforts to respond to climate change and promote sustainable development. The emerging global architecture for climate finance raises significant questions related to public policy and environmental governance. Participatory governance practices, including freedom of information, are increasingly considered effective tools for both coping with environmental problems and finding sustainable solutions to development challenges. Moreover, without sufficient transparency in their decision making, the various climate funds are unlikely to attract a sufficient supply of urgently needed finance, and the ambitious targets of the GCF will be unmet. Yet, the question of the modality and process for governing climate finance is undetermined and obscure. The complexity of climate finance stems from a multi-level structure with international, regional, national, and sub-national actors; multi-sector dimensions, with both public and private donors and recipients; and the sector's global/multilateral/multidirectional character. This article amplifies the "transparency pressure points" in climate finance generally and the GCF specifically. Public policymaking, in response to the many complex and urgent climate change challenges, may depend on securing the principle of freedom of information within the global climate finance architecture.

I. INTRODUCTION

Crafting an effective global response to climate change is fundamentally about promoting sustainable development (Overseas Development Institute 2012). Therefore, climate finance that funds both adaptation and mitigation action is of fundamental relevance to development policy. As a global architecture for the governance of climate finance begins to emerge, the relationship between effective public policymaking, climate change, and sustainable development becomes clearer. This interdependent relationship prompts the need for urgent thinking about the appropriate institutional arrangements (Jones et al. 2010; Nakhooda et al. 2011)—particularly, arrangements directed toward ensuring transparency and accountability.

Central to this new global architecture is the Green Climate Fund (GCF), formally established during the 17th Conference of the Parties of the United Nations Framework Convention on Climate Change (UNFCCC) in Durban in 2011 (COP17) (Draft Decision CP.17). The GCF is based on a commitment of resources by developed countries in order to help developing countries take mitigation and/or adaptation measures to cope with environmental problems arising from climate change. The decision to create the Fund was originally made at the COP16 meeting in Cancun in December 2010. It built on the earlier political agreement reached amid the confusion and acrimony of COP15

in Copenhagen in 2009. During that conference, developed countries agreed to create an annual “fast start” fund of \$30 billion by 2012, rising to \$100 billion by 2020.

Hopes and expectations are very high that the GCF will be a mechanism for securing the level of action needed to protect the livelihoods of billions of people living in developing nations. The effectiveness of the GCF relies heavily on two main factors: the fidelity of the donors, which requires high levels of accountability in the Fund’s operation, and the wise use of funds by recipient countries. Both of these factors, in turn, presuppose the existence of ample opportunities for a large range of stakeholders to participate meaningfully in the process of decision making, not least so as to exercise a sufficient degree of independent oversight over the operations of the GCF.

Despite the risks of bad administrative practice and corruption inherent in this kind of complex multi-actor system, mechanisms to ensure that the financial resources will be spent wisely, appropriately, and accountably are conspicuously lacking. While purporting to establish an overarching global public administration of climate finance for the promotion of sustainable development, some of the key elements of good public administration are yet to be provided for in the GCF. This article focuses on one such element, freedom of information (or the right of access to information, as it is commonly known in some countries), which is well

established as a primary instrument for enhancing accountability and increasing the effectiveness of development projects (Nelson 2001).

However, the habitual form of freedom of information, which emphasizes a right to access national-level records, does not easily match the likely—and inevitably complicated—design of the GCF nor the myriad other international sources of climate finance. The complexity of the climate finance matrix—both vertically, due to the multi-level dimension of the system (international, regional, national, sub-national), and horizontally, as a result of the multi-sector and multi-directional dimensions of the system (with public and private contributors to the Fund, as well as public and private recipients and multiple links between the different actors involved)—raises fundamental questions about the efficacy of the current freedom of information regime as the means of achieving transparency and accountability in climate financing.

Consequently, this article aims to assess the multiple values and the multi-dimensional character of freedom of information, particularly as a part of environmental participatory governance. Additionally, the article will amplify the “transparency pressure points” in climate finance and in the GCF specifically, reflecting on the design of an effective transparency regime for adaptation and mitigation funding.

The question we seek to address is how best to establish an efficacious

transparency regime in order to enhance the integrity, accountability, and credibility of global climate finance decision making and implementation.

II. TRANSPARENCY IN INTERNATIONAL CLIMATE FINANCE: A SERIOUS GAP?

Addressing the adverse impacts of climate change requires unprecedented international cooperation and administration. Numerous sources of climate finance, such as the Adaptation Fund and the Climate Investment Funds (CIFs), have been established over the past two decades. As Liane Schalatek of the Heinrich Böll Foundation has noted, however, “[a]t present, the existing multitude of climate finance actors—bilateral and multilateral, via dedicated new funds and traditional development cooperation agencies and instruments—is confusing, cumbersome and costly” (2011). This complexity has been depicted as a tangled “spaghetti diagram” (Buchner et al. 2011). Furthermore, other funds have encountered some problems of governance and efficiency. For instance, members of the Bretton Woods Project (2011) have noted that “there are serious concerns” in the operations and performance of the CIFs.

More than “just another development fund,” the GCF must bring a new level of strategic coordination and coherence to bear on the financing of climate action. Good public administrative practice will be crucial, and the GCF’s Board, established in April

2012, has a leadership responsibility in this regard. Establishing credible democratic governance practices will be vital for the GCF, not only to build the confidence necessary to capitalize the new Fund, but also for the sustainability of global climate finance flows more generally. Commentators have lamented the fact that “[w]ith the lack of a single coherent framework or a single overarching institutional global fund or finance board supervising and coordinating all climate finance actors comes the absence of a unifying, generally accepted, and binding set of rules and principles codified in explicit criteria and indicators on what constitutes ‘good climate finance’” (Schalatek 2010).

Beyond the finalization of the design of the GCF and its operational practice, there is much work to be done on three main issues: country ownership, stakeholder engagement, and independent oversight (Dubosse and Calland 2011). These issues contain compelling questions of governance that mix the micro (narrow), such as fiduciary duties and financial management, with the macro (broad), such as how to determine priorities and distribute voice and vote. Transparency and access to information are pivotal to all three issues.

The emerging body of literature on the relationship between accountable, participatory governance and transparency suggests that transparency is a necessary, although not sufficient, element of accountable governance. Further, there is growing, if uneven, evidence of the positive

impact of greater transparency on accountability. Commissioned by the Transparency and Accountability Initiative on behalf of the Bellagio Initiative group of donors, who have invested substantially in global transparency work, the Institute for Development Studies’ synthesis report on the relationship between transparency and accountability concludes that, although much more academically robust work needs to be conducted, there is evidence that transparency initiatives have generated, under certain conditions, indicators of accountable governance. These indicators include “increased state or institutional responsiveness, lowering of corruption, building new democratic spaces for citizen engagement, empowering local voices, better budget utilization, and better delivery of services” (McGee and Gaventa 2010). The authors note that these changes were brought about through transparency and accountability initiatives that spanned “a wide range of strategies across the fields of service delivery, budgets, freedom of information, natural resources and aid” (McGee and Gaventa 2010).¹

Thus, we submit as the central thesis of this article that it is essential that the final governance design of the institution that is likely to emerge as the centerpiece of the global architecture

¹ Much of the IDS Study is to be republished in a special edition of *Development Policy Review*, including one paper that is a discussion not just of the evidence in support of the link between transparency and accountability, but the “theory of change” that underpins the link (Bentley and Calland 2013).

of climate finance—the GCF—set new standards in transparency, information disclosure, and respecting, protecting, and fulfilling a meaningful right of freedom of information.

Notwithstanding the increasing emphasis in contemporary international legal instruments, such as the Aarhus Convention, on the human rights character of freedom of information, the recognition of the functional value of freedom of information for the realization of the “right to environment” and “right to sustainable development” has thus far been largely ignored in the design and structural operation of the myriad climate finance instruments (Schalatek 2010).

Moreover, although the Cancun Agreement (COP16) mentions the necessity of providing for the participation of stakeholders, it does not enshrine the right of freedom of information. The COP17 decision establishing the GCF does state, however, that the Fund’s operations “will be subject to an information disclosure policy that will be developed by the Board”² and mandates that the GCF Board develop a set of governance guidelines that institutes a new transparency standard for climate finance. The GCF represents an opportunity to both clarify the system of, and simplify access to, climate finance information. One submission to the Transitional Committee, established by COP16 to prepare a

proposal on the design of the GCF for COP17, advances this case neatly:

... [T]he GCF should not replicate inadequate existing funds and financing instruments, but instead overcome them by operationalizing best practices as well as innovative approaches and thinking, especially with respect to transparency and accountability measures and the active participation in Fund decision-making by civil society, affected communities and particularly vulnerable groups such as women and Indigenous Peoples (Heinrich Böll Foundation 2011).

III. THE CLIMATE FINANCE “VALUE CHAIN” & THE TRANSPARENCY CHALLENGE

The climate finance “value chain” is fraught with complexity, uncertainty, and unresolved dilemmas. First, on the supply side, accompanying the overriding anxiety about whether the GCF can reach its ambitious financial targets, is the emerging problem of the proliferation of sources of climate finance at various levels (international, regional, national, and sub-national), as noted above. As many as 23 different public and private sources of climate finance have provided as much as \$97 billion of total annual climate funding (Buchner et al. 2011).

Second, while there is considerable doubt about how much finance is likely to come from private capital sources, there are serious concerns that the insertion of private finance will not

² GCF Draft Decision/CP.17, paragraph 67: http://unfccc.int/files/meetings/durban_nov_2011/decisions/application/pdf/cop17_gcf.pdf.

readily adhere to well-established principles of public finance governance. This is especially relevant with regard to the provision of information and adherence to the transparency standards of public finance institutions, which have largely improved in recent years (see section on international financial institution [IFI] transparency, below).

Third, there is uncertainty about the institutions that will handle climate funding globally. Will the GCF emerge as the primary climate finance institution—a fund of funds—merging some, or many, of the pre-existing institutional sources of climate finance? Or will the institutions work in parallel? In any case, it is highly likely that the GCF will channel funds through other multilateral bodies, IFIs, and regional development banks (such as the African Development Bank).

Fourth, there is uncertainty surrounding not only the criteria for deciding where climate finance should be allocated but also where the locus of power should be in the decision-making process: the controversial issue of “country ownership” (UNDP 2011; Bretton Woods Project 2011). Will civil society, and the full range of social stakeholders, have proper opportunity to be heard on policy choices and prioritization? The political economy of climate finance will impact the process. The question of who gets what, when, and how, will prove critically important (Calland and Dubosse 2011).

Fifth, there is uncertainty about how the funding will align with current

development objectives given the distinguishing features of climate finance compared with traditional aid and the assertion of the principle of “additionality” that funds are provided to supplement, not replace, expenditures by recipient states.

Each link of this climate finance value chain contains “transparency pressure points,” where information will be at a premium for those desiring to participate in the decision making, with the theoretical assumption that greater access to information will yield greater “political space” and thereby generate a shift in power relations that will enable weaker actors to have a more significant say in the decision-making process (Bentley and Calland 2012). In terms of transparency and the application of freedom of information, the question is a governance design one: what access to information regime should apply, and further, how should it be implemented? Before addressing this question, we must first explain the multi-dimensional character and value of freedom of information.

IV. FREEDOM OF INFORMATION: CONCEPTUAL PARAMETERS

Freedom of information, which constitutes a vital component of participatory governance and is an indispensable instrument for the success of policies aimed at dealing with environmental problems, is nevertheless a subtle and complex conceptual construction.

TRANSPARENCY & PARTICIPATORY GOVERNANCE

Participatory governance and freedom of information are interdependent and overlapping concepts with an established fundamental significance in the area of environmental justice. Participatory governance, which implies a larger opportunity for public participation in decision-making processes and implementation, is fundamentally based on the democratic idea that those who will be affected by a decision should have the right to participate and influence the decision (Kiss and Shelton 2007). Participatory governance is increasingly considered in academic discourse (Joas et al. 2008; Pierre and Peters 2000) and in practice as an effective tool for coping with environmental problems. The importance of public participation in environmental matters is also recognized by international instruments, particularly by Principle 10 in the 1992 Rio Declaration on Environment and Development and the Aarhus Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters adopted in 1998.³

The link between participation and freedom of information can be viewed in different ways. Freedom of information can be considered as the foundation of the right to participation insofar as citizens and

other stakeholders need information in order to participate in the decision-making process.⁴ But exercising the right of freedom of information by making requests for records constitutes participation in and of itself.⁵ However, participation is more than the right of access to information; it may also include the rights to be consulted and to intervene in the decision-making process. Equally, the freedom of information is more than a subordinate component of the right to participate; it has other functions and serves other objectives too.

The complexity of freedom of information—which renders the right theoretically intricate but also reflects its conceptual richness and diverse practicality—arises from four different factors:

1) THE MULTI-DIMENSIONAL CHARACTER OF FREEDOM OF INFORMATION

Freedom of information sits at the intersection between a collective and an individual right. The collective and social dimension means that this right can be considered a “collective right to receive any information whatsoever,”⁶ which is closely connected with the right of freedom of opinion and expression from which it is derived. The collective dimension of freedom of information also stems from its

³ Entered into force on October 30, 2001, it has inspired regional instruments such as the Water Framework Directive. See Blanc-Gonnet Jonason 2011.

⁴ For example see The Implementation Guide on the Aarhus Convention, p. 49.

⁵ See The Guidance on Public Participation in relation to the Water Framework Directive, 2002, p. 20.

⁶ See the case law of the Inter American Court on Human Rights: Compulsory Membership opinion, paragraph 31.

collective purpose: it serves the common good and is in service of a broader public interest. Similarly, the individual dimension of the right embraces two aspects. On one hand, freedom of information emphasizes the recognition of personal autonomy. Freedom of information is seen as intrinsically valuable, independent of the broader public goals that it may help to achieve. In this sense it constitutes a right relating to “human self-fulfilment, expression and action.”⁷ On the other hand, the right can have the satisfaction of the individual interest of the requester as its sole objective.

II) THE MULTI-FUNCTIONAL CHARACTER OF FREEDOM OF INFORMATION

Aside from the role it can play as an informational tool and participatory instrument, the right of freedom of information also has a preventative role: knowing that citizens have a legal right to request and receive public records, public servants and other information holders are more inclined to act in compliance with the law. This improves the integrity of governance and contributes to the enhancement of transparency and responsiveness of government. Additionally, a posteriori access to information strengthens accountability mechanisms (Franceschet 2001).

III) THE MULTI-RATIONALE CHARACTER OF FREEDOM OF INFORMATION

⁷ See The Aarhus Convention: An Implementation Guide, 2000, p. 29.

While the meta-rationale for providing citizens with a statutory right of freedom of information is common between the different regions and countries—the right of access derives from a deliberative, democratic principle, as well as enhancing respect for the rule of law—there are differences in the national objectives due to historic and political factors as well as socioeconomic context. For example, while the right of access as a source of information for the public is emphasized in the Swedish discourse (Blanc-Gonnet Jonason 2001), South Africa’s approach instead sees freedom of information as connected with its meta-quest for a more socially and economically just society (Calland and Tilley 2002).

IV) THE CHARACTER OF FREEDOM OF INFORMATION AS A FUNDAMENTAL HUMAN RIGHT

Freedom of information is thus a specific right, different from “liberties-rights” and “claims-rights.” It constitutes a “power right” according to at least one application of the classification drawn up by Hohfeld (Bentley and Calland 2012). In this paradigm, the right to information does not guarantee that the object of the right will materialize. Rather, this right changes the relationship between the parties by empowering the right-holder (the subject of the right) to demand information from the duty-bearer (generally the state) about how the right in question is being delivered. The right of freedom of information might thus be aptly regarded as an

“intermediate right”: a right with an instrumental value, established in order to assist the realization of other rights by means of the entitlement to request information, therefore “sybiotically connect[ing] all other rights” (McKinley 2003).

V. THE CURRENT LEGAL REGIME

The horizontal and vertical complexity of the GCF further complicates and deepens the transparency challenge. In this section, we aim to address some of the challenging transparency features of the GCF and to examine the adequacy of the coping mechanisms provided by the currently existing legal frameworks. However, one should keep in mind that fewer than half of countries, including some developing nations, currently have national norms guaranteeing freedom of information (Foi 2011). At the supranational level, the Aarhus Convention, adopted under the auspices of the UN Economic Commission for Europe (UNECE), also constitutes the only international binding legal instrument dealing specifically with the right of access to environmental information.

First, to account for the broad spectrum of information that is at stake for the operationalization of the GCF—including information concerning the financial flows, such as the origin, the beneficiary, and the employment of the grants—the definition of the information that should be subject to the right of access should not be limited to the information of environmental

character but should cover “climate information.” Indeed, as the example of environmental rights set down by the Aarhus Convention shows, “not all climate-related decisions fall within the scope of the convention” (Stanley-Jones 2011).

A second topic concerns the application of legal mechanisms directed toward information of a high “public interest” in the legal sense and, thereby, the inherent issue of the so-called “public interest test.” Several access to information legal regimes provide, or have been interpreted to provide, that the strong public interest in protecting public health, safety, and the environment may outweigh business interests in confidentiality.⁸

The Aarhus Convention contains this type of protective system for information of high public interest for all kinds of permissible grounds for non-disclosure. Regional and supranational courts have also recognized that access to information must be granted when the disclosure serves a public interest—even in the case where an important public or private interest may be harmed—so long as the public interest outweighs the harm to the protected interests.⁹

Such is the importance of information concerning the institutional arrangements and operationalization

⁸ See cases <http://right2info.org/information-of-high-public-interest/information-relevant-to-public-health-safety-or-the-environment>.

⁹ The Inter-American Court on Human Rights was the first regional court to recognize the public harm test in the groundbreaking Reyes case: *Claude Reyes et al. v. Chile*, Judgment of Sept. 19, 2006, paragraph 77.

of the Fund to its broad range of stakeholders that such information will likely pass the public interest test and thus be liable for disclosure, notwithstanding any otherwise legitimate grounds for non-disclosure.

The multi-level architecture of the GCF, combined with its global/multilateral/multidirectional features, poses further questions related to the diversity of the standards provided for at the different levels—both vertically and horizontally and between the instruments available at the same level.

A system such as the one instituted by the Aarhus Convention could be of interest as it aims to harmonize the rules on access to environmental information provided by the legal systems of the Contracting Parties to the Convention and to avoid the disparity of standards between the different levels in the frame of multi-level governance. Indeed, the term “public authorities,” to which the convention applies, covers not only national public authorities but it also encompasses “the institutions of any regional economic integration organization [...] which is a Party to this Convention” (Aarhus Convention 2001).

Since the World Bank will play a significant role during the formative three years of the GCF by serving as its interim trustee, the question of the transparency and accountability of actors such as IFIs is in and of itself germane. In recent times, the World Bank, along with other IFIs, has adopted a framework for public

access to information in the form of the “World Bank Policy on Access to Information.”¹⁰ It is possible, though unlikely, that in designing the GCF’s information policy, the Board of the GCF will simply adopt the World Bank’s information disclosure policy or a variant thereof. While most of the commentators who have examined the new World Bank disclosure regime regard it as a substantial improvement¹¹—and, compared with other IFIs, the most progressive system—the transparency framework suffers from some weaknesses. For example, the framework is criticized for both having established a weaker disclosure regime concerning the corporate sector (Nelson 2003) and having too broad a definition of the deliberative process exemption (Global Transparency Initiative 2009).

The multi-sector dimension of the climate finance system raises the question of the inclusion of the private sector in the scope of the rules on freedom of information. Such a horizontal extension of the scope of the right of freedom of information can be supported with two mutually reinforcing, interdependent arguments. The first set of arguments concerns the necessity to take into account the

¹⁰ This supersedes the World Bank Policy on Disclosure of Information and takes effect on July 1, 2010.

¹¹ See for example, “World Bank Transparency Review” <http://www.bicusa.org/en/Issue.47.aspx>; “Knowledge is Power” http://www.huffingtonpost.com/rebecca-harris/knowledge-is-power-transp_b_851020.html; and “World Bank Safeguards & Independent Scrutiny at Risk?” <http://www.brettonwoodsproject.org/art-567954>

profound structural transformation that has occurred in the organization of the state during the last two decades, where substantial public functions have been transferred to private organizations. Recognizing this shift, a number of national laws, as well as the Aarhus Convention, have extended access rights to non-state-held information. Nevertheless, these legal frameworks are attached to the traditional vertical conception of freedom of information. This conception inexorably links the right of access to any information related to the public sphere and is, therefore, not fully adequate to handle the transparency challenges posed by the international climate finance system.

The second panoply of arguments is based on the “interdependency approach,” in which the right of freedom of information is fundamental for the accomplishment of other rights, especially economic and social rights (Jagwanth 2002). Such an approach can be found in the South African legal system, which provides a right of access to information held by the private sector—regardless of the activities undertaken by the different bodies—where access to the information is “required for the protection or exercise of a right.”

This emphasis on the instrumental value of freedom of information could be particularly useful in the context of the GCF system, where the requested information will invariably be considered as required in order to exercise or protect the right to a

clean environment and sustainable development.

VI. WHAT LEGAL REGIME CAN AND SHOULD APPLY?

The current regime—characterized by a diversity of national standards and the lack of a global framework—does not fit the intricate set of transparency challenges raised by climate finance governance and the emerging new international climate finance architecture.

There are two broad answers to the question of how best to ensure transparency and accountability in climate finance and in the operation of the GCF specifically. The first is a “statutory” approach and the second is a “voluntary” one.

THE NEED FOR A SPECIAL SET OF RULES FOR TRANSPARENCY TO COPE WITH MULTIPLE COMPLEXITIES

By “statutory” we do not necessarily mean “by law,” but we do mean “by rule.” One approach to the governance of climate finance would be for UNFCCC to agree upon a set of rules that would govern climate finance. This solution could be dovetailed with a set of rules dedicated to the GCF. To remedy the existing weaknesses of the current legal framework, which risk impeding participatory decision making and undermining the potentially positive outcomes that are expected from the GCF, the right of access in the environmental field must be reinforced as a minimum set

of norms, values, and standards on the following basis:

- Adopting a framework specifically dedicated to the right of access to environmental information that provides favorable rules, by:
- Enshrining an extensive and broad definition of environmental or climate information
- Enshrining an “obligation to disclose” that would be premised on “a presumption of openness”
- Providing a public interest override for information relevant to sustainable development
- Extending the scope of freedom of information to include information held by private bodies under certain circumstances, such as where public access is in the public interest and/or necessary for the exercise or protection of a right

Furthermore, the legal instruments dealing with freedom of information in environmental matters, particularly at the regional and international levels, should take into account the right’s diverse dimensions and facets. This could give the right of freedom of information more weight, rendering it more powerful and legitimate in the eyes both of the governments and the governed.

At a minimum, the legal instruments dealing with this right should underline the following interconnected and partly overlapping aspects:

- Access to information’s intrinsic, illuminating value in relation to

the state of the environment and climate change

- The participatory value, which ensures the stakeholders are in a position to participate in an informed manner
- The empowerment potential, namely its value as an indispensable leverage right for the realization of other rights, not least of which is the right to sustainable development
- The role of access to information in fostering the efficiency, effectiveness, and accountability of public authorities and private entities involved in the design or implementation of environmental policy, especially in those policies related to climate adaptation or mitigation funding

Additionally, we submit that it would be appropriate to create the position of Information Commissioner, or Ombud, for the GCF in order to oversee the information access/transparency regime, provide for appeals against refusals to disclose information, and guide the Trustee of the GCF (and all other relevant institutions) in their approach to public disclosure of information.¹²

VOLUNTARY MULTI-STAKEHOLDER PROCESS

At the international level, the progress of initiatives, such as the Extractive

¹² There is a growing literature on the importance of having viable enforcement processes to enable appeals against denials of access to information to a specialist, inexpensive, speedy, and accessible adjudicatory or advisory body. See, for example, Neuman 2009.

Industries Transparency Initiative (EITI), have shed light on the benefits of bringing the key stakeholders from government, business, and civil society together in a carefully facilitated process of dialogue and standard-setting (Calland and Koechlin 2009). In the transparency realm, a small cluster of transparency multi-stakeholder initiatives (MSIs) have provided a good source of information about how a voluntary, sectoral approach to information disclosure might support freedom of information. Nearly 10 years after its inception, the value of the EITI—both in terms of information disclosure and in changing conduct and setting new standards—is becoming more widely accepted. Two new initiatives have followed hard on the heels of EITI and, incorporating some of the lessons of EITI, have been able to accomplish a lot during their respective pilot phases. The Medicines Transparency Alliance (MeTA) leverages access to information about the medicines value chain to enable poor people to obtain affordable and safe medicine. The Construction Sector Transparency Initiative (CoST) increases information disclosure of infrastructure projects to protect the integrity of public investments.

The experience of other international voluntary initiatives already considered in the context of access modalities (UNDP and ODI 2011), such as the Global Alliance for Vaccines and Immunisation (GAVI) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (The Global Fund), may also be valuable as models for transparency

and accountability. One assessment of the impact of multi-stakeholder groups in the seven countries that comprised CoST's pilot phase concluded that “there is sufficient evidence to show that, properly marshalled and supported by a strong, well-functioning MSG [multi-stakeholder group], the disclosed information may be processed in ways that enable swift consensus on new standards of conduct and procedures in the performance of publicly-funded construction projects” (Calland and Hawkins 2012).

Given the complexities and international dimension of climate finance, it may be that a similar initiative could benefit the climate finance governance architecture:

[A]n effective transparency MSI can create a new social contract about not just the rules for transparency but the accountability of the range of state and non-state actors...in some cases a voluntary, sectoral approach, based on a carefully constructed multi-stakeholder process, can make the link between the information disclosure (the transparency ‘means’) and the socioeconomic change (the accountability ‘ends’) more quickly, more efficiently, and more persuasively than a statutory system (Calland 2011).

Hence, there is a sound *prima facie* case for establishing a multi-stakeholder initiative, or set of initiatives, that could help mediate some of the governance issues that will need to be resolved if the GCF is to be effective.

Thus, we envision a “Climate Finance Transparency Initiative” (CFTI). This could be organized on a regional basis—with maximum elasticity for the design of the climate finance MSI or with a global initiative to set overall goals, standards, and principles—but with local implementation.

VIII. CONCLUSION

Climate change presents humanity with a sustainable development challenge of intense scale, complexity, and interdependence. There is a grave danger that secrecy will prevail as a result of the intricate and tangled web of legal and institutional arrangements for funding climate action. There is a need for an open, inclusive, and participatory approach to decision making in the allocation and distribution of international climate finance. The sustainability of the supply of climate finance will depend upon high levels of transparency and accountability. Access to information is fundamental. The question is how best to guarantee it.

In order to respond to all the “transparency pressure points” identified in this paper, it would be necessary to have all three elements suggested: the international transparency standard, the GCF’s disclosure policy, and the voluntary transparency regime. Thereby, the good public administration of global climate finance can be enhanced so as to increase its legitimacy and its prospects for both raising the necessary

funds and delivering the transformative development change that is needed.

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SOCIALLY RESPONSIBLE INVESTING 3.0: Understanding Finance and Environmental, Social, and Governance Issues in Emerging Markets

By Jacob Park and Sonia Kowal

ABSTRACT

Jacob Park is an associate professor of business strategy and sustainability at Green Mountain College in Vermont specializing in the business of social and environmental innovation and entrepreneurship. He has a special expertise and interest in emerging economies as well as in Japan, China, and the Asia-Pacific region. He is chair of the US Sustainable and Responsible Investment Forum's International Working Group Steering Committee, and serves on the Renewable Energy and Adaptation to Climate Technologies Investment Subcommittee of the Africa Enterprise Challenge Fund.

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In recent years, socially responsible investment (SRI) has shed its common perception as a niche market and has begun to develop as an important global financial market instrument. It is clear that we are about to enter what the authors call the third stage of socially responsible investing, in which SRI becomes a market reality, if not a force, in a number of emerging economies. What is less certain is the pace of this transition—how quickly the mainstreaming of SRI will materialize outside of North America and Western Europe, specifically in the emerging markets of Asia-Pacific, Latin America, and Africa. To improve the theoretical as well as business practice-based understanding of socially responsible investing in emerging economies, this paper discusses the important strategic, operational, and leadership dimensions at the nexus of corporate responsibility, investing, and emerging markets. Three SRI-related sets of questions will be examined in this article. First, what are the important strategic dimensions at the nexus of corporate responsibility, investing, and emerging markets? Second, what are the critical operational dimensions at the nexus of corporate responsibility, investing, and emerging markets? Third, what are the significant leadership dimensions at the nexus of corporate responsibility, investing, and emerging markets? SRI has had an important impact on social, environmental, and ethical business markets in industrialized countries and is likely to have an equally important impact on emerging economies.

I. INTRODUCTION

Socially responsible investing (SRI) is an investment process that integrates analysis of environmental, social, and governance issues into traditional quantitative financial analysis. Socially responsible investors include individuals, government pension funds, and a wide array of nonprofit organizations focusing on an interlinked set of economic, social, and environmental objectives. In recent years, SRI has shed its common perception as a niche market and has developed as a mainstream global financial investment market instrument. Estimates suggest that approximately US\$3.74 trillion, or about 11.23 percent of the \$33.3 trillion in total assets under management in the United States, is involved in some socially responsible investing strategy (US SIF 2012). The European socially responsible investment market has also grown rapidly and continues to outpace the growth of the overall investment market in Europe (Eurosif 2012).

Academics and practitioners who track the socially responsible investment industry worldwide generally agree that SRI has the potential to advance a deeper set of social, environmental, and ethical business norms on the global level. It is less clear how quickly SRI will become prevalent outside of North America and Western Europe, particularly in the emerging markets of Asia-Pacific, Latin America, and Africa. The first stage of the modern SRI movement (SRI 1.0) came from the turbulent

period in the 1960s and 1970s when the growth of social undercurrents such as environmentalism and anti-war activism fueled dramatic changes in business, ecological awareness, and society. The second stage (SRI 2.0), involved a rapid acceleration of socially responsible investments in North America, Western Europe, and other OECD-level countries around the world. The authors believe that SRI is entering a third stage of worldwide growth and becoming a market reality, if not a force, in a number of emerging economies. To improve the understanding of SRI in emerging economies, this paper will first analyze the important strategic dimensions and then highlight the nexus of corporate responsibility, investing, and emerging markets.

II. CORPORATE RESPONSIBILITY, INVESTING, AND EMERGING MARKETS: STRATEGIC IMPLICATIONS

It is hard to underestimate the importance of the financial market development that is taking place outside of North America and Europe in markets referred to as either emerging markets or frontier economies. Corporate responsibility, often seen as the preserve of major companies in developed economies, is gaining ground in these emerging markets. Initiatives such as the UN Global Compact, the UN Principles for Responsible Investment (UNPRI), and the Carbon Disclosure Project are increasingly focusing on emerging

Table 1. Socially Responsible Investment Equities in Emerging Markets

	SRI-focused (US\$ million)
SRI funds that invest all their assets in emerging markets	37,712
SRI funds that invest a portion of their assets in emerging markets	14,275
Total	51,987

Source: International Finance Corporation/Mercer (2009)

markets as investors turn toward these markets, attracted to their traditionally dramatic, if volatile, returns.

Although investments in emerging markets typically account for only a small portion of their portfolios, investors from developed countries are more exposed to emerging markets than would be implied by their notional allocations, due to the inherent operational exposure of developed world multinationals to emerging markets. Because of the globalization of business and financial markets, investors in North America and the European Union are investing in emerging markets if they hold equities in US-based companies, such as Apple Inc. and General Electric.

Apple Inc. and General Electric, for instance, represent the top five largest stock holdings in the popular index fund for individual investors, Vanguard 500 Index Fund. Emerging market countries such as China and India are also important supply chain management and profit drivers of Apple Inc. and General Electric's business success.

markets—has not diminished (Roxburgh, Lund, and Piotrowski 2011). A 2009 report by Mercer Investment Consultants and the International Finance Corporation (IFC) finds that more than US\$300 billion in managed assets that were invested in emerging market equities are in either an SRI-labeled fund or a mainstream fund that has made some commitment to integrate environmental, social, and governance (ESG) principles into the core investment process. The report concludes that about US\$50 billion of these investments are specifically branded as socially responsible or sustainable (see Table 1).

III. CORPORATE RESPONSIBILITY, INVESTING, AND EMERGING MARKETS: OPERATIONAL IMPLICATIONS

The second critical trend that lies at the nexus of corporate responsibility, investing, and emerging markets is related to the impact on business operations. Specifically, the increasing

Despite the recent global financial market uncertainty, the overall importance of emerging financial market development—as well as SRI's increased prominence in emerging

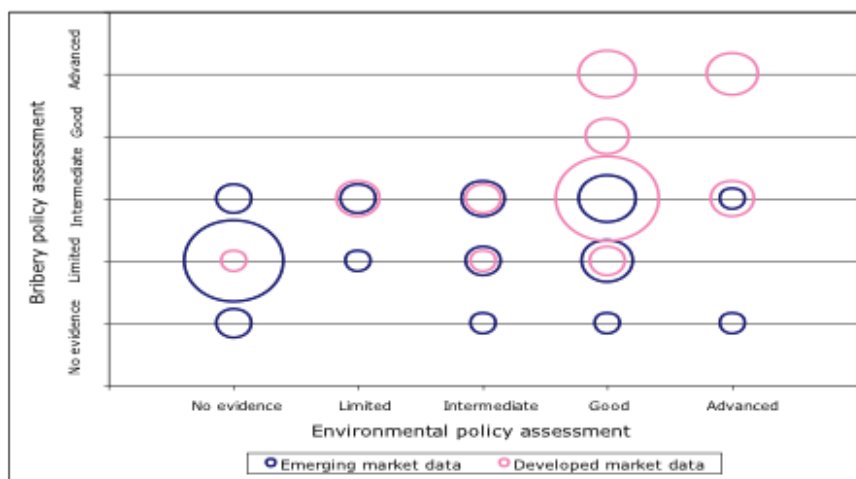
call for ESG disclosure practices by global institutional investors and other investment entities is helping to push the disclosure of ESG-related business practices in emerging markets. For instance, as of November 2012, UNPRI had more than 1,100 signatories from 50 countries, managing more than US\$32 trillion of assets supporting the core UNPRI principles.

The lack of consistent ESG disclosure occurs with companies around the world, but the problem is especially stark in emerging markets, where it seems to delay socially responsible investing. A 2012 report from the Emerging Markets Disclosure Project (EMDP) highlights the lack of ESG disclosure as the biggest challenge to investing in emerging markets. Although about 90 percent of emerging market companies reports some ESG information, few use international standards (e.g., the Global Reporting Initiative's guidelines) or offer in-depth,

relevant information on sustainability risks (e.g., climate change, water use, and human rights) (EMDP 2012).

Emerging market countries have varying degrees of ESG disclosure. A 2009 joint report by EIRIS and EMDP finds that, of the 40 leading emerging market companies sampled, the majority have shown evidence of addressing at least some ESG issues in their public disclosures. Most notably, both EMDP reports conclude that South African and Brazilian companies consistently have the highest assessments of the companies sampled. These countries also developed two of the first socially responsible investment indices in emerging markets: the Johannesburg Stock Exchange SRI Index in South Africa and the Bovespa Corporate Sustainability Index in Brazil. Although there is still considerable variation in performance, companies surveyed in the EMDP report generally scored much better

Figure 1. Comparison of Environmental and Bribery Policies in Large Emerging Market and Developed Market Companies



Source: Sustainable Investment Research Analyst Network (2009)

in environmental areas than in social and governance areas. In fact, some achieved grades in environmental performance and systems that were on par with developed country environmental leaders.

Corporate responsibility, long seen as a luxury for large companies in developed economies, is gaining ground among some corporations in emerging markets. This issue is explored further in Figure 1, which uses bribery as a proxy for social issues. The chart compares emerging and developed market company assessments and shows a polarization of leaders and laggards. Although emerging market companies' environmental policies range in quality, some companies achieved the highest grades in line with their developed peers. This research only looked at the public ESG disclosure of large emerging market companies, but the EMDP survey discovered that poor disclosure, especially among smaller companies, was hampering responsible investor efforts.

Compared to developed markets in North America and Western Europe, great variations exist in terms of ESG business practices among different regions (e.g., Africa, South America) in emerging markets. Leading Brazilian and South African companies, for instance, often seem to have more in common with each other than they do with companies in neighboring countries. There also appears to be a substantial gap between companies doing a great deal (often at a similar level to their developed country peers)

and those doing little or nothing in terms of ESG business practices. As one starts to look beyond the very largest companies, corporate responsibility in emerging markets is far less common. However, the role of local civil society, investors, and stock exchanges is likely to have a growing impact on the development of corporate responsibility going forward.

IV. CORPORATE RESPONSIBILITY, INVESTING, AND EMERGING MARKETS: LEADERSHIP IMPLICATIONS

A third significant trend that lies at the nexus of corporate responsibility, investing, and emerging markets is related to the impact of SRI on business leadership. Many emerging markets lack the intensity of stakeholder pressure to improve the ESG disclosure that exists in developed economies from governments, non-governmental organizations, and consumers. As a result, an increasing number of stock exchanges in emerging markets are playing key leadership roles in promoting sustainability, transparency, and greater disclosure among their listed companies. Because of their ability to directly influence and monitor the operations of companies seeking to access the equity markets, emerging market stock exchanges can directly influence the sustainability-related business approaches of the listed companies (as well as companies that wish to be listed in the respective stock exchanges) through such market

Table 2. Examples of ESG Guidance & Policy in Emerging Market Stock Exchanges

South Africa	For years, the Johannesburg Stock Exchange has encouraged disclosure through the requirement for listed companies to comply with the King Codes on Corporate Governance. In 2010, the exchange became the first in the world to mandate the disclosure of financial and non-financial performance in one integrated report for all listed companies, on a “comply or explain” basis.
Malaysia	In 2006, Bursa Malaysia introduced a corporate social responsibility framework to guide its listed companies with regard to implementing and reporting on CSR. The exchange retained the group CSR Asia to evaluate the quality of CSR reporting in the country, and Bursa Malaysia published a detailed report on companies’ progress in 2008. For the last three years, listed companies have been required to disclose their CSR activities or practices (and that of their subsidiaries); if there are none, the company must post a statement to that effect. The exchange also has plans to improve CSR information flow within the country.
Brazil	The Bovespa Exchange does not require ESG criteria for all listed companies. Instead it has three listing segments to which companies can voluntarily adhere with different standards of corporate governance. Though adherence is voluntary, once listed in a particular segment, adopting the standards is mandatory and enforced by the Exchange.
China	The Shenzhen Stock Exchange issued CSR guidance for listed companies in 2006 and has followed this with training programs. The Shanghai Stock Exchange introduced similar measures in 2008 in the form of the “Shanghai CSR Notice” and the “Shanghai Environmental Disclosure Guidelines.” These measures sit within a wider framework of government policy to harness the capital markets to foster environmentally- and socially-sustainable private sector development.
Taiwan	In Taiwan, the regulator has asked all public companies to disclose the state of the company’s CSR performance in their annual report. Although this is not articulated in the stock exchange’s listing criteria, companies are still obliged to do so in order to be listed on their exchange. The Taiwan stock exchange is considering revising its CSR Best Practice Principles to recommend listed companies allow shareholders to comment on and approve their CSR reporting.
Thailand	In 2006, the Stock Exchange of Thailand (SET) established the Principles of Good Corporate Governance for Listed Companies. In addition, SET has been working with the SEC, the country’s regulator, to urge listed companies to disclose such information in accordance with GRI standards.

Source: Sustainable Investment Research Analyst Network (2009)

mechanisms as sustainability indices (see Table 2).

The flurry of activity in many emerging markets reflects the need for the financial markets to internalize environmental and social considerations in order to promote more sustainable development. A

key aspect of this process involves increasing and improving ESG reporting. Over the last two years, private-public ventures, such as the Sustainable Stock Exchanges initiative, have begun to explore how the exchanges can work with investors, regulators, and companies to enhance corporate transparency—and ultimately

performance—on ESG issues, and to encourage responsible long-term approaches to investment. According to a World Federation of Exchanges survey (2009), the sustainable investment strategies currently endorsed by stock exchanges fall into three categories: (1) promoting ESG awareness and standards through IPO or ongoing listing requirements; (2) providing informational products and services in the form of sustainability indices; and (3) creating markets for specialized products such as carbon trading and clean-tech investment.

Just as a company can be linked to the reputation of the exchange where it is listed and the exchange's listing requirements, there is a business case for exchanges to influence companies and lead by example on ESG disclosure and performance. Many exchanges, however, have become for-profit entities and are thus generally disinclined to introduce strong mandatory disclosure requirements that may cause companies to list on alternate exchanges with less regulation. Healthy and effective financial markets, whether they are based in industrialized or emerging markets, require market transparency, which is promoted by focusing on the long-term interests of companies and their investors. Fortunately, many emerging market stock exchanges are moving quickly beyond their developed peers in terms of promoting ESG and transparency practices. The South African Johannesburg Stock Exchange requires a high degree of reporting integration, for example, and many

other exchanges (Egypt, Brazil, China, India, among others) have developed rules and guidance regarding ESG disclosure (Morales and van Tichelen 2010).

Most stock exchanges have some form of mandatory corporate governance disclosure requirements incorporated into their IPO and ongoing listing rules, but only four exchanges, three of which are in emerging markets, also take social and environmental factors into account. Bursa Malaysia and the Johannesburg Stock Exchange have incorporated full ESG disclosure requirements into their ongoing listing rules, and the Shanghai Stock Exchange has introduced environmental requirements for companies in the 14 most energy-intensive industries that must be met before an IPO can be initiated. Requiring the integration of ESG and financial reporting is the key to real change in further implementing the sustainability agenda. Companies using the equity markets for capital-raising are good targets for increased ESG disclosure, which can help investors with their decision making and allow companies to have greater access to new types of capital (Siddy 2009).

China has been at the forefront of SRI business leadership and innovation with its environmental disclosure requirements for IPOs. In 2008, the Chinese Ministry of Environmental Protection (MEP) launched the “Green Securities” policy and the “Green IPO” policy in partnership with the China Securities Regulatory Commission. These policies aim to make it harder

to raise capital by requiring increased environmental record disclosures for companies that want to list. The regulations now require enterprises in 14 polluting industries to go through an environmental assessment by the MEP before initiating an IPO or obtaining refinancing from banks. Further, during a 10-day pre-IPO evaluation period, the MEP conducts its own assessment and incorporates public opinion through a national telephone survey. Within the first year of the new rules, 20 out of 38 companies had their IPOs rejected or were subject to further assessment by the MEP (Siddy 2009).

V. FUTURE OF RESPONSIBLE INVESTING IN AN ERA OF GLOBAL COMPLEXITY

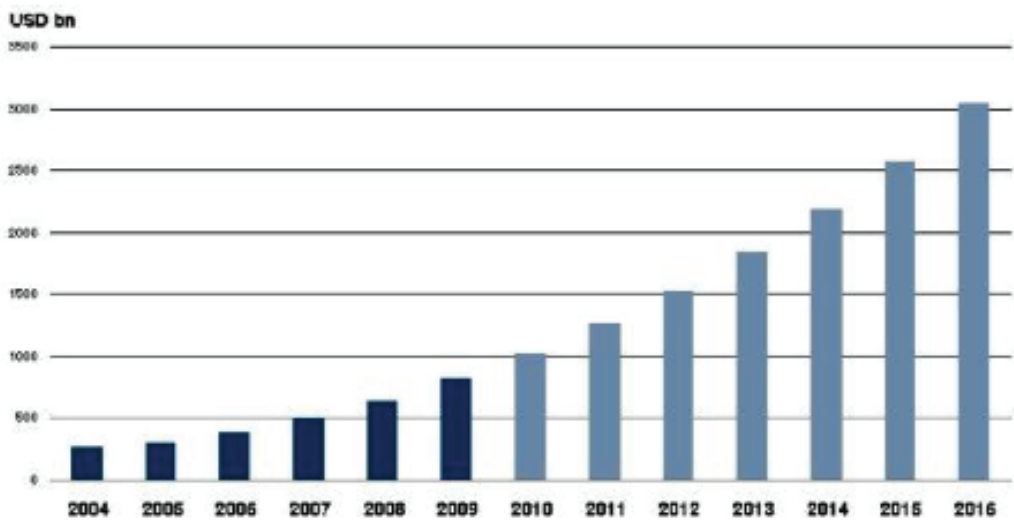
Keeping in mind that any prediction about the future of emerging markets and socially responsible investment is subject to many uncertainties, this paper offers the following three suggestions on how socially responsible investing might be more fully integrated into emerging markets.

First, SRI investors in North America and the European Union need to strengthen their understanding of the regional financial markets in emerging economies. India is a rising global economic power and China is likely to supplant the US as the largest economy in the world over the next few decades. SRI and traditional investors need to better understand China's financial market conditions outside of Hong Kong, Shanghai, and

other relatively wealthy coastal cities. The Eurasia Group estimates that the second largest province in China in terms of GDP (Jiangsu, US\$620 billion) is equal in size to Turkey (US\$614 billion), and the third largest province (Shandong, US\$597 billion) is larger than Indonesia (US\$540 billion) (Ma 2011). Up to 70 percent of the future market growth of the 20,000 western multinationals is tied up in emerging markets, and China and India alone account for nearly 40 percent of the future global market growth (Eyring, Johnson, and Nair 2011). A 2009 Business for Social Responsibility/International Finance Corporation report identifying domestic SRI vehicles for Chinese investors notes that there has been a retail SRI mutual fund available for domestic Chinese investors since 1998. Underscoring the growing economic importance of SRI market development in countries such as China, the National Social Security Fund of China—the country's largest pension fund with total assets of US\$82 billion—lists “responsible investment” as one of its four core investment principles.

Second, while the political uncertainty that is currently gripping the Middle East region has captured international attention, there is a critical need for SRI investors and traditional investors to better understand the growing Shari'ah-compliant investment assets. According to Credit Suisse, Islamic finance is now one of the fastest growing business segments in the world. Its compound growth rate was 26 percent between 2004 and 2009,

Figure 2. Shari’ah-Compliant Investment Funds (2004-2016)



Source: The Banker, Booz & Company, Credit Suisse (2011)

and it is estimated to reach US\$822 billion by the end of 2009. Shari’ah-compliant assets are likely to triple by 2016 when they are expected to reach US\$3 trillion (see Figure 2) (Leins 2011). A 2011 International Finance Corporation report made the following observations, among others, about the state of socially responsible investments in the Middle East and North Africa (MENA):

- MENA responsible investment levels are low, but not insignificant. Although the MENA SRI levels are low, they are higher than comparable markets in India and China.
- Shari’ah-compliant investment funds are similar to “negative-screen” responsible investment funds in North America and Europe. In many parts of the world, negative-screen SRI funds typically

precede positive-screen responsible investment funds, which then adopt increasingly aggressive criteria for environmental, social, and governance screening (negative-screen funds use negative investment screens to exclude certain investments while positive-screen funds prioritize investments according to positive ESG criteria so that the more positively a company meets certain criteria, more likely or higher the investment). Shari’ah-compliant investing may not follow this pattern, but the IFC report notes that “their commitment to Islamic ideals and general interest in betterment of society has the potential to translate into support for ‘positive-screen’ sustainable investments” (IFC 2011).

- Sovereign wealth funds (SWFs) may represent the greatest responsible investment opportunity

in the MENA region. There are a number of sustainability-related investment trends in the MENA region, all of which have important implications for the regional SWFs. Most notably, these include the growing emphasis on sustainability within the national agendas of MENA region countries, including investments in sustainability and clean technology sectors, as well as increased use of ESG screens in the SWFs' investment portfolios (IFC 2011).

Third, SRI, in conjunction with the global private capital markets, needs to facilitate the business sector's investment in local climate solutions in the developing world. The biggest change in global governance in the past two decades may be the shift in the way economic, social, and environmental stakeholders are working together to forge collaborative solutions to address a wide range of climate change and other sustainability concerns. Although debates should continue about what constitutes the proper role of the banking and financial services industry in an increasingly resource-constrained world, private sector financing will undoubtedly be needed to complement the existing national development assistance programs as well as international environmental financial mechanisms like the Global Environment Facility (Park 2012).

VI. CONCLUSION

In terms of accelerating climate finance on the global level, the key metric for

success may be to what degree SRI, in collaboration with private capital markets, can change the institutional mismatch between the need to access available public and private investments and the capability of achieving this end. The tragedy of global climate finance, as currently designed, is that any country or region that wishes to tap the available financial flows to help with their respective climate risks needs to have a certain amount of institutional capacity to achieve funding success. For example, the Democratic Republic of Congo (DRC) (ranked 187 in the 2012 UN Development Program Human Development Index) may have a much higher need for international funding to help manage its climate risks than the Republic of Korea (ranked 15 in the 2012 UN Development Program Human Development Index). However, as members of the non-Annex 1 parties (non-industrialized group of countries) to the United Nations Framework Convention on Climate Change, these two countries have to compete for available funds (beyond whatever small-scale grants might be available) to finance clean development mechanisms and other climate mitigation/adaptation projects. Unsurprisingly, Korea has been more successful than the DRC in accessing global climate finance.

These drivers set the stage for the next phase of growth in SRI. The global effects of increasing SRI in China, Shari'ah-compliant investments, and better-targeted climate finance will be amplified in the coming decades. SRI has the potential to advance a deeper

set of social, environmental, and ethical business norms on the global level and is finally becoming a market reality, if not a force, in a number of emerging economies.

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THE EFFECT OF DANISH ACTIVE LABOR MARKET PROGRAMS (ALMPs) ON NATURAL UNEMPLOYMENT

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ABSTRACT

This paper evaluates the Danish active labor market program (ALMP) model to determine its effectiveness at reducing the natural rate of unemployment. Drawing on experimental and non-experimental studies, this paper presents evidence of several positive and negative effects of the current scheme, which makes unemployment and social assistance benefits conditional upon ALMP participation. Grounded in natural unemployment rate theory, it finds that Danish ALMPs have an overall positive effect on the natural unemployment rate, largely due to the threat of activation on frictional unemployment. This has implications for recent changes to the unemployment benefit scheme, which has ruptured the “right and duty” principle underpinning the dominant model of flexicurity.

I. INTRODUCTION

In 2006, the OECD released *Boosting Jobs and Incomes*, a strategy for reducing unemployment levels and improving labor market performance. It revised the 1994 Jobs Strategy to account for new evidence on effective labor market policies as well as “national social preferences and circumstances.” One of the key recommendations addresses active labor market programs (ALMPs) and the unemployment benefit system. The OECD recommends that generous unemployment benefits be made conditional on activation measures. These activation measures, or ALMPs, include employment services and job-search assistance, classroom-based training and education, and job subsidies with on-the-job training. By linking the receipt of unemployment benefits to participation in activation programs, this recommendation is designed to have two effects: first, to limit the discouraging effects of generous unemployment benefits on job search efforts, and second, to increase the likelihood of a successful job search through improved human capital. *Boosting Jobs and Incomes* draws heavily on the labor market strategies of Nordic countries, which, prior to the 2008 recession, boasted low unemployment rates and high employment rates.

This paper will evaluate the Danish ALMP model to determine its effectiveness at reducing the natural rate of unemployment. Drawing on experimental and non-experimental

studies, it will present evidence of several positive and negative effects on the natural unemployment rate of the current scheme, which makes unemployment and social assistance benefits conditional on ALMP participation. First, the theory behind ALMPs will be presented with a focus on its potential effects on the unemployment rate. Then, the Danish ALMP and unemployment benefit scheme will be described. Evidence of four major effects will be presented. Overall, the effect of ALMPs on the natural unemployment rate is modestly positive, largely due to the threat of activation on frictional unemployment. Lastly, the implications of the evidence favoring the Danish model of unemployment insurance will be discussed.¹

II. BACKGROUND

The Danish model of social security and labor market organization, known as flexicurity, combines weak employment protection (flexibility), high levels of social benefits (security), and activation measures (ALMPs) (Kvist and Penderson 2007). The success of the model is contingent on the effectiveness of ALMPs. The first and second pillars of flexicurity—allowing employers to hire and fire with few restrictions and providing the unemployed with generous benefits that can be drawn on for a lengthy period of time—can have adverse

¹ This paper will analyze the effect of ALMPs and the unemployment benefit system prior to 2010, at which point significant changes were made to the unemployment benefit system.

consequences for the state. Social security spending (including social assistance and unemployment benefits) accounts for 22 to 25 percent of GDP and is a significant portion of the government's budget (Eurostat 2011). ALMPs themselves are expensive, accounting for 1.3 percent of Danish gross domestic product (GDP). Without high employment levels and a subsequent strong tax base, such programs are unsustainable (Anderson and Svarer 2007).

When policymakers reformed the unemployment benefit system in the mid-1990s, they appealed to the “right and duty” principle: unemployed individuals have the right to an income supplement but a duty to search for work, while society has a right to expect a rigorous job search but a duty to provide the unemployed with social benefits (Anderson and Svarer 2007). ALMPs are designed to facilitate job searches (workers' duty); if ALMPs are ineffective, the “right and duty” principle may lose its legitimacy. ALMPs form the glue that holds the “right and duty” principle together.

III. ALMPS AND UNEMPLOYMENT: THEORY

NATURAL UNEMPLOYMENT

The natural rate of unemployment is the unemployment rate when the economy is growing at its potential growth rate. It is signaled by the supply and demand for labor; when the demand for labor meets supply, the price of labor (wages) is stable. The natural rate is comprised of two

types of unemployment: frictional and structural (Mankiw et al. 2011). Frictional unemployment consists of voluntary and, typically, short spells of unemployment. This applies to workers who quit or are laid off and do not immediately find new employment. During this transition period, workers search for job openings, apply for jobs, and attend job interviews. Conversely, structural unemployment consists of a mismatch between workers and available jobs as well as impediments to the real wage clearing the market. Workers and available jobs can be mismatched in two ways: skills and location. As industries decline and new economic sectors grow, workers may not have the requisite skills for sectors with available jobs. Additionally, as regionally-based industries decline, workers may need to physically relocate in order to find employment (Mankiw et al. 2011).

Structural unemployment is also driven by policies and employer or employee choices that drive up wages above the equilibrium point. Minimum wage legislation may set the price for labor above the wage equilibrium point (the price at which the market clears). If the market for labor does not clear due to a high minimum wage, there will be an excess supply of labor and therefore a higher natural rate of unemployment. It should be noted that the majority of labor markets are for skilled workers and clear at a point above the minimum wage.

ALMPs

ALMPs and the unemployment benefit system are expected to have effects on both frictional and structural unemployment. These effects are both positive (lowering the natural rate of unemployment) and negative (increasing the natural rate of unemployment) and may either offset or reinforce each other. Additionally, ALMPs and the unemployment benefit system affect the unemployed, the employed, and those not participating in the labor force. The following section will describe six major theoretical effects: unemployment benefit, threat, wage, post-program, lock-in, and substitution.

The unemployment benefit system is designed to have an impact on frictional unemployment. Generous unemployment insurance benefits—high payouts over a long period of time—will encourage workers to continue their job search until they find the “right fit,” rather than taking the first job available (Sianesi 2001). ALMPs may be separate from the unemployment benefit system (passive benefits), or the two may be linked together (active benefits). For instance, participation in ALMPs may renew the participant’s unemployment benefits. This system prevailed in Sweden in the 1990s and early 2000s: although receipt of benefits was capped at 60 weeks, by participating in a labor market program the unemployed could perpetually requalify for another round of benefits (Sianesi 2001).

Alternatively, continued collection of benefits may be contingent on participation in ALMPs, which creates the threat or motivation effect. The threat effect holds that in anticipation of activation measures, the unemployed worker is expected to intensify his or her job search, therefore lowering frictional unemployment (Kvist and Penderson 2007). The participant may have assigned a high utility to leisure or a low utility to ALMPs, which may be perceived as ineffective; the threat of starting activation, which is a lower utility state, will incite potential behavioral responses (Rosholm and Svarer 2008). Unemployed persons who were not actively searching for work or who were searching selectively according to wage expectations may either begin to search or lower their expectations. Alternatively, the threat of ALMP participation may incite recipients of unemployment benefits to exit the labor market. If the utility of leisure is high enough, the unemployed benefit recipients may prefer to not participate in either the activation programs or job searching (Rosholm and Svarer 2008). In effect, ALMPs become a test for the availability for work. As participation in an ALMP is a mandatory condition of continued benefit receipt in Denmark, this paper will evaluate the unemployment benefit effect via the threat effect.

ALMPs are also expected to have an effect on wage setting, though the direction of that effect is ambiguous. If ALMPs successfully increase human capital and worker self-confidence about future job prospects, more

unemployed workers will remain in the labor market, since the discouraged worker effect will be reduced, and competition for jobs will increase (Calmfors and Skediner 1995). This is expected to incite wage restraint on the part of employed workers and depress wages overall. If ALMPs are perceived as beneficial for future job prospects, the perception of welfare loss from a job loss falls and wages appreciate (Calmfors and Skediner 1995). Alternatively, if ALMPs are considered an unattractive aspect of the unemployment benefit system, wage demands may be dampened because employed workers do not want to risk unemployment (Anderson and Svarer 2007). Wage pressures are expected to have an effect on job creation: if wages are depressed, more jobs may be created; if wages appreciate, fewer jobs will be created. An evaluation of wage effects in the Danish ALMP model is beyond the scope of this paper.

As ALMPs are comprised of employment services and training or education programs, several post-program effects may be expected. First, by improving the human capital of unemployed workers, ALMPs may reduce the structural aspect of unemployment. If training and classroom-based education improves or imparts skills and knowledge that are in high demand, participating workers will better “fit” the available jobs (Calmfors and Skedinger 1995). However, if the training does not provide relevant skills, structural unemployment will stay constant or worsen. Employment services, which

assist in job searching and resume or CV preparation, may also reduce frictional unemployment.

The lock-in effect may occur if the required ALMP is lengthy, for example a multi-week course or job placement. The more time occupied by the ALMP, the less time and effort remains for the job search—effectively, the unemployed become “locked-in” to unemployment during their participation in an ALMP (Anderson and Svarer 2007). Additionally, participants may want reap the rewards of successfully completing a training session and wait to apply to jobs for which they will be newly qualified. As such, the lock-in effect increases frictional unemployment.

Finally, job subsidy ALMPs may induce a substitution effect. This may happen when regular workers are dismissed and replaced with subsidized workers, or new subsidized workers are hired instead of new non-subsidized workers (Hussain and Rasmussen 2007). Two types of subsidies are typically utilized in ALMP job subsidy programs: a subsidy to workers to make up the difference between a minimal income level and their current productivity wage, and a subsidy to employers to cover the cost of any on-the-job training. If the subsidy to the worker is greater than the difference between a minimum income level and the worker’s productivity wage, the employer may pay a lower wage to the worker (still reaching the minimum income level). As the wage paid is lower than warranted by the worker’s productivity, subsidized workers

become more profitable than non-subsidized workers. Similarly, if the employer is subsidized more than the on-the-job training costs, subsidized workers become more profitable (Hussain and Rasmussen 2007).

IV. DANISH ALMPs AND THE UNEMPLOYMENT BENEFIT SYSTEM

Currently in Denmark, qualifying workers can draw unemployment benefits for up to two years (Alderman 2010). In 2010, the Danish government reduced the benefit period from four years, which at the time was the longest benefit period among Nordic countries. Unemployed workers are provided with up to 90 percent of their previous income; on average, workers receive 50 percent of their previous income (Danish Economic Council 2007). To receive unemployment benefits, workers must have worked 52 weeks during the previous three years, be a member of an unemployment insurance fund for at least a year, and be willing to work. Unemployment insurance funds are affiliated with trade unions and participation in the funds is voluntary; unemployed workers who are not part of an insurance fund receive social assistance (Kvist and Penderson 2007).

The unemployment benefit system was radically reformed in the mid-1990s. Prior to 1994, qualifying workers could “recycle” benefits by participating in activation programs. Once the initial benefit period expired, workers could participate in an ALMP and draw on

benefits again (Kvist and Penderson 2007). In 1994, the benefit period was reduced from seven years to four years and workers could only qualify for unemployment benefits after a spell of employment. Additionally, the passive period of unemployment was capped at 12 months. After this period, participation in an ALMP became a mandatory condition of continued benefit receipt. Of the remaining three years of benefits, 75 percent of the time must be spent in an ALMP (Much and Skipper 2008). Since 2000, participation in activation has also been required of social assistance recipients (Anderson and Svarer 2007).

Danish ALMPs consist of classroom-based vocational training and on-the-job training with private firms and the public sector, also known as subsidized employment (Much and Skipper 2008). On average, on-the-job training lasts for 26 weeks and classroom-based education and training lasts for 16 weeks (Rosholm and Svarer 2008). Additionally, participants are assigned to a caseworker who assists with the job search process, resume and CV preparation, and interview preparation (Danish Economic Council 2007).

Interest in the Danish ALMP model can be attributed to the steep decline in Danish unemployment since 1994. In 1994 the unemployment rate was 10.9 percent; over the previous fifteen years, the average unemployment rate was 8.7 percent. After 1994, the unemployment rate began a steady decline. Over the first decade of the new century, the average unemployment rate was 4.3 percent (Index Mundi).

V. DO DANISH ALMPs REDUCE NATURAL UNEMPLOYMENT?

As outlined in part two of this paper, ALMPs may reduce the natural rate of unemployment through several effects or relationships, but evaluating these effects poses some difficulties. Experimental studies are the most reliable for evaluating program effects. If unemployed workers are randomly assigned to either an ALMP or to open unemployment, the only difference between the two groups should be their participation in an ALMP. Therefore, the outcome differences between the two groups (e.g., in unemployment duration or future employment spell duration) can be attributed to the ALMP program. Few such experimental studies have been conducted in Denmark. Most studies use regression analysis to control for the differences between the unemployed participating in an ALMP and those in open unemployment. However, workers in open unemployment will at one point be required to participate in an ALMP. As a result, the comparison group consists of workers who are only temporarily in open unemployment (Much and Skipper 2008).

The richness of Danish labor market data, particularly data on the unemployed, allows for many significant employment-related factors to be controlled, including gender, age, education, industry, region, and previous employment record (Much and Skipper 2008). Nevertheless, it is difficult to control for all significant

factors, including why unemployed persons in open unemployment have not been referred to an ALMP, why they have been referred to a particular ALMP, and whether they have accessed employment services outside of the ALMP system (Much and Skipper 2008; Sianesi 2001).

A) THREAT EFFECT

The threat effect induced by ALMPs is large and significant. Between fall 2005 and winter 2006, the Danish Labor Market Authority implemented a controlled experiment to evaluate the effectiveness of a faster activation timeline. All recently unemployed workers were randomly assigned to either the typical ALMP timeline or to an intensified program of monitoring, counseling, job search assistance, and training. Participants in the intensified program began counseling one and a half weeks after unemployment and a training program four months after unemployment (Anderson and Svarer 2007). The treatment group had an exit rate from unemployment 8 percentage points higher than the control group at 18 weeks following unemployment. The positive effect on the unemployment exit rate was attributed to the threat effect; none of the individual programs had significant effects on unemployment (Danish Economic Council 2007).

Rosholm and Svarer (2008) use a timing-of-events model to determine the magnitude of the threat effect. They calculate the risk of starting an ALMP within the following three months and find that those faced with a higher

risk of program commencement left unemployment faster than those with a lower risk of program commencement, controlling for unemployment duration and other significant characteristics. The period of unemployment was reduced by three weeks due to the threat effect.

B) POST-PROGRAM AND LOCK-IN EFFECTS

Post-program and lock-in effects together have an ambiguous effect on the unemployment rate. The Danish Economic Council evaluated the program effects of four types of employment services offered by caseworkers. At the first contact point, the unemployed worker registers with the caseworker and receives assistance with his or her CV preparation. This has a negative effect on the probability of finding employment, largely due to the lock-in effect (Danish Economic Council 2007). Subsequent meetings have positive effects on the probability of finding employment; these include a meeting on job search strategies and the ALMP registration meeting. The latter has the largest effects post-meeting, indicating a threat effect.

Munch and Skipper (2008) use a timing-of-events model to compare the exit rate from unemployment and the length of subsequent employment spells among different ALMP participants and those in open unemployment. They find positive effects on the unemployment exit rate and on the period of unemployment for some private on-the-job training participants: older workers, workers

aged 25 to 29, participants with no formal education, and participants with vocational education. Some of these effects are attributed to continued employment with the private firm providing subsidized on-the-job training. Public on-the-job training was found to dampen the unemployment exit rate, increase the period of unemployment, and reduce the length of subsequent employment spells. Classroom-based education had large lock-in effects across all participant groups but significant positive effects on the period of unemployment for women older workers, and workers aged 25 to 29. These groups are most likely to have lengthy spells of unemployment on average in the population. Finally, private on-the-job training and classroom-based education lengthened subsequent employment spells. However, the authors assume that anticipation effects (the threat effect) were minor and did not separate pre-program effects from post-program effects. Graversent and Weise (2001) also find private on-the-job training to have positive effects on the period of unemployment.² Classroom-based education was not found to have significant effects on the period of unemployment. However, the study does not evaluate the effects of education on subsequent employment spells.

C) SUBSTITUTION EFFECT

Although private on-the-job training has the greatest positive effect on the period of unemployment (shortening

² As cited in Andersen and Svarer (2007).

it) and the subsequent employment spells (lengthening them), these effects may be offset by the substitution effect. Hussain and Rasmussen (2007) analyze private firms' hiring behavior. They find that for every subsidized worker hired, firms reduce employment of non-subsidized workers by 0.4 workers. Hussain and Rasmussen focus on firms that did not change their year-over-year sales except by the average labor product to eliminate the possibility that the increase in subsidized workers is due to an increase in production. An earlier Swedish study finds similar substitution effects. Using time-series panel data, Calmfors and Skedinger (1995) find that open unemployment fell by 0.1 to 0.4 percentage points when participation in the job subsidy ALMP increased by one percentage point. This indicates a large substitution effect.

DISCUSSION

Danish ALMPs have a mixed effect on the natural unemployment rate. As a test of the availability of work, ALMPs seem to be fairly efficient. Large threat effects indicate that the job search intensifies as the mandatory participation ALMP start date nears. The shorter the passive period of unemployment benefits, the faster unemployed workers find employment. As such, the threat of activation reduces frictional unemployment. Additionally, there is some evidence that employment services delivered by caseworkers also reduce frictional unemployment by providing workers

with information on job vacancies and job search strategies.

Program and post-program effects are somewhat more ambiguous. Of the major ALMPs, private on-the-job training is the most effective at reducing unemployment duration and increasing subsequent employment spells. However, this ALMP operates through a job subsidy to the worker and the employer. Job subsidy plans induce a significant substitution effect. Although job subsidies help current unemployed workers to leave unemployment, the impact on the natural unemployment rate is not as strong as subsidized workers displace some non-subsidized workers. Classroom-based education reduces the total unemployment period duration of groups most likely to have long periods of unemployment (women, older workers and young workers), but has no overall effect on the remaining workers because of strong lock-in effects. However, classroom-based training lengthens subsequent spells of unemployment, indicating an improvement in structural unemployment.

VI. CONCLUSION

Policy change has challenged the flexicurity model. The maximum unemployment benefit period has been reduced from four years to two years. According to Kim Simonsen, chairman of one of Denmark's largest trade unions, "now it's all flex and no security" (Alderman 2010). Benefits remain generous and are now on par

with the rest of the Nordic states. However, the reduction in benefit duration indicates that the system is not working or is not perceived to be working. As Claus Hjort Frederiksen, the Danish finance minister, argues, “the cold fact is that the longer you are out of a job, the more difficult it is to get a job” (Alderman 2010). Cutting benefit duration reduces the urgency for effective ALMPs; the lower the benefits, the less important it is to maintain high employment. At the same time, this ruptures the “right and duty” principle. If the state no longer has a duty to provide the unemployed with a generous income supplement, it also has no right to expect a rigorous job search.

A shorter benefit period may indeed induce a more intensified job search (frictional unemployment), but it cannot improve structural unemployment. As shown in this paper, mandatory ALMPs coupled with a generous unemployment benefit schemes, as were in place between 1994 and 2010, addressed both aspects of natural unemployment. Although their success is somewhat ambiguous, the ALMP and four-year benefit system reduced frictional unemployment through the threat effect, reduced structural unemployment for some groups of workers, lengthened the period of subsequent employment, and maintained a support net for particularly vulnerable workers.

Some aspects of the Danish ALMP system could be improved. For instance, the public job subsidy gives workers little benefit and should be

eliminated. Additionally, the passive period could be reduced from 12 months to induce the threat effect earlier. Such a system may be more worthwhile than a shortened benefit period as it could maintain the “right and duty” principle and sustain flexicurity.

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POST-REFERENDUM SOUTH SUDAN: Political Violence, New Sudan, and Democratic Nation-Building

By Christopher Zambakari

ABSTRACT

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The objective of this paper is to analyze the problem of violence in South Sudan between 2009 and 2012. This study fills the gap in scholarship about the determinants of violence in South Sudan in the period following the Comprehensive Peace Agreement (CPA). The paper begins with a critique of the existing paradigms of understanding conflicts in Sudan and South Sudan: race (Arab and African), religion (Christian and Muslim), ethnic (native and settler), geographic (north and south), and the tendency to present violence as criminal and not political. It quantifies the determinants of violence, presents frequencies and percent distribution of incidents resulting in deaths, and tabulates the ratio of person(s) killed to number of incidents in the five states most affected by violence: Warrap, Unity, Upper Nile, Jonglei, and Lakes. The second objective of the paper is to discuss an alternative solution to the political crisis facing both countries: citizenship and the need for an inclusive framework to manage diverse populations within a unified nation. The article concludes with a discussion of the New Sudan framework by situating it within the larger debate on democratic nation-building, while discussing its alignment with regional and international law.

*The author would like to thank Lyn Ossome, University of the Witwatersrand, Rose Jaji, University of Zimbabwe, Richard A. Lobban, Jr., Executive Director of Sudan Studies Association/ Dept. of Anthropology, Rhode Island College, for their insightful comments and constructive feedback on the earlier draft of this article. This paper was first presented at the ninth International South Sudan and Sudan Studies Conference, Rheinische Friedrich-Wilhelms-Universität Bonn, Germany from July 23-25, 2012.

I. INTRODUCTION

On July 9, 2012, the Republic of South Sudan celebrated its first anniversary. The Comprehensive Peace Agreement (CPA),¹ signed on January 9, 2005, had brought an end to one of Africa's longest and most intractable civil wars.² Since its start in 1955, an estimated 2.5 million people died as a consequence of the war—a significant toll in a region that had a pre-secession population of just under 40 million in 2008 (UNMIS 2009; Human Security Report Project 2005). According to some experts, the Sudanese civil war produced “more casualties than those in Angola, Bosnia, Chechnya, Kosovo, Liberia, the Persian Gulf, Sierra Leone, Somalia, and Rwanda put together” (Martin 2002). In addition to the high number of casualties, the conflict also displaced millions of civilians, turning them into either internally displaced persons (IDPs) or refugees.

The CPA was the immediate culmination of the negotiations that ended the hostility between the northern Government of Sudan, led

by the National Congress Party (NCP), and the Sudan People's Liberation Movement/Army (SPLM/A) in the south (currently the Republic of South Sudan). In fulfillment of the mandate of the Machakos Protocol of the CPA, a referendum on self-determination was conducted in January 2011, and 98.83 percent of South Sudanese voted to effectively secede from North Sudan (SSRC 2011). The objective of this essay is to analyze the problem of violence in South Sudan in the period leading up to and after the 2011 referendum.

First, the paper analyzes the problem of violence, defined as number of persons killed, in all 10 states in South Sudan during the period between 2009 and 2012. This period is delimited by the fact that there is no comprehensive data on violence that occurred in the region between 2005 and 2008. This paper only concerns itself with one aspect of violence, which is measured as incidents that lead to a violent outcome (the unit of analysis in this study), namely the death of a person or persons for which data exist.

The second objective of this paper is to discuss an alternative to the political crisis facing both Sudan and South Sudan: addressing citizenship and the need for an inclusive framework to manage diverse populations within a unified nation. South Sudan is home to 60 different nationalities, which, if extended to include the clans and sub-clans, raises the number to 90. This makes South Sudan one of the most diverse countries in East Africa. According to the House of Nationalities (2011), these South Sudanese

¹ The Comprehensive Peace Agreement (CPA) Between The Government of The Republic of The Sudan and The Sudan People's Liberation Movement/Sudan People's Liberation Army 2005

² I am indebted to Dr. Richard Lobban, Department of Anthropology at Rhode Island College, for pointing out to me that when it comes to conflicts on the African continent, the period one is interested in as well as one's definition of “state-to-state wars; wars of resistance; continuous wars; counter-insurgency wars, historical wars, ancient wars, and so forth” matters greatly. My interest lies in the period starting in 1950. The analysis presented in this paper only covers the period from 2009-2012. The civil war between Sudan and South Sudan was effectively ended in 2005 with the signing of the Comprehensive Peace Agreement (CPA).

“nationalities are organized into quasi-states with traditional leadership and quasi-armies of their own. While some are egalitarian, others are pastoralists and nomadic while others are agro-pastoralists or sedentary agricultural communities.” Francis Deng, a leading South Sudanese intellectual, notes that the challenge for the Sudanese state in the north and now the Republic of South Sudan is to “bring together diverse peoples with a history of hostility into a framework of one state” (2005).

This challenge is a question of who belongs and who does not belong in the political community. At its root, the rise of violence in South Sudan can be traced to its search for identity (see Deng 1995; Deng 2010). Deng contends that the mismanagement of identity, the failure to build a true democracy that is inclusive of the diversity within the country, and a state that has resorted to force has led to a predictable outcome: war and resistance from the population against the state’s assimilationist program (e.g., Arabization and later Islamization).

The article concludes with a discussion of the New Sudan framework, as articulated by the chairman of the Sudan People’s Liberation Movement/Army (SPLM/A), the late Dr. John Garang de Mabior.

II. VIOLENCE IN THE POST-REFERENDUM PERIOD

The political crisis in Sudan and South Sudan is often referred to as the crisis of national identity, as well as contested

notions of citizenship and the challenge of building an effective plural society (Deng 1995; Assal 2011; Manby 2011; Mamdani 2011b; Idris 2012). Even though the CPA was intended to end violence between the two Sudans, South Sudan has not been at peace since the agreement was signed in 2005. Rather, the period between 2009 and 2012 has seen an escalation in the number of persons killed, wounded, abducted, forcefully displaced, and affected (Zambakari 2012a, 2012b, 2012d). The proliferation of ethnic violence raises the question of whether the new republic will be able to build a nation—a viable state—in a region plagued by conflicts and instability.

The Sudanese conflict—one of Africa’s longest civil wars—has been analyzed along several axes: race (Arab and African), religion (Christian and Muslim), ethnic (native and settler), geographic (north and south), and control of natural resources like oil. Journalists and human rights organizations have developed a rather simplistic way to make sense of violence: by stripping it of its historical and political context and presenting it as a purely criminal phenomenon. The de-contextualization of reporting conflict has led to the “pornography of violence” (Mamdani 2007), whereby violence is presented in its most raw and graphic format. As a result, the advocated solution for those who view all violence as criminal is prosecution and punishment for the wrongdoers (Human Rights Watch 2005).

For journalists and human rights activists, the message is clear: violence

and its depiction speak for themselves. There is no history, context, or real issues. The psychology of the perpetrators suffices in explaining the violence. The net effect has been the displacement of critical thinking on the conflict in the country, which is reflected in misinformed policies that ultimately help to sustain and perpetuate conflict in a vicious cycle.

Most scholars dismiss the easy and simplified way in which the problems of violence in Sudan have been reported in the media (Mamdani 2009; De Waal 2007; Gallab 2011; Idris 2004; Anderson 1999). In Abdullahi Gallab's study on Sudan, which analyzes the process of state formation, the institutional legacies of the late colonialism in the nineteenth and twentieth centuries are emphasized as well as their subsequent inheritance by the postcolonial regime. The outcome has led to the emergence of a "centralized violent governing entity" (Gallab 2011) while deferring the Sudanese civil society. By tracing the evolution of structures and networks of power from ancient to modern time, Gallab presents a compelling case of key historical forces that have shaped modern Sudan.

Norman Anderson (1999) dismisses outright the notion that the problem is "Arabs" against "Africans" and claims that, given the long historical relationship that Sudan has had with the outside world (including the Mediterranean and Arabia), the distinctions between the "Arab" north and the "African" south are complex. This paper also challenges

the simplistic explanation of violence between Sudan and South Sudan—as well as violence within South Sudan—by empirically investigating and analyzing factors that account for violent incidents over a period of 39 months. There is no study that analyzes the determinants of violence, quantifies its scale, and provides empirical evidence showing factors that predict incidents in South Sudan.

An analysis of the violence in South Sudan reveals important facts about the nature of violence in the region and in Africa. Prior to secession, Sudan was Africa's largest country containing multiple major African language groups and nationalities within its boundaries (Lobban, Kramer, and Fluehr-Lobban 2012). The challenges of the two Sudans represent the larger continental political crisis facing most African countries in the twenty-first century (Zambakari 2012c). The political crisis of identity, the mismanagement of diversity, and the contested notions of citizenship are problems experienced by all countries in East Africa. Despite the independence of South Sudan, violence—particularly within and between ethnic or military groups—continues to claim human lives. The period between 2009 and 2012 has seen a proliferation of violence throughout South Sudan and its border states, while conflicts continue in eastern and western Sudan (Zambakari 2011a).

III. DEFINITION OF VARIABLES

In this paper, inter-ethnic refers to incidents between at least two ethnic groups. Intra-ethnic refers to incidents occurring between various sub-ethnic groups or clans within one ethnic group. Civilian incidents refer to violent episodes involving non-combatants and unarmed citizens only (without the active involvement of armed groups). Naturally occurring incidents refer to incidents involving natural forces: flood, fire, and disease outbreak. Armed forces in South Sudan refer to incidents involving one or more of the categories of armed forces active in South Sudan, e.g., Sudan People’s Liberation Army (SPLA) and Rebel Movement Groups (RMG). North Sudan Armed Forces refers to incidents involving one or more of the categories of the armed forces from North Sudan, e.g., Sudan’s Armed Forces (SAF), former Joint Integrated Unit (JIU). Armed Groups broadly refers to “dissident armed forces or other organized armed groups that are distinct from the armed forces of the state” (African Union 2009, Art. 1 (e)). Foreign forces are armed groups from outside of South Sudan (e.g., Lord Resistance Army (LRA) and the Uganda People’s Defense Force (UPDF)) and Cross International Boundary actors.

The unit of analysis is incident. Incidents range from cattle raids to inter- and intra-ethnic clashes, armed attacks, and natural disasters. An incident has a number of possible

Table 1. Frequency and Proportion of each Incident Characteristic

(Number of Incidents = 932)

Incidents Characteristics	Frequency	Proportion
Civilian	669	71.78%
Inter-ethnic	553	59.33%
Armed Forces in South Sudan	389	41.74%
Intra-ethnic	112	12.02%
Natural Occurring	76	8.15%
Foreign Forces	63	6.76%
North Sudan Forces	44	4.72%
South Sudan Police Services	38	4.08%

Source: Incident characteristics are not mutually exclusive (i.e., percent will not sum to 100), for more information on the full methodology, refer to (Zambakari 2012a): New Sudan, Colonialism, Politics, and the Making of a New State in South Sudan. Law and Policy Doctorate (LPD). Northeastern University, Boston, Massachusetts.

outcomes, including death, wounding, abduction, or internal displacement. This essay uses the definition of IDP adopted at the Kampala Convention to include all “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border” (African Union 2009).

Table 1 presents a breakdown of determinants of violence in South Sudan. Incident characteristics are not mutually exclusive.

Table 2. Frequency and Percent Distribution of Incidents Resulting in Deaths

State	No Documented Deaths		Documented Deaths		Number of Incidents
	Frequency	Proportion	Frequency	Proportion	
Central Equatoria	23	69.70%	10	30%	33
Eastern Equatoria	26	44.07%	33	55%	59
Jonglei	134	34.81%	251	65%	385
Lakes	42	36.84%	72	63%	114
Northern Bahr el Ghazal	15	75.00%	5	25%	20
Unity	52	43.70%	67	56.30%	119
Upper Nile	30	50.85%	29	49.15%	59
Warrap	19	28.36%	48	71.64%	67
Western Bahr el Ghazal	14	70.00%	6	30.00%	20
Western Equatoria	23	41.07%	33	58.93%	56
					932

Source: Incident characteristics are not mutually exclusive (i.e., percent will not sum to 100), for more information on the full methodology, refer to (Zambakari 2012a): *New Sudan, Colonialism, Politics, and the Making of a New State in South Sudan*. Law and Policy Doctorate (LPD). Northeastern University, Boston, Massachusetts.

Table 2 presents frequencies and percent distribution of incidents resulting in deaths. Interestingly, a higher number of incidents was not always associated with the number of persons killed, suggesting the “deadliness” of incidents varied across states. The cases of Jonglei (385 incidents), Warrap (67 incidents), and Western Equatoria (56 incidents) are illustrative of this fact. In the state of Jonglei, 385 incidents were recorded, of which 65 percent resulted in at least one death. The state of Warrap recorded fewer incidents than Jonglei, but the difference was that, in Warrap, 48 of those incidents (71.6 percent) resulted in the death of at least one person. In the state of Western Equatoria, 33 incidents, or 58.9 percent

of incidents, led to the death of at least one person.

To see the remaining breakdown for the rest of the states in South Sudan, refer to Table 2.

Table 3 tabulates the ratio of person(s) killed to the number of incidents. This ratio provides information about the severity or deadliness of incidents by state. This table focuses on the states most affected by violence. Surprisingly, these are states that border Sudan. These states were also at the front of the liberation war in South Sudan. As a result, the society was militarized and politicized as various governments in Sudan armed different militias to fight against the SPLA in the South. In these states, demilitarizing, demobilizing, and reintegrating former combatants

has proven a major challenge. Of an estimated 150,000 former militia fighters, only 10,000 have been demobilized. Further, the area affords easy access to light weapons, increasing the fatalities in each encounter. Collectively, these five states accounted for 93.91 percent of deaths in South Sudan between 2009 and March 2012.

The first part of this paper presented statistics on mortality resulting from violent incidents in South Sudan. The crisis that led to the breakup of Africa's largest country is by no means unique to Sudan or South Sudan. It is a crisis that affects most postcolonial states in Africa. Given that violence is the single biggest problem that the nascent Republic of South Sudan is facing, the next section discusses the New Sudan framework and situates it within the larger debate on democratic nation-building by joining the study of violence in South Sudan to that of the history of state formation in the region, where failure to build an inclusive nation has led to an acute crisis of the state. This has resulted in deaths and the forced displacement of civilians.

IV. NEW SUDAN AND DEMOCRATIC NATION-BUILDING

Sudan has been through several transitions in its attempt to build a modern democracy (Woodward 2008; Anderson 1999; Garang 1992). Each attempt was violently interrupted by a military regime that took power through a coup d'état. The first transition, from 1956 to 1958, was

Table 3. Ratio of the Persons Killed to Incidents

State	Frequency of Incidents	Ratio to incidents Killed
Warrap	67	12.69
Unity	119	6.65
Upper Nile	59	6.41
Jonglei	385	5.78
Lakes	114	4.12

Source: Incident characteristics are not mutually exclusive (i.e., percent will not sum to 100), for more information on the full methodology, refer to (Zambakari 2012a); New Sudan, Colonialism, Politics, and the Making of a New State in South Sudan. Law and Policy Doctorate (LPD). Northeastern University, Boston, Massachusetts.

interrupted in 1958 by General Ibrahim Abboud. The second occurred between 1965 to 1969 and came to an end in 1969 when Jaafer Mohammed Nimeiri took power through a military coup. From 1969 to 1985, Nimeiri created a single ruling party called the Sudan Socialist Union (SSU). The SSU made Sudan a single party state and abolished all other political parties in the country. The government was dissolved and in 1985 General Abdel Rahman Swar al-Dahab came to power. Once again, Sudan experimented with a democratic government between 1986 and 1989. In 1989, Brigadier Omar Hassan Ahmad al-Bashir came to power through yet another coup d'état, dissolving the temporary democratic government. The most recent transition was instituted by the Comprehensive Peace Agreement and lasted from 2005 to 2011 through the transitional government.

This section develops the idea of the New Sudan as an alternative model to resolve the problem of violence characterized by an acute crisis of state,

contested notion of citizenship, and the conflict over the identity of the state. The idea of New Sudan was articulated by Dr. John Garang, the late chairman and commander in chief of the Sudan People's Liberation Movement/Army (SPLM/A). This model—where the “New United Sudan with which all Sudanese can identify on equal footing as citizens” (Deng 2010)—offers the way forward as an antidote to the colonial legacy of politicizing race and tribe.

This section aims to situate the New Sudan model within the larger debate on democratic nation-building. Disputes regarding democratic nation-building in Africa span a vast literature. Many scholars have analyzed the arrest of democracy in Africa, the failure in the process of dissolution of new democracies, and the dynamics of political exclusion (Lewis 1965; Mamdani 1988; Shivji 1991; Garang 1992; Ake 1996).

Arthur Lewis (1965) warns about the danger of nation-building from above—the de facto mode of building a nation in the postcolonial period in Africa. His warning about the tendency to forcefully assimilate diverse nationalities into a nation by suppressing religious and ethnic affiliation is still valid today. Claude Ake (1996) similarly notes that the dominant model was democracy based on liberal ideals, a model that was unsuitable for the African context. However, Ake rejects the notion that democracy has failed in Africa. Instead, he argues that, in both the colonial and postcolonial period,

true democracy—based on consent, popular participation, and public accountability—has not been tried. Issa G. Shivji (2012), on the other hand, argues that the system of liberal democracy instead was abstracted from a different socio-historical context that was not rooted in the African experience and often imposed from above. While Lewis is concerned with the building and managing of a plural society, Ake and Shivji have been critics of the dominant model of top-down nation- and state-building rooted in the capitalist and neoliberal tradition. In response to this history, all three scholars have attempted to construct a theory that is consistent with the social and political history of state formation in Africa.

The outcome of prior nation-building efforts has been the emergence of the so-called failure of democracy in Africa. Failing to resolve problems of inclusion and identity in Africa, democracy continues to alienate people, and, thus, its foundation remains shallow. The challenge for African states is to develop a model of democracy that is rooted in the African experience, reflecting the norms and values of the governed and taking into account social and historical experiences. In other words, democracy has to be the product of organic internal development rather than external imposition.

For South Sudan, this means the starting point is to investigate the institutional legacies of slavery, colonialism, and postcolonial governance that failed to build a nation

that is inclusive of the diversity within its borders. This critical interrogation of inherited legacies requires that political space be opened so that there can be a healthy debate about national problems and all shareholders take part in the deliberation on important issues.

In pre-secession Sudan, the politics of exclusion were characterized by a dynamic that privileged a small segment of the population and excluded the mass from governance. This ultimately led to violence. Several paradoxes emerged in Sudan's attempt at a constitutional democracy and have plagued the country to this very day.

Sudan became independent without proper consultation and agreement between the different regions that were integrated by Great Britain to form the Sudan. There was no national consensus-building through constitutional means (Johnson 2003). At the ceremony of independence in 1956, the government established a precedent of taking the popular will for granted (Johnson 2003). Sudan marched to independence a divided country (Deng 1995, see Part III on Quest for Nationhood; Deng 2010, see Ch. 8). There existed a total disregard for consultation with the population on important matters at the national and local level. The colonial and postcolonial state developed a habit of circumventing agreed legal procedures in constitutional matters.

The effect of this precedent was consequential and far-reaching, as reflected by the dismantling of the Constituent Assembly in 1958. This

occurred before the Assembly was able to make a decision on federalism as a form of government that could accommodate South Sudan within a united Sudan (Johnson 2003). In 1982, a referendum for the South was canceled instead of allowing the South to register opposition to the subdivision of Southern Regions (Johnson 2003). In 1989, there was an overthrow of the parliamentary government rather than letting it reach a compromise on the Islamic state (Johnson 2003). A true democratic process would have taken these dangerous precedents into account by seeking a national consensus on the most important national issues, from independence through the referendum on regional self-determination.

In the ongoing debate on how to resolve the crisis of identity in the Sudan and build an effective democratic and plural society, Garang (1992) proposes the New Sudan framework. The New Sudan framework espouses an organic and internally-driven process of nation-building in the two Sudans. Garang notes that one of the problems plaguing the old Sudan is that it has been looking for its soul, and, "failing to find it [...] some take refuge in Arabism, and failing to find this, they find refuge in Islam as a uniting factor. Others get frustrated as they fail to discover how they can become Arabs when their creator thought otherwise. And they take refuge in separation" (Garang 1992).

The proposed solution is a new socio-political Sudanese dispensation in which all Sudanese are equal

stakeholders, regardless of a person's religion, race, ethnicity, gender, or place of origin. The New Sudan framework creates national citizenship based on residence and not descent. It defines and rejects the colonial practice of racializing the urban population and tribalizing rural societies (Mamdani 2009). In short, the New Sudan seeks to dismantle political identities based on conquest and replace them with a national identity based on consent.

The New Sudan offers a way to reconcile between the polar dichotomies of native-settler, urban-rural, and civic-customary notions of citizenship. As many examples in Africa testify, this alternative cannot be simply pushed from above upon those below or forced upon the ruled. It also cannot simply be written into the constitution and left to work a magic of its own. Failures are many in the region where South Sudan is located.³ Most countries, except Tanzania, have kept the distinction between natives and settlers. It is “the only part of the region where a group has not been persecuted collectively—as a racial or an ethnic group. Tanzania is the East African antidote to Nigeria” (Mamdani 2011a). It can even be argued that Tanzania is not only the antidote to Nigeria but also the antidote to Kenya, Uganda, Rwanda, and the Democratic Republic

of Congo, where conflicts rage over the citizenship question.

The lessons of Tanzania—on building a modern state out of a plural society—are relevant for South Sudan and other indirectly ruled countries. South Sudan is a patchwork of many nationalities. It was administered as a separate region under British colonial rule despite being part of Sudan. It fluctuated between centralized and decentralized governance as well as colonial and postcolonial administration. The challenge today for South Sudan, as it was for Tanzania, is how to build common citizenship and a nation out of diverse nationalities, races, religions, and ethnicities. How can South Sudan bring under a single governing law and administration these many nationalities to form a viable nation and a state?

In Tanzania, Mwalimu Julius Nyerere's greatest contribution as a statesman was that he built a centralized state and the rule of law (Mamdani 2012). To achieve this objective, Nyerere had to first dismantle the institutions of colonial administration and initiate a complete reform of the colonial state. According to Mamdani, Nyerere “created a national citizenship based on residence in a country where colonialism had left the legacy of defining every individual on the basis of a racial or tribal political identity based on origin” (Mamdani 2011a).

The New Sudan is also rooted in a historical discourse on citizenship. It is consistent with key provisions of the Universal Declaration of Human Rights, the Declaration on Principles

³ Uganda, Kenya, and Ethiopia all have citizenship rights that are recognized at the civic level. But those states have failed to reform the realm of the customary. The customary authorities continue to make a distinction between natives and settlers, indigenous and non-indigenous population.

of International Law Concerning Friendly Relations and Co-operation among States (United Nations 1970), the Convention on the Reduction of Statelessness (UN 1961), and the Draft Articles on Nationality of Natural Persons in relation to the Succession of States (ILC & UNTC 2005) on the right to citizenship. Each of these conventions prohibits discrimination on the basis of ethnicity, gender, race, creed, or color. It also entrusts the state with a mandate to represent all the people within their territories and allow all people within the state to participate in the political process on the basis of equality (Dersso 2012).

Political violence is one of the most serious problems affecting African states today. It threatens to unravel the societal fabric. It destroys human capital and arrests young democracies. Akyaaba Addai-Sebo (2011) notes that when violence erupts in a country, it signals that the center can no longer hold. This calls for a reordering of society and a new dispensation. Given that every polity emanates from the people, it also derives its legitimacy from them. While the colonial state had a tendency to exclude a segment of the population from citizenship, the new dispensation, New Sudan, provides the foundation for an inclusive citizenship that grants full participation in the nation to both majority and minority groups.

Given that the colonial state divided a nation into smaller minorities, the problem of building a national consensus and political consciousness—an inclusive framework

in which everyone belongs—has led to an acute crisis of citizenship. The New Sudan provides an alternative paradigm for thinking about what it means to manage a multi-ethnic, multi-cultural, multi-racial, and multi-religious society in a modern world. The model provides a framework for resolving the political and legal crisis of citizenship in North and South Sudan. The question facing South Sudan, as it did pre-secession Sudan, is how to build a plural society, manage diversity within an inclusive framework (Idris 2012; Deng 2010; Garang 1992), and reform the colonial state inherited at independence (Mamdani 2009; Zambakari 2012c).

The problem of the two Sudans is summarized by Mansour Khalid who served as Nimeiry's foreign minister in 1972 and later joined the Sudan People's Liberation Movement/Army (SPLM/A). He shared many of Garang's understandings of the conflict. Like Garang, he began with Sudan's identity then proceeded to addressing Arabism as a political project. In *The Call for Democracy in Sudan*, Garang notes that "the basic problem of the Sudan, now as at Independence, is how to achieve political unity in such a culturally diverse country and to achieve equitable socioeconomic development" (Garang 1992). Khalid further notes the contested notion of citizenship and identity. He writes, "the Sudan, anthropologically, is not a country of Arabs and Africans but that of Arabicized Africans or Africanized Arabs and pure Africans; racial purity is alien to it. On the other hand the pre-eminence of Arab

culture has never been challenged by the non-Arabs, except those driven by reactive inferiority complexes, like the secessionists of Anyanya I and Anyanya II” (Mansour Khalid’s introduction, Garang 1992). Next, Khalid takes on the problem that has plagued Sudan since its independence: the contested identity of Arabism and Islamism. He notes that, “what the SPLM is challenging, therefore, is not Arabism as a cultural identity but as a political supremacy based on racial heredity. Also the ethnic diversity advocated by the SPLM is nothing but respect for cultural specificities rather than the perpetuation of ethnicity as a source of dissension” (Introduction by Khalid, Garang 1992). Khalid draws a distinction between different forms of identity: cultural and political. Arabism as an identity was a political project imposed from above. Both Khalid and Garang distinguish “Arab culture from Arab racial supremacy” (Garang 1992). In the first instance, this is a distinction between Arab as a cultural identity and Arab as a political identity produced and sustained by a particular form of state. Finally, although Islam was the religion of the majority, its place was not in the state since the populations of Sudan were multi-cultural, multi-racial, and multi-ethnic. At its roots, the problem of Sudan was how to build a nation out of a diverse population without resorting to forceful assimilationist projects like Arabism or Islamism.

As South Sudan looks forward to building an effective plural community of diverse nationalities, it will need to

learn from the lessons that led to the war with Sudan and avoid repeating similar mistakes. This means a reform of the state it inherited from the Old Sudan and resisting the temptation to impose a national identity from above. The status of southerners in the North and northerners in the South needs to be addressed by both states in order to avoid the problem of statelessness. There are an estimated 700,000 southerners living in Khartoum whose residency status and citizenship are uncertain (IDMC & NRC 2012a, 1). This is in addition to the millions of internally displaced people throughout Sudan and South Sudan (IDMC & NRC 2012b). The question of citizenship and the colonial state, which reproduces and enforces political identities, needs political reform that will join the two demands for citizenship: one grounded in ethnicity and the second based on residency (Zambakari 2011b).

The New Sudan calls for a rethinking of the definition of citizenship. It promotes a shift from an emphasis on ancestral descent to prioritizing residence as a basis for political participation. It moves the debate away from the national question and toward the citizenship question (Zambakari 2011b, 2012c). The national question preoccupies itself with origins. It prioritizes ethnicity and autochthony, or the status of being indigenous, as the basis of belonging. It discriminates between those said to belong and those who do not belong, the native and the settler. The native is indigenous, while the non-native is a foreigner. In contrast, the New Sudan focuses on

citizenship as a basis for belonging. It deemphasizes descent while emphasizing residence as the basis of a common citizenship.

The New Sudan framework provides one way to think about a modern African state's attempt to manage a diverse population in an increasingly globalized world. The framework promulgates a move from an exclusive to an inclusive definition of citizenship. In so doing, it broadens the boundary of the political community.

V. CONCLUSION

The reality of the two Sudans is that they are multi-national, multi-cultural, and multi-religious polities. Peace in South Sudan will therefore depend on relations with Sudan, a country which the new Republic shares one of the longest international borders in Africa.

While the referendum divided the Sudan into two states, it did not undo social relations forged over millennia between the two countries. The durability and sustainability of peace in North and South Sudan depend on a comprehensive solution to outstanding issues between the two countries. These include pending border demarcation, allocation of revenue from oil, citizenship for Sudanese in the North and in the South, movement of nomadic ethnic groups in the border states, debt sharing, the pending referendum in Abyei, political status of southern Kordofan and Blue Nile, and peace and stability in eastern (Beja) and western Sudan (Darfur).

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LIFE IN TRANSITION: Ongoing Social and Economic Impacts of Internal Displacement on Young People in Liberia

By Jacob Patterson-Stein and Amy S. Rhoades

ABSTRACT

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Displacement in Liberia has been a reality since 1989, when the first of two civil wars broke out. The effects of the conflict on the education and development of young people are well documented, but the splintering of communities between the capital Monrovia and the outlying counties has received less scrutiny. This paper argues that community-based groups are best situated to help the post-war generation born into the consequences of displacement in the West Point slum of Monrovia. Education programs for the post-war, liminal generation should follow community-driven development (CDD) methods designed to meet the needs of these young people and account for the negative externalities of Liberia's large internally displaced youth population. This paper explores the theory and methods behind CDD within the context of international labor standards, which can act as a guide in program design and are particularly relevant for service delivery in Liberia, where child labor and informal employment are prevalent. Working within this context, using CDD methods, and presenting a case study of an NGO working in the West Point slum, the authors illustrate how policy interventions can be tailored to the highly dynamic and often unsafe world in which many post-war Liberian youth live.

I. INTRODUCTION

Displacement in Liberia has been a reality since 1989, when the first of two civil wars broke out (Internal Displacement Monitoring Center 2007). The effects of the conflict on the education and development of young people are well documented, but the splintering of communities between the capital Monrovia and the outlying counties has received less scrutiny (Ellery and Webley 2010). The shuffling of young people and especially orphans among geographically dispersed extended family members has created a situation of ongoing threats to child safety, slow academic and social development, and increased strain on caregivers (US Department of State 2010). Previous studies have explored the success of interventions on former combatants and child soldiers, but few focus on the generation born after these combatants (Blattman and Annan 2012).

This paper argues that community-based groups are best situated to help the post-war generation born into the consequences of displacement. Education programs for the post-war, liminal generation should follow community-driven development methods designed to meet the needs of these young people and account for the negative externalities of Liberia's large internally displaced youth population. These programs best serve at-risk children living in dynamic, post-traumatic situations when guided by normative standards and rules based in previous research. International law

provides a framework for defining child labor and its consequences, which can act as a guide in program design and is particularly relevant for the highly prevalent child labor and informal employment in Liberia. This paper explores widely accepted international labor standards as a departure point for asserting that education can provide certainty, skills, and improved welfare for post-war displaced youth in Liberia.

II. SURVEYING DISPLACEMENT AND THE CONTEXT OF THE POST-WAR DISPLACED IN LIBERIA

Quantifying the long-term effects of displacement and conflict on family and childhood development in Liberia can be challenging. A survey of the number of children per family in Monrovia may yield different responses depending on the time of day, how much detail is provided in the question, and factors related to the interviewer. A typical exchange while collecting data goes something like this: "How many children do you have?" "Six." "Are these your children?" "Yes." "All six?" "Yes." "So, you have six children?" "No, these two are from my sister; she died during the war. This one is my auntie's; she is back in the bush [Liberia's rural interior] and this one was my other sister's, but she is in Ghana. These two are mine." Baseline surveys in West Point found that many young people are living with "aunties," a term that can mean anything from a person's mother's sister to a neighbor or willing caregiver. These "adopted children"

are often put to work, domestically and elsewhere, to earn their keep or to relieve the burden on another family member.

The displacement crisis is ongoing for the post-war generation. These young people were born toward the end of Liberia's civil conflict or shortly afterward but are growing up in a Liberia that is trying to rebuild the social, educational, infrastructural, and cultural fronts all at once—a shaky and uncertain process.

This instability is exemplified in the area of West Point—not just physically and psychologically but geographically as well. One of Monrovia's largest slums, West Point, was constructed on dredged sand from construction of a nearby port. It is estimated that 95 percent of its population relies on well water stored in shallow metal buckets (Browne 2012). A May 2011 report by the Norwegian Refugee Council estimates that as many as one-third of the more than 70,000 residents of West Point were displaced during the conflict before settling in the slum, a large proportion of whom are youth (Browne 2012).

Protracted displacement has left many young people, particularly girls, at risk of commercial or sexual exploitation, which creates additional barriers to education access (US Department of State 2012). Many parents and caregivers recognize the importance of attending school but have come to rely on the income brought in by their biological and adopted children. When caregivers are struggling financially,

young people are often passed off to another “auntie” or family member.

Displacement is often a cause of socioeconomic shock. Families often have few resources to fall back on when they lose their homes, land, or livelihoods during displacement. Roles and responsibilities change. Young people may find themselves as primary caregivers for elderly family members or younger siblings. These changing dynamics present new economic challenges (Internal Displacement Monitoring Center 2007).

Increased economic vulnerability due to displacement or family separation is inextricably linked to child labor. The ILO Convention No. 182 identifies the worst forms of child labor as all forms of slavery, trafficking, or forced labor; prostitution and production of pornography; involvement in illicit activities, including drug production and trafficking; and hazardous work, defined as that which is harmful to a young person's health, safety, or morals (International Labor Organization 1999). Although accurate measurements are difficult to obtain, research suggests that Sub-Saharan Africa has the highest incidence of children engaged in hazardous work, with an incidence rate of 15.1 percent for children aged 5-17 in the region—more than double that of any other global region (Gunn, Reinhart, and Wanjek 2011). Despite legislation that prohibits children younger than 16 from working during school hours, the US Department of Labor (2012) recently found that at least 32.7 percent of children aged 5-14 in Liberia were

working. These facts illustrate the gap between institutional intention and enforcement, which highlights the opening for policy intervention.

The combination of continual displacement, shifting among caregivers, economic exploitation, and lack of support has created a situation where education is not an option for many young people. While the Liberian Government struggles to build capacity, community groups in West Point have formed to address the problem.

III. COMMUNITY-DRIVEN DEVELOPMENT: A THEORETICAL BASIS FOR HELPING POST-WAR CHILDREN

Given the challenges facing informal internally displaced communities, the barriers to implementing successful policy interventions in West Point are evident. The area presents a context where access to basic services is uneven at best and often non-existent. While there are groups working in West Point to provide education and vocational training, more research is needed on property rights and the allocation of public goods, including sanitation services.

New research on community-driven development (CDD) provides a theoretical and practical guide for projects in West Point. Emphasizing the placement of local community members at the helm of project design and implementation, CDD has gained significant traction

in the past decade as evaluation methods testing its effectiveness have become more refined. In a recent World Bank working paper, Susan Wong (2012) estimates that the Bank has allocated between 5 and 10 percent of its portfolio to CDD projects in the last ten years. CDD goes beyond the simple notion of “local ownership” and can provide an effective mix of outside technical support, community social capital, and context-specific interventions to empower beneficiaries.¹ This emphasis on community needs means that CDD projects exist in a variety of forms. There is no single model for CDD projects, but the methodology employed in their evaluation has become increasingly codified as CDD garners more interest (World Bank 2011).

A growing literature on CDD explores issues of reverse causality, instances where CDD provides legitimacy for faulty projects, and the influence of community homogeneity or pre-existing cooperation on project success. Effective program design and stating specific outcomes are the cornerstone of evaluating CDD. While allowing a community to create and run a project to meet its needs may leverage community networks, it may do nothing for social cohesion or the inclusion of women or minorities. In rural Liberia, for example, researchers found that a community-driven project focusing on social and political cohesion and social welfare had few

¹ See for overview of CDD, Janmejy Singh 2012.

direct material returns. The project, however, significantly improved social inclusion for marginal groups and moderately improved access to education (Fearon, Humphreys, and Weinstein 2009).

According to Ghazala Mansuri and Vijayendra Rao (2004) of the World Bank, a defining aspect of CDD is that it allows for distribution and delivery of goods in a decentralized context. The urban, chaotic, and largely ignored slum of West Point provides a case study in how community-driven projects can use local knowledge to provide services to young, displaced girls that do not fit into existing provision matrices. As this paper highlights, community-designed projects in education will be ideally suited to address post-war market failures that leave children with few options for gaining an education or generating future income.

IV. SCHOOLING AS SAFETY: AN EXAMPLE FROM WEST POINT

The More than Me Foundation, a US and Liberian registered non-profit, works with girls and other young people in West Point to provide tuition, educational supplies, and social support. A grass-roots organization, the non-profit has local staff based in West Point as well as partnerships with other community groups (Patterson-Stein 2011). The youth supported by More than Me are bright, intelligent, at risk, and by no means unique. While on a recent visit to meet with More

than Me's field staff to conduct surveys and help develop new programs, the risk of girls who are at home nowhere but left to survive everywhere was constantly on display. More than Me's focus on girls—who are at risk for both commercial and sexual exploitation and are more likely to be moved from one caregiver to another—has yielded improvements in welfare, self-esteem, and social skills (Patterson-Stein 2012). More than Me staff work with parents and caregivers both to explain the importance of educating young girls and to find ways of working around financial dependence on selling.

A recent survey of the students and parents or guardians in More than Me's scholarship program found that not only were all of the young people in the program previously out of school, many were living with extended family members. At least eight girls and several mothers admitted to exchanging sex for money, food, or other favors. Internal displacement during the war has left the present generation of parents without skills or an education, making it difficult for their children to lead normal lives.

Research on the returns to education has produced little consensus on *how* schooling produces consistent gains. Studies from the last 40 years have questioned whether education acts as a signal to employers that someone has skills and if it simply pays off through increased productivity, in addition to whether individual gains provide “positive externalities” in the form of societal gains (Spence 1973; Becker 1965; Pritchett 2001). Within

this debate, quasi-experimental, qualitative, and randomized studies have produced significant evidence that investment in primary and girls' education produces income gains, improvements to human capital, and positive spillover effects. A 2010 paper estimates the average rate of return from an additional year of schooling to be 10 percent (Psacharopoulos and Patrinos 2010). Another report suggests that the education of girls has a positive causal effect on wages, sexual behavior, fertility, and infant mortality (Glennerster and Takavarasha 2012). Indeed, the "girl effect," the idea that projects focusing on girls yield high returns, has become a rallying cry for much of the NGO sector as evidence suggests small investments bring relatively large gains. The situation is more complicated when the role of education is extended beyond learning, income gains, or positive externalities to include bringing stability to a young person's life.

While the right to education is enshrined in international law and a growing body of case law, internally displaced persons (IDPs) continue to be one of the most disadvantaged groups in accessing this right (Rhoades 2012). Liberia is no exception. According to the most recent UN Millennium Development Goals Report, the net enrollment ratio for primary education is 49.3 percent, well short of the country's goal of 100 percent enrollment and the Liberian Government's compulsory primary education efforts (Konneh 2010). In addition, many more young people

are beyond primary school age but have missed out on those years of basic education due to conflict and ensuing displacement (Walker, Wood, and Allemanno 2009). Given traditional cultural norms surrounding gender roles, young women are at a disadvantage in accessing education. Despite the seemingly optimistic increase in gender parity in recent years, this change is unfortunately due to a decrease in male enrollment rather than an expansion of the education system (Watkins 2010).

The government of Liberia is endeavoring to provide for those persons in situations of protracted displacement. In November 2004, Liberia adopted the Guiding Principles on Internal Displacement into national legislation. Principle 23 speaks specifically to the responsibility of the state to ensure access to education for IDPs, asserting that education should be free and compulsory at the primary level with special efforts made toward the full and equal participation of women and girls (UN Office for the Coordination of Humanitarian Affairs 2004). Additionally, Liberia is signatory to the Kampala Convention of the African Union, which confers upon states the obligation to protect and assist IDPs, including Article 9, the provision of educational services (African Union 2009). President Ellen Johnson Sirleaf has been vocal about her support for national education and plans to increase investment in this sector.² These are steps in the

² For example, see Ellen Johnson Sirleaf 2010.

right direction but still fall far short of addressing the educational crisis in Liberia.

While Liberia does offer free public primary schooling, accessibility is severely limited and teachers are notoriously underpaid and known to accept various favors for grades. The costs of associated fees—such as uniforms, shoes, and supplies—are also unaffordable for many families (US Department of State 2012). There are several private schools in and around West Point, but the direct costs to attend school and pay for supplies, a uniform, and shoes totals approximately US\$250 annually. Ongoing, indirect costs—such as upkeep for uniforms and shoes, transportation, and meals—create additional barriers. Neither public nor private schooling that requires material and uniform fees, not to mention tuition, is an option in a country where almost 70 percent of the population works in the informal economy and many people earn between US\$1 and \$2 a day (Liberia Institute of Statistics 2011). The opportunity cost of sending a young person to school is also prohibitive for many families. While most caregivers recognize the importance of learning to read and write, the income lost from having a child attend school rather than work and the lack of employment options for graduating students creates further disincentives. Recognizing the direct, indirect, and opportunity costs to accessing education provides insight on the low attrition rates in West Point.

The aunt of Musu, one of the girls in More than Me's program, explained during a survey why she had little enthusiasm for sending Musu to school: "That girl is nothing but trouble for me. She needs to be selling. I cannot afford to just feed her and then have her disrespect me. I will send her back to her mother [in the interior] if she does not learn how to work." Caregivers' economic dependence on these children creates a lack of social support for education, even when there is an acknowledgement of the value of going to school. The few hundred Liberian dollars (approximately US\$4-6) per day a child can earn by selling peanuts, water, or candy are often a more immediate need for the post-war displaced in Liberia. This dependence is often accompanied by a sense of alienation: many caregivers reported that their responsibilities for children passed to them were a constant strain.

At the same time, it is important to recognize that, although investment in Liberia's education sector is essential to helping girls like Musu learn to read and write, simply going to school is not going to make the lives of young people in Liberia better. Lack of education is intertwined with many of the other problems facing internally displaced persons.

The post-war generation in Liberia will be able to make the most of an education only if it is combined with social support through mentoring, recreation programs, safe houses, and a community network. The More than Me Foundation is taking this

approach in West Point by providing scholarships, a sports program open to all children, and a partnership with the West Point Women Organization, which provides female role models a place to congregate and an engaged social support base in the community. By actively seeking community input and hiring community members to help run and design programs, community-driven organizations offer dynamic services that adjust to life as it exists on the ground. Education is the first step in helping children stuck in the post-conflict displacement limbo—where the ideas of home and family are not just fluid, but ambiguous—to gain skills, learn, and eventually contribute to the rebuilding of Liberia. However, if the only time these children are under a roof, eating, or receiving positive reinforcement is while they are in class, education is not enough.

V. CONCLUSION

A policy of increased cooperation and open dialogue with community-based NGOs, such as More than Me, will help bolster the Liberian government's efforts to promote education access and gender parity. In August of 2012, More than Me representatives met with President Ellen Johnson Sirleaf to voice the concerns of children in West Point and to work with the Liberian government to secure a lease for a building to create a safe house and mentoring center. This level of access and openness helps promote the still fragile post-war government by showing that it can be responsive to immediate and complex needs. This

new center will create opportunities for young women to attend school, build relationships, create safe spaces to share problems and get advice, and help develop and strengthen natural support networks within the community.

For many young people in Liberia, caregiver economic dependence and financial instability are just two barriers to education access. The emotional and, in some cases, physical stress that many children experience will not be alleviated immediately by education. The key to supporting young people, who must deal with post-conflict displacement, is not to pick and choose one approach over another but to provide integrated services that offer stability to young people in transition—not just physically, but socially and emotionally as well. However, the evidence on the gains of education for girls suggests that schooling can provide a route to a life beyond the present circumstances. This makes gender parity strategies in the design and implementation of any education program critical.

The armed conflicts in Liberia brought 14 years of displacement to the country. For the young people of Liberia, the displacement continues. This generation is being brought up in a state of flux, and further study is needed to gain insight on these children. Girls, like Musu, who are being passed around between family and friends, between the interior of Liberia and Monrovia, need more than just remedial skills. A holistic approach—one that integrates a range of social, psychological, medical, and

educational support—is essential to providing young people with the stability needed to grow and learn. Understanding how to design, implement, and evaluate community-led projects is critical for reaching girls in Musu’s position. In a decentralized and diverse environment, where a large youth population can create negative externalities, the focus of ongoing research should be on the potential returns from community-driven development to better inform project design and to mitigate the ongoing social and economic impacts of internal displacement on young people in Liberia.

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INTERVIEW WITH RUSS FEINGOLD: Campaign Finance, Foreign Policy, and Compromising: Finding Bipartisan Solutions in a Hyper-Partisan Environment

By Josh Caplan and Maya Khan

The *Georgetown Public Policy Review* had the opportunity to speak with former US Senator Russ Feingold (D-WI) on a wide range of issues. Sen. Feingold served in the Senate from 1993 to 2011 after having spent 10 years in the Wisconsin State Senate. After losing his 2010 reelection campaign to Republican Ron Johnson, he founded Progressives United, a 501(c)4 political action committee (PAC) devoted to facilitating grassroots mobilization. As a senator, he was known for being on the progressive wing of the Democratic Party yet able to broker bipartisan deals on challenging issues. He worked with future Republican presidential candidate Senator John McCain (R-AZ) to reform the campaign finance system with the Bipartisan Campaign Reform Act of 2002 (also known as the McCain-Feingold Act). In 2001, he was the only senator to vote against the Patriot Act, arguing that the anti-terrorism legislation unnecessarily violated the civil liberties of innocent Americans. Since his time in the Senate, he has been a visiting professor at Marquette University Law School and the Mimi and Peter Haas Distinguished Visitor and lecturer at Stanford Law School. He also served as a co-chair of President Obama's reelection campaign. He spoke with *The Review* about all of these endeavors as well as how he was able to come together with ideological opposites, compromise, and pass legislation.

Georgetown Public Policy Review: You founded Progressives United. What do you think it means to be “progressive” in the US these days?

RF: Well, I hope what it means is a commitment to having a real democracy and not a corporate-dominated system, where the elected representatives are closer to the corporations than they are to the average person. The *Citizens United* decision sent us in the wrong direction on this, and I’m very concerned that people, who are progressives and otherwise, demand that our system be returned to them.

GPPR: In recent decades, partisanship and polarization in the US have been consistently increasing. What do you think is causing this divide?

RF: Well, I watched this happen. After I came to the Senate in the early ‘90s, it didn’t seem to be particularly partisan, compared to now. One of the things that happened is a bad cycle, which really began with the Contract With America coming into 1994. That group came in with a very partisan attitude, into Congress. And then Democrats often responded in the same way, and we sort of drew up sides. In the Senate, we used to have a much more bipartisan nature.

A lot of the things that have fueled this are the growth of talk radio

and cable TV, where they need to fill up the time 24 hours a day. You’ve seen the extreme positions and almost bias of both Fox and MSNBC, where people are constantly drilled with, mostly, just one side of the story. That really causes people to have their news and their attitudes filtered in one direction. And, unfortunately, people seem to be demanding that their elected representatives toe a strict line of one side or the other rather than finding good opportunities to work with the other side. I used to feel that we were rewarded or praised if we worked with the other side when I worked with John McCain. That needs to come back again.

GPPR: Partisanship, filibusters, and an aversion to compromise in the Senate are at all-time highs. Is the Senate broken or can Congress come back away from their culture of brinkmanship we’ve been seeing?

RF: Actually, I’m teaching a course at Stanford Law School on this very subject. Is it just that the Senate needs to take a different attitude, or are the rules so screwed up that it can’t work? My view is that it’s not broken, but it is very, very damaged. Rule change may help in some ways; some modifications on the filibuster, greater than was done [in January 2013]. But I think the biggest thing is for the American people to demand that their elected representatives try to work with one another. That is going to get a better result than just tinkering with the rules. So I don’t think it’s fundamentally broken, and I think it can work, if the message that is sent to elected

representatives is, “We’re not going to vote for you anymore if you don’t work with the other side.”

GPPR: Is there a reform of the filibuster that you think would help bring compromise, such as the talking filibuster or the Al Franken “41 vote” idea?

RF: Those are both pretty good ideas. The thing I like about the 41 votes idea is that I’ve always pointed out to people that one of the problems of the current filibuster rule—and it hasn’t always been this way—is that, to break a filibuster, you need all 60 people from your side there. The other side doesn’t have to be there at all. If you went 59 to nothing, you still lose. If you make the rule instead that 60 percent of the people who are present and voting, that would really put a different burden on the minority. As I like to say, senators like their weekends, so this would change the deal for them. I would like to see that tried—sort of a variation on the idea requiring that the people who want the filibuster to be present. So, that would have been much better than the very weak deal that was cut [in January 2013].

GPPR: Recent elections have shown that voters are rejecting moderate candidates in both primaries and general elections. Why do you think this is?

RF: It’s part of the same polarization that I talked about in an answer to an earlier question. When you have a constant diet—in your political party meetings, on cable TV, on talk radio—of people trying to see

whether somebody is completely pure and voting only with the right or the left, they have a tendency to reward those in a primary who are the most extreme or who are on the farther end ideologically. Republicans paid a huge price for this in the US Senate races in 2012 because they nominated people who were very extreme. In fact, it even happened in 2010, where a number of my colleagues probably would have lost, as I did, if they had not nominated people who were so extreme that even the right-wingers generally couldn’t tolerate them. It’s a function of the polarization and partisanship that has arisen in recent years. Karl Rove and others are realizing that it’s devastating, particularly for the Republicans. It hasn’t happened as much on our side, because we have President Obama, which moderates that.

GPPR: California has recently gone to a nonpartisan blanket primary system where the top two candidates, regardless of party, will move to the general election. The hope was to create more competitive races that would force candidates to appeal toward the middle. What do you think about systems like this? Do you see the California experience as a model for the nation or a failed experiment?

RF: It’s way too early to tell. They only did it for the first time. I was teaching here in California last year when they were talking about it, and now I’m back here now that it’s been done. I’m now in the process of having conversations with people who are interested in this to say, “How do you feel about how

this worked?” It is way too early for me to conclude, but I think that it’s an interesting experiment that may be able to help. To me, it’s way too early to say whether it should be a model. I hope by the time I finish my work here this year I’ll have a clearer sense of whether I feel good about what happened or not. But I give California credit for trying something different.

GPFR: While being one of the most progressive Senators, you had a history of working with future leaders of the Republican Party. You successfully worked with Sen. John McCain to reform campaign finance and attempted to work with Rep. Paul Ryan and Sen. McCain to institute a line item veto. How were you able to compromise with people you do not ideologically agree with, and are there lessons that current policymakers can take from your experiences?

RF: One of the biggest myths in American politics is that the problem is that we don’t have enough people whose ideology is in the middle and are so-called moderates. That’s not the issue. Sometimes the best coalitions are people who are ideologically farther to the right, or farther to the left, who come together because they agree on a common solution. That’s what happened with me and John McCain. That’s what was going on with me and Paul Ryan on the line item veto. For different reasons, we didn’t like the idea, with Ryan, of waste in government. He would have gone in a direction—if he had the ability to write it—that would have been too extreme for my point of view. And he wouldn’t

have liked some of the things I’d like to do with it with tax policy. But we were able to agree on the idea that the President should be able to line item veto inappropriate earmarks. So, it wasn’t about agreeing on ideology; it was agreeing on a solution.

One of the myths is that it’s better to just have people who are in the middle. Sometimes, the deals that are in the middle are bad. Sometimes, they’re corrupt. Sometimes, they involve giving away goodies to corporations so people from both sides cut a deal. It’s important to remember that it’s not just about moderation; it’s about having people who, in good faith, will consider a solution from somebody who has a different ideology. We need to get away from this idea that it’s just dumbing down everything into the middle.

GPFR: Do you believe that it is politically possible for a Democratic president to shrink executive anti-terror powers without Congress or the Supreme Court intervening or without risking labeling the Democratic Party as “soft on terror” for an entire generation or more?

RF: I do, and I’m not saying this is easy, but it was exceptionally difficult after 9/11. Unfortunately, the Bush administration went in the opposite direction: trying to do everything they could to expand powers such as torture and illegal wiretapping in an inappropriate way. Now that the President has succeeded in getting rid of Osama Bin Laden and has been overwhelmingly re-elected, it’s a golden opportunity for him and for

Democrats, as well as Republicans, to say, “Wait a minute, it’s been over 10 years since 9/11, do we really need some of these approaches that appear to be inconsistent with American law and tradition, as well as international law?” I believe the climate is right for that. Yes, if anything goes wrong, people will attempt to blame it on the party or the people that did this. But what I saw yesterday, in the questioning of Brennan for the CIA, was a very clear sign that at least some of the members of the Senate feel safe now questioning, for example, a drone policy that isn’t carefully regulated. I think that’s a good sign. It’s a sign that the country is maturing—and getting used to the fact that there’s going to be terrorism—but we don’t want to give up all our values in our law in terms of dealing with it.

GPPR: What do you think the biggest threat to national security is, and do you think the US is doing enough to prevent it?

RF: I generally respond to that question by talking about the threat of organizations like al-Qaeda and affiliated groups who are really dedicated to the idea of destroying the United States and the West. But frankly, I usually don’t like that sort of question, because I think it’s a mistake for us to sort of say, “This one’s the most important, this one’s second, and this one’s third.” What we need to learn to do is to balance the complex issues that we face. I think politicians and people that talk about government need to avoid this trap. When you talk about terrorism, you should also talk

about Iraq. You should talk about what China is doing. You should also talk about what’s happening in developing countries, particularly in Africa. You should talk about issues of nuclear weapons, and others, being proliferated around the world. There are so many important issues that we need to be able to walk and chew gum at the same time.

GPPR: You were the only Senator to vote against the Patriot Act in 2001, citing civil liberty concerns. Why were you the only one to vote against the Patriot Act, and do you still oppose it?

RF: I absolutely oppose it, and the reason I voted against it is I actually read it. I was Chairman of the Judiciary Committee’s Subcommittee on the Constitution, and I had already voted for the Afghanistan resolution, to invade Afghanistan to get Bin Laden. I assumed I was going to be able to vote for an updated bill for law enforcement, which came to be known as the USA Patriot Act. The problem is I found that, in that bill, there were a series of provisions that the late Bob Novak called “an old wish list of the FBI.” A number of provisions—relating to library records, whether you could search people’s houses without giving them notice—appeared to be overkill and not really directed at the terrorist threat. So those things have not been fixed and certainly if the same bill came before me today, and I happened to still be in the Senate, I would of course vote against it. And guess what? More people would also vote against it.

GPPR: Do you believe that the targeted killing of individuals believed to be hostile to the US is effective in the War on Terror? Does it matter if they are US citizens overseas?

RF: It certainly can be effective, if it involves people who are actually involved with al-Qaeda and who are planning attacks on the United States, and it is definitely different when it is a US citizen. US citizens have protections of due process and other protections that are clearly the law of the land. Now, that doesn't mean you can't go after them, like in the al-Awlaki case. It's complicated, because we have not seen specifically what the justification was for going after him. There is an exception if there's no other way to get a person like that. He is actually an easier case than some of the other ones that are being considered right now. But I feel pretty strongly that we need a balance here, and we need to have somebody, other than just the executive, considering whether this is appropriate across the board.

GPPR: According to the FEC, in the 2012 election candidates, parties, and outside groups spent \$7 billion. How do you think money affected the shape and outcome of these past elections?

RF: I think it had a real crushing impact on the way in which the average person felt they could be involved in the election. In 2008, I think a lot of people, especially young people, felt because we did not have these unlimited corporate contributions,

that they could have an effect on what happened—not only in the Presidential election but in other elections. I think the presence of these huge unlimited contributions—and the amount of awful, negative ads that come as a result of it—makes people feel disconnected from the whole process. It seems like there was more anxiety than enthusiasm about the 2012 election.

So, I think it has a crushing effect, but it goes well beyond that. It's not just about the outcome of the election. It's about what kind of corruption is going on in terms of raising these contributions. What kind of pressure does this put on corporations, who all want to play the game, to give contributions that they would really rather not give. It's like a form of extortion. And, most importantly, it means to both sides cozying up to large corporate interests so that regardless of who wins the election, certain corporations have bought off the process. That's ultimately even more important than who wins or who loses, if it doesn't matter who wins or loses because big money has corrupted the process.

GPPR: In the landmark campaign finance case *Buckley v. Valeo*, the Court held that Congress can regulate campaign contributions in order to prevent “corruption or its appearance.” Under what framework, and in a post-*Citizens United* world, can Congress revisit campaign finance legislation, and, if so, what would be the best policy that can pass in this environment?

RF: Well, really, the answer is to overturn *Citizens United*. It was only a 5 to 4 decision, and that has got to be our goal. If we don't do that, the whole system is being swallowed by these unlimited contributions that were prohibited since 1907 and only in the last couple of years have been allowed. So, to me, that is the most important thing.

Citizens United created a horrible problem, but it did not eliminate the ability to limit direct contributions. Those limits are still in effect, and they apply. So, overturn *Citizens United*. We have currently limits on contributions that are sufficiently generous. I think people can give \$10,000 per couple, and I think that's quite a bit. But at least it's limited. In that context, what we need to do is pass public financing, overturn *Citizens United*, fix the presidential public financing system that is no longer working, and create, for the first time, Congressional public financing for both House and Senate races. That—along with getting rid of the Federal Election Commission and replacing it with a real enforcement agency—would go a long way toward fixing the system. Frankly, the system was improving a great deal after we passed McCain-Feingold and before *Citizens United*. We simply need to do a few more things to get it to be, I think, in a better place.

GPPR: As a follow up on that question, the Federal Election Commission was deadlocked on key questions in this past election. Has the FEC outlived its usefulness on

regulating campaign finance, or can it be reformed to be more effective?

RF: Unlike the Senate, the FEC is structurally hopeless. It does get deadlocked because of the way it has partisan appointments. The way it's done is that both parties don't appoint people who are going to try to come together, to try and come to a solution. They appoint the toughest, most partisan lawyers they can find. The structure has to change. That's why John McCain and I, when I was in the Senate, proposed getting rid of the Federal Election Commission and creating more of an administrative enforcement agency where somebody is in charge of actually bringing enforcement action. It is completely nonfunctioning. In other words, you can overturn *Citizens United*, you can make the reforms I just suggested, but if there's no effective enforcement agency, all of that will not work. So we need a new agency.

GPPR: There is a tension between campaign finance regulation and proponents for freedom of speech, who argue that money is tool for exercising their First Amendment rights. How can reformers balance these concerns?

RF: This is something that has been done, I think successfully, many times in American history. The Tillman Act of 1907 said corporations should not be able to dominate the political process using their treasuries, the money we spend on products. But corporations are allowed to create political action committees (PACs), as are labor

unions, with limits so that they can participate in the political process. They are able to use their free speech for other purposes outside of campaigns. For example, BP has this big television ad program now saying, they've cleaned up the Gulf, things are better now, and they're committed to the preservation of the environment. There is no restriction on that, and I don't know anyone suggesting a restriction on it. The only area where we have to make sure there's not unlimited spending is when it undercuts and destroys the election process itself. So I think it's a balance that has worked in the past, and can work again, if we overturn *Citizens United*.

GPPR: There are reform advocates who have argued that the amount or sources of money going into campaigns is not a problem as long as voters know exactly who is behind a message. The DISCLOSE Act, which you voted twice to overcome filibusters on in 2010, attempts to provide voters with more information about campaign contributions. Do you think that the DISCLOSE Act, or similar legislation that provides contribution and expenditure information, is sufficient to ensure fair elections?

RF: It's definitely not sufficient. I was one of the original authors of the bill, and I strongly support it. It is necessary, but not sufficient, to solve the problem. I'm also working actively to help pass the DISCLOSE Act in other states, such as California, but that's just the first step. What that does is show people what's going on. And then what people

realize is that there are \$10 million contributions being funneled from special corporate interests. At that point, people, I think, are going to want to put the genie back into the bottle. They're going to want to say, "Look, you shouldn't be able to do this." You know, people are very busy. They don't have time to check on who gave what contribution and do all that research in order to vote. There are certain things that need to be simply not allowed. One of the things that shouldn't be allowed is that, when you get a gallon of gas, that that money can be immediately used on a candidate that you don't believe in. The people of this country, for a hundred years, didn't believe in that, and it's only because of *Citizens United* that it's allowed.

INTERVIEW WITH ART ROLNICK: The Moral Investment: The Economic Returns to Early Childhood Education

By Ingrid Stegemoeller

Following its inclusion in President Obama's 2013 State of the Union address, early childhood education has received a growing amount of national attention. Dr. Art Rolnick spoke with *The Review* about the economic case for early childhood education, the socioeconomics of accessing quality education, and promising practices around the nation. Dr. Rolnick was the senior vice president and director of research at the Federal Reserve Bank of Minneapolis from 1985 to 2010. He is the co-director of the Human Capital Research Collaborative at the University of Minnesota, where he received his PhD in economics. He is also a board member of the Minnesota Early Learning Foundation and Ready 4 K. He is the author of the TEDx talk "The Economic Case for Early Childhood Development."

**Georgetown Public Policy Review:
What is the economic case for early
childhood development?**

Art Rolnick: We have had four longitudinal studies, all independent from each other. The Perry Preschool study is the most famous, and the methodology doesn't get much better because it was a randomized control study, and the control group didn't get a high-quality program. The program group got master's-level teachers five days a week and a lot of home visits. We have data on these kids that went for 30 years—actually now, 40 years—and we compared the two groups. These were all kids from vulnerable families, families in poverty, and we compared the kids who received these high-quality programs [to those who did not]. Years later, you find that there are a bunch of metrics: things like they needed less special education, they were less likely to be retained in the first grade, they were more likely to be literate by the sixth grade, graduate, get a job, pay taxes. And the crime rate between the two groups goes down 50 percent. So all we did is we took that data, and we did a cost-benefit.

We knew the cost of the programs in today's dollars was roughly \$20,000 for a two-year program for three- and four-year-olds. We asked what was the return on that investment, and, when we calculated the benefits, we found there are benefits starting fairly early because you save money on the need for special education, you save money on the fact that your kids aren't retained. There are money savings to the community because these kids

grow up to get better jobs than they would otherwise, pay better taxes. And of course the drop in the crime rate—the cost of crime is enormous. So we simply calculated the return on the investment, which you can do with that kind of data. We got a double-digit rate. We actually got an 18 percent overall annual rate of return on that investment, which is enormous. If the private sector saw an investment that was returning 18 percent, it would not go unfunded for very long.

In a nutshell, that's the economic case. This is a really good public investment. I use the word public because most of these benefits (not all of them, but most of them) are community-wide benefits: having more productive workers, less crime, that adds to the welfare of everyone. It's critical to get kids off to the right start. The economic research is also very consistent with the neuroscience research, which says something like 70 percent to 80 percent of brain development occurs in these foundation years: prenatal to 5. So it's also very consistent with another independent line of research.

GPPR: Given this research and the understanding of the great return on investment, why is it that the United States doesn't sufficiently invest in early childhood development, particularly for the kids and families who need it the most?

AR: The families that need it the most are poverty families, kids born in poverty. They have very little political clout in this country. They don't have a lobby, they can't threaten to leave,

it's long term, their parents generally aren't engaged politically, so there's really nobody to speak for the cause, or very few people. Those who are speaking for this investment are not well organized; they're not organized as well as the farm industry, or the steel industry, or public schools. Low-income families just don't have that kind of political clout, and it's the type of problem that's pretty invisible. And the bad outcomes occur many years later, particularly with crime. So it's something we can easily politically put off, and that's what's happened despite all this research.

GPPR: With your leadership, the University of Minnesota recently received a federal Investing in Innovation grant for \$15 million to implement the Child-Parent Center education program, one of three federal grants Minnesota has received recently to focus on early education. What can you tell us about the process you went through to get these grants?

AR: We started out with our first essay, making an argument that this is the best public investment you can make: providing high-quality early education services to vulnerable families, starting as early as prenatally with home visiting (a voluntary parent coaching program). We made a proposal: a home visiting nurse and a scholarship. So we took the research, and in our second essay we proposed that the way you do this in the real world is provide these resources directly to parents because parents are such a critical part of the educational environment for these kids.

We were the only ones making this kind of proposal. We called it a market-based approach because we weren't just sending our kids to Head Start; we were starting them early—prenatal, making sure they started healthy—and then allowing the parents to choose high-quality programs. So we started a four-star rating system, and our scholarships have to be used at a four-star program.

We made this proposal in our second essay, and, as a result of that proposal, some business leaders here in the Twin Cities created an organization called the Minnesota Early Learning Foundation, and we put this proposal into practice. We raised \$20 million privately. We took a neighborhood in St. Paul, a very low-income neighborhood, and now there are 650 families that receive mentors—home visiting nurses, starting prenatally. And the children, when they're three and four, they get a scholarship. That pilot proved very successful, and, as a result, the state of Minnesota got three grants. One was a Race to the Top grant, for \$45 million, to replicate what we did in St. Paul in Minneapolis, in a Native American reservation and in a rural community.

Then one of our most at-risk neighborhoods in Minneapolis, which is focusing on early childhood, got a \$28 million Promise Neighborhood grant. The i3 [Investing in Innovation] grant was our third grant, and that went to the Institute that the Federal Reserve and the University of Minnesota created. My co-director is a gentleman by the name of Arthur Reynolds, and Arthur is famous for the

work he did in Chicago on the Child-Parent Centers, and that's an age 3 to grade 3 program, so it's early education tied into a high-quality kindergarten through grade 3 program. That i3 grant is a replication grant—to replicate what was done in Chicago in Saint Paul—tied into the scholarship model.

GPPR: Could you talk about the value of grants such as the Investing in Innovation Fund (i3)?

AR: I think they're working, and I think it's making a statement. The i3 grant is a way of making a statement that it's time that we seriously consider investing into our most vulnerable kids, because we know how to do this. We know how to make significant progress on the achievement gap. We know how to ensure that kids start school healthy and ready and succeed in school and life.

The grant also allows us to innovate in the sense that we can start doing things that nobody has done before. For example, coordinating the early education programs and the kindergarten through third grade programs to make sure their curricula align, to make sure the teachers are coordinating, to make sure we don't drop the ball. One of the criticisms of this field is the fade out effect: you can do a great job with early education, but once you get to third grade kids who were in early education programs are doing no better than kids who weren't. There's some truth to that if they go to dysfunctional kindergarten through third grade programs. But if kids are going to quality kindergarten through

third grade programs, we're showing that no, you can virtually close the achievement gap by maintaining that kind of quality that you started in the early education foundation.

GPPR: Are there other areas in the country that are doing particularly well in promoting early childhood development?

AR: I think there's some momentum now for early childhood. I think this research is getting publicized enough that we're seeing some major new successful efforts. In North Carolina, you can go back a number of years, when former Governor [James] Hunt helped make great strides. Florida, under Governor Jeb Bush, passed what I would say was historical legislation for that state about early childhood. In Colorado, Governor [John] Hickenlooper, who was formerly the mayor of Denver, passed some really amazing legislation on early childhood, I think it was a sales tax to fund a universal pre-kindergarten program for four-year-olds in Denver. But now he's pushing it as governor. I think Virginia is looking at some very innovative ways of promoting early childhood, and Massachusetts is another state. Michigan just announced a major initiative on early education. So states are starting to pay attention to this, we're making some headway. We have a long way to go, though.

GPPR: When did you first become interested in early childhood policy and programming, and what was the spark?

AR: As director of research, we would reach out to the local community, partly because our job was to take local information on the state of Minnesota, on the ninth Federal Reserve District, which included four other states in the Midwest and bring that economic intelligence to Washington every six weeks. So I was out in the community a lot, and there was a group that formed about 20 years ago that would meet once a month for lunch, invite business people, academics, media people, to learn more about the economy. That was my agenda; to learn as much about the economy and the people in the economy as I could.

And it just so happened we invited a man who was the executive director of an organization called Ready for K. I'm listening to his talk, and he's promoting early childhood education. But there was no economics behind it; he was basically making a moral argument that we should help these kids out, especially our most vulnerable kids who are challenged in school right from the beginning. I told the executive director that they should somehow be making an economic case for what they are doing, and I thought they probably could. As I now tell people, that was my mistake because they agreed with me, they asked me to come on the board to do the research. I tried to explain that my expertise was pre-Civil War banking and I knew absolutely nothing about early childhood education. But the founders of this organization, former governor of the state Al Quie and a former mayor of Minneapolis Don Fraser started calling me up and

recruited me, essentially. It was hard to say no to these guys.

INTERVIEW WITH SHAY BILCHIK: Reforming Crossover Youth Policies: Saving Money and Lives

By Josh Caplan

Crossover youth are youth who were maltreated and involved in the child welfare system, but then commit a crime and “crossover” into the juvenile justice system. Shay Bilchik has devoted his career to gaining a better understanding of this population and informing policymakers at the local, state, and federal levels on how best to prevent youth from crossing over and treating those who do. Mr. Bilchik is the founder and director of the Center for Juvenile Justice Reform at the Georgetown Public Policy Institute (GPPI). Prior to joining Georgetown, he was the President and CEO of the Child Welfare League of America (CWLA). In 2001, 2004, 2005, and 2006, he was named among The NonProfit Times Power and Influence Top 50 for his work on child welfare issues. He was also previous the administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in the US Department of Justice. He spoke with *The Review* about at-risk youth, the juvenile justice system, and options for reform.

**Georgetown Public Policy Review:
What is the Center for Juvenile Justice
Reform (CJJR), and what is your
primary focus?**

Shay Bilchik: The Center for Juvenile Justice Reform at Georgetown University, established in 2007, advances a balanced, multi-systems approach to reducing juvenile delinquency that promotes positive child and youth development, while also holding youth accountable. Housed at the Georgetown Public Policy Institute, the Center is in a unique position to provide strong and sustained national leadership in identifying and highlighting the research on policies and practices that work best to reduce delinquency and achieve better outcomes for this nation's children.

A particular focus of the Center's work is on youth known to both the child welfare and juvenile justice systems, also known as crossover youth. As Center director, I work closely with Georgetown's other policy centers, faculty, and departments in leading the Center's efforts.

GPPR: What are "crossover youth"?

SB: Crossover youth are youth who are dually involved with the child welfare and juvenile justice systems. This means that they either started their system involvement as children or youth who were abused and/or neglected and then became involved in delinquent behavior that resulted in their entry into the juvenile justice system, or started in the juvenile justice system and later were determined to be

abused and/or neglected and entered the child welfare system. This dual involvement challenges both systems to work in a more coordinated fashion, one that better meets the needs of this population.

**GPPR: Are the current policies for
crossover youth satisfactory?**

SB: This is a population of young people who have historically had their cases defaulted from one system to another. They have significant needs around mental health, substance abuse, and acting out behavior, as well as challenges in terms of a cluster of family issues. In light of these circumstances, it is not surprising that the system working initially with the child/youth and family are inclined to hand off the case management to the new system involved with the "case." It is this phenomenon that must change; adopting, instead, a joint or collective responsibility to meet the needs of these youth and their families.

**GPPR: What is the Crossover Youth
Practice Model?**

SB: In order to answer this question, it is necessary to also provide some background around the creation of the Crossover Youth Practice Model (CYPM). Casey Family Programs and the Center for Juvenile Justice Reform have partnered since 2007 to address the unique issues presented by crossover youth. The work undertaken in this partnership has been designed to better address the issues these youth present and meet their needs.

Based on a growing body of knowledge about these youth, their characteristics and the pathway that they follow, CJJR has developed a practice model that describes the specific practices that need to be in place within a jurisdiction in order to reduce the number of youth who crossover between the child welfare and juvenile justice systems, the number of youth entering and reentering care, and the length of stay in out of home care. Now being implemented in 42 counties across the country, the Crossover Youth Practice Model infuses into this work values and standards; evidence-based practices, policies and procedures; and quality assurance processes. It provides a template for how jurisdictions can immediately impact how they serve crossover youth and rapidly impact outcomes.

The practice model creates a nexus between research and the practice learning from the Juvenile Justice & Child Welfare Integration Breakthrough Series Collaborative conducted by CJJR in 2008 and 2009. It provides a mechanism whereby agencies strengthen their organizational structure and implement or improve practices that directly affect the outcomes for crossover youth. This includes but is not limited to the following practices: the creation of a process for identifying crossover youth at the point of crossing over, ensuring that workers are exchanging information in a timely manner, including families in all decision-making aspects of the case, ensuring that foster care bias is not occurring at

the point of detention or disposition, and maximizing the services utilized by each system to prevent crossover from occurring.

Participating in the practice model allows each site to create a seamless process from case opening to case closing that improves outcomes for crossover youth. Implementation of the model ensures that practices are consistent for all youth within a system and resources are shared between the systems to maximize their impact. The model emphasizes the importance of developing cross systems data capacity and the need to use good data to make program and policy decisions. Within the model there is a specific focus on the reduction of youth placed in congregate care facilities—specifically group homes and shelter care—and the increased utilization of families and the community as partners in case planning, policy development, and the building of system capacity.

GPPR: Are there fundamental differences in how states react to crossover youth? Can you categorize the types of responses?

SB: The primary difference in the way states or local jurisdictions react to crossover youth is whether they have policies in place that require joint or integrated case management for these youth and their families. While the default phenomenon that I referenced earlier is fairly common, there are a number of jurisdictions that require their staff to maintain case assessment, planning, and management responsibility—and to share that

responsibility, as appropriate, with their counterparts in the other system.

GPPR: There is a rising consensus in the juvenile justice field that a multi-systems approach to care is key to preventing and rehabilitating crossover youth. What does a multi-systems approach entail? Are there barriers to preventing groups like schools, courts, and welfare organizations from working with each other now?

SB: There is a growing recognition that systems must more effectively work together to better meet the needs of youth who are involved in multiple systems. This includes child welfare and juvenile justice, as well as education, mental health, and substance abuse. This involves building a common vision for how these systems will work together and why it is important to do so, along with a concerted effort to break down the barriers that interfere with this more collaborative approach taking hold. This entails sharing information across systems in an appropriate manner and a commitment to joint case assessment, planning, and management. Confidentiality laws, organizational culture, and differences in mission all can act as barriers to achieving this more collaborative approach. The Crossover Youth Practice Model suggests a path to address and overcome these barriers and better serve the needs of crossover youth.

GPPR: It seems that the current policy fight is between being “tough on crime” and being “right on crime.” Do the current politics favor policies

that punish more than ones that rehabilitate?

SB: Current policies favor a “smart on crime” approach; one that balances prevention with intervention and contemplates the effective use of evidence-based practices to meet the needs of youth involved in, or at risk of becoming involved in, the juvenile justice system. Seen as cost effective, this type of approach consists of the use of validated assessment instruments designed to determine the risk for offending and treatment needs. It also includes the effective matching of those assessments with the correct program or treatment and the measurement of the effect of those interventions as compared to what our science tells us they should be able to achieve. This also leads directly to program and system improvement. This amounts to an evidence-based operating platform that will result in lower recidivism rates and other positive outcomes for our youth, including better educational and behavioral health outcomes. The coming together of the political right and left around this operating platform is at the heart of this “smart on crime” approach.

GPPR: What should the role of parents be? Should there be a focus on parental involvement, and if so, to what extent? In the US, we largely believe that parents both want and know what is best for their children, so they are usually given exceptional discretion in making decisions. Should parental input be optimized or minimized?

SB: Parents and family play an essential role in meeting the needs of youth known to either the child welfare or juvenile justice system, or both. While some look at families as the root of the problem these young people face, they are actually at the heart of meeting those needs. When we look at the most effective programs in reducing delinquency and achieving better outcomes for our most challenged and challenging youth, they are those that rely heavily on the role of families. Although they may include mental health, substance abuse treatment, and general counseling, they also include family strengthening in an effort to build a strong infrastructure of support for the youth once the system is no longer formally involved in their lives. This requires a strength-based approach that recognizes that every family brings skills and expertise around the needs of their children—with family being defined as their immediate caregivers along with extended family members. For families struggling through the situations that brought them into contact with the child welfare and juvenile justice systems, it is hoped that that leads to their more active role in designing and acting upon the interventions designed to improve their children's life outcomes. In this regard, I would hope that we constantly look for ways to optimize the role of families in the work that we do on behalf of our system-involved youth.

GPPR: As we are politically focused on deficit reductions and cost cuttings, is there a fiscal argument

for changing the way we approach crossover youth?

SB: As noted above, changing the way we work with crossover youth has the potential to achieve better outcomes and be more cost-effective. The work that we have undertaken at CJJR with our Crossover Youth Practice Model has preliminarily been shown to change the way systems behave as well as the outcomes experienced by crossover youth—including improving permanency outcomes and reducing recidivism. All of this speaks to the fiscal argument referenced in your question.

GPPR: What is on the horizon for research on crossover youth? Are there notable research projects that are coming out that people should look for?

SB: There has been a growing body of research around crossover youth and issues related to their well-being. Research studies recently released concerning crossover youth in Washington State and Missouri are part of this research, as are studies exploring the disproportionate representation of girls and youth of color in the crossover population. The data referenced in one of my earlier answers on the Crossover Youth Practice Model reflects the largest study ever undertaken focusing on an intervention designed to reduce crossing over and achieve better outcomes for youth who have crossed over. This research is designed to better understand both the characteristics of crossover youth and the most effective approaches toward prevention and intervention.



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