

ASIAN JOURNAL OF **AJPA** PUBLIC AFFAIRS VOLUME 5, NUMBER 1

Reporter: Redefining Journalism in a Social World

Maria Ressa

Social Media: A New Tactic in the Fight Against Corruption

Dr. Robert Klitgaard

Political Significance of Social Media in Southeast Asia

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Review of Amilav Acharya's Whose Ideas Matter? Agency and Power in Asian Regionalism

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Current graduate students and recent graduates are invited to submit papers, case studies, and book reviews for the tenth edition of the *Asian Journal of Public Affairs*.

Paper Guidelines: Papers should not exceed 6,000 words excluding endnotes and bibliography. Please substantiate your analysis with tangible policy recommendations. Submission must include at maximum a 150 word abstract of the paper with contact information. Citations must follow the social science author-date system in the Chicago Manual of Style. Authors are also encouraged to submit book reviews (max. 1,000 words).

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TABLE OF CONTENTS

<i>Notes from the Editors' Desk</i> Editorial Board	2
COMMENTARIES	
<i>Rappler: Redefining Journalism in a Social World</i> Maria Ressa	3
<i>Social Media: A New Tactic in the Fight Against Corruption</i> Dr. Robert Klitgaard	8
<i>Political Significance of Social Media in Southeast Asia</i> Dr. Ong Kian Ming	13
ARTICLES	
<i>Role of the Media in Uncovering the Political Corruption in South Asian Perspective</i> Farruque Ahmed	20
<i>Rethinking Philippine Development</i> Miguel Antonio B. Garcia	38
<i>A Battle for Values: Hong Kong and Its Constitutions</i> Yinxuan Huang and Patrick Overeem	55
<i>Reforming China's Water Law through Reforms of the Division of Administrative Functions and Delegate Powers</i> Larissa Paschyn	69
<i>The State of the American Public Administration Field</i> Wasim Al-Habil	86
BOOK REVIEWS	
<i>Review of Amitav Acharya's Whose Ideas Matter?</i> <i>Agency and Power in Asian Regionalism</i> Ryuta Ito	99

NOTES FROM THE EDITOR'S DESK

Dear Reader,

Welcome to Issue 9 of the Asian Journal of Public Affairs. Due to unforeseen circumstances, we have only published one issue for this academic year, but we assure you that we have maintained the same integrity in publishing as we have had in the past. We thank our readers for their continued support and patience.

The theme of our commentary is the impact of social media, and we are honoured to have pieces written by frontrunners in their field. Our first commentary comes from Ms. Maria Ressa analysing the growing influence of social media in today's politics. Followed by Dr. Robert Klitgaard who discusses how social media in India has found a path from complaints to solutions. Our last commentary is by Dr Ong Kian Ming who illustrates the importance of social media within Southeast Asia.

We further the discussion on the impact of media with our first article, *Role of the Media in Uncovering the Political Corruption in South Asian Perspective*, which discusses extensively the role of media and how it influences corruption in South Asia.

Rethinking the Philippine Development, emphasizes that the Filipino institutional and behavioural contexts need to be taken in to account in order to apply core public policy and economic principles for development.

Next, we have two articles from China focusing on the role of law and its use in

politics and governance. In *A Battle for Values: Hong Kong and Its Constitutions*, the author discusses the role of Basic Law in the debates regarding democracy in Hong Kong, a Special Administrative Region of China. Our article *Reforming China's Water Law through Reforms of the Division of Administrative Functions and Delegate Powers* proposes necessary reforms in water laws in order for water governance to be improved within China.

To round out our articles, we present a piece entitled *The State of the American Public Administration Field* which provides policymakers in Asia insight and important lessons to be learned from the American public administration process.

Finally, our book review of Amitav Acharya's *Whose Ideas Matter? Agency and Power in Asian Regionalism*, analyses Acharya's take on regionalism in Southeast Asia.

Our sincerest thanks to the contributing commentators and authors whose timely responses have made this issue possible. Lastly, we would like to thank our advisors, Associate Professor Darryl Jarvis and Dr Suzaina Kadir for their support, Ms Andrea Liew for her administrative help, and former editor, Mr Arley Smude for his graphic design assistance.

Yours sincerely,

AJPA Editorial Board
April 2012

RAPPLER: REDEFINING JOURNALISM IN A SOCIAL WORLD

Maria Ressa¹

Since I rolled out social media for the Philippines' largest television news group in 2007, I had long been toying with the idea that technology and social media can significantly alter real world outcomes. I had early successes, partly because our campaigns were created for a country which was dubbed the texting capital of the world and, in 2010, named by ComScore as the social media capital of the world.

In a 2007 campaign we called "Boto Mo, Ipatrol Mo" – which roughly translates to Patrol Your Vote, we took the traditional power of broadcast media and combined it with new media – the Internet, mobile phone technology and social media – to create the first instance globally where a news media organization called on citizens to create user-generated content for a very active, political purpose – to patrol their votes and push for clean elections.

We moved one step ahead of western media organizations because of our unique political situation: a country of 88 million people in a democracy which still used manual voting and counting ... where charges of fraud, cheating and violence in elections are constant and consistent.

No candidate ever admits losing in Philippine elections. They just say they were cheated! And as far as violence – well, in 2007, the Philippine National Police said it was one of our most peaceful elections ever – with nearly 130 people killed in 217 poll-related incidents of violence!

The results: anecdotal evidence that cellphones in the hands of ordinary people acted as a form of deterrence, preventing officials from using government

¹ Maria A. Ressa is the CEO and Executive Editor of Rappler, a social news network which uses a hearts and minds approach to news through a unique mood navigator. Created for the web's participatory nature, Rappler combines the best of professional journalism with citizen journalism and crowdsourcing. Her upcoming book, *From Bin Laden to Facebook*, is part of her work as the Author-in-Residence and Senior Fellow at the International Centre for Political Terrorism Research in Singapore.

resources for their campaigns and committing other illegal acts of electioneering as well as helping expose election violence to a nationwide audience.

In the weeks leading up to elections, we received 500 messages a week and on election day, we received a message a minute. This is crowdsourcing for a political purpose. In the process, it breathed new life into idealism and supported individual battles of integrity in far-flung areas of a nation of 7,100 islands. Working together, professional journalists and citizen journalists could shine a national spotlight to local instances of corruption or violence.

While that was successful, I could already see the next iteration in our call for user-generated content. In 2007, two Harvard professors, Nicholas Christakis and James Fowler, began publishing a series of studies using available data from the Heart Study in Framingham, Massachusetts. By using new data visualization and mapping techniques, these social scientists concluded that social networks magnify what they're seeded with, spreading emotions and behaviour like happiness², loneliness³, political views & voting behaviour⁴, sexual behaviour & disease contagion⁵ smoking and even obesity⁶

They formulated the Three Degrees of Influence Rule, which states that emotions and behaviour spread through three degrees. For example, if I'm feeling lonely, my friend has a 52% chance of feeling lonely. My friend's friend (two degrees) has a 25% chance of feeling lonely because I do, and my friend's friend's friend (three degrees) has a 15% chance of feeling lonely.

I was fascinated with finding practical applications for this idea. Focus-group discussions showed us that the Filipino youth were dissatisfied and disillusioned with our country's political processes. So we decided to spread hope. We crafted a campaign that would show, not tell, and use action, not words.

² J.H.Fowler & N.A. Christakis, "Dynamic Spread of Happiness in Large Social Network: Longitudinal Analysis Over 20 Years in the Framingham Heart Study," *British Medical Journal* 337 (2008)

³ J.T. Cacioppo, J.H. Fowler & N.A. Christakis, "Alone in the Crowd: The Structure and Spread of Loneliness in a Large Social Network," *Journal of Personality and Social Psychology*, Vol. 97 (2009).

⁴ J.H. Fowler, M.T. Heaney, D.W. Nickerson, J.F. Padgett & B. Sinclair, "Causality in Political Networks," *American Politics Research*, 39:437 (2011).

⁵ P.S. Bearman, J. Moody & K. Stovel, "Chains of Affection," *American Journal of Psychology*, 110 (2004) and J.J. Potterat and others, "Sexual Network Structure as an Indicator of Epidemic Phase," *Sexually Transmitted Infections*, 78 (2002).

⁶ N.A. Christakis & J.H. Fowler, "The Spread of Obesity in Large Social Network Over 32 Years," *The New England Journal of Medicine*, 375 (2007).

We added a simple tagline to our original campaign. In 2009, it became “Boto Mo, iPatrol Mo: Ako ang Simula.” “Ako ang Simula” – literally translated means “I am the beginning.” In spirit, it means “Change Begins with Me.” We didn’t want to reinvent the wheel so we drew from universal messages. This was inspired by Mahatma Gandhi’s “Be the Change You Want to See.”

We decided to spread hope through empowerment, and we seeded every single communication point with that message. It was a call to action⁷

The results magnified our 2007 campaign 7 to 8 times and again showed me how a mass media campaign combined with technology and social media can inspire action and user-generated content for a tactical, political purpose.

From 2009-2010, we monitored the impact of our experiments in media for social change. Our research arm conducted monthly focus-group discussions which allowed me to tweak the campaign’s progress and choose which platform was appropriate for each message.

We also participated in nationwide surveys, culminating in a final nationwide report conducted by the country’s most credible polling institution, Pulse Asia. Its July 2010 survey showed the full impact of our AKO ANG SIMULA campaign. It said Filipinos reached the highest level of optimism nationwide since the Pulse Asia surveys began in 1999, with 53% optimistic and only 11% pessimistic (the lowest the group has recorded). It also showed a boost to our network’s credibility ratings.

A lot more was happening in 2009, which was a banner year for social media. That was when it hit a global tipping point. The numbers tell the story: if Facebook was a country, it would be the third largest in the world. There were 30,000 hours of videos uploaded every minute on YouTube, reaching a billion views per day. More than 1.5 million pieces of content were shared daily; 25 billion every month, and this is my personal favourite which said it all. In 2009, social media overtook porn as the number 1 activity on the Internet.

In 2011, as Author-in-Residence and Senior Fellow at the International Centre for Political Violence & Terrorism Research at RSIS, I began to seriously study how technology was changing the people using it and, more specifically, I began to use the same studies I used for communication campaigns to look at how terrorism, which is a volatile cocktail of emotions, can spread through social

⁷Video call to action available here

<http://www.youtube.com/user/bravenewworldressa?blend=22&ob=5#p/u/0/D13Q23BXpZg>

networks. Those findings will be published in an upcoming book, FROM BIN LADEN TO FACEBOOK: HOW TERRORISM SPREADS.

News events in 2011 validated ideas I was playing with: the Arab spring, the London riots and Occupy Wall Street showed how quickly social media can amplify and spread emotions virally across societies. As you can see, these news events have both positive and negative consequences. In the London riots, for example, looters planned attacks on social media just as the clean-up was also planned on social media. This more than any event shows us how social media is a tool that can be used for good or evil.

The medium that carries the message shapes and defines the message itself. Social media's instantaneous nature pushed the speed at which these revolutions unravelled and spread discontent virally across borders. The first messages created ripple effects, amplified and pushed further by countless, nameless others spreading not just the message itself but their emotions – what psychologists call emotional contagion, modelled on the networks of the web – loose, non-hierarchical, leaderless.

These are the ideas and experiences that went into the creation of Rappler, a social news network (<http://www.rappler.com>). Rappler comes from the root words “rap” (to talk) + “ripple” (to make waves). A new company set up this year, we are composed of veteran award-winning, investigative journalists working with digital natives, artists, NGO, IT & television professionals. Rappler wants to harness new technology, analyse how it's changing us as people and attempt to use it for social good. In the process, we redefine journalism, build communities, and crowd-source actions for specific purposes.

We wanted to create a pilot, scalable model for countries like the Philippines, where institutions and governance remain weak, leading to a lack of accountability. They need to be societies where internet and mobile penetration rates are high enough to create an alternative distribution platform that could empower the bottom of the pyramid, and there must be high adoption rates to new technology and social media.

Rappler lies at the centre of three overlapping circles: professional journalism, technology and crowdsourcing or what James Surowiecki called, ‘the wisdom of crowds’ – when large groups of people take small steps to create something specific and unique. Rappler gives rich media stories (true multimedia drawing on our broadcasting, print and television backgrounds) with a blend of expert opinion and the wisdom of crowds.

At its centre is the world's only hearts-and-minds approach to news. Every story has a unique mood meter. Neuroscientists say the very act of defining how you feel can make you more prone to listen to reason. So after watching or reading a story, you can click how you feel. After clicking on your mood, you're then prompted to write why you feel that way and to share both the story and your comments on your social networks.

While you're doing that, the data from every mood meter is aggregated onto the site's mood navigator – which exhibits a crowd-sourced mood of the day. That's only the first crowdsourcing Rappler does. In the coming days, expect to see aggregation and visualization of data that help show why specific crowd-sourced actions are necessary.

Functional Magnetic Resonance Imaging studies (fMRI) – brain scans – of people on Facebook and Twitter show that social media is literally rewiring our brains and agitating our emotions. These studies show elevated levels of dopamine, a chemical that causes mild addiction, as well as oxytocin, the “love hormone.” If you hug someone longer than 6 seconds, your body begins to produce oxytocin. It's behind the need to connect, 3rd in Maslow's hierarchy of needs. These are only some of the biological reasons why social media is addictive.

One more key idea is behind Rappler's mood meter: the findings that 80% of the way people make decisions is not because of rational thought but because of their emotions.

When you put these ideas together, you begin to see a fundamental shift in the way we consume media and how technology is heightening our emotions. By anchoring emotions on stories, Rappler stimulates community engagement and creates specific crowd-sourced actions which can spread faster through social media.

Understanding social media begins with understanding technology and its real world impact on people and social networks. If we start there, then it's easier to see potential applications for the future, one where journalism creates a participatory culture and taps collective intelligence for nation-building.

SOCIAL MEDIA: A NEW TACTIC IN THE FIGHT AGAINST CORRUPTION

Dr. Robert Klitgaard¹

You have to admit, it's a snappy title: Ipaidabribe.com.

If you're in India, you can go to Ipaidabribe using SMS or Twitter or Facebook and report corrupt acts. How much did you have to pay for that permit or license, or to get out of that traffic ticket? Your reports and many others become the source of unprecedented data about bribery.

And a source of unprecedented outrage. Over the past year and a half, Ipaidabribe.com helped galvanize a movement against corruption never before seen in India (<http://ipaidabribe.com>).

The People against Corruption

Ipaidabribe helps civil society live up to its anti-corruption potential. Civil society—a.k.a. the people—have distinctive competencies in the fight against street-level corruption. One is knowledge. Collectively, the people know where corruption occurs with police and service-providers, permit-givers and tax-collectors, and in many local construction projects.

How can we glean this knowledge from citizens about corruption? They need to be able to report their experiences easily and anonymously. They need to see results, if only that their reports are not being ignored.

When governments ask citizens to report corruption, the results are often disappointing. Often the process is not easy. Citizens may not believe promises of anonymity and may fear reprisals. And when they do file a report, often nothing ensues. Cynicism is reinforced. Why bother?

Suppose instead citizens report to each other. Suppose we have a website where we can describe our experiences with corruption easily and anonymously by SMS

¹ Robert Klitgaard is a University Professor at Claremont Graduate University in the United States. In parts of the summers of 2010 and 2011, he visited the LKY School as the Li Ka Shing Visiting Professor. In 2012, he and Professor Scott Fritzen used live videostreaming to co-teach a course at both CGU and the LKY School on public sector reform in developing countries.

or Twitter or Facebook. Suppose we can subsequently see the patterns of bribery in our town or region, in this-or-that ministry. Suppose the website also enables us to share the ways that we have managed to avoid paying bribes—how we’ve beaten corruption in our daily lives.

Suppose, in a word, we have ipaidabribe.com.

Social Media

This pioneering Indian website went online in September 2010 by Swati and Ramesh Ramanathan, along with Sridar Iyengar, of the Janaagraha Centre for Citizenship and Democracy, a civil-society organization in Bangalore. “Please do NOT report names,” the website says. “We aim to change processes not target individuals.” Ipaidabribe takes individual reports and produces tables and maps showing where corruption is happening and how much various transactions cost. You can read people’s short reports and examine the resulting data. In another part of the website, people also help each other figure out how to avoid bribes.

In the last year and a half, this idea has gone viral. At least 20 countries have something similar, such as [ipaidbribe](http://ipaidbribe.com) in Pakistan and [ipaidabribe](http://ipaidabribe.com) in Kenya. In Estonia, the smartphone app Bribespot lets users reveal and then visualize the corruption that surrounds them. The app determines the user’s location and then displays reported instances of bribery nearby. The app’s “bribe stream” reveals specifics about each bribe, including the amount and how it was requested or paid (<http://bribespot.com/>).

In Latin America, similar ideas are being tested regarding crime instead of corruption (<http://www.as-coa.org/article.php?id=3887>). Latin America is also using social media to fight electoral corruption. In Argentina, the civil-society organization Citizens’ Power enables citizens to share information about campaign financing for different candidates (<http://poderciudadano.org/quien-te-banca/>). A similar effort has worked in Colombia (<http://www.transparenciacolombia.org.co/HERRAMIENTAS/AplicativoCuentasClaras/tabid/87/Default.aspx>). In Guatemala, citizens use social media to report irregularities in the electoral process (<http://www.miradorelectoralguatemala.org/ushahidi-new/>).

What Impacts?

Evaluation lags innovation. It is not yet known what impacts these initiatives have had. Indeed, a recent conference debated what the measures of success should be (hits on a website? number of bribes reported? changes in measures of

government efficiency? <http://europeandcis.undp.org/blog/2011/11/25/social-media-for-anticorruption-from-“why”-to-“how-to”/>). Professors and students, take note: this is a ripe area for evaluation and policy analysis.

Also for case studies. At least one successful government reformer has thanked Ipaidabrike. Bhaskar Rao, the commissioner of transportation for the Indian state of Karnataka, used data from Ipaidabrike to push through reforms in the motor vehicle department. Licenses are now applied for online, and last year Bangalore launched the world's first automated driving test tracks. Drivers parallel park, navigate a figure eight, and perform other tasks while monitored by electronic sensors.

The automated test “totally eliminated the whims and fancies of the motor vehicle inspectors,” Mr. Rao recently explained. “It is videotaped so everyone can see the results, and everything is very transparent.”

From Complaints to Systems Analysis to Solutions

So, the social media are roaring into prominence in the fight against corruption — and more generally, in the quest for good governance. The next step is to move from *complaints* to *systems analysis*, and from there to *practical solutions*.

Consider “I Propose,” a website run by university students in Mexico City (<http://www.yopropongo.org/>). People are invited to propose ideas to help solve social problems in Mexico City. Through the site's blog, Twitter feed, and Facebook page, the site's administrators ask people which problems need to be solved and elicit ideas about practical solutions.

Social innovation camps, pioneered in the United Kingdom, have blossomed in the last two years in five countries of Eastern and Central Europe, including Russia. The camps convene experts in social problems and solutions along with software designers and developers. The goal: to mobilize innovations in the social media applied to social change. http://issuu.com/undp_in_europe_cis/docs/social_media_report_-_external

Think of other possibilities with experts. Lawyers know how corruption works in the legal system. Accountants know all about tax scams. Companies involved in public works know how procurement can be corrupted. These kinds of corruption often go beyond the street-level varieties experienced by ordinary citizens. Social media could help lawyers, accountants, and business people report instances of corruption. And beyond individual complaints, social media

could encourage them to describe how various corrupt systems work. This knowledge could then be used to crowd-source possible improvements.

What will it take to take these next steps from complaints to solutions? A business model, for one thing. Ipaidabribe.com in India has an operating budget of about USD80,000/year. It is supported by a foundation set up by Pierre Omidyar, a co-founder of Ebay, and it is also part of a well-funded civil-society organization. But many of the social network sites appear lack sustainable revenues. Ipaidabribe in Kenya, for example, is funded from its founder's pockets.

To involve the experts—the lawyers and accountants and business firms—we need to make a business case for these steps—and then create a feasible mode of collective action. In many countries, systemic corruption is a kind of equilibrium. If your firm won't pay the bribe, it won't get a contract. Ditto, perhaps, for a verdict. No firm wants to pay; it has to, because if it doesn't, others will. If firms can agree with each other not to pay, however, and their agreement can be enforced, then a new, reduced-bribe or no-bribe equilibrium can be the goal.

Consider an example. Transparency International has pioneered integrity pacts. Firms bidding on big contracts each sign a pledge. It says, in effect, "I promise not to bribe, and if any firm that also signs this pledge thinks I bribed, I will open my books to inspection." This pledge increases transparency and helps firms resist extortion. ("I would love to, but the other firms would find out and I'd be ruined.")

Innovative uses of social media could add further infusions of transparency and therefore of commitment. After all, corruption is a crime of calculation. If the chances go up that bad behavior will be reported, the probability of being caught also goes up. This in turns makes it less desirable to undertake bad behavior.

Speculating, now: how might the social media enable big steps forward against corruption? One idea is to get together

- the activists who have founded Ipaidabribe, I Propose, Bribespot, and the rest,
- big players in the social media—the leaders of Facebook and Microsoft, Google and Twitter, and
- leaders in areas of business expertise such as Chambers of Commerce, Bar Associations, accountants organizations, and so forth.

These people would consider together how to move from individual complaints to systems analysis, and then to solutions. Design some experiments. Run some

pilot projects. Detail the business case. Garner longer-term agreements and funding.

Who might convene such meetings? One idea is an organization like the World Economic Forum. Or perhaps a consortium of universities, particularly schools of public policy, business, accounting, and law. After all, this is the path of much of what we do at places like the Lee Kuan Yew School or Claremont Graduate University. We study specific problems. We try to understand the deeper, systemic causes. And we examine the how-to of possible solutions, in the messy dimensions of design, management, and sustainability.

As the example of fighting corruption indicates, the social media offers all of us a new and exciting set of tools to gather information, understand how systems work, and think through alternative futures, together.

POLITICAL SIGNIFICANCE OF SOCIAL MEDIA IN SOUTHEAST ASIA

Dr. Ong Kian Ming¹

In almost any country with a relatively high internet penetration rate, each person would remember a story of a political gaffe which was spread using a social media platform. Indonesians may point to Communications Minister Tifatul Sembiring joking about AIDS being 'caused by the reckless use of one's penis' on his twitter account. Singaporeans would probably remember Grace Fu, a Senior Minister of State pointing out on Facebook of the possibility of 'a drastic change in the standard of living' of her family because of a 37% pay cut. Malaysians may remember a YouTube clip of Jessie Ooi lashing out at Lim Guan Eng, the Chief Minister of Penang, during a political debate between him and MCA President, Dr Chua Soi Lek. These gaffes, which were played out in public through social media, illustrate the growing influence and importance of this medium of communication in the larger political landscape.

While these examples make good headlines, the exact relationship between social media and the political landscape in a country is still not very well spelled out. This is not surprising given that this relationship is constantly evolving and is driven by complicated underlying processes that are not yet properly understood.

But what most people will agree with is that social media is an important component of the political process and is thus politically significant and will become increasingly important moving forward

In this short essay, I will attempt to examine the following issues pertaining to the social media as part of the political landscape in South East Asia: (i) why social media is already and will become increasingly influential in the political landscape (ii) the relationship between social media and political competition (iii) strategies of political outreach using social media and finally (iv) some speculative thoughts on the evolution of the influence of social media on politics

¹ Ong Kian Ming obtained his PhD in political science from Duke University, where he was a Fulbright Scholar. He is now a political analyst and lecturer at UCSI University. He writes regularly for *Malaysiakini* and *The Edge Financial Daily*. He tweets using the handle *imokman* and can be reached at *im.ok.man@gmail.com*.

Growing Importance of Social Media

South East Asia has many characteristics which make it fertile ground to examine the growing importance of social media on the political landscape. Its population of over 600 million makes covers over 5 million square kilometres, 11 countries and thousands of linguistic and ethnic groups. The political systems of the 11 countries are also diverse. Vietnam and Laos has no elections, Malaysia and Singapore have had elections that have been dominated by one coalition or party, Philippines and Thailand have a longer history of competitive elections and Indonesia has transitioned to a competitive democracy since 1998. On the whole, most countries in South East Asia are on the path towards more competitive elections in the context of a rapid increase in the internet penetration rate and hence, the proliferation in the use of social media. At the same time, internet censorship is relatively limited and popular social media websites are accessible in all of the Southeast Asian countries.²

The proliferation of social media usage can be approximated by examining the number of Facebook users by country.

Table 1: Comparing Facebook and Population Rank in South East Asian countries³

No	Country ⁴	No of FB users	Population (2011)	Population Rank	Facebook Population Rank
1	Indonesia	43,515,080	237,641,326	4	3
2	Philippines	27,724,040	94,013,200	12	8
3	Thailand	14,235,700	65,479,453	21	16
4	Malaysia	12,365,780	28,334,135	42	17
5	Vietnam	3,173,480	8,784,0000	13	45
6	Singapore	2,602,880	5,183,700	116	54
7	Cambodia	491,480	13,395,682	68	94
8	Brunei	234,060	422,700	173	118
9	Laos	155,640	646,5800	103	130

Source: <http://www.socialbakers.com/Facebook-statistics/> (Retrieved on 31 March, 2012)

² Vietnam probably has the most extensive internet censorship in South East Asia. There were reports that Facebook was intermittently blocked in 2009.

³ Facebook user statistics are not available for Myanmar and East Timor / Timur-Leste

⁴ China bans Facebook although there are still approximately half a million Chinese who manage to get around the official firewalls to use access this website.

According to Table 1 above, four out of the top 20 countries by Facebook population rank are South East Asian countries. Indonesia, despite having a fifth the population of India, was only behind India by approximately 2 million Facebook users at the time of writing. The other three countries in the top 20 – Philippines, Thailand and Malaysia – all have Facebook population ranks which are ahead of their population ranks. Malaysia, for example, is ranked 42nd in terms of population but comes in at 17 by Facebook population. Of the 9 South East Asian countries where Facebook user statistics are available, six have Facebook population ranks which are higher than their respective population ranks. (Vietnam, Cambodia, and Laos are the three exceptions)

Multiple factors are working together to drive the increase in social media usage. Increasing disposable incomes in a fast growing South East Asia propels demand for internet access, which drives more users to popular social media platforms. The increase in the number of devices which can be used to access the internet such as desktops, laptops, netbooks, mobile internet dongles, Wi-Fi, Ipad, and smartphones also drives social media traffic. The proliferation of cyber-cafes, especially in semi-urban and rural areas, has also increased the accessibility of social media to lower income groups and among the youth. Certain countries in South East Asia stand out in terms of the popularity and ubiquity of certain smart phones which are within the incomes of a large majority of the working population in these countries. For example, Blackberry is the no.1 smartphone in Indonesia, the Philippines and Thailand.⁵ The high exposure of South East Asian countries to trade relationships with the developed world, the exposure to Western, especially American, popular culture as well as a large number of Western tourists also help drive exposure to social media.

Facebook user rankings act as a good proxy for the penetration of social media given its ubiquity as a social media platform. But other social media platforms for different purposes such as social networking (LinkedIn, Google+, Twitter), blogging (Blogger, Tumblr, Wordpress), photo / video sharing (YouTube, Vimeo, Picasa, Flickr) and news / content sharing (Delicious, digg, pininterest, Reddit) continue to gain popularity. The proliferation of different social media platforms catering to increasingly diverse audiences will increase not just the breadth of social media penetration but also its depth as well in terms of sophistication and intensity of use. The increasing ubiquity and diversity of various social media platforms coupled with its increased accessibility through Wi-Fi networks, smartphones, desktops and laptops increases the network effect of social media exponentially. A manifestation of this effect can be seen in how quickly a piece of

⁵<http://www.cantechletter.com/2012/03/the-blackberry-in-emerging-markets-how-research-in-motion-can-rebound/> (Retrieved 2nd April, 2012)

news or video can go viral since users can share this information through a variety of channels and social media platforms.

The large and growing number of users of social media, especially in South East Asia, who are increasingly sophisticated consumers of various social media platforms, means that politicians can no longer afford to ignore the significant proportion of the population who are 'citizens' of the social media universe. 'Reaching out' through social media is increasingly seen as a necessity rather than a luxury for the political class. Indeed, in some countries in the region, this is already the case. It is no longer sufficient for a politician or political party just to have a website. Twitter and Facebook accounts replete with links to blogs and YouTube clips and Instagram pictures taken on smartphones are must haves as well.

Political Impact of Social Media

While most politicians agree that social media cannot be ignored, there is much less agreement with regard to the potential political impact of social media. Can social media play an instrumental role in toppling non-democratic regimes as was speculated in the Arab Spring countries of Egypt, Tunisia, and Libya? Could non-democratic regimes use social media as a way of monitoring and repressing political dissidents? Can social media level the playing field between a political incumbent which usually has more resources for publicity at its disposal compared the parties in the opposition?

The Arab Spring has no doubt spurred various studies of the causes of regime change in this specific context and within the larger context of causes of democratization. These studies will probably emphasize different explanatory factors, among which social media will be one of many. My own opinion is that some commentators have overplayed the importance of social media in causing regime change in the Arab Spring. Other structural reasons such as disunity within the ruling regime and the ability to sustain large scale protests (and in some cases, armed warfare) in different parts of each country probably played more instrumental roles.

This is not to say that social media only has a limited political impact. There are at least three areas in which social media have the potential to have a significant political impact: content generation and sharing; networking among the politically like-minded; and accentuating the mistakes of politicians, especially within the ruling party.

The ability for internet users to generate their own content through blogs, for example, is one of the basic features of the Web 2.0 landscape. This means that the content generated by an individual blogger or user has the potential to reach

the same online audience as the content generated by a large news organization. Social media increases this potential through the ability of users to share this content with their circle of friends, acquaintances and followers. It increases the ability of the individual blogger or user to 'push' his or her content out there in cyberspace. This increases the political salience of user-generated content that is politically relevant. For example, intelligent and thoughtful critiques, political harangues and satire against the policies of an incumbent government can quickly gain a large following if it is well publicized through social media.

Social Media also significantly increases the ability of the politically liked minded to network and mobilize. Those who are of the same political inclination are much more likely to be 'friends' and 'like' the same political causes on Facebook and to 'follow' each other on twitter, for example. They can share critical information in closed groups on Facebook and come to each other's aid in twitter 'wars' with political adversaries. They can mobilize their friends to attend the same political events. This networking ability is more significant where there are restrictions on political rights and civil liberties which prevent anti-government / pro-opposition individuals and groups from networking in the physical world. These restrictions are much less effective in cyberspace. Of course, such groups can also be 'infiltrated' through social media but the larger point regarding the ability for the politically like-minded remains.

Finally, social media can and will accentuate the mistakes made by the political class. The political gaffes highlighted at the beginning of this essay are examples of mistakes which were widely shared through social media. But these mistakes are not confined to political gaffes. More serious mistakes such as evidence of police brutality and political corruption can be more easily captured and disseminated through social media. Users also have the ability to select, edit and enhance information, images and videos in order to increase the effectiveness and salience of the intended political message. For example, many videos and images taken by protestors in the Bersih 2.0 rally on the streets of Kuala Lumpur on the 9th of July, 2010, were edited, enhanced and put together as YouTube clips with the appropriate background music and text which were then widely disseminated through Facebook and twitter. These clips highlighted instances of police brutality which made international headlines and put significant pressure on the Malaysian government.

While social media is more likely to emphasize the mistakes made by politicians in government, since they are more well-known and have greater public exposure, it can also negatively affect those in the opposition. For example, damaging video clips featuring someone who looks like the Malaysian opposition leader, Anwar Ibrahim, having sexual intercourse with a prostitute was widely circulated through social media.

What is less well specified is the extent to which social media can have an impact on election results. While social media is likely to be an important feature of the electoral landscape, especially in the context of competitive elections, there still has not yet been a definitive case where an incumbent government in South East Asia has lost an election purely because of social media. Other more fundamental political factors such as corruption, management of the economy, the salience of the political messages and positions taken by political parties still hold sway. Whether or not this will continue to be the case, especially as social media's reach expands to cover a larger and larger percentage of the voting population, remains to be seen. What is more certain is that social media tips the balance in favour of the opposition especially in the context of a not fully democratic electoral landscape such as the ones found in Cambodia, Malaysia and Singapore, though to different extent depending on the pervasiveness of social media.

Political Outreach using Social Media

There is still a great degree of variety in terms of social media campaign strategies employed by the various political parties across South East Asia. Politicians and political parties in Singapore, for example, are not heavy users of social media despite the country having the highest internet penetration and smart phone usage rate in South East Asia. The opposition parties and candidates in Singapore have also been relatively slow in using social media for political outreach despite this being one of the few channels where it has a 'natural' advantage of the ruling government. The National Solidarity Party's Nicole Seah has the most number of 'likes' on Facebook among Singaporean politicians⁶ but that page has relatively little activity.

In contrast, politicians in Malaysia are far more active on Facebook and twitter to the extent that statements made by some politicians on twitter are often reported as political news. Malaysian Prime Minister Najib Razak has a comprehensive social media presence in the form of a blog (www.1malaysia.com.my) , a Facebook page in English / Malay (almost 1 million likes) and in Chinese (over 5000 likes), his twitter account (over 500,000 followers) and a YouTube page (<http://www.YouTube.com/user/najibrazak/featured>). His counterpart, opposition leader Anwar Ibrahim also has an active social media presence with a Facebook page (over 350,000 likes), a twitter account (over 140,000 followers) and a blog (www.anwaribrahimblog.com) and a webpage (www.anwaribrahim.com). Most of the top political leaders in Malaysia are active in the social media sphere with many of them having recently jumped on the twitter bandwagon.

⁶ Over 100,000 likes at the time of writing.

At its very basic level, social media is used to push out press statements and video clips of various political activities of individual politicians and their parties. Appealing for campaign funds through social media is also catching on especially among opposition politicians operating in less than free and fair electoral settings. Savvier politicians are also using social media to build their own brand and to increase their own political profile especially at the national level. The savviest among these politicians use social media to show that they are 'in touch' with the people commenting on popular culture such as movies and sports and to respond to queries about various political issues using social media.

Using social media as a campaign tool also comes with its fair share of risk as a politician could make mistakes more easily over this more spontaneous channel of political outreach as the example of the tweet by Indonesian Communications Minister Tifatul Sembiring showed. The ability to be more 'genuine' through social media is not without its pitfalls.

Evolution of Social Media and its Political Impact

The story of social media's political impact is still being written. Social media technology will continue to evolve and become more sophisticated. More software applications will be created to be used on various social media platforms. Users will also be increasingly sophisticated users of social media. Political parties and politicians are usually a step behind the latest technological trends. Those who can stay a step ahead of the game by utilizing social media in new and creative ways of political outreach including for fundraising, recruitment of members, coordination of election workers and so on, will be able to reap the political rewards.

Great political competition in the region will also increase the salience and importance of social media as more and more political parties and individual politicians recognize the potential of social media as a branding tool. Campaigns, especially those at the national level involving presidential elections, for example, will have to have increasingly coordinated campaign strategies where social media integrated into the political outreach efforts. The media will also have to constantly adjust to the changing political landscape as it is influenced by social media including the incorporation of social media generated news and feedback into the news cycle in the increasingly competitive environment of trying to capture a larger share of 'eyeballs'.

What this means is that the social media landscape will continue to be a rich area of research, investigation and insight for those in the political arena such as journalists, analysts, academics and politicians for many years to come.

ROLE OF MEDIA IN UNCOVERING POLITICAL CORRUPTION IN SOUTH ASIAN PERSPECTIVE

Farruque Ahmed¹

The electronic media is one of the most powerful tools to disseminate information in the shortest possible time. However, there is always debate on the neutrality of the media. The media in the West is used as a check on the actions of duty-bearers and the public sector however this culture has yet to be translated in Asia. The South Asian media also has propensity to favour narrow party and personal interests instead of covering public interest issues. The Bangladeshi media has undergone significant changes since 1990s. The liberalisation of the media has brought more than two-dozen satellite TV channels within the last five years. Despite this 'boom' in the media industry, journalists are reluctant to uncover the misdeeds of politicians because of threats and torture. The media has been politicised in Bangladesh as media supporting the incumbent party in power works towards exposing the perceived misdeeds of the opposition. However, the empirical data shows that there is a third category beyond this paradigm, which uncovers the political misdeeds across the parties to the wider populace.

Introduction

Development communication involves creating mechanisms to broaden public access to information on development initiatives, activities and results. It is about transmitting information and message to generate new knowledge and consensus in order to facilitate change among the stakeholders (Mefalopulos 2008). There has been a renaissance in the twenty-first century comparable to the early decades of the Cold War, when winning hearts and minds of the masses in the third world was intrinsically linked to exposure to modern commercial mass media. During the 1970s and 1980s, media scholars along with activists effectively challenged the motivations behind the paternalistic discourse of development with its historical assumptions and imperial ambitions. Responding to these critiques, practitioners in the field of development communication began to solicit involvement from grassroots organisations and encourage community participation to justify more humble goals of localised social change. This

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newfound humility or self-reflection among conscious development communication practitioners and organisations was taking place just as the steady pace of liberalisation and commercialisation of new and old media systems began to change the terms of both institutional politics and everyday cultural practice across post-Cold War market societies (Chakravartty 2009, 37-9).

The West has dominated literature on print media with a focus on South Asia being a recent phenomenon. The “fourth branch of government,” “a political institution,” “an integral part of the American political system,” “a tool for governing”- all these labels have been used to characterise the power of U.S. media (Graber 2007, ix). The term “Asian values” traces back as far as the 1970s when it was used to explain the relationship between Asian models of modernisation and cultural identities. It was also used in the political discourse to explain differences between Asia and the West in concepts and practices of human rights, democracy, and freedom. While Asian values were employed to support efforts to keep Asia in social, cultural and political policies, they were also accused of being exploited by some governments to justify their authoritarian rules (Xiaoge 2005, 3).

The media plays a significant role in curbing the political corruption by uncovering the misdeeds of politicians and other government officials. But there is no standard definition of political corruption. Transparency International (TI) and World Bank define political corruption as the abuse of entrusted power that harms the public interest for getting the personal benefits in order to prolong the existing power or to accumulate the state resources (Hodess 2004). Based on the characteristics of this definition, we can identify political corruption, in general. When the political misdeeds are exposed by the investigative reports of the media, citizens may change their voting behaviour. Therefore, the media coverage of political misdeeds plays a great role in the national election.

Holbrook, Bizer and Krosnick (2000, 226) argue that news media coverage of politics shapes public attitudes in a number of ways. One effect is agenda setting, whereby the more coverage the media devote to an issue, the more nationally important people perceive the issue to be. Another media effect is priming, whereby people judge the performance of government officials based mostly on issues heavily covered by the media (Krosnick and Kinder 1990). News media coverage can frame an issue by drawing people’s attention to some aspects of the issue and ignoring others. It makes government especially salient as a force influencing social life. So people who are highly exposed to the media tend to credit or blame government more for the country’s fortunes and misfortunes (Abramowitz et al.1988). This paper aims to identify role of the media in uncovering the political corruption in South Asia, particularly in Bangladesh.

Methodology

This paper is based on mixed methods of both theoretical and empirical data. The scholarly literature focuses on the media, corruption, culture and politics in Asian context, in general, and Bangladesh, in particular. The empirical data derives from a related research project entitled, 'Political Corruption and the Media in South Asia: A Bangladesh Perspective.' The potential stakeholders in Bangladesh are selected following snowball sampling method which uses recommendations to find people for this study with the specific range of skills that has been determined as being useful, from Non-Government Organisation (NGO) workers, civil society professionals, journalists and media professionals. Also, two focus group discussions on the same issue have been conducted. The sample size for this particular issue including the focus groups is 62. The individual interview took place in Dhaka in 2010 and each interview took 30-35 minutes. Out of two focus groups, one took place in *Moulvibazar* district at the semi urban area and the other in *Kishoregonj* district at the rural area. The first group consists of 12 members and took about 80-90 minutes and the other is of nine members and took 60-70 minutes. Thus, the potential stakeholders from urban, semi urban and rural area of Bangladesh provide a comprehensive view on the undertaken issue.

Determinants of Corruption

In theory, the incidence of corruption can be explained by three types of determinants (Brunetti & Weder 2003, 1801-4). The first focuses on the role of internal mechanisms such as the recruitment and promotion process in the bureaucracy, looking at whether meritocracy or nepotism and incentives, such as level of public sector wages within the bureaucracy, affect the incidences of corruption. A second branch stresses the role of external mechanisms in checking corruption (at least its pervasiveness) such as an independent judiciary or watchdog body. Finally, the third branch argues that corruption can be explained by more indirect factors, such as culture or the level of rents that can be appropriated. Brunetti and Weder also endorse a wide range of scholars like as Rauch and Evans (2000), Rijkceghem and Weder (2001), Rahman (1986), Ades and Di Tella (1999), Lee (1986), Tanzi (1994), Shleifer and Vishny (1993), Mauro (1995), and Kaufmann (1997) in explaining the behaviour of these determinants.

Internal Controls of Corruption

Brunetti and Weder (2003, 1803) argue that all systems and incentives which control corruption within the bureaucracy tends to be high in an administrative environment where there is a lack of explicit standards of performance which are strictly enforced and in an environment where the individual bureaucrat is

poorly supervised. Rauch and Evans (2000, 49-71) argue that an important aspect of internal control is whether the recruitment and promotion process in the bureaucracy is based on meritocracy or on nepotism. They claim that less nepotism tends to reduce the probability that internal control is eliminated by collusion among bureaucrats, and also they test this point by constructing an index of meritocratic recruitment and promotion and showing that it is significantly associated with corruption in a sample of less developed countries. Rijkeghem and Weder also claim that a low level of public sector wages compared to wages in the private sector increases the incentives for bureaucrats to accept bribes in less developed countries (2001, 307-31).

External Controls of Corruption

Brunetti and Weder (2003) argue that a court system where corrupt bureaucrats can be easily and effectively sued sharply reduces the potential rewards of corruption, and in countries with less-developed checks and balances, other parts of the society can play the role of external controller. Rahman (1986) describes such a mechanism in the case of Singapore where citizens' committees were established, which enables citizens to vent their grievances and seek redress. He argues that an empirical analysis of the effects of external control on corruption is difficult since there are few convincing empirical measures for cross-country differences of the power of external control mechanisms. Empirical studies such as Ades and Di Tella (1999, 982-93) use rather indirect measures such as the general level of development and education to capture the ability of the civil society to control government performance. They also argue that a free press is another potentially powerful external control on corruption.

Indirect Determinants of Corruption

Brunetti and Weder further include culture and level of distortions in the economy as indirect determinants (2003). Lee (1986) for instance suggests that a culture of bureaucratic elitism may lead to a disassociation of civil servants with the rest of society and breed corruption. Tanzi (1994, iii) explains clearly that the absence of a culture of arm's length relationships may lead to corruption becoming systemic which is likely to grow with time because of the learning-by-doing quality that it entails. He adds that individuals who begin to bend the rules will progressively find it easier on moral or practical grounds to break them; others, who, in a different environment, might not have succumbed to corruption, will begin to imitate those who have. When it is assumed as Tanzi claims "everyone does it," corruption will no longer convey the stigma that it does in some countries. Shleifer and Vishny (1993, 599-617) suggest that more ethnically diverse countries are prone to particularly harmful forms of corruption. Kaufman (1997, 114-31) tests the relationship between an indicator of

regulatory discretion and corruption and finds a strong correlation in a small sample of developing countries that corruption is negatively associated with development objectives everywhere. He also unveils that opportunistic bureaucrats and politicians who try to maximise their benefits without regarding the impact of perdition on the “size of the overall pie” may account for the particularly adverse impact of corruption in some countries of Africa, South Asia, and the former Soviet Union, which are very relevant to the case of Bangladesh.

Role of the Media in Politics

This article focuses on the mass media, which is intended for a large audience. It includes print media such as newspapers and electronic media such as TV, radio, internet, phone which covers national and international news. According to Habermas (2006, 415), the centre of the political system consists of the familiar institutions: parliaments, courts, administrative agencies, and government. Each branch is described as a specialised deliberative arena and the corresponding output - legislative decisions and political programmes, rulings or verdicts, administrative measures and decrees, guidelines, and policies - results from different types of institutionalised deliberation and negotiation processes. At the periphery of the political system, he claims, the public sphere is rooted in networks for wild flows of messages - news, reports, commentaries, talks, scenes and images, and shows and movies with an informative, polemical, educational, or entertaining content. These published opinions also originate from various types of actors; politicians and political parties; lobbyists and pressure groups; or actors of civil society. They are selected and shaped by mass media professionals and received by broad and overlapping audiences, camps, subcultures, and so on.

Xiaoge (2005, 53) suggests three roles of the press in society advanced by the pro-government camp is as follows: advocacy of a co-operative role for the press in nation building and national development; the role of the press as catalyst for social and political change; and the duty of the press to educate instead of merely entertain, maintain social stability and racial harmony, and aid in economic development and nation building. Also, he prioritises these roles in Asia largely in line with social structure, political systems, cultural sensitivity and traditions, economic conditions, and historical experiences.

The media has various roles to play at the different contexts even within the same political culture. Sometimes the media plays the role of ‘watchdog’ or public sphere where individuals and institutions are supposed to serve, the public remain transparent and are held accountable (Coronel 2009, 3). On the other hand, Peters (2003, 44) claims that a difficult relationship between journalism and political power is a hallmark of democratic society, and to that extent, a tendency

to manipulate news and shape the agenda of public debate exists in all societies. He also adds that in countries where democratic culture is not well established restrictions on media tend to be more explicit and profoundly damaging to debate or public engagement. Where the affairs of government or powerful interest groups are protected by secrecy, journalists face considerable obstacles - and physical risk - if they embark upon investigations that could lead to exposing corruption. Yet the media also face challenges within their own ranks.

Media Ethics and Accountability

Most work in the field of media ethics focuses on media producers. From such early classics as Merrill and Barney (1975) to most recent studies by Christians, Ferre and Fackler (1993), most books on media ethics deal with the resolution of moral dilemmas media producers face in the execution of their profession. The existing codes of professional ethics address the rights and wrongs of professional producers. Exploration of media morality almost exclusively deals with the moral problems of the messengers and their messages. Many journalists' organisations have adopted codes of ethics for the self-regulations of professional conduct. Press councils around the world deliberate and judge the standards by which producers should behave. A key concern of this producer-centred activity in media ethics is the quest for professional freedom, quality and responsibility in media performance.

Many reasons account for why governments are better informed than voters and hence act on the basis of privileged information. For example, if a bridge or dam is being built, citizens can only ascertain whether the authorities have paid the proper attention to the relevant costs and benefits through media scrutiny. Similarly when natural disasters strike, active mass media increases the ability for citizens to monitor their representatives' effort to protect the vulnerable and to provide disaster relief and other things. This is particularly important in low-income countries, where citizens rely so strongly on the state for social protection. Suppose, for example, that in a region of a country containing 50 villages, only one is hit by a flood. Without the media only those directly affected can observe the government's actions; however, mass media enable citizens in all 50 villages to observe whether the government is responsive. This raises politicians' incentives to respond, because citizens in the other 49 villages may use this information in their voting decisions (Besley et al. 2002, 45-6).

Ownership and Control of the Media

In modern economies and societies, the availability of information is central to better decision making by citizens and consumers. In political markets, citizens require information about candidates to make intelligent voting choices. In

economic markets, including financial markets, consumers and investors require information to select products and securities. The availability of information is a crucial determinant of the efficiency of political and economic markets (Islam et al. 2002). The media serve as the intermediaries that collect information and make it available to citizens and consumers. Throughout the world, governments regulate media using measures ranging from content restrictions in broadcasting licenses to constitutional freedom of expression provisions. In some cases, ownership is influenced directly by regulation (Djankov et al. 2003).

A World Bank study finds that greater freedom of the press is associated with lower perceived corruption greater level of government ownership of the media is associated with less free press, and dissemination of less information relevant to market. It also finds that government ownership of the media is associated with negative political and social outcomes, namely more corruption, inferior governance, less developed financial markets and poorer education and health outcomes economies (Winfield 2006). Moreover, a lack of diversity of media ownership threatens to stifle the freedom of expression essential to informed public debate. The classic situation in which media owners interfere with their journalists' activities is when the government itself owns all or most of a country's television, radio and press. Indeed, evidence collected from 97 countries suggests that state-owned media tend, in general, to be less effective than private media in monitoring government activities (WDR 2002).

Envelope culture in Asian journalism

Salaries for media workers are poor in many Asian countries, leading journalists to seek supplementary forms of income, with the envelope culture being one significant source of funding. The envelope culture refers to envelopes containing money or other valuable gifts that individuals give to journalists at interviews and press conferences. The countries with the best-documented envelope cultures include Indonesia and the Philippines, although envelope giving has been noted in countries as far a field as China, South Korea and Pakistan (Romano 2009, 9). Not all journalists rationalise the envelope as being part of a culture of gift-giving. In many countries, it results from direct corruption and profiteering. This occurs in nations like Kazakhstan, where government and business figures pay certain journalists to write positive stories about their performance (Kenny and Gross 2008, 517). Even if the envelope does stem from cultural traditions, it should be recognised that not all forms of gift-giving and patron-client relationships are automatically acceptable behaviours for journalists and other democratic actors. Most cultures have notions of public responsibility and define as inappropriate any behaviour by public officials that deviates from accepted laws and norms, or involves misuse of public resources and powers (in contrast

to use of one's own personal assets) with the aim of serving private ends (Theobald 1990, 40-5).

According to Romano, various forms of envelope journalism and journalistic corruption are widespread in those Asian countries that suffer from entrenched corruption in the political- economic spheres and/or large, low-paying bureaucracies. He claims the dilemma lies in the nature of patron-client relationships. Once a relationship is established, both parties must maintain certain unspoken expectations or risk losing the connection. The unspoken expectations of many sources become clear when one considers that most envelopes come from sources who contact journalists seeking to gain or avoid publicity; they rarely give envelopes when they are contacted regarding stories generated by the reporters' own initiative. Dissatisfied sources do not demand their money back, but the envelope relationship creates a psychological demand on journalists who do not want to hurt someone who has been generous to them (2003, 151-63).

"The political situation in South Asia is deteriorating," Shawn Crispin, one of the Committee to Protect Journalists (CPJ) Asia programme consultant, informed Reuters after the group announced its second "impunity index" (Mogato 2009, 1). These countries are entering now into eras of sustained armed conflict and journalists are immediately at risk. Crispin added that the state directly targeted some journalists in Sri Lanka while in Pakistan, journalists were caught between opposing political forces. Pakistan has 10 cases of unsolved journalist killings and is ranked 10th in the index. The situation in Pakistan is quickly deteriorating. There are more and more journalists getting caught, not necessarily in the crossfire itself, but by competing groups. Six of 14 states in the index are from South Asia, including India, which has a functioning legal and law enforcement systems, and it is ranked 14th with seven cases of unsolved murders. Other South Asian states on the CPJ list are Afghanistan, Nepal and Bangladesh. However, there are also complaints that many newspapers slant their coverage in favour of the narrow party and personal interests of the newspaper owners and their conglomerates, and that the profit motive leads them to neglect to cover issues relevant to the wider populace (Vilanilam 2005).

State-Media Relations in Bangladesh

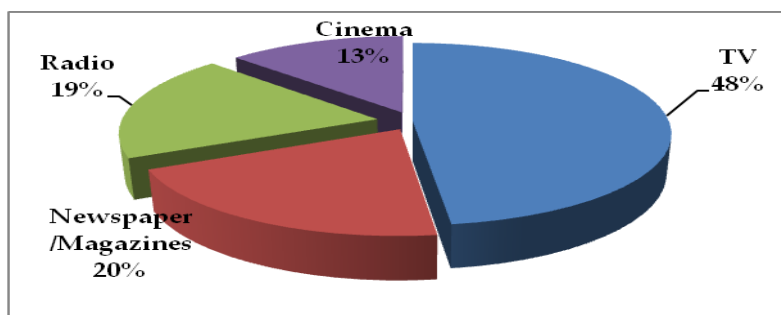
Journalists and others are potentially subject to incarceration when private parties in Bangladesh file criminal libel proceedings. Members of Parliament (MPs) from the ruling party have, in the past, filed separate criminal libel suits against several newspapers after articles were published that the politicians viewed as false and defamatory. The journalists in all cases received anticipatory

bail from the courts, and none of the cases moved to trial. Sedition charges remained pending, and those persons accused remained on bail. In November 2000, a new sedition charge (there was another sedition charge already pending against him) was filed against an editor, Bahaudin, for publishing a parody of the national anthem mocking the Prime Minister. When the police arrived at Bahauddin's residence to arrest him, he was not there, so they arrested his brother, Mainuddin, who was not eligible for bail because of the Special Power Act (SPA). Mainuddin was not charged; after 16 days he was released. Charges against editor Bahauddin remain pending in both sedition cases (Press 2011).

The above source also claims that all print journalists practice self-censorship to some degree, and commonly are reluctant to criticise politically influential personalities in both the government and the opposition. Many journalists cite fear of possible harassment, retaliation, or physical harm as a reason to avoid sensitive stories. The source further claims that violent attacks on journalists and newspapers, and efforts to intimidate them by government leaders, political party activists, and others frequently occur. It adds that violence against journalists has increased since 2001. Moreover, political parties and persons acting on their behalf conducted attacks both on media offices; individual journalists were targeted for their unfavourable news reporting. These crimes largely remained unresolved and the perpetrators, often identified by name or party affiliation in press reports, have not been held accountable. Attacks by political activists on journalists also are common during times of political street violence, and some journalists were injured in police actions.

The Bangladeshi media have undergone great changes since the 1990's. In a changed global economic and political situation, Bangladesh went through media liberalisation along with the market. The government of Bangladesh had always heavily controlled the state owned radio and television channel. As a result, in 1992 foreign channels were introduced to the Bangladeshi audience, who had only experienced State owned Bangladesh Television (BTV) until then. Within the last five years, the number of satellite TV channels and FM radio channels has increased to about 12 and six respectively. According to the National Media Survey 2002, the national reach of the media is composed of radio 19 percent, television 48 percent, newspapers/magazines 20 percent, and cinema 13 percent (NMS 2002) shown in Figure 1.

"Figure 1: Media Exposure in Bangladesh"



Source: National Media Survey 2002

Just after 1990, there was a 'boom' of print media. In 1990, the beginning of globalisation and ending of direct and indirect military rule, of more than one decade, occurred simultaneously. On 6 December 1990, the first Caretaker Government² (CTG), which was formed to arrange a free and fair election in the process of democratisation, withdrew a newspaper control regulation from SPA, 1974. With this step, obtaining registration for a newspaper became easier. In a country of 162 million people, though only about 1.3 million copies of newspapers are sold daily; there were 300 dailies in Bangladesh at the end of 2000. In terms of electronic media, there existed only one State-owned television and one radio channel. But all print media, is privately owned, mostly by corporate companies, which replaced politicians (Haq 2007). In a democratic society, the media is expected to act as the powerful guardian of public interest against government arbitrariness and bureaucratic high-handedness. But in Bangladesh the media could not play this role because past military takeovers thwarted democracy (Siddiquee 1999, 95).

Politicisation of the Media in Bangladesh

Zafarullah and Siddiquee (2001) claim that electronic media has always been state property and continually abused by all ruling parties in Bangladesh. The print media, on the other hand, has shown fortitude and buoyancy in investigating and exposing both political and administrative corruption. The latter has been playing a noteworthy role in highlighting public grievances and mal-administration. Some newspapers are active and well timed in publishing reports on bureaucratic irregularities, highhandedness, and abuse of power, mismanagement, inefficiency, and corruption. To some extent, this acts as a deterrent for public servants as they constantly remain cautious while performing

² After the end of tenure of the political government in Bangladesh, the CTG takes over the power of the government to arrange the next parliament election within 90 days. It is an interim type of government.

their official responsibilities. However, the impact of such exercises is bound to be limited. The authors also claim that having no executive authority, the media and civil society cannot go beyond exposing cases of corruption except in arousing public opinion against the vice, and instances of remedial measures initiated by the government following reports by the print media are few and far between (2001, 476-7).

Since the government permitted private satellite TV channels a decade ago, a massive investment in the TV production and advertisement sector has been systematically facilitated by the dominant political and commercial elites of the country. The private TV stations are owned by the economic elite – invariably connected to the two most dominant political parties – Awami League and Bangladesh Nationalists Party (BNP), while most of the channels are backed by the politicians and industrialists of the BNP (Rahman 2009). The AL media gives priority in publishing the misdeeds of BNP leaders and its party activists while the BNP media publishes the misdeeds of AL leaders and party activists to tarnish the images of that political party. The main Islamic party in Jamaat-e-Islam Bangladesh (JIB) also has its affiliated media house. Party affiliation of some of the media owners has been shown in Table 1.

Table 1: Party Affiliation of the Media Owners in Bangladesh

	Media	Owner	Party Affiliation
1	NTV	Mosaddak Ali Falu	BNP
2	Rtv		BNP
3	Islamic TV	Said Iskandar	BNP
4	Independent TV	Beximco Group	AL
5	Desh TV	HRC Group	AL
6	Diganta TV	Diganta Media Corporation	JIB

Source: Field data

Like other professional organisations in Bangladesh, the media is politically divided into two major parties (AL and BNP) though there is a third category which does not follow the dictated party politics. People in this third category cannot trust the news from a media group owned by a politician, which usually covers up corrupt activities of political member associated with the party. On the

other hand, during the CTG period (2006-08) both the print and electronic media enjoy full freedom to uncover the political corruption in Bangladesh. The cross-cutting effect of AL media and BNP media is that the politics in Bangladesh becomes mediated where the media has the most important source of information and vehicle of communication between the governors and the governed (Bennett and Entman 2001).

In such a situation, people depend on the media for information about politics and society, just as politicians and other powerful elites depend on the media for information about peoples' opinions and trends in society, and for reaching out to people. Stated differently, the media mediates between the citizenry, on one hand, and the institutions involved in government, electoral process, or, more generally, opinion formation, on the other. Politics is therefore described as mediated whenever the mass media are the main channels through which politics is communicated and when, as a consequence, the depictions of "reality" that are conveyed through the mass media presumably have an impact on how people perceive "reality" (Stromback 2008, 230).

The Third Category of Media Houses in Bangladesh

When the media plays its watchdog role and publishes the investigative reports on political misdeeds of the party in power along with public grievances and sufferings, then people can realise its accuracy as it contains their voices in developing countries like Bangladesh, where a third category of the media houses flourishes since the last decade of 20th century (Table 2).

Table 2: The 3rd Category of Media Houses in Bangladesh

	Media	Owner	Party Affiliation
1	The Daily Star	Transcom Group	N/A
2	The Prothom Alo	Transcom Group	N/A
3	The New Age	Holiday Publication Ltd.	N/A
4	The New Nation	Mainul Hosein	N/A
5	Maasranga TV	Square Group	N/A
6	bdnews24.com	Bangladesh News 24 Hours Ltd.	N/A

Source: Field data

The third category media houses expose political misdeeds through unbiased reporting in Bangladesh, and online newspapers and websites are a vital force to this category. Though they do not have political patronage directly, they depend on their business conglomerations, circulations, and advertisements. They are becoming emerging powers in the society, as people trust them. They face the dominant political parties in Bangladesh by their ethical and neutral stances, and find that the two dominant political parties (AL & BNP) do not sustain their power and position consecutively two terms after 1991 due to their misdeeds. The latest example of the emerging media power in Bangladesh is the Narayanganj City Corporation Election (held on 30 October 2011) where the AL mayor candidate Shamim Osman (known as 'godfather' and convicted for criminal offences by the court) was defeated by Selina Hayat Ivy by 101,343 votes (BEC 2011). The people of Narayanganj rejected the candidate of AL, giving mayor-elect Selina Hayat Ivy a relatively clean team to run the corporation (Star Report 2011). The third category media exposed concerned citizens' opinions against the AL candidate before the election which helped voters vote for Mrs. Ivy, the first elected woman mayor in Bangladesh.

This example bears a great significance in implementing people's aspiration, in shaping the democracy in the country, and also in flourishing the third category media in Bangladesh. Though the dominant political parties try to escape the unbiased reporting of their misdeeds, the peripheral smaller parties highly praise such reporting. The third category media becomes very vibrant in uncovering the political corruption through investigative reporting, on one hand, and it educates the masses in the vocabulary of democracy through campaign for change (www.badlejoabadledao.com), on the other.

Empirical Data Analysis

The empirical data has been collected from the potential stakeholders in Bangladesh through interviews and focus group discussions as stated earlier. One of the editors of a national daily newspaper published from Dhaka responds:

'If we want to understand the media of Bangladesh, we need to go back at the Pakistan regime (1947-1970), when the media plays one kind of role where the mainstream press was an extension of the mainstream nationalist politics in its editorial, commentary and other writings. But when the nation state was established in 1971, its role changed and then different classes, different vested groups and different ideologies worked within the same nation state. There are different types of media houses with different types of ideologies. Generally three types of media organisations are now working in Bangladesh, which is a pathologically political divided society as the doctors, teachers, engineers, lawyers, and businessmen are politically divided. As mentioned

earlier, the journalists are also divided into unions along with political party lines the bipartisan while the third category journalists are decreasing. He emphasises that the rewards of journalists in Bangladesh depend on how much s/he is involved to party politics whereas the political parties are mostly corrupt. However, he claims that the media becomes recently very vibrant in Bangladesh.'

One of the media professionals at the University of Dhaka responds that the media is supposed to play a watchdog role, but it compromises with politicians or businessmen for exposing the misdeeds of large-scale corruption in Bangladesh. He claims that journalists often collude with the private sector to hide its illegal activities, which adds institutional corruption in the society. Both the print and visual media, he adds, fail to expose political corruption as many of the owners have political affiliations.

A senior staff reporter of a national daily responds that it would be unfair to tarnish the journalism in Bangladesh due to a few rotten eggs and claims that media has lost its integrity may be an exaggeration in uncovering the political misdeeds. He adds, if one media publishes the corrupt activity of a particular political party but the same media conceals the corruption of another political party for its group's interest. He also opines that there are some newspapers or journalists, whose motive is only to make money, and they are substandard in journalism, however, they are not the mainstream journalists in Bangladesh, and mostly mainstream media does not compromise with any party for exposing corruption.

A member of the civil society as interviewee expresses that the primary responsibility of journalists remains holding duty bearers to account but this is subsumed by commercial purposes. He adds that the media cannot play its proper role to expose public sufferings of the country. Even the successive elected governments in Bangladesh, he claims, are failed to make a level playing field for democracy as the party in power always tries to oppress the opposition, and uses the state-run media as its mouthpiece, but the irony is that people do not believe the state-run media.

Some civil society professionals respond that political corruption becomes institutionalised in Bangladesh. The media is one of the key institutions of the National Integrity System (NIS), which plays a very important role together with civil society in bringing out stories of corruption. It is often a challenging matter as many serious problems arise with issues of media ownership and corporate interest. However, some of the newspapers have been playing a very significant role, such as the *Daily Prothom Alo* and the *Daily Star*. They claim that the media

can play a negative role where journalists can extort money from public figures with the threat of publishing libellous articles.

Civil society professionals as interviewees stress that many journalists in Bangladesh practice 'yellow journalism.' They argue that if the media plays its watchdog role fearlessly, unbiased and neutrally, then democratisation of the country can be accelerated and the media can attain the strength to fight against corruption. They add that the media is a powerful instrument in uncovering all of the misdeeds in society. They claim the Bangladeshi media plays a vibrant role in raising awareness among citizens and fight corruption. Moreover, one former adviser to the CTG responds as interviewee that though the media in Bangladesh is highly politicised, the public depend on the third category of the media to know the actual incident. He adds that about 160-170 daily newspapers are published from Dhaka. He claims that seventy-five percent of the journalists do not receive a salary and the media itself is involved in corruption rather than exposing it. He substantiates that many newspapers have registration and make a few number of circulations only to serve their own purposes by rent seeking which is dangerous for the nation.

Some of focus group participants say that they do not see any investigative report on politicians when they are in power, but only see the reports once the CTG has taken power from the government. But under a CTG, the media enjoys full freedom to report on corruption of the former ministers, MPs and other politicians without any interference. They claim that ministers, MPs, other politicians and government officials extract, or help to grab the government land, recruit staffs for public sector. Also, they influence or take bribes and help their clients to get big contracts, permits or licenses. Moreover, when the political government is in power, the media cannot play its role properly because of political influence, nepotism, and personal benefits. However, most of the participants in focus groups strongly emphasise that in spite of the influences of two dominant political parties in Bangladesh, a section of the media upholds its neutrality and unbiased stance because of the Bangladeshi readers who are the main driving force of this third category along with the civil society and NGOs.

Conclusion

Political corruption remains a major issue in the domestic politics of most South Asian states (Singh 2003, 153). The media acts as the indirect deterrent of corruption in Bangladesh. Some newspapers have shown social responsibilities or social accountability through expressing social needs, worries, and political misdeeds but many of them are only to serve the commercial purposes. Also, there is accusation of rent seeking against some newspapers. However, it keeps a sceptical eye on the powerful, guarding the public interest and protecting it from

incompetence, corruption, and misinformation. The empirical data reveals that among three categories of the media, first and second categories are biased to their affiliated political parties (AL, BNP and JIB). Only the third category is engaged in uncovering misdeeds of political parties and politicians across the government in Bangladesh. The vibrant media is also engaged in educating masses against the adverse impacts of corruption. Moreover, people can realise the pervasiveness of political corruption in the country from the AL media for BNP misdeeds, and from the BNP media for AL misdeeds. Thus, people can compare it to the third category of the media, which is unbiased and a vital force for the democracy and governance as well.

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This essay attempts to challenge conventional perspectives in crafting Philippine development policies. The Philippines has been enmeshed in a development paradox, where the country has promising potential to develop given its pool of human and natural resources, but has failed to take off and develop due to persistent systemic problems in the country's political and economic institutions. The essay explores various dimensions in development economics, political economy, Philippine history, and Philippine culture in order to shed some light on the country's development puzzle. From these reflections, this paper argues that development policy can only be relevant and effective if the policies include Filipino behaviour and institutions into the analytical framework. However, to do that, policy makers need to rethink core economic principles, public policy prescriptions, and development strategies. The fast-emerging perspective in new institutional economics is seen as a suggested framework in fine-tuning policies to fit Filipino institutional and behavioural contexts.

Introduction

Many scholars and policymakers have labelled the Philippines as a 'development puzzle' or as the 'sick man of Asia', because of the complex intertwining dimensional problems affecting the country (Balisacan and Hill, 2003; Usui, 2011; Nye, 2011a). As a state, an economy, and a society, the Philippines has been trapped in a development dilemma: stagnating economic growth, debilitating corruption in government, and growing disillusionment among the Filipino people regarding the country's future. The consequences brought about by the economic, political, and social crises are disconcerting.

On the economic dimension, Nye (2011a) illustrated that these complications resulted from increased poverty and economic inequality, high unemployment, sluggish and disproportional economic growth, low investment spending, a

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shrinking industrial sector, distortional and high minimum wages, and the continuing diaspora of high-skilled Filipino workers overseas.

On the political sphere, the Philippine political arena is dominated by elite groups who control the country's resources (Hutchcroft, 1998; De Dios and Hutchcroft, 2003; North, Wallis and Weingast, 2009). With rent extraction as their primary objective, the country's elites do not hesitate to organise the bureaucracy or design policies that cater to their interests (Hutchcroft, 1998). Thus, there is no coincidence that corruption continues to persist, resulting in an inefficient government bureaucracy, inadequate supply of infrastructure, and policy instability (De Dios and Ferrer, 2001).

Finally, Western scholars and commentators in comparative politics and social history would characterise Philippine society as 'juvenile' (Karnow, 1989), racially deficient and politically inexperienced (Ileto, 2001), run by factional loyalties (McCoy, 1980), and dishonesty (Lawless, 1969, cited in Pe-Pua and Protacio-Marcelino, 2000).

However, characterising the Philippines as inherently problematic is short-sighted. Above all, the failure among academic and policy circles in making sense of the problems in the Philippines only implies the insufficiency of their theoretical paradigms. The theoretical lenses of what is seen of the country cascades into the policies it craft and the expectations it sets on the country's development path. Furthermore, this paper makes the case that the Philippines should be explicit about its theoretical lenses.

Following North, Wallis and Weingast (2009), it is argued that understanding the role of the elite, and the country's institutions holds the key in shedding light on the Philippines' development problems. The important message this essay seeks to propagate is simple: what is needed is a rethinking of conventional views and explore alternative views and strategies.

This paper is divided into the following sections. Section 2 explores the literatures in comparative politics and political economy in the Philippines to survey the theoretical and empirical advances related to Philippine development. Section 3 assesses the limitations of the neoclassical paradigm in development policy. Section 4 takes a reflective tour on Western perceptions of Filipino culture and the critiques that has been raised by Filipino scholars. Sections 5 and 6 will challenge existing conventions by rethinking fundamental public policy objectives and the whole strategy of development in general.

The Philippines' Development Path So Far

In the context of development in Asia, the Philippine economy lags behind many of its Asian neighbours like China, South Korea, Taiwan, Thailand, and even Vietnam. Moreover, the Philippines, immediately after the Second World War, was in a relatively better position compared to these countries. It had a well-educated labour force and strong commercial and military support from the United States (Balisacan and Hill, 2003). But as time passed, its neighbours, especially China, South Korea, Thailand, and even Vietnam, have gradually overtaken the Philippines in terms of per capita income.

While many of its neighbouring countries are moving forward, the Philippines has been left behind in the development race. However, along the way, the country has learned from misguided economic policies brought about by import-substitution and debt-driven growth, systemic political failures with the dominance of the local elite in business and government, and the shorting comings of the political, legal, and economic institutions since the fall of Ferdinand Marcos and the rise of Corazon C. Aquino (De Dios and Hutchcroft, 2003; Balisacan and Hill, 2003; Hutchcroft, 1998).

A truly historical study of development in the Philippines, dating back to its colonial period, shows a similar story Corpuz (1989a, 1989b, 1997), Cruz (2010), and Hutchcroft (1998, 2000) showed how the seeds of corruption took root as Spain looted the country's resources and kept institutions frail for three hundred years while the United States opened opportunities for the local elite to take hold of the government bureaucracy during its fifty years of colonisation. Cruz (2010), for example, following Acemoglu, Johnson, and Robinson (2001), revealed how high mortality among Spanish settlers discouraged colonial masters from developing local institutions, particularly property rights, but instead, looted the land of its gold, silver, and other valuable resources and brought them back to Spain.

As Cruz (2010) further elaborated, these exploitative institutions only strengthened when the United States took over as colonisers. Hutchcroft (1998) writes that the powerful property-owning business Spanish *mestizos*² plundered the state to maintain their business interests. The land-owning *mestizos* would extend their influence over the local government when the American government realised they needed the influence and power of the elites to control the Philippine archipelago (Hutchcroft, 2000). However, this divide-and-rule strategy

² Editor's note: mestizo is a term to describe Filipinos with mixed Spanish ancestry.

would have serious consequences over time. After independence from the United States, Fabella (1999) writes that corruption was already so entrenched within the country's bureaucracy that everyone was involved, from the President down to the *barangay*³ captain.

Fleshing out the patterns within the historical data, shows that the problem was not solely economic, but also political, social, and perhaps even psychological. De Dios and Hutchcroft (2003) and de Dios (2009) were able to sketch the relationship between periods of economic and political instability, particularly the country's fragile economic health during several coup attempts in the Aquino administration, the onset of the Asian financial crisis, the impeachment crisis of the Estrada administration, and the alleged cheating and corruption scandals during the Arroyo administration. The frailty of the country's political institutions, explains de Dios (2009) and de Dios and Ducanes (2011), deters investments and constrains the Philippines from any possibility of sustaining economic growth.

Disappointed with the country's political failures to establish genuine democratic institutions, and considering that the Philippines was the first country to gain democracy in Asia, Hutchcroft and Rocamora (2003) pointed out the deepening patron-clientele linkages in Philippine politics. Nye (2011a) lamented that unless it reforms the malfunctions of the its political institutions and agencies that have caused the country's economic deterioration through specific, not one-size-fits-all, policy measures, the country will never escape from its current state of political and economic obstacles.

In sum, the fundamental problem in Philippine development and its political economy is *systemic*: fixing either the markets or the government is not even a necessary condition, because the Philippine government and its market economy never had a well-coordinated set of institutions to begin with. It is not coincidental that most of the members of the first Philippine Assembly were landowners who captured most of the seats in the legislature (Hutchcroft, 2000). The logic behind this composition did not arise out of any democratic process, but from a political concession between the American government and the landed elite to establish its rule in the Philippines. The roots of institutional failure had already burgeoned since then.

³ Editor's note: *barangay* is the lowest level of governance in the Philippines, equivalent to a town.

The Failings of the Neoclassical Lens in Development Policy

The problems currently facing the Philippines cannot be well understood when considered through only one theoretical lens. As pointed out in the previous section, political factors have to be taken into account. At present, neoclassical economics has been the dominant lens (Cohn, 2007; Hill and Myatt, 2010) to analyse Philippine development policies. Many within the economics discipline have complained about the myopic lens of mainstream neoclassical economics, particularly on the discipline's oversimplified assumptions of human behaviour, its failure to reconcile differing perspectives among the social sciences, and its overuse and even misuse, of mathematical methods in developing theory (Hill and Myatt, 2010; Cohn, 2007; Keen, 2001; Lawson, 2003; Hausman, 2008; Ioannides and Nielsen, 2007; McCloskey, 1983).

Economists from the heterodox perspective would point out that neoclassical economics is suffering from a theoretical schizophrenia between Smithian microeconomics and Keynesian macroeconomics (Hill and Myatt, 2010; Cohn, 2007; Snowden and Vane, 2005). Neoclassical microeconomic theory has been criticised for its *homo economicus* assumptions regarding human rationality (Simon, 1957; Kahneman, 2003; Kahneman and Tversky, 1979; Ariely, 2008, 2010), the utilitarian philosophy in consumer theory (Gilboa and Schmeidler, 2001; Easterlin, 2000, 2001, 2003), and the overly simplistic view of the firm as a production function (Coase, 1937; Williamson, 1985). Moreover, there is the never-ending debate between the Rational Expectations and Keynesian schools in macroeconomic theory (Cohn, 2007; Snowden and Vane, 2005).

The core criticism among heterodox economists is that mainstream economics at present has grossly deviated from its original tenet of understanding economic systems and human behaviour. However, what has been focused on has been the obsession for economics to climb up the pedestal of natural sciences, most especially having economic methods become as rigorous as that of physics (Reinert, 2007; Keen, 2001). Coase (1998) would qualify that formalising economic theory into mathematical terms is not really the issue, but insisting on formalising them without actually studying the real nature of human behaviour in the economic system is cause for concern.

Particularly, the present theoretical corpus in economics is built from the assumption of *rationally-choosing* and *utility-maximising individuals*. (Cohn, 2007; Hill and Myatt, 2010). Market failures, animal spirits, irrational exuberance, and the revelation of *bounded* (limited) and even *procedural* (rule-of-thumb) rationality have sparked debates over conventions of relying on the view of 'rational' people

as offered by the prevailing economic orthodoxy (Keynes, 1936; Kahneman and Tversky, 1979; Kreps, 1990; Shiller, 2000).

The present neoclassical paradigm—as it holds on to its scientific and positivist veil—has no regard for human dignity simply because it is already crossing over the boundaries of the normative and the unscientific. To neoclassical eyes, human dignity is a value judgment and the positivist enterprise in neoclassical economics refuses touch anything value-laden. However, this is simply erroneous. Even if the mainstream economists refuse to see them, value judgments are at the core of every economic theory. Notions of individual liberty and freedom, as subsumed in the neoclassical ideals of perfectly competitive markets, are assumptions silently tucked under the neoclassical rug to justify the rationality to rule over markets and society. In fact, this is the first-order requirement of commutative justice, a value judgment, and the provision of ordinary public goods that Smith outlined in his *Wealth of Nations* (de Dios, 2009).

The heterodox perspective points out the need to understand the limits of human cognition and the complexity of the institutions people face (Hill and Myatt, 2010; North, 2005; Banerjee and Duflo, 2011). In the context of development policy, this is what Banerjee and Duflo (2011) concluded about the poor: the poor remain poor not because of an inherent mental or physical disability, but because the basic institutions are not working. Thus, Banerjee and Duflo (2011) argue that policies and institutions should be engineered to expand the horizons of the poor beyond the cognitively taxing exercise of trying to make ends meet and instead meeting towards higher-order goals.

Following Sen (1999) and Keynes (1930), these basic institutions free individuals from having to think about the basic necessities of life. These institutions allow individuals to pursue higher-order goals. From the many randomised controlled trials they conducted across India, Africa and Latin America, Banerjee and Duflo (2011) conclude that improving basic institutions can cause significant improvements in the standard of living among the poor. With this in mind, development policy is only relevant and effective when political and social institutions satisfy one's basic needs, allowing for more focused attention on other personal goals.

Banerjee and Duflo's (2011) key message is restoring human dignity back to the poor and into economic analysis. The poor should never be viewed as ignorant, uneducated or dependent upon dole-out programmes. In general, human dignity thrives as long as it has secured the minimum level of absolute nutritional, cognitive, and emotional necessities. This is Sen's (1985) proposal that; human

development should be based on addressing *functionings* in order to achieve our *capabilities*.

With this in mind, development policy should be built upon a clear foundation of human dignity. But, at present, there is a problem with the dominating neoclassical paradigm. In neoclassical economics, the pursuit of self-interest is the fuel for economic movement: efficiency is the rule of the game, and economic growth is the ultimate destination for any fledgling economy. It would seem that human dignity—where it implicitly rests on collective participation of individuals and society—is merely a residual, rather than the primary objective, to development from a neoclassical perspective.

Finding the Real Filipino in Politics and History

Our discussion now explores how human behaviour and human dignity are essential when crafting development policies. Throughout the comparative politics and psychology literature in the Philippines, the discourse about Filipino behaviour shows a very telling picture of the Filipino. This is why Ileto (2001) criticised Western scholarship studying comparative politics in the Philippines for *essentialising* Filipino political behaviour by illustrating Philippine political dynamics as *inferior* in contrast to the Western notions of politics. Ileto (2001) raises sweeping criticisms against Western political scholarship, particularly that of Karnow (1989), Owen and Cullinane (1971), May (1984, 1988), McCoy (1980, 1994), Lande (1965), Cullinane (1994), in boxing Filipino political behaviour with American ideals.

Overall, Ileto objects to how Western scholarship's use of theoretical models undermines the complexity of the *pulitika* in the Philippines.⁴ Ileto stripped down the rhetoric the scholars used in framing an illustration of Filipino political behaviour. Ileto does not hesitate to attack Western scholars as he begins to debunk Karnow's accusation that the root of the Philippine problem is based on the behaviour of Filipinos as "juveniles, dominated by their emotions and untrammelled personal ambitions" (2001, p. 2). These behaviours, according to Karnow, stems from the "complicated and often baffling web of real and ritual kinship ties – the antithesis of the American ideal of a nation of citizens united in their devotion to the welfare of all" (Karnow, 1989, p. 20 as cited in Ileto, 2001, p. 3). To Karnow's mind, these are buttressed by Filipino values of *hiya* and *utang na*

⁴ Mojares (1994) cites Ileto (1984) in defining *pulitika* as "the perception of politics as a process of bargaining, with implicit self or factional interests involved. The interaction between the colonial power and its native wards was *pulitika*. At another level, it refers to the practises by which leaders cultivate ties of personal loyalty and indebtedness to them, or simply attract votes."

loob that has created a politics “enmeshed in coils of mutual loyalties” (1989, p. 230)⁵.

Karnow’s disclaimer may also have been critical of Iletto when he wrote that the Americans could not be blamed for the Philippines’ political failings, since, as Iletto would put it, came from “the enduring Philippine value system, and the tenacity of the ruling oligarchy” (Iletto, 2001, p. 4).

However, Iletto does not totally blame Karnow for the way he rhetorically crafted a ‘juvenile’ Philippine political environment. He unpacks Karnow’s sources, in particular Owen and Cullinane (1971), May (1984, 1988, 1997) and McCoy (1980). First, Iletto points out that Owen and Cullinane (1971) have *essentialised* Philippine social relationships when they explain that America failed to export its ideals to the Philippines because of the dominance of the elites, the *compadrazgo*⁶, in Philippine politics (2001, p. 6).

Similarly, Iletto’s impression of Karnow was that his text promoted the idea that “the Filipino[s]... are doomed from the start (2001, p. 5).” On the other hand, May (1984, 1988, 1997) draws attention to pockets in Philippine history, showing that “the rank-and-file were just loyal followers to their officers who came from the local gentry and were often landlords as well” during the Philippine-American War, and that elections in the Philippines is a ‘marionette play’ where elites “pull the strings” and their clients “stage performed according to a script” (Iletto, 2001, p. 8-9).

As Iletto (2001) states, May would *essentialise* the ‘nature’ of Filipino politics as being personal and particular, operating under patron-client relationships, and suffering from “racial deficiency” and “political inexperience” (2001, p. 9-10). On the other hand, Iletto adds that McCoy (1980) saw factional loyalties as the *determining factor* ‘essential’ in Philippine politics and as the root cause behind the failure of the country’s democratic system (2001, p. 11). As Iletto would elaborate to describe McCoy, “the drive to protect, consolidate and or expand factional power is the essence of Filipino politics; everything else is empty rhetoric and posturing (2001, p. 11).”

⁵ In Tagalog, “hiya” translates to a sense of shame; “utang na loob” translates to a debt of gratitude.

⁶ Editor’s note: “Compadrazgo” can be used to describe a very close and almost familial relationship between friends.

Ileto (2001) continues to argue that May and McCoy's view on Philippine political history cuts across a far deeper issue in Philippine social science. As far as this discussion is concerned, Ileto cites the political models of Lande (1965) and McCoy (1994).

To Ileto, Lande seems to say that "Philippine politics is built on the American model; it is the politics of the same. But there are key differences and these are put in terms of "peculiarities"... (2001, p. 13)." Ileto would interpret that Lande's (1965, 2002) *peculiarities*—based on 'empirical' evidences—have essentialised Filipino political behaviour. These include observations that: the two political parties (Liberal versus Nacionalista) are really one without any distinguishable identity, platform, or program of government; people "fluidly" switch affiliations rather than keeping their loyalties to their parties; patron-client relationships is equal to disorder where "power is dispersed among local leaders"; and, private and public domains are not separate, with private interests infecting the public political system (2001, p. 14-15).

Another important work that Ileto criticises is McCoy's (1994) belief that "familism, localism, corruption and violence... essentially underlie Filipino political behaviour (2001, p. 21)." An extension to his earlier view that the Philippines is mired in factionalism, McCoy insists that political families have warped Philippine politics into a period of persistent feudalism, violence, warlordism and thuggery, and contrasts it from the ideals of "democracy, capitalism, order and the public sphere" of what politics should ideally be (2001, p. 21-22). With the presence of political families, McCoy's language paints Philippine politics in a state of "anarchy" (2001, p. 22).

Thus, it is not surprising for Ileto to lament that, indeed, Western scholarship fell into the *essentialising* trap of dichotomising Filipino political relationships into 'paired opposites'—"family versus state, particularistic versus nationalistic, violence versus law, clientelism versus genuine democracy"—with the West's conclusion that Philippine political behaviour suffers from political backwardness (Ileto, 2001, p. 25).

Agreeing with Ileto (2001), Enriquez (1992, 1994), would criticise Western scholarship's way of portraying Filipino behaviour. Enriquez (1992, p. 57), cited in Pe-Pua and Protacio-Marcelino (2000), argues that "the native Filipino invariably suffers from the comparison in not too subtle attempts to put forward Western behaviour patterns as models for the Filipino." Enriquez (1994) contends that the Filipino psyche is cooperative in nature with *kapwa* (the self embracing the other as a unified whole); hence, it is plausible to espouse cooperation. Fine-tuning cultural lenses towards the "experience, thought and orientation of the

Filipinos”, as what has become Enriquez’s (1992) foundation of Filipino psychology, would provide a far better perspective in understanding the country’s development path.

Rethinking Public Policy

Given this context of the Philippines, students of economics, with a critical eye towards the discipline’s underlying philosophy, would readily point out the tension between the neoclassical lens prevailing in microeconomic theory and the Keynesian prescriptions in macroeconomic theory (Hill and Myatt, 2010). This is basically a clash between the core philosophical foundations between Smith (1776) and Keynes (1936).

Neoclassical economics trusts that the market will self-correct itself to an equilibrium state. However, Keynesian economics distrusts the capability of the capitalist market to self-correct; hence, the market warrants government intervention. Despite their methodological evolutions into the *Rational Expectations* (New Classical) and New Keynesian schools in macroeconomic theory, the conflict has been the same (Snowdon and Vane, 2005).

This is not to say that neoclassical and Keynesian prescriptions are mutually exclusive, but in relation to crafting development policies for the Philippines, immediately providing prescriptions without a thorough and exhaustive diagnosis of real-world problems will only further hinder true development. At present, macroeconomic policy depicts simple prescriptions such as lowering taxes, lowering the budget deficits, increasing government spending, lowering the interest rates, lowering the unemployment rates, increasing gross domestic product, and increasing investment spending.

Therefore, within the Philippine context, the argument once again is that to make macroeconomic policy effective and relevant, one must balance Filipino institutions, actors, processes, and individual behaviour into policy design and implementation..

In fact, Nye (2011b) would argue that the focus not be on grandiose macroeconomic visions, but rather on the existing microeconomic distortions affecting the political economy, institutions, prices, property rights, the bureaucracy, and laws. Particularly, political economy and new institutional economics are useful platforms to launch and form effective development policies. Within these perspectives, one can apply in the analyses concepts such as institutions (North, 1981, 1990, 2005), transactions cost (Coase, 1937, 1960;

Williamson, 1985, 2000), and governing common pool resources (Ostrom, 1990, 2008).

Rethinking Development as a Whole

From the neoclassical perspective, efficiency, not equity, should be the rule. The dogma of these economic principles is a trade-off between efficiency and equity; more equity leads to less efficiency; less efficiency leads to wasting scarce resources. But in developing economies, like the Philippines with weak institutions, equity does not serve as a substitute to efficiency, but serves as a necessary requirement at the start of the development process.⁷

The logic is very straightforward: inequity breeds inequality. This leads to higher crime rates and increases in social costs associated with law enforcement, judicial processes, and individuals' efforts to protect themselves and their property (Hill and Myatt, 2011). In the process, this actually reduces the allocation of resources earmarked for more meaningful uses such as education, healthcare, and social services. Hence, distributing the resources for people to receive proper nutrition, education, and an institutional environment that promotes an intelligent and conscious society can actually supplement efficiency rather than impede it (Hill and Myatt, 2010; Jones, 2011).

Neoclassical thinking disregards the importance of social capital in the development process. Dayton-Johnson (2001) argued that social cohesion and the economic pay-off of trust and cooperation are part of a society's social capital. Equity promotes social cohesion and trust and inequality weakens one's sense of reciprocity. Social capital plays an important role in economic growth.

In contrast, the neoclassical efficiency rule only holds conceptually when society views the world under a state of scarcity. In the context of weak institutions, however, what exists is not a scarcity of resources, but a scarcity of coordination and motivation strategies. The Philippines is resource-rich, with an abundance of natural and human resources, but prevailing issues such as poverty, corruption, inequality, meagre growth rates, declining industrial and agricultural output, and the concentration of power among political and business oligarchs creates the development paradox that characterises the country today.

⁷ We are now viewing equity of two orders—commutative and distributive. The first form of equity—commutative equity—is a function of improving the efficiency of people, not on the distribution of resources. This simply means providing equitable distribution of absolute needs. It is only when efficiency has been established in the production process should the second-order distributive equity take place.

Evidence from Knack and Keefer (1997) indicates that greater inequality significantly reduces expressed levels of trust. Similarly, Helliwell (2003) found that lower levels of trust are associated with lower levels of average individual well-being. Additionally, Putnam (1993) noted the benefits of social cohesion that leads to more political participation and better government monitoring, resulting in greater government efficiency and reduction in corruption.

Conclusion

In light of these problems facing the Philippines, ironically the way forward may actually be to go back. By going back, it is critical to return to the lens of economics and assess its plausibility in unpacking social realities. These dimensions include power relations within economic exchange (Galbraith, 2004; Acemoglu and Robinson, 2006; North, Wallis and Weingast, 2009), equity as opposed to efficiency in a country's development (; Hill and Myatt, 2010; Jones, 2011), and social norms, such as trust, reciprocity, and cooperation (Marglin, 2008; Marwell and Ames, 1981; Dayton-Johnson, 2001; Frank, Gilovich, and Regan, 1993; Knack and Keefer, 1997; Heliwell, 2003; Putnam, 1993; Fehr, 2008; Zak, 2003; Ostrom, 1990).

Specifically, these factors in the Philippines include the heterogeneity of many societies encompassing the Philippine archipelago, the colonial experience of many heterogeneous groups, the social identity of being 'Filipino', and the common social impulses in history. These are important factors essential in designing a reflective analysis in Filipino experience that may be important in understanding the nature and state of its institutions and eventually, that would allow it to develop effective policies that truly responds to the needs of the country.

As argued in this paper, an out-of-touch perspective fails to put the Philippines into the proper perspective. What stands as a continuing problem is not the scarcity of resources, but rather the idleness of resources, and the failure of institutions to coordinate in the process. It is incorrect to classify the blame of institutional breakdown to either government or market failure alone.

Furthermore, the country's policymakers must not succumb to merely providing antidotes without a deeper understanding of the underlying causes of its problems. They should not even think of accepting any development framework unless it extracts, explicates, and integrates the economic, political, social, and psychological variables of Philippine society into its perspective. Although this is very elementary, the synergistic and contextual appreciation of both theory and

reality is where the government can develop effective policies. However, these interdisciplinary interactions are oftentimes absent in public policy discussions.

Therefore, what is urgently needed is a development framework that encompasses all the economic, political and social factors affecting the Philippines. We see the prospect of looking at the Philippines through the lens of New Institutional Economics (NIE) because this emerging discipline provides the foundation for economics and social sciences to start reconciling various theoretical differences. Hopefully, this field, as envisioned by North, Wallis and Weingast (2009), can produce a unifying conceptual framework that could make sense of the interlacing problems affecting the development experience of the Philippines.

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A BATTLE FOR VALUES: HONG KONG AND ITS CONSTITUTIONS

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Hong Kong's Basic Law has caused a number of long-lasting disputes about democracy in Hong Kong and in recent political reform debates. These debates have provided rich sources of reflections on freedom, democracy, and the rule of law. The clash between pro-democrats and the pro-Beijing camp is thus not only about political interests, but also presents a confrontation of differing ethics and values. This article attempts to explore the values derived from the Basic Law in line with John Rohr's concept of regime values. It demonstrates the different regime values that exist in Hong Kong and presents them particularly as a freedom-loyalty trade-off. It also argues that bureaucrats and judges are essential in establishing and balancing these prominent regime values and seem decisive for constitutional developments in the relationship between Hong Kong and Mainland China in the future.

Introduction

On 1 July 1997, the governance and supervision of Hong Kong was transferred from Great Britain to China. It is now known as one of the Special Administrative Regions (SAR) under the communist regime. Its administrative status is determined by the official "One Country, Two Systems" policy. Many incidents shed light on Hong Kong's tortuous progress towards a more developed democracy (Zhang 2010, 444). Since the hand-over in 1997, voices calling for changes and progress in the politics of Hong Kong have not vanished and major political issues have continuously tested the nerve of the Communist Party of China (CPC). These incidents, from the traditional 1 July marches for expansion of civil liberties to the recent Five Constituencies Referendum for universal suffrage, present a problematic situation in Hong Kong's contemporary political society. The process of democratisation is characterised

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by 'institutions, pacts and bargains stuck between the authorised leaders and the pro-democratic oppositions' (Zhang 2010, 445; Grugel 2002, 57).

Interestingly, a number of controversies in Hong Kong are tightly linked with the region's Basic Law. As a by-product of the "One Country, Two Systems" policy, Hong Kong is not completely bound to the Constitution of China. During 1985 and 1989, a committee consisting of members from both Hong Kong and China drafted a "mini-constitution" for Hong Kong. The National People's Congress of China formally promulgated the final product, the Hong Kong Basic Law, on 4 April 1990. At the 1997 handover the Basic Law was expected to be a guide to the citizens and bureaucrats in Hong Kong. However, as a young constitution, with many of its central provisions still to be fully interpreted by the Standing Committee of the National People's Congress (NPCSC), the Basic Law developed in unexpected ways (Scott 2005, 30). Poon argues that Beijing needed such 'constructive vagueness' to woo the hearts and minds of Hong Kong people and stabilise society (Poon 2008, 41). Hence, the Basic Law itself is far from perfect according to the pro-democrats in Hong Kong. In the past decade, the Basic Law has dramatically become a 'problem-creator'; it is connected with almost every controversial political issue in this SAR. There were deep and highly visible disagreements on the interpretations of various articles in the Basic Law in a number of disputed issues such as government accountability and the introduction of universal suffrage. For all its shortcomings, the Basic Law has a strong influence on bureaucrats in Hong Kong and is discussed by judges and scholars on a regular basis. As Thynne remarks, the Basic Law creates "a framework within which understandings, relationships, various causes actions, and so on, will have to be forged, justified and maintained through on-going processes of political debates and manoeuvring" (Thynne 1998, 238).

So the question arises: why is the Basic Law creating problems? Sing argues that Hong Kong's political development has lagged in the face of PRC's efforts to impede progress towards direct elections, universal suffrage, and other democratising reforms that Beijing fears might loosen its control (Sing 2009, 98). This argument, to some extent, presents the mainstream view on the cause of the constitutional problems. According to this view, different understandings of some key articles in the Basic Law have formed the basis of controversies between Beijing and Hong Kong. Throughout the past decade, Beijing has been trying to defend its authority in explaining the constitution, while the pro-democracy camp has been taking such political actions as to force the Beijing government to make compromises in the implementation of the Basic Law.

Furthermore, recent incidents in Hong Kong show that both sides have sought to resolve short-term political controversies related to the Basic Law rather than articulate long-term constitutional review. However, should public institutions and political reforms be considered as the only subject of a constitutional debate? The drawback of this type of explanation is that it focuses on only one part of the matrix and neglects the fundamental legal-constitutional nature of the problems. In other words, the 'mainstream' explanation merely focuses on various types of conflicts of interests presented in the confrontation between the central government and pro-democrats, yet continues to neglect other important elements upon which the post-1997 Hong Kong regime was built. Indeed, the Basic Law does not only confine itself to a short statement of constitutional principles, but also creates changes in public institutions, civil services and relations with Beijing (Chan 2003; Dykes 2010, 418; Holiday and Wong 2003; Huque and Yep 2003). Hence, the influence of the Basic Law entails more than bargaining on a narrow political ground. Much of this influence is presented in the so-called *constitutional values*, which are beyond political games.

An Alternative Concept

The definition of constitutional values used here is wider than its dictionary meaning, namely a system of laws and principles according to which a country is governed. It draws on the broader conceptualisation of constitutional values as in terms of the American public administration scholar Rohr's *regime values*. He presented this concept for the first time in a 1976 article and then gave it a prominent place in his book *Ethics for Bureaucrats* (Rohr 1976; 1989). His basic argument is that an orientation towards regime values can help bureaucrats and possibly other public officials to choose their path when the law gives no guidance, requiring their own discretion. In his view, administrative discretion is the most appropriate starting point for the study of administrative ethics (Rohr 1989, 23). He presents his concept of regime values in the context of a discussion regarding the best way to teach administrative ethics, as a "practical teaching device" for "busy bureaucrats" (Rohr 1989, 77) or, in the earlier version, "career-oriented students" (Rohr 1976, 402). Writing in the American context, he notes the republican commitments of civil servants, symbolised by their oath of office: "The oath to uphold the Constitution is the moral foundation of ethics for bureaucrats" (Rohr 1989, 70).

Although not the highest values a regime might aspire to, constitutional values are the values every official within a regime must promote. Rohr elaborates on the meaning of 'regime' as follows: "The word 'regime' is not used in the journalistic sense of the 'Carter regime,' the 'Reagan regime' (Rohr 1989, 3). Rather it is simply intended as the best English equivalent of what Aristotle

meant by a 'polity'. More specifically by the American 'regime,' I mean the fundamental political order established by the Constitution of 1789". According to this interpretation of 'regime' it is in fact a relatively broad concept of political tradition and culture, rather than a narrowly legal concept. The second concept of values Rohr (Rohr 1989, 74) defines as follows: "By 'values' I mean beliefs, passions, and principles that have been held for several generations by the overwhelming majority of the American people". Taken together, regime values in his studies are "the values of that political entity that were brought into being by the ratification of the constitution that created the present American republic" (Rohr 1989, 74). In *Ethics for Bureaucrats*, Rohr engages in extensive discussions on three prominent examples of American regime values in particular, namely equality, freedom, and property (Rohr 1989, 97-279).

Framed more generally and not only for the American context, regime values have a subtle but significant impact on bureaucratic decision making. Their decision-making is tightly connected with their subjective choice and ethics. In the meantime, their responsibility to uphold the regime values in line with the constitution objectively limits the flexibility of bureaucrats in their decision-making practices. Thus, regime values have considerable effects on decision making within the bureaucracy of a particular regime; the values of that regime are a proper starting point for their ethical reflections. To be sure, the ethics that affect how public officials make their choices might consist of different types of regime values, depending on the particular regime. In any case, decision-makers should ask themselves whether or not their decisions are constitutionally appropriate.

The bulk of Rohr's research is based on the political context and the Constitution of the United States, but the concept of regime values can be applied to other states as well. The normative foundation of ethical standards for public servants in *any* regime is formed by the values of that regime. Rohr puts forth two points: on the one hand, all regimes have regime values, so the concept of regime values is general; on the other hand, each regime has its own regime values, so regime values themselves are particular(istic). Consequently, in his studies, Rohr (Rohr 1990; 2002; 2004) also researched constitutional values in other public administrative states such as France, the UK, and Thailand. It is interesting to investigate the prominent values of public administrators in the current political context of Hong Kong so as to examine the 'purity' or independence of that regime. Do these values present a clear divergence from the Chinese Communist regime? Or are the two regimes entwined with each other? Indeed, it is essential to explore the background in political thinking and value orientation behind the Basic Law. Researching the constitutional values promoted by the Basic Law and the way bureaucrats in Hong Kong cope with competing constitutional values is

likely to create several meaningful outcomes. Regime values, perceived as ethical values for public officials, could provide us with deeper causes of the conflicts in Hong Kong – not only fights over short-term political interests, but diverging value commitments. More positively, this viewpoint could help us to go beyond the different interpretations of the Basic Law by providing a shared ethical guidance for bureaucrats among different political camps in Hong Kong. Like the ‘American values’ discussed by Rohr, prominent regime values derived from the Basic Law might thus become a pillar upon which a unifying set of ‘Hong Kong values’ can be established.

The Old Motherland, the British Empire, and the Child Born in 1997

Discovering regime values in Hong Kong is no easy task because there are three cultures that have influenced politics in Hong Kong, namely British, Chinese-communist, and Confucian. Shortly after the First Opium War, Hong Kong Island was formally ceded to Britain under the Treaty of Nanking, 1842. In the next 155 years, politics in Hong Kong was deeply influenced by the governance of Britain and followed the English Common Law tradition despite a four-year occupation by Japan during the Second World War. The colonial constitution was largely unwritten and legal authorities stemmed from the Royal Instructions and the Letters Patent, some of which were not binding (Scott 2005, 30). In colonial times, Hong Kong could be administered relatively easily with its small size and population and monolithic bureaucratic structure (Huque and Yep 2003, 142). Hong Kong’s hand-over in 1997 introduced a new type of regime to all the people in the region. For the first time in its history, the Communist Party of China (CPC) was able to play a decisive role in Hong Kong. Notwithstanding the space offered by the “One Country, Two Systems” policy, the communist government never promised absolute freedom to the SAR government. As is stated in the Basic Law, the expected age of the “One Country, Two Systems” policy is 50 years and it is unlikely that Beijing will stop its effort of merging the two systems together after 2047. As Scott remarks, “the drafters of the Basic Law sought to create a centralized and autocratic system that would enable the political executive to make policy and to ensure that their institutions were implemented” (Scott 2005, 47). Lastly, next to the colonial and communist influences, like in most of the other states in East Asia, Confucianism has been a major hallmark of China’s culture. More importantly, both Mainland Chinese and Hong Kong scholars have been trying to discover the linkage between traditional Confucianism and modern constitutional democracy (Chan 2003; Jiang 2008).

The combined cultural background of Hong Kong’s Basic Law is decidedly more complex than that of the US Constitution. Debates on the US Constitution, such

as those between the Federalists and Anti-Federalists, still evolved under the same legal-philosophical umbrella. By contrast, the establishment of Hong Kong's Basic Law took place against a background of British common law thinking, Marxist-Leninist theories, and Confucian values. This mixed background is reflected in the political value gap between pro-democrats and pro-Chinese in Hong Kong and their different concepts of nation building. The constitutional conflicts in Hong Kong, very much like the constitutional debates in America in the 18th Century, provide us with rich sources in discovering the core values that the new regime has been pursuing.

After 1997, organising and harmonising the various values derived from the complex history of Hong Kong has become an uneasy task. In the US, the Supreme Court is authorised to rule on the constitutional legitimacy of legislation, which since *Marbury v. Madison* has become an outstanding element in the checks and balances system. Compared to the US, the current constitutional order in Hong Kong is rather unclear. As in China, there is no 'Supreme Court' in Hong Kong to interpret the Basic Law or provide judicial reviews. Under Article 158, the courts in Hong Kong have the final word in the interpretation of the Basic Law, yet subject only to a power of final interpretation reserved to a Mainland authority, namely the National People's Congress Standing Committee (NPCSC). Because Hong Kong is not a sovereign state, the courts in Hong Kong (including the Court of Final Appeal (CFA) which is comparable to the US Supreme Court) have limited jurisdiction.

Regime Values in the Basic Law: the Freedom-Loyalty Trade-off

Hong Kong's Basic Law has received criticism ever since its inception. Nevertheless, the literal definition of the "One Country, Two Systems" does convey CPC's willingness to allow a non-Marxist government in Hong Kong (as well as in Macau and Taiwan, China's other SARs). This willingness, whether simulated or real, is present in most of the general principles under the Basic Law.

One of the most frequently used words in the Basic Law is *freedom*. This principle, including freedom of speech, religion and press, freedom of assembly and association and freedom to strike, is omnipresent in Articles 27-38. Furthermore, Articles 2 and 8, for example, enable Hong Kong to keep its administrative status and common-law system as it was before 1997. More importantly, the possibility to retain the political order and citizens' rights in Hong Kong represents the freedom principle as a large part of the "Two Systems" idea. If one word can be used to describe the constitutional values expressed in the Basic Law, it would be *freedom*. Of course, we should not be

shocked if this argument is criticised or despised by many citizens, especially pro-democrats in Hong Kong. The conflicts discussed in previous sections indicate that the current reality seems to dramatically fall short of the constitutional ideal. In recent political movements against some of Beijing's decisions in Hong Kong, the largest voice in these incidents was indeed that asking for freedom. A number of movements such as the traditional 1 July marches had set freedom as a major theme. Although Beijing officially advocates Hong Kong's relative independence, this attitude has seldom been acknowledged by the pro-democrats during much of the post-1997 era. As mentioned before, both sides find it hard to reach an agreement on the interpretation of some key articles in the Basic Law.

Loyalty is the second prominent regime value in the Basic Law after freedom. While freedom is the symbol of "Two Systems", loyalty is the symbol of "One Country". Article 158 in the Basic Law provides the framework of the relationship between the central government and Hong Kong government. Despite their adjudication power, the CFA's and lower courts' decisions will be bound by the interpretation of the NPCSC in sovereignty-related issues. Thus far, the Hong Kong government has sought the NPCSC to interpret the Basic Law twice (in 1999 on the right of abode and in 2005 on the tenure term of Chief Executive), and the NPCSC itself has taken the initiative to interpret the Basic Law on the question of universal suffrage in 2004. In all three cases, the pro-democratic alliance tried to ask for more freedom and independence but failed to succeed due to the resistance from Beijing. In a number of occasions, politicians in Beijing have also consistently expressed the importance of understanding 'One Country' as the premise for 'Two Systems'. In this case, considering that the final opinions given by the Hong Kong government were all in line with relevant provisions from the NPCSC according to Article 158, loyalty has become a systematic premise for freedom. Notwithstanding many voices against the post-1997 political system, officials who hold positions in the government are still upholding the Basic Law. In the *Prem Singh vs. Director of Immigration* case, 2003, CFA Chief Justice Andrew Li stated in his judgment that:

"In any event, the position is simply this. The courts have to uphold the Basic Law no matter how anybody may react to our doing so. No other course is open to us. Upholding the Basic Law is the first thing that every member of Hong Kong's judiciary swears to do when he or she takes the judicial oath".

Li's words suggest that judges (and also bureaucrats) in Hong Kong should not offend the basic principles in the mini-constitution, even if they would consider certain articles illegitimate. In June 2009, President of National People's Congress Wu Bangguo issued an important speech on Hong Kong's political reform. He

stated that Hong Kong's autonomy was granted by the central government, including the power of Hong Kong government, but he emphasised that there was no 'residual power' for Hong Kong to decide its political future (Mingpao 2009; Zhang 2010, 448).

Evidence of loyalty is also presented in cases of political appointments. As was implied by the former Chinese leader Deng Xiaoping, only "patriots" who "respect the nation, supporting the motherland's sovereignty over Hong Kong whole-heartedly and doing no harm to Hong Kong's prosperity and stability" would be allowed to rule Hong Kong (Deng 1984; Poon 2008, 29). The first Chief Executive of Hong Kong, Tung Chee-Hwa, is perhaps one of these reliable loyalists to the central government. When explaining the reason that Tung was appointed, Qian Qichen, Vice Premier and Chairman of the Preparation Committee, mentioned nothing about the Chief Executive being able to gain a mandate from the people whom he was supposed to present, but emphasised Tung's comprehensive understanding in "One country, Two systems" (Poon 2008, 29). Apparently, Tung and Beijing shared common plans on the future of Hong Kong; the former was agreeable to subordination to the latter. During Tung's tenure, both he and the Chinese government wanted a new order that asserted political control over civil service and tried to bring to government what his administration regarded as the benefits of private sector practices (Scott 2005, 376).

Ideally, Beijing expects to become the ideological foundation and driving force for Hong Kong's bureaucrats within the context of the Basic Law. National interests would precede local interests should any conflict emerge between the mainland and Hong Kong (Poon 2008, 28). Hence, this "patriotic approach" challenges the pro-democracy alliance that so often provokes their constitutional authority in Beijing. Interestingly, according to this context, *freedom* is presented as *bounded freedom*. Unlike the regime values in the US, bounded values are not only derived from one constitution. Rather, they are a type of value that is first stated in the Basic Law and then re-interpreted by the NPCSC.

Although Article 45 of the Basic Law stipulates eventual universal suffrage to choose Hong Kong's Chief Executive, the exact schedule for implementation is still unclear. The CPC has indicated that 2017 and 2020 would be the right time, while pro-democrats have urged Hong Kong's government to allow referendums in 2007, 2008, or 2012. Recently, the Article 45 Concern Group requested the implementation of the promised direct elections for the Chief Executive as stipulated in Article 45 and has become an extremely significant part for the pro-democracy alliance (Poon 2008, 74-5). In April 2004, despite pressures from the pro-democracy alliance, the NPCSC ruled against the

introduction of universal suffrage before 2017. Central Government Liaison Office in Hong Kong deputy director Li Gang commented:

“The move [advocating a referendum] is against the Basic Law. They [the politicians] are playing with fire (...). They just want to use this practice to overrule the decision made by the National Peoples’ Congress Standing Committee” (Ng 2004).

Li suggested that in principle there is no absolute freedom in Hong Kong politics when it comes to the interaction between CPC and opposing parties. The contradicting opinions of pro-democrats and officials such as Li reveal a loyalty-freedom trade-off. On one hand, there is a completely independent judiciary for Hong Kong’s ‘domestic’ issues, but on the other, an independent judiciary does not exist in cases connected to the ‘One Country’ principle.

Unfortunately, the bounded values in Hong Kong do not yet seem to provide the type of ethical guidance to public officials envisioned by Rohr in the American context. On the contrary, the bargain on Basic Law articles between the pro-democracy camp and the pro-Beijing camp shows that the Basic Law is likely to create more confusion in the contemporary Hong Kong political society. The constitutional debates on elections and other issues, like those in the transitional period, can be seen as a means of defending civil liberties against encroachments by the Beijing government (Scott 2010, 37). Therefore, the perception of constitutional democracy in Hong Kong varies between the major camps. This has already caused heated debates and is likely to continue to be a highlighted topic in this region in the future.

Rule of Law and the Last Fortress

Although Hong Kong is still a relatively free society compared with Mainland China, it is by no means as free as it was before. The loyalty-freedom trade-off has resulted in a confusing definition of *freedom* in Hong Kong. This is also the main reason that pro-democrats started a heated debate with the pro-Beijing camp after 1997. They have been calling not only for basic human rights, but also for a more independent and more democratic political system with little interference from the central government – both of course unacceptable to the government in Beijing. These efforts to loosen the bounds of freedom were apparent in major incidents in the past decade, from the 2004 referendum proposal to the Five Constituencies Referendum in 2010. A more important point is that the pro-democracy camp leaders as well as CPC officials expect courts and judges in Hong Kong to play an essential role in promoting certain types of freedom. There is also concern that the Hong Kong government might

not be able to uphold the rule of law when there are strong political forces opposing it and if there is pressure from the Chinese Government (Tai 2007). The discussion above highlights the NPCSC interpretation (and curtailment) of freedom via the CFA in the previous section. However, pro-democrats are also hoping that judges in the post-1997 era can continue to uphold their deep-rooted ethical values from the colonial period. Democratic Party legislator Emily Lau made a speech at the meeting of the Legislative Council on 9 June 2010, indicating the importance of the CFA for the protection of freedom in Hong Kong:

“The judiciary is often regarded as the last fortress of a free society, upholding universal core values such as personal liberty, freedom of expression and freedom of assembly. (...) As the head of the judiciary, the Chief Justice plays a pivotal role in defending the valuable attributes of a free society. Thus, he must have high integrity, independence and the courage to defend his own convictions” (Lau 2010).

In 2005, the Court of Final Appeal unanimously overturned the convictions of eight Falun Gong members for assaulting and obstructing the police in a case that was widely seen as a test of the judicial independence and the right to protest in Hong Kong. Officially designated as a dangerous ‘cult’, the Falun Gong has become one of the biggest groups opposing the CPC. It was to some extent a challenge to CFA judges since they were supposed to clarify their stance in the debate on freedom. Finally, in a summary of the verdict, the CFA elaborated that the freedom to demonstrate peacefully is protected by the Basic Law:

“Those freedoms are at the heart of Hong Kong’s system and the courts should give them a generous interpretation. (...) The demonstrators were engaged in a peaceful demonstration in exercise of their constitutional right and (...) their right to protest should have been taken into consideration before they were arrested” (Wong 2005).

Although this opinion was welcomed by pro-democrats, some political commentators have indicated an ironical aspect of it. They have pointed to the fact that, while demonstration against the British Crown and British colonial rule was punishable by imprisonment in Hong Kong under colonial rule, criticism of China and its socialist system is now celebrated as a defence of democratic freedom in post-colonial Hong Kong (Liu 2005). Despite the desire to provide a generous interpretation in order to grant the public request for freedom, CFA cannot hide from its own loyalty to the Basic Law. There exists little confidence in the current political process, which reflects the enthusiasm for a constitutional

review among the public (Dykes 2010, 418). For CFA and other courts in Hong Kong, judicial review may decide to what extent freedom in Hong Kong is bounded and still how far it is from pro-democracy ideals.

Conclusion

Rohr presented his concept of regimes values as important for administrators to promote when they have to make discretionary decisions reflecting a normative ethical concept. In Hong Kong, however, constitutional values like freedom are used more as political criteria to test whether bureaucrats from a certain camp actually promote the values of that camp in the new regime. Compared to the US Supreme Court, the CFA and other courts in Hong Kong tend to decide cases on narrower legalistic grounds rather than broad regime values and principles. Restricted by their political limitations, they are not in a position to articulate regime values. Another problem is that constitutional values are certainly not the only or perhaps even the highest kind of values bureaucrats have to promote. Waldo argues bureaucrats find themselves mired in multiple, and often conflicting, obligations. Apart from the regime or Constitution, Waldo also lists the law, the nation or the country, democracy, organisational or bureaucratic norms, their profession, family and friends, the public interest or general welfare, humanity or the world, and religion as sources of conflicting obligations (Waldo 1980, 103-106). In constitutional debates in Hong Kong, much of the focus is on striving for certain political interests rather than articulating constitutional values.

Nevertheless, we cannot simply declare that Hong Kong or China is without constitutional values. Much of the establishment of American regime values is related to the intent of the framers. Federal judges in the US, when interpreting the Constitution, frequently use the Federalist papers as a contemporary account of the intentions of the framers and of the ratifying citizenry (Lupu 1998, 403-410). A widespread classical debate similar to that between the Federalists and the Anti-Federalists and references to such documents does not exist in China at this moment. A primary source like the Federalist Papers is difficult to set up in Hong Kong considering the complexity of its politics, but recent debates have at least produced an *embryo* of the constitutional values in this particular region. The constitutional clash between the two major camps did not only provide Hong Kong with a certain level of political and bureaucratic crisis, but also offered an opportunity for bureaucrats and scholars to re-define their values and find a better way to improve the nation building of China as a whole. Aiming to shape the future interpretation of the Basic Law, Beijing and Hong Kong have played a constitutional game of interpretation and re-interpretation since 1997. A positive result of this game could be that both sides compromise over some

controversial interpretations of the principles in the Basic Law. As for the other extreme, the game might also end up in non-stop debates, even conflict, and bureaucrats may use their 'personally articulated' administrative discretion in line with narrow political interests. Therefore, the situation in Hong Kong may come to a deadlock, or even deteriorate, and there will be no ground for establishing shared normative regime values.

So who will be the crucial players in the game? There is no doubt that the three permanent judges in the CFA, as Emily Lau argued, are some of the most critical individuals. Judicial independence ensures that the Hong Kong government cannot control the decisions of the CFA and the 'two systems' policy ensures the officials in the NPCSC do not monitor them. This may explain why judicial opinions given by the CFA have caused displeasure from Beijing. Practically and principally, judges have more autonomy than other bureaucrats and are more likely to push the game in a specific direction. Hence, the ethics and ideologies of those judges will be decisive for the future of the Basic Law because these dimensions shape their behaviour and actions in their interaction with the ruling citizens in Hong Kong and China.

However, as we have suggested before, regime values might not be the only variable. Interestingly enough, bureaucrats in Hong Kong have experienced a big change in political and social values in the past few decades. Before 1997, they needed to learn that British law was sovereign; after 1997, the Basic Law outlined new values. Apart from the two constitutions, they inevitably had to learn of Beijing's ideologies and adjust that to their own discretionary judgment. Finally, the Confucian elements in the Hong Kong political society can also affect the Chinese judges in courts. Their own perceptions on loyalty and freedom, good governance and bureaucracy, and democracy and communism will shape the interpretations of constitutional values in China, which remain unsettled. Predictably, efforts made by Hong Kong and Beijing might not produce major results in a short period of time. Moreover, with its so-called 'constructive vagueness', the Basic Law itself may become the cracks in the wall of Hong Kong's last fortress.

On 31 August 2010, the much respected Chief Justice of the CFA, Andrew Li, resigned. His successor Geoffrey Ma and other ruling citizens in China and Hong Kong must continue to work towards judicial progress. Last but not least, changes in Hong Kong politics may also shape the future of the loyalty-freedom trade-off. In May 2010, Li Gang, on behalf of CPC, had a constructive conversation with the opposition democrats, which was considered to be a milestone in Hong Kong's democratic development. Delegates of pro-democrats eventually persuaded Beijing to accept their reform proposal. In July the televised debate between Donald Tsang and Audrey Eu on political reform also

highlighted the importance of democracy and freedom in Hong Kong politics in the next decade. It is unclear at this moment whether or not these promising events will finally lead to improved interpretations of 'freedom' and other possible regime values of Hong Kong. But as this article has shown, these values do provide us with the means to reveal the long-neglected ethical and moral elements underlying Hong Kong's constitutional battles.

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REFORMING CHINA'S WATER LAW THROUGH REFORMS OF THE DIVISION OF ADMINISTRATIVE FUNCTIONS AND DELEGATE POWERS

*Larissa Paschyn*¹

Statutory and case law at the provincial and local level provides critical legal frameworks for water management in China. As many provincial and local governments struggle to improve efficiency in water management and resolve conflicts over water usage, they must continually assess the efficacy of their national and local water laws and regulating bodies. China's water laws have undergone reforms but are still disconnected and overlapping. This paper assesses China's state water law. It takes first steps toward a comprehensive state water resources act by setting out an analytical framework for a reform process. The methodology of the paper focuses on issues and conflicts in water management at the state, and local level. It amalgamates management and legal analyses that incorporate the diverse perspectives of state water stakeholders. The results are identification of management issues, profiles of provincial water laws and regulating bodies, and explorations of legal reforms that are available to the national government.

Introduction

In 1988, China enacted a national *Water Law*. This brought important institutions to clarify water use rights and improve overall water management, including water withdrawal permit system, water fee and water resource fees (Ongley and Wang 2004, 2). The water withdrawal permit system empowers the State to issue permits for all water drawn directly from aquifers, rivers, or lakes (China Council for International Cooperation on Economic Development Secretariat (CCICED) Task Force, 2004).

The *Water Law* (1988) prescribed runoff allocation schemes for Trans-boundary Rivers. The allocation scheme divided water rights among different riparian administrative districts. These districts were usually provinces, and were given upper limits on drawing river runoff (Wang 2006, 3). However, this allocation scheme generally was not implemented because the Ministry of Water Resources (MWR) and the provincial governments neglected to create enforcement institutions. Moreover, river basin organisations (RBOs) lacked sufficient

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political clout and the ability to coordinate amongst the provinces (Chen 2008, 218).

In 2002, China amended the *Water Law* to promote a more integrated legal system of water management. The legislation gave RBOs greater power to enforce a new institution of unified water diversion. River water is now allocated by the requirements of water districts and in-stream ecological needs (Wang 2003a, 94). In 1998, the State Council also revised the *Regulations of the People's Republic of China on Administration of Water Transport* (1987). The 1987 decree held the Ministry of Communications as the department responsible for water transport throughout the country. Local departments for communications were also responsible for the water transport in their respective regions, and could set up administrative agencies for water transport. The revision instead authorized the Yellow River Conservancy Commission (YRCC) to unify the diversion of water. However, the YRCC, the strongest RBO, has struggled to ration water allocation in the Basin, and weaker RBOs have faced even more difficulties in implementing a runoff allocation scheme (Wang 2003b, 7).

Current Laws and Context

A water withdrawal permit system has been set up in most of China's watersheds. It has divided water use rights among factories and individual users. However there is ineffective enforcement (CCICED Task Force, 2004). It is difficult for local water resource bureaus and RBOs to monitor all the users due to challenges of information asymmetry. Moreover, local governments do not always grant water agencies sufficient administrative power. The RBOs are chaired by nominal committees without members, and enforcing a unified water diversion system is difficult to coordinate for all water districts as there is no public participation or stakeholder involvement. RBOs also lack the financial means and man-power to implement, monitor, and enforce allocation schemes. This is because water conservation is viewed as a burden hindering economic development (CCICED Task Force, 2004).

Since the total amount control of regional water is not enforced by the provincial level water agencies, local water resource bureaus have little incentive to monitor water withdrawals of users (Wang 2006, 11). In some areas, regulators abuse their authority and are involved in corruptive practices such as illegal water use or bribes and even allow users to draw water in excess of their permit in return for a water resource fee from them. These overdrafts essentially steal water already allocated to other users. They are also a major source of interregional water conflicts in China (Wang 2003b, 7). Due to poor legislation and delineation of

ministerial duties, policymakers face numerous challenges in creating sustainable policies in respect of water management.

Water quantity management falls under the jurisdiction of the State Environmental Protection Administration (SEPA) and The Ministry of Water Resources (MWR) (Wang 2003b, 9). Under the Chinese legal system, SEPA is empowered under the *Environmental Protection Control Act* (1979) and the *Water Pollution Prevention and Control Law* (WPPC, enacted in 1984 and revised in 1996) to regulate water pollution. Yet, inconsistent stipulations in the WPPC (1996) and *Water Law* (2002) have resulted in inter-ministerial conflicts between SEPA and MWR. Much of the conflict revolves around who has the “power” or who is in charge of what projects (i.e. water quality protection or water quality planning), as well as competition over “turf” control such as testing sites, and station locations. This affects the implementation of water quality planning, protection and monitoring (Ongley and Wang 2004, 4).

The WPPC (1996) further stipulates that SEPA develop water quality planning according to national and basin-level targets (Wang 2003b, 6). All operational responsibilities for pollution control plans are delegated downwards to Provincial Environmental Protection Bureaus (EPBs). The EPBs take direction from SEPA, but are mainly responsible to fulfilling demands by the provincial governments (Wang 2003b, 7). Therefore, we can see that the central faults in China’s current water quantity management regime are ineffective enforcement of legal institutions and in undefined administrative laws.

The Water Quality Management Regime

Whereas the Ministry of Water Resources (MWR) is the main organ of State Council to control water quantity management (as stated above), water quality is overseen jointly by SEPA and MWR (Wang 2007, 403). The *Water Law* (2002) authorizes MWR to oversee “water resource” management. Yet “water resource” lacks a clear legal definition in the statute. Thus, the MWR has regarded water quality protection also as one of its responsibilities. This has caused contentious administrative struggle between SEPA and MWR. There is little sharing of data or collaborative analysis of data, and there is no shared database of quantitative and qualitative monitoring results. They also do not have a common set or standard of monitoring parameters to gauge measurements to, and frequently compete for assignment of station and sampling locations (Wang 2007, 403). This compromises any analytical value of current water quality databases for China.

As mentioned above, the WPPC (1996) also stipulates that SEPA develop water quality planning according to national and basin-level targets. Operational

responsibilities of pollution control plans are delegated to the EPBs. These EPBs are run by SEPA (Ongley and Wang 2004, 6). The EPBs are responsible for fulfilling demands by the provincial governments. These water quality plans are more bureaucratic than scientific. Thus, water quality targets tend to be quite unrealistic in practice, and have not, on the whole, been realized (Ongley and Wang 2004, 7).

The *Water Law* (2002) also authorizes MWR to develop water resources protection planning. The aim is to establish water function zones, estimate pollution assimilation capacity of waterways, and propose pollution loading targets (Wang 2003a, 96). However, SEPA has, instead, developed its own estimates of assimilation capacity and loading targets. This is because of the ambiguities between the *WPPC* and *Water Law* (2002). These have created conflicting mandates for pollution control and water resources management (Ongley and Wang 2004, 6). Moreover, this undefined administrative legal framework has resulted in the absence of an integrated basin-level water resource system. It also has resulted in a lack of pollution control planning and management (World Bank 2001, 122).

China's seven major river basins are managed by RBOs. They have broad responsibilities to manage water quantity issues (World Bank 2001, 122). RBOs are subordinate organisations under the MWR. They have no formal responsibility to implement pollution plans issued by SEPA. In 1980, to create stronger basin-wide water quality management of these major rivers, the central government mandated the creation of the Water Resource Protection Bureaus (WRPBs) within the RBOs (Wang 2006, 9).

The WRPB is jointly run by the MWR and SEPA. It is responsible for gathering water quality data and reporting to both ministries. However, since 1998, SEPA has been attempting to set up its own monitoring network. It has even proposed to set up its own river basin organisation (Wang 2006, 9). The State Council has rejected this proposal. Furthermore, since 1998, the WRPBs fall under complete control of MWR. SEPA has still set up its own water quality monitoring sites. Now there exist two monitoring networks in some of China's major rivers. MWR and SEPA do not share their network data with each other (Wang 2006, 9).

Institutional Conflicts

SEPA and MWR follow the same State-prescribed analytical procedures and water quality standards in their water quality studies. However, the monitoring results in the same river often differ. An interesting example is the divergence on water quality data of Huai River. According to the monitoring data from the

MWR's RBO, more than half of the river quality was worse than type V in 2003 (Li Shilin, 2004).

In the same year, SEPA announced in its annual *China Environment Bulletin* that most of the stretches of the river was type IV (Li Shilin, 2004). This contradiction diverged even more with SEPA reporting the total amount of Chemical Oxygen Demand (COD) emissions in 2003 as approximately 700 thousand tons. COD is used to indirectly measure the amount of organic compounds and pollutants in water, making it a useful test of water quality. SEPA implied water quality had almost been restored in the past ten years. Conversely, the MWR monitoring issued another figure of 1,230 thousand tons, almost approaching the maximal level in history (Li Shilin, 2004). This continuing mismatch of results between SEPA and MWR is counterproductive and results in poor water environment quality.

Another major problem is coordination between trans-boundary agencies. In China's top-down political structure, most trans-boundary affairs depend on the intervention and coordination of the central government (CCICED Task Force, 2004). Therefore, it is very difficult for the riparian provinces to solve problems by equal negotiation. Riparian provinces compete with each other to seek resolutions from the central government (Wang 2003b, 9).

This can be seen in runoff allocation development. Among the seven major river basins in Chinese territory, the runoff allocation scheme only has been implemented in the Yellow River Basin (Wang 2007, 403). Since most trans-boundary rivers have not allocated runoff, it is difficult to implement *the Water Law* (2002)—Total Amount Control (TAC) system. TAC puts restrictions on districts for their total water withdrawal (Wang 2007, 404).

Enforcement Difficulties

There are also enforcement problems that hinder the current laws. In areas with long-term water conflicts, the formulation of a water allocation scheme is a time-consuming process. It demands drawn-out negotiations and compromises among the riparian provinces (Wang 2007, 405). Even if provinces and districts in a river basin come to an agreement on the runoff allocation, there remain difficulties in guaranteeing enforcement. For example, riparian provinces did not comply with the allocation scheme of the Yellow River that the State Council approved in 1987. In the 1990s, actual withdrawals by Shandong Province and Inner Mongolia Autonomous Region exceeded their permitted quotas. This caused the flow cut-off situation in the lower reaches to worsen (Wang 2004, 204).

Taihu Lake serves as another example. Legislation is being urged for the Taihu Lake basin area. It covers two provinces and one municipality (Yanfeng, China Daily, 2010). However, officials state that administrative barriers among the governments of the three different regions and their self-interests have hindered improvements in Taihu Lake's water quality. Cross-region legislation is vital to ensure efficient cooperation among them (Wang 2007, 403). Zhang Quan, director of the Shanghai Municipal EPB, has submitted a proposal to the ongoing National People's Congress session. He calls for the establishment of a central commission on the protection of Taihu Lake water quality. He also calls for comprehensive cooperation among regions in the upper and lower reaches of the Lake (Yanfeng, China Daily, 2010).

The current governing body for the area is affiliated with the MWR. It is only responsible for flood prevention and utilization of water resources. It cannot address water pollution problems. Taihu Lake has witnessed massive outbreaks of blue-green algae in recent years despite efforts to cut pollution discharges into the Lake. One such outbreak disrupted water supplies to one million residents of Wuxi in 2007 (Yanfeng, China Daily, 2010). Further exacerbating the problem is the fact that very few provisions are provided for measures against non-compliers (World Bank 2001, 137). *The Environmental Information Disclosure Decree* (EIDD) (2008) provides punishment for non-disclosure, with a maximum fine of 100,000 Yuan (Xie, Jian 2009, 53). This is too low to be an effective disincentive. Current laws also do not specify how to provide compensation for the losses caused by noncompliance with information disclosure requirements.

Lack of a Unified Legislative and Procedural System

The *Administrative Litigation Law* (ALL) (1989) was adopted into law to institutionalise the 'principle of democratic centralism'. It was also supposed to ensure that administration be carried out in accordance with law (Cheng, Jianfu, 216). However, the ALL (1989) does not include principles of control or supervision of power. Article 1 of the ALL (1989) provides that it is enacted to protect the rights and interests of citizens, legal persons and other organisations. It is to safeguard and supervise the administration organs in the exercise of their authority and functions (Chen, Jianfu, 222).

The 1996 *Administrative Penalties Law* (APL) and the 2003 *Law on Administrative Licensing* (LAL) stipulate the procedural requirements. They deal with the misuse and abuse of administrative powers and lack of procedural control of administrative decision-making (Chen 2008, 228). However, a comprehensive code on administrative procedures has not been produced. Internal reviews of administrative decisions are regulated by the *Administrative Reconsideration Law*

(1999) (Chen 2008, 227). Nevertheless, there is still an absence of administrative legal regulations and transparency. This is particularly true for water rights, which undermine the *ALL* (1989), *LAL* (2003), and *APL* (1996) (Chen 2008, 227).

First, legislative conflicts in the administrative legal framework prevent a unified legal framework and coordinated institutions. For example, the *WPPC* (1996) and *Water Law* (2002) are inconsistent. They are notably missing important ingredients for river basin governance (Ongley and Wang 2004, 4). This includes public participation provisions, requirements for information sharing among government agencies, and measures to enforce non-point pollution management.

Second, water regulation laws are drafted by the ministries that are later given power to enforce them. For example, the *WPPC* (1996) and the *Water Law* (2002) give power to SEPA and MWR, respectively. They hold that “power” is vested in the ministry by virtue of “their” law (Ongley and Wang 2004, 4). In other words, water legislation is created as “sector-based laws” instead of “universal laws.” Thus, a unified framework of river governance is difficult to create. Third, laws cannot be implemented in practice (Qu Geping 2004, 412). Reasons include China’s huge population, scarce environmental resources, fragile ecological carrying capacity, economic developing pressures, and the overly top-down political power structure. The political power top-down structure lacks leverage of power over local governments (Qu Geping 2004).

Fourth, RBOs are not real spokesmen for river basins. They have little administrative power. They are not mandated to manage river basins in a holistic context (World Bank 2001, 125). An integrated regime of river basin management has not yet been established in China either. Fifth, WRPBs manage quantity and quality of water in a fragmented manner. This is due to the inter-ministerial struggles between SEPA and MWR (Xie, Jian 2009, 133). Sixth, current river basin commissions of China’s seven major rivers are nominal committees without members. These RBOs coordinate trans-boundary benefits as an agency of central government (World Bank 2001, 128). Again, this top-down river governance structure makes trans-boundary conflicts difficult to coordinate in the current decentralized economic system. In addition, stakeholder involvement and public participation in water management decision-making is very limited (Wang 2004, 212).

The absence of these administrative legal mechanisms originates from the lack of relevant provisions in the existing administrative laws. There are absences in legal provisions on trans-jurisdictional and cross-departmental coordination (Ongley and Wang 2004, 6). There is also a lack of legal procedures and methods for the settlement of trans-jurisdictional water disputes. The national trans-

jurisdictional water resources management legislation is not procedural. Without any coordination offered by procedural provisions, it is very difficult to realize the objectives of substantive provisions (Xie, Jian 2009, 134).

Although regulations and laws specify organs for settling water disputes and pollution disputes, they lack provisions for how parties in disputes can apply for settlement. The law also does not specify what the settlement steps and formalities are, nor does it specify time limits for complaints to be registered, or how to appear in case a refusal to settlement occurs (Qu Geping 2004, 411). Once disputes occur, parties involved and management departments in many cases have no idea of what course to take. This leads to constant postponement of the dispute without any decisive result (Xie, Jian 2009, 135).

Poor Monitoring and Evaluation

Another significant issue is the lack of effective environmental damage compensation and insurance systems. In particular, pollution damage identification and evaluation systems are lacking (CCICED Task Force, 2004). This includes there being no current legal basis/precedent for the judgment of a violation of a water law, including a standard for what is deemed a violation of the law, a standard of what can be identified as a pollution incident, a standard/regulated assessment of the pollution and damages caused, a set standard of penalties/fines for the polluter, or a corresponding liability plan like a water pollution liability insurance plan (CCICED Task Force, 2004). For sectors and enterprises with major environmental risks, no compulsory insurance system for environmental damages has been established yet. It is difficult to gain expenses for accident settlement and damage compensation from enterprises involved (Li Shilin, 2004).

An important reason for this is the presence of local protectionism in practice. According to the EPL, local governments are responsible for the environmental quality within their own regions (Xie, Jian, 2009, 129). For enterprises that cause severe environmental pollution, local governments shall order them to treat pollution within a specified time limit (Xie, Jian, 2009, 130). They will also shut down those that fail to complete treatment tasks within the time limit.

However, in practice, many local governments and enterprises focus only on immediate economic benefits. They think little of developing new production equipment and process technologies. As a result, much equipment currently used is obsolete and operate with defects. The use of obsolete equipment has become major cause of water pollution accidents (Qu Geping 2004, 411). Local environmental protection departments also rely heavily on local governments for

financial expenditure and personnel matters. Therefore, environmental protection objectives are less valued than economic development goals. This is regardless of substantive provisions related to environmental protection, pollution discharge and law enforcement (Xie, Jian 2009, 135).

In summary, the central problem is the ineffective enforcement of legal institutions. This mirrors challenges faced by the water quantity management regime. In short, China's pollution control is constrained by several issues including: (a) failure to implement water pollution prevention and control plans due to institutional conflicts; (b) problems with monitoring and enforcement; (c) lack of integrated river basin management (Xie, Jian, 2009, 301).

Review and Consolidation of Existing Law

At present, legal defects exist in trans-jurisdictional water pollution management in China. This includes problems in coordination among laws, absence of legal systems, and slack law enforcement. Also, substantial defects exist in the institutional arrangements for trans-jurisdictional water pollution management. This is especially true for administrative coordination among central and local authorities. Water resources and environmental protection departments also have substantial institutional defects.

It is imperative to make adjustments in management organs. Furthermore, mechanism-building is critical to trans-jurisdictional water pollution management. Legal adjustments must be carried forward concurrently with institutional reform. However, due to the involvement of substantial department interests, institutional arrangements will face huge resistance. Institutional reform will proceed slowly. Therefore, institutions, mechanisms, and laws need to be promoted concurrently.

At present, China is still in a period of reform and transition. Legislative and institutional adjustments need to be made gradually. In the short term, two tasks should be focused on. First is enhancing high-level inter-departmental coordination mechanisms. The second task is revising the *WPPC* (1996) and the *Water Law* (2002). Mid-term reform should include institutional adjustments. There should also be established river basin management organs. These should promote inter-departmental coordination and public participation. They should actively probe into legislation on river basin management.

Long-term reforms should establish river basin management organs with wide participation of stakeholders. They need to carry out work with rights authorized

by laws. They also need to form democratic, coordinative and efficient river basin management models. Likewise, river management decision-making and implementation should be separated. To summarise, China needs a permanent inter-ministerial coordination arrangement. This arrangement needs to deal with the institutional arrangements and operational practices between SEPA and MWR. Inter-ministerial conflict has strong connections with the deficiencies in the legal framework for water quality and water quantity management. Therefore it is crucial that China create better legislation to amend the deficiencies in the pollution prevention and control laws of the *WPPC* (1996) and its implementing rules. Equally important is the need to harmonize various laws, especially the relationship between the water pollution control and water quantity laws.

Implementation of Laws

Of course, improving law enforcement is the number one priority to make the legal framework useful and effective. As stipulated in the State Council's *Compendium of Implementation for Fully Promoting Law-Based Administration* (2004) (Xie, Jian 2009, 42), a series of actions need to be taken:

- 1) Detailed guidelines for implementing the *WPPC* (1996) should be developed.
 - a) The existing systems of total pollutant control and pollution emission permits should be improved.
- 2) Supervision and inspection by the national and local congresses and administrative branches should be strengthened.
 - a) Adequate budget and personnel for such inspection and supervision should be provided by law;
 - b) Local agencies responsible for law enforcement should be independent of local authorities.
- 3) Public-private partnerships should be encouraged by laws and regulations.
 - a) These partnerships should help monitor and track down violators;
 - b) They should supervise local agencies responsible for law enforcement.
- 4) The *Water Law* (2002) should clearly define the authorities, responsibilities, and coordination mechanism for different administrative organisations
 - a) Including the MWR, (Ministry of Environmental Protection MEP, River Basin Management Commissions RBMCs, and relevant organisations at the local level.
 - i) It should clarify the linkages between all these organisations;
 - ii) Clarify the status, responsibilities, operational mechanisms, and process of RBMCs.
- 5) For other water-related laws and regulations, amendments are needed to make them consistent with the *Water Law* (2002) and the newly amended *WPPC* (1996).

To add to the State Council's recommendations listed above, the role of RBMCs in planning, allocation, and development of water resources should be legally-specified as well. This should be done preferably in primary legislation. Local governments should be required by law to be members of the RBMCs in planning in water resource management.

It is also important and feasible to strengthen coordination among agencies. Establishing a proper coordinating mechanism can do this. The mechanism should include regular interagency consultation, and compulsory information sharing. Cross review and endorsement of relevant policies and plans should also be implemented. Finally, joint policy-making is needed for coordinating mechanisms. For coordination, a restructuring of water management governmental organisations must take place. One option is to establish a State Water Resources Commission (SWRC). The SWRC could serve as a coordinating and steering organisation on water-related affairs across the country. It should be chaired by the premier and members would be heads of all water-related ministries/agencies at the central level. It would direct the development of a national water strategy. It would also examine long-term plans for water development, allocation, and use. In addition, it would coordinate all water-related ministries/agencies to avoid policy inconsistency and conflicts before they are implemented.

At the ministry level, an option would be to merge major water-related duties currently put under the different government agencies (namely MWR, MEP). A new super ministry could be established instead. This ministry would implement a unified management of water quantity and quality, water resource conservation and use, and water environmental protection.

River basin commissions for all major rivers and lakes that run across different provinces/municipalities should also be established. Specific provisions should be added to the *Water Law* (2002) to provide legal status. These provisions should also clarify the authorities/responsibilities of the new type of RBMCs. Existing RBMCs should be reshaped to give them more authority and independence. RBMCs could consider the involvement of representatives from the MEP. They would eventually become independent of MWR. They would be held accountable to the State Council directly. Their governing board should include representatives from both the central government and provincial/municipal governments. This would ensure appropriate accountability for basin-wide water resources management.

Right to Information

Transparency and information disclosure is also crucial. In the *Compendium of Implementation for Fully Promoting Law-Based Administration* (2004), administrative agencies are required to open to the public all governmental information. In 2005, the *Guidance for Further Enforcing Openness of Administrative Affairs* (GFEOAA) was promulgated (Xie, Jian 2009, pg. 51). In April 2007, the *Government Information Disclosure Regulation* (GIDR), which came into effect on May 1, 2008, defines the range of government information. The *GIDR* (2008) sets methods and procedure for information disclosure, designs dispute resolution mechanisms, and provides specific provisions on performance supervision (Xie, Jian 2009, 52).

The MWR also issued *GFEOAA for Water Management* (2005), and the MWR's *Provisional Regulation on Openness of Administrative Affairs* (2006). These define the scope of information that should be disclosed to the public. They also define the various forms of information disclosure, including official bulletins and public hearings to web-based channels (Xie, Jian 2009, 53). The *Regulation of Hydrology* (RH), (2007), focused on water quality monitoring and also set requirements on information disclosure. SEPA also issued official documents to enhance information disclosure (Xie 2009, 52). The *Provisional Regulation on Public Participation in Environmental Impact Assessment* (PRPPEIA) (2005), defines the scope of information that project organisations should make available to the public. It also defines forms of disclosure and time limits for disclosure. MEP's *EIDD* (2008), makes it a compulsory responsibility for enterprises and governments to disclose their important environmental information to the public (Xie, Jian 2009, 53).

Local governments have, as well, promulgated regulations and policies to promote water-related information disclosure. Reports on the state of large river basins have been delivered on an annual basis (Xie 2009, 52). These reports provide information on water conditions and management in whole river basins. As a result, the public has better access to water-related information, and the administration of water issues is much more transparent than before (Xie 2009, 52).

However, most of the information that existing regulations, *RH* (2007), *EIDD* (2008), and *PRPPEIA* (2005), require to be made open to the public is on government organisations in charge of water affairs and their responsibilities and behaviors (Wang 2003b, 15). Information on water itself is not emphasized. This includes water quality and quantity, and water users and pollution sources. Such information is not only inaccessible to the public, but also inaccessible to other governmental organisations outside local government organisations (Wang 2003b, 16).

Specific organisations responsible for water management keep the information collected and do not share it with other organisations. Each organisation has its own database (Wang 2003b, 16). The information issued is often not consistent. In existing regulations, the definition of what information should be disclosed to the public is not clearly defined. As a result, some organisations take advantage of the vagueness of the regulations and refuse to disclose water-related information (Wang 2003b, 16).

For example, the current regulations require that all information except that related to state secrets, business secrets, or personal privacy be open to the public (Wang 2003b, 17). However, there is no clear definition of what information relates to state secrets or business secrets. Therefore, some enterprises refuse to disclose water-related information in the name of protecting state secrets or business secrets (Ongley and Wang 2004, 5).

Additionally, the lax legal requirements mentioned earlier and weak supervision leads to poor public participation activities (CCICED Task Force, 2004). Public hearings and expert assessments do not follow the procedures for selecting representatives of stakeholders and experts. Some organizers tend to select those in favor of the views or interests of the organizers (World Bank 2001, 137). It is evident that the citizens' right of access to information is not properly defined in formal laws. There are very few clauses on information disclosure in the *Water Law* (2002) and in the *WPPC* (1996). Additionally, in the existing regulations on information disclosure, the provisions on the procedure of information disclosure are not detailed.

These regulations on information disclosure are not implemented effectively because of weak supervision by both the government and the public (World Bank 2011, 136). Public information disclosure requirements should be incorporated in all major development strategies, policies, regulations, and operational procedures. Relevant governmental organisations should regularly release to the public information on water quality and pollution sources. The information must be accessible for the public and concerned groups/ communities and be made available through multiple channels.

Concurrently, the legal basis for information disclosure needs restructuring. Currently, the legal provisions on public participation in water management are incomplete. In the *Water Law* (2002), the citizens' rights to access to information, to participate in decision-making, and to question and supervise governmental agencies, are not clearly stated (Ongley and Wang 2004, 21). There are also few legal provisions for the public to challenge government decision-making through

litigation or judicial review. Provisions and regulations on the procedure and mechanisms of public participation are also not detailed. This leads to distorted implementation. Also, though government agencies should respond to appeals of the public, it is not clear how they should respond. China should add clauses in the *Water Law* (2002), and *WPPC* (1996) to emphasize the citizens' right of access to environmental information. The clauses should also make information disclosure a compulsory obligation of governmental organisations, water companies, enterprises discharging pollutants, and other major stakeholders.

The government should also define in the laws/regulations the scope of information that is supposed to be disclosed to the public. In conjunction, the scope of information regarded as state secrets or business secrets subject to protection needs to be defined. The forms, procedures, and time requirements for information disclosure must also be specified. In addition, the government should draft clauses on the liability of those who have not disclosed information as required, and measures against noncompliance.

In short, three rights should be clearly defined:

1. The right of access to information,
2. The right of participation in decision-making,
3. The right to challenge water-related decisions by the government.

Specific and detailed provisions should be made on forms, steps, and procedures of public participation. This would avoid any distortion in practice, either deliberately or unconsciously. Provisions should also be made for administrative re-examination, litigation, or administrative punishment against behaviours infringing the aforementioned rights granted by law.

As recommended above, a representative water management organisation or commission should be established at the river-basin level for each river basin. Membership in the organisation should be further extended to not only central and local government agencies but also representatives of various stakeholders. The stakeholders should include water suppliers, water users, and the general public. At the current stage, to facilitate participation of water users, China should encourage and support the establishment of such organisations as water users associations and involve them in water management.

Conclusion

In conclusion, China should continue to strengthen the administrative legal framework for water resource management and pollution control. The government needs to focus on improving compliance and enforcement. This

needs to especially be done by strengthening public participation. The laws also need to incorporate an integrated approach to water management. The institutional structure of China's government lacks effective vertical or horizontal accountability. For example, the environmental regulatory agencies are often subordinate to the very agencies they are intended to regulate. This structural administrative relationship between the provinces and the central government often results in a chronic inability on the part of the government to provide public goods like environmental protection.

The major tasks now are to specify the central-local jurisdictions. The government also needs to eliminate the elements of the old revenue-sharing system left in the new tax-sharing system. Further, a law on the central-local relationship should be created. The central government also needs to ensure adequate flexibility in allowing the provinces to develop themselves on the basis of different local conditions. New laws are needed which provide specific detailed divisions of powers. This will legalise and systematize the relations between the centre and the provinces.

A legal system should also be established for regional coordination. Specific laws focusing on industrial distribution and usage and protection of water resources should be enacted first. A general law should follow this on regional development. The government should also grant legal status to river basin management commissions. Institutionally, China should set up a Water Resource Management Commission. It should have the proper authority and capacity for coordinating different sectors and provinces/municipalities in order to implement integrated water management. This must be done in conjunction with establishing a more effective mechanism for coordinating different governmental organisations at central and local levels. At the same time, RBMCs need to be reformed to balance the interests of various stakeholders.

In terms of policy instruments, China should combine various instruments, including command-and-control measures, information disclosure, and public participation. In designing policies, information disclosure and public participation in various forms should be promoted. This will impose pressure on polluters and administrations to avoid temporally and spatially-biased behaviour. It will also protect the public. Finally, strengthening democratic institutions at grassroots level – that is, village and township elections – may have the greatest potential to bring accountability into water pollution law enforcement. With electoral pressure, local leaders should also have incentive to listen to residents and provide adequate public goods to their jurisdictions.

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THE STATE OF THE AMERICAN PUBLIC ADMINISTRATION FIELD

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This paper describes and traces the modern thought and the state of public administration throughout the history of American Public Administration. The paper argues that logical positivism and instrumental rationality, which are the underpinnings of modern thought, have captivated public administration. The paper demonstrates the fact that public administration is a human science, set within a given social context, and, therefore, is imbued with human values. This attitude was ignored by positivism and tried to be treated by the new logic of inquiry of Postmodernism.

Introduction

This paper describes and traces the modern thought and the state of the public administration (PA) throughout the history of the American PA. The paper argues that logical positivism and instrumental rationality, which are the underpinnings of modern thought, have captivated PA. Modernity challenges a problem as it believes in a neutral and universal administrative science, which might be attained once the 'right' reforms are made. However, public administration is a human science, set within a social context, and, therefore, is imbued with human values.

In addition, orthodox applications of modernity pose a threat to democratic ideas as they deny active citizenship participation and put all decision-making in the hands of technical experts or bureaucrats (Stivers 1990). On the other hand, postmodernism is everything that modernity is not. It rejects the one right answer as it allows suspicion to question foundations of knowledge. It moves from the grand narrative to smaller, local narratives that engage conversational groups in various subjects and debates in PA. However, this is not without danger as collusions of narratives can leave people confused and disoriented with the multitude of controversial issues.

The Roots of Modern Public Administration

Guy Adams (1994) defined modernity in a way that characterises the world by "secularisation, the universalistic claims of instrumental rationality, the differentiation of the various spheres of the life-world, [and] the

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bureaucratisation of economics" (p. 26). Through this definition, it is essential to note the universalistic claims of instrumental rationality, which is an important element in defining modernity. Instrumental rationality is portrayed as a technical "way of thinking and living that emphasises the scientific-analytical mind-set and the belief in technological process" (Adam 1994, 26).

These ideas are not new ones as they came from the 17th century Enlightenment to emerge in the United States during the Progressive Era when the field of Public Administration was being founded. The Progressive Era in the United States was a period of social activism and political reform that flourished from the 1840s to the 1920s. One main goal of the Progressive movement was purification of government, as Progressives tried to eliminate corruption by exposing and undercutting political machines and directors (Buenker, Burnham and Crunden 1986). Many Progressives supported prohibition in order to destroy the political power of local bosses and promote women's political rights; they also aimed at improving efficiency in every sector by identifying old ways that needed modernizing, and emphasizing scientific, medical and engineering solutions (Buenker 1980). These ideas have prevailed during the founding period of PA as a self-conscious field, which is commonly agreed upon to be during or just before the Progressive Era (Marini and Pugh 1983; Adams 1995). He adds that these ideas are still dominant in contemporary PA, which is studied in universities.

With the strong shape of instrumental rationality, Adams (1994) argues that the foundation of PA as a field of study has led the field to be set in a particular framework. This framework is represented by the level of scientific methodology that PA should utilise to reach its ends. However, this particular framework created the trajectory of the field of PA which shaped all the major evolutions and new paradigms that have emerged into the field since that time.

The politics-administration dichotomy is an example of the influence of this scientific framework of positivism. In general, positivism can be defined as the "history of ideas, concepts, theories, and opinions about the nature of the world, our ability to know it, and our ability to change it" (White 1999, 13). White (1999) asserts that the purpose of positivist research is to explain and predict natural and social events. This purpose can be reached through "the development of a collection of related and testable law-like statements that express causal relationships among relevant variables" (White 1999, 44). Fay (1975) emphasises the goal of this approach in social sciences when he states that the "knowledge gained from social sciences will enable men to control their social environment" (p.19).

Lincoln and Guba (1985) summarise the basic assumptions of positivism as the following: (a) social and natural sciences should have the same goals; (b) the goal

is to discover laws that lead to explanations and predictions; (c) social sciences should use the same methodology of natural sciences; (d) concepts should be defined by empirical categories; (e) there is uniformity of nature in time and space; and (f) the laws of nature should be driven from data. Positivists think that “there is a correct way of proceeding in human affairs and that is the responsibility of the decision-maker to discover what this way is” (p. 28).

However, being outside this framework, other concepts and theories found themselves in a hot conflict and endless debate with the scientific approach. The theoretical and practical conflicts in the field can be categorised and understood based on their logics or on what is well known in PA as the politics-administration dichotomy. This dichotomy reflects the conflict between the value-driven political logic and the neutral scientific logic of handling administration. The instrumental rationality of modernity presented the concepts of efficiency, effectiveness, expertise, professionalism, accountability, and democracy and other issues in PA.

Therefore, PA as a field of study was highly influenced by modernity or positivism as a way of thinking and producing knowledge. The natural sciences approaches may probably have caused some pressure on social sciences to increase their rigour in research. Management was one of the social science fields that responded to this pressure by the attempt to follow the positivist approach and to deal with PA in a more business-like manner.

Beginning approximately from the Renaissance through the Enlightenment, modern thought developed out of the combination of various circumstances in Europe, (Skoble and Machlan 1999). Skoble and Machlan state that “the development of a sizable middle class, increased trade relations between nations, explorations and developments in science and technology, all created a climate in which many things taken for granted in the Middle Ages were called into question” (Skoble and Machlan 1999, 123). In addition, they argue that out of that “intellectual climate”, important concepts about politics and social justice, such as government by consent, the social contract, individual rights, women’s rights, socialism, anarchism as well as liberalism, evolved. The earliest thinkers influenced the research methodology in the field. For example, Descartes declared his scientific approach, “I think; therefore I exist,” (Marshall, 1996, p. 117). Niccolo Machiavelli “created the world within modern public administration exists” in terms of creating a perspective where the state is serving people’s interests (Swain, 1998, p.78). Machiavelli’s perspective influenced both scholars and themes of public administration. His perspective influenced scholars like Gulick’s view of executive functions as well as Taylor’s “technique oriented, means-ends rationality, empirical and material view” (Swain, 1998, p. 93). Other modern thinkers who contributed to public administration thought are Hobbes,

Locke, Montesquieu, and the Founders (Swain, 1998), as well the seminal figure of the Scottish Enlightenment, Adam Smith (Farmer, 1998).

Common themes of modern thought are “secularisation, the universalistic claims of instrumental rationality, the differentiation of various spheres of life-world, the bureaucratisation of economic, political, and military practices, and the growing monetarisation of values” (Turner 1990, 6, cited in Adams, 1995). Jürgen Habermas writes:

“The project of modernity formulated in the 18th century by the philosophers of the Enlightenment consisted in their efforts to develop objective science, universal morality and law, and autonomous art according to their inner logic. At the same time, this project intended to release the cognitive potentials of each of these domains from their esoteric forms. The enlightenment philosophers wanted to utilize this accumulation of specialized culture for the enrichment of everyday life- that is to say, for the rational organisation of every day social life” (Habermas cited in Farmer 1995).

David Farmer contends that the public administration theory “could be described as one form of this rationalisation of every day social life” (Farmer, 1995, p. 36). Adams adds the notion of technical rationality and states the “scientific-analytical mind-set” that signifies modern thought, and the “Great Transformations” of the 19th century such as technological progress and industrialisation, combined just before and at the beginning of the Progressive Era and “unleashed a flood of ideas into the social and political world” (Adams 1995, 26).

Struggling Logic of Inquires in Public Administration

The Progressive Era, which started with Woodrow Wilson as its most prominent figure, is distinguished as an era of reform. Despite some opposition (Van Riper, 1997), Woodrow Wilson, in his article *The Study of Public Administration* (1887), was the first one in academia who calls for the separation of administration from politics. He called for developing a science of PA as well as detaching PA from political considerations. This was the first clear call for using scientific logic in the field of PA (Henry, 1997).

Frank Goodnow, in his book *Politics and Administration* (1900), also followed the scientific logic of inquiry and believed that politics and administration could be distinguished. The school of scientific management, which was led by Fredrick Taylor, also had a strong influence on PA to follow the positivist logic. Scholars who came later to participate in establishing PA as a practical and academic field of study were influenced by the scientific logic. Leonard White, with his first textbook in the field, *An Introduction to the Study of Public Administration* (1926), Luther Gulick in his book, *The Papers on the Science of Administration* (1937), the

Brownlow Report of the President's Committee, and later, the New Public Management School, all presented the scientific logic of inquiry in PA.

On the other hand, others such as Waldo in *The Administrative State* (1948), the New Public Administration School in the 1970s, the Blacksburg Manifesto document in the 1980s, and the New Public Service School, all criticized the positivist logic of inquiry. In addition, scholars such as Herbert Simon in the *Administrative Behavior* (1947), Elton Mayo, and Fritz Roethlisberger did not refuse the scientific methodology, but they did not accept positivism as "a one right way to do things". In general, according to White (1999), the positivist research has played a significant role in the field since the early 1900s, as the scientific principles of administration. However, this approach has been criticised by many scholars in the field, since the late 1960s, because of its limitations. For example, Farmer in his book, *The Language of Public Administration*, criticised this particular, scientific, and technological framework of the PA because of its limitations and inability to resolve all PA problems. This point leads to discuss why modernity and positivism may be problematic for public administration, which will be discussed later in the paper.

The generation of knowledge in public administration has been the focus of many scholars (White 1999; White and Adams 1995; White et al 1996; McCurdy and Cleary 1984; Hummel 1991). For example, Gulick argues that the best source of gaining knowledge is through our experiences while Simon states that science with rational methodology and measurement is the tool for gaining the knowledge. Some argue that the field lacks rigor and validity as it "does not employ agreed upon methods and research designs for analysing and classifying data" (McCurdy and Cleary 1984) and take a post-positivist approach. Others disagree and argue that interpreting experiences contributes to the generation of knowledge and are credible sources to draw upon (Hummel, 1991, p.31). This debate about what kind of knowledge we need in the field and what kind of knowledge that can be applicable and usable in PA is still continuous and up-to-date.

The Impact of the Progressive Era on PA

Adams argues that the philosophy of the Progressive Era, which was the convergence of modern thought and technical rationality, is still dominant in the contemporary PA. He is "content that the fundamental trajectory of knowledge and theory development in public administration also dates from the 1877-1920 period" (Adams 1995 29). Along with Adams, Laurence O'Toole claims that the basic reform concepts and practices prevalent in public administration today, are attributed to the Progressive period. These claims receive credibility when looked at from the politics administration dichotomy.

This dichotomy entails the logical division of facts and values. It demands that “politics should not intrude on administration; management lends itself to scientific study; public administration is capable of becoming a value-free science of its own right; [and] the mission of administration is economy and efficiency” (Henry 1997 41-42). The idea that efficient government is what the people want has also been part of the Federalist argument. Looking at the reforms that have been made during the Progressive period and since, such as the Taft Commission, the Brownlow Commission, the Hoover Commissions, the Ash Council, the Grace Commission as well as the National Performance Review, it can be seen that they all have been efforts to make government more rational, efficient and effective by making it more neutral and technical. The contemporary PA that shares these principles and notions is represented by the New Public Management, which calls for accountability, efficiency, and effectiveness in the government’s performance.

Why is Modernity Problematic for Public Administration?

Public administration suffers from the problem of the logical division between facts and values if modernity is seen as the thoughts of logical positivism and instrumental rationalism. The research and theory level as well as the governance level are cracked by this division.

On research level, the problem of epistemology emerges: how and why can we know things (White, 1999)? McCurdy and Cleary claim that the modern conjecture entails post-positivist approaches to research and challenges the field as lacking rigor and credibility (1984). Modern research is described as an explanatory mode of inquiry that defends the fundamental belief: an objective reality exists and that reality can be explained and understood through testing hypotheses and establishing statistical significance. According to explanatory research, the researcher is the neutral observer, trying to verify hypotheses through rigorous empirical tests. These are agreed upon methods (McCurdy & Cleary, 1984) through which findings can gain credibility and validation. To have the ultimate tool for prediction and control, a tight relationship between cause and effect can be established through the assertion of causality. In the aptitude to predict rests a certain power (Fay, 1975), because prediction implies the capacity to manipulate and ultimately control the object of study or society.

Cautious of the dangers of over-scientification, Neil Smelser states that “there is the danger of what you might call a fetishism of technique, the danger of overemphasis on the scientific side” (Smelser cited in White 1999). White agrees writing that “many of these studies are a statistical technique in search of a question... for the most part, the research is theoretical wasteland” (White 1999, 36).

On the governance level and under the umbrella of science, why is the modern positivist administration a problem? Modern thought leads to a problem when applied to the administration of government, because the quest for a science of administration ultimately conflicts with democratic values. Administration is about getting things done while democracy is about expression of will, participation, persuasion, and considering the voice of everyone. However, to come up with a democratic administration is very difficult because bureaucracy is the tool, which is applied in the administration to get the work done. Bureaucracy itself is not democratic because it is based on hierarchy. Hence, science rules might threaten democracy through two different ways. Firstly, science forces the public to take one right answer according to the scientific rules. However, democracy is about good judgments, persuasions, and preferences. Secondly, the more science becomes rigorous in the field the less capacity is available to apply it in practice. This continuous debate in the field is obvious through tracing the idea of administrative science from its beginnings to its reflection in contemporary public administration.

The idea of a neutral science of administration has formally started with Woodrow Wilson's call for a scientific study of public administration. He was convinced that administrative questions are not political but, rather, business questions. He states that, "it [public administration] is removed from the hurry and strife of politics" and that public administration's part in political life is "only as machinery is part of a manufactured product" (Wilson, 1887, p. 20). Therefore administrative science had to be set "upon foundations laid deep in stable principle" (Wilson, 1887, p. 20). This was to be accomplished by a cadre of technical experts. However, the idea that a gentile elite who could divorce their values from their administrative practices, should administer government was not new, it has already been part of the Federalist argument, whereas the Farmers pushed for a government administered by the middle class.

This call for a scientific study of administration has influenced the direction of the field resulting in emergence of 'principles'. As stated above, a modern science aims to study natural phenomena in order to be able to predict certain events to ultimately control the outcome. Shafritz and Hyde (1997) argue that an obsession with organisation and control had started, which resulted in the formation of an expert elite or social engineers as Fay names it. The New York Bureau of Municipal Research is an example where ambitious and technically-oriented men set out to find the best and most efficient ways of 'cleaning up' municipalities. Stivers (2000) argues that through rigorous application of science municipal housekeeping, what originally seemed to be an overtly feminine occupation, became a rigorous and masculine job. However, the effort to find 'the best way' to get a job done in the sake of efficiency, effectiveness, and economy is most

evident in Taylor's "The Principles of Scientific Management" (1911). The idea of a neutral science and principles to guide the practice of public administration resonates in textbooks written for its systematic study (L. White, 1926). It is also evident in other works such as Willoughby's "Principles of Public Administration", Henry Fayol's 14 principles, and ultimately Luther Gulick's POSDCORB principles.

Herbert Simon criticised these 'principles' and argued that they lacked all scientific rigor and they could be mere proverbs. He deconstructed Gulick's POSDCORB and dethroned them as confusing facts with values and lacking all scientific rigors (Stillman, 2000). In his book *'Administrative Behavior: A Study of Decision Making Process in Administrative Organization'* (1947), he draws on "logical positivist continental analytic philosophy" (Stillmann, 2000, p. 22) to explain administrative behaviour. He sets out to re-find the field based on a rational decision-making model called 'bounded rationality.'

Dwight Waldo opposed Simon, in his book entitled *"The Administrative State"* (1948), stating that through 60 years of PA in America there has been no progress in the name of democracy and service to the public. Furthermore, he argues that PA could never be a value-neutral science, because even if all neutral facts were at hand, the remaining question would be which line of action to take and that decision is a completely political one. This debate between Dwight Waldo and Herbert Simon marked the end of the orthodox era and replaced the politics-administration dichotomy with the logical division between value laden and value neutral.

Division between Value Laden and Value Neutral

This division manifested itself in the split between the school of thought which still considered public administration as a science, for example, Simon, and the school of thought that saw public administration as imbued with values and inherently political, for example, Waldo and the Blackburg school. Whereas the former stream of thought developed in the areas of policy science and sationorganisational systems, the latter set out to construct a democratic theory of public administration. These efforts resulted in the 1968 Middlebrook Conference and the Blackburg Manifesto, which laid the foundation for the inquiry of themes such as participatory democracy, citizenship, equity, and ultimately New Public Administration. The former, PA as science, stream of thought carried Wilson's goal for 'businessification' and efficiency through various reform movements of which each had the goal to make the administration of government more efficient and more business-like.

Despite the technical criticisms that positivism as the logic of inquiry in modernity faces, one can see the problem that this approach causes in PA. In fact, the problem is raised when the PA deals with the real life with its complexity of values, norms, manner, and habits and so on. PA, as a social science that deals with people, faces the traditional problem of politics-administration dichotomy when the scientific principles are applied on political cases. Thus, modern science in PA faces a problem of disability when it deals with the efficiency and professionalism in one hand, and democracy and active citizenship participation on the other hand.

To see an example of how these contradictory values cannot always live together, one can observe the major themes that different school in PA introduced. The Minnowbrook Conference in 1967 asserted the importance of the democratic conceptions in PA. New Public Administration focused on social equity, citizen participation as well as organisation responsiveness. This is an example of how this school focused only on some political values. On the other hand, when the concepts of New Public Management emerged in PA in the mid-1980s, it stressed dealing with citizens as “customers”. This view reflects the focus on professionalism, competition, and economic principles, and neglects the traditional values of PA such as fairness, justice, participation and representation (Ventriss, 2000). These two examples of the two different schools with different sets of values show the hardness of harmonizing contradictory values in the real political environment of PA. The possible disability of modern science to work in PA leads the discussion to be focused on postmodernism as another alternative for PA.

The early 90s were marked with the effort to reinvent government; President Clinton’s effort to use Osborne and Gaebler’s “Reinventing Government” (1993) to transform government into an enterprise. The goal was to bring government out of that “sluggish” state and end self-serving bureaucracy (Shafritz & Hyde, 1997, p. 475). While scholars disagree on whether the Reinventing Government Movement can be equated to the current application of reform principles which is New Public Management (NPM hereafter), they agree that NPM can be accepted as a new orthodoxy (Spicer 2004; Kaboolian 1998; Rosenbloom and Kravchuck 2002; deLeon and Denhardt 2000). NPM is a theory of governance that is heavily influenced by market theory and economic decision-making, public choice, principal-agent theory and transaction cost economics in particular (Hood, 1991; Kaboolian, 1998), rather than civic choices. NPM is based on scientific-analytical and modern, technical-rational western thought (Zanetti and Adams, 2000:549). It “seek[s] to predict and control both human behaviour and the behaviour of organisational subunits because of the focus on executive decision-making and policy implementation” and furthermore “bureaucratic control is essential to this

model" implying "conscious self-interested human behaviour" (Marshall cited in Ventriss, 20005, 10). Therefore, NPM shifts the relationship of government and its citizens from serving the public to serving customers. Focus is on customer satisfaction and performance measurement to assess the effectiveness and efficiency of the government agency. This approach ultimately replaces the notion of civil society and civic behaviour with consumers in a marketplace and economic behaviour which was represented and interpreted in Klinenberg's book, *Heat Wave*.

Review of Postmodern Public Administration

It is difficult to have one agreed-upon definition for postmodernism. Jay White recognises the diversity of themes and ideas it entails and therefore generally defines postmodernism as "the recognition that the Enlightenment's promises of universal truth, justice and beauty would not be realised in modern society" (White 1999, 153). Some of the major postmodern philosophers are Jacques Lacan, Michael Foucault, Jean-Francois Lyotard, Richard Rorty, Jacques Derrida, and Jean Baudrillard (Fox and Miller 1998). White states that four major themes of postmodernism have direct influences on public administration. First, there is a question of PA legitimacy due to the lack of a grand narrative. Second, linguistics constitutes the basis for all claims of knowledge. Third, the post-structuralist question regarding whether valid knowledge is attainable, and fourth, the understanding that philosophy and science are conversations based on common linguistic characteristics of the inquirers. David Farmer states that "postmodernism is scepticism, properly understood". Furthermore, he argues that it negates the core mind-set of modernity. It denies the centred subject, the foundationalist and epistemological project, the nature and role of reason, macrotheory, grand narratives, and macropolitics. It speaks of the end of history, and it denies the distinction between reality and appearance (Farmer, 1995, pg.157).

While postmodernism rejects all modern concepts, it does not want to revert to a pre-modern stage. It recognises that there is no Archimedean point nor grand narratives, and rejects logical positivism. Instead, it acknowledges that linguistics constitutes the base to all knowledge, that every conversational community has their own local narrative, and the existence of multiple language games, which are "forms of life through which we live and experience the world" (White 1999, 96). However, this fragmented and disassociated state is not without its problems. Conflict arises when narratives conflict, for example war and anti-war groups or narratives fall apart, for example the end of the League of Nations. When this happens, people are left in confusion and do not know what and who to believe. White and Adams argue that the public administration has always had traces of postmodernism, as scholars have always engaged in multiple discourses

in attempt to formulate theory and make sense of the field. They admit that the postmodern condition leaves public administration researchers confused and conflicted and urge for interpretivism and critical theory as alternatives for theory building.

David Farmer projects that if public administration is enthralled with postmodernism, it will no longer exist as a field:

"In the postmodern situation, scientific inquiry will lose its status as a provider of epistemologically privileged information...Postmodernity does spell the end of disciplinary autonomy as the age of artificial academic boundaries finishes. The structure of public administration collapses as the walls between disciplines and specialties fall...Theorizing as it is known terminates" (Farmer 1995, 225-226).

Conclusion

Even though this might seem confusing and threatening to some, Farmer (1995) sees the resulting period of multiple discourses as an opportunity to push public administration thought beyond the grip of our unconscious mind-set. As a summary, postmodern public administration is everything contrary to orthodox thought. It is fragmented into multiple conversational groups. One can participate in any of those as long as one learns the rules of the language games within which postmodern public administration operates.

In addition, one can observe that modernity influences the field of PA through its instrumental rationality. Even though positivism, as a modern logic of inquiry has shaped the field and is still considered the mainstream in PA research, it has some serious limitations that decrease its ability to improve the field. This disability is shown clearly through applying the scientific principles in political situations where PA usually has in practice. This problem drew a particular framework in the field and created a main concept of politics-administration dichotomy which categorised the field into two major groups in terms of their views to the role of values in research.

Postmodernism could be the right treatment to solve the problems in PA. However, postmodern approach also has its own limitations that make it even problematic for PA. Therefore, it sounds that the field needs to keep the canals of communication open between all the different contradictory research groups, especially modernists and postmodernists. The field needs the contributions and experiences of all the different logics of inquiries that aim to improve PA. According to Bogason (2001), "Postmodern analysis of public administration is

no threat to mainstream research [positivism]. So mainstream researchers should stop ignoring it and instead actively discuss the challenges, realizing that the agenda is different from the traditional disagreement among researchers.”

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REVIEW OF AMITAV ACHARYA'S
WHOSE IDEAS MATTER? AGENCY AND POWER IN ASIAN REGIONALISM

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Amitav Acharya has produced an innovative assessment of the Association of Southeast Asian Nations (ASEAN) at an important juncture in the organisation's development. He does not shy away from the challenge of measuring ASEAN's rhetoric of regional cooperation against its actual achievement. The theoretical and empirical exposition that he displays makes this book sure to be a cornerstone on the security and political aspects of ASEAN for both scholars and decision makers.

At its inception in 1967, ASEAN's commitment to peaceful and cooperative relations among its members (Indonesia, Malaysia, Singapore, the Philippines, and Thailand) inspired some scepticism because there were continued disputes left over from the decolonisation period as well as the fear of communist insurgency spreading beyond Indochina. With some encouragement from the Western countries, ASEAN managed to survive its first few years. After the Vietnam War, its members sought to become something more than pawns in Southeast Asian security affairs. Although ASEAN did not succeed to mount effective resistance to Vietnam's invasion of Cambodia in 1978, it did subsequently contribute to isolate Vietnam and the Khmer Rouge regime diplomatically. As the Cold War came to a close ASEAN helped to broker a peaceful settlement in Cambodia. It then created the ASEAN Regional Forum (ARF) to discuss security issues and produced the ASEAN Free Trade Area (AFTA) initiative. With self-confidence produced by these initiatives as well as by the rising tide of prosperity among its members, ASEAN became a regional organisation with comprehensive membership that presumably would allow it to rank in importance with the United States, China, or Japan in important regional affairs.

What distinguishes Acharya's analysis of ASEAN's development is his use of the constructivist approach to analysing international relations. Avoiding the models of actors making rational calculations of utility under conditions of objective and external constraint, this approach gives new insight to behaviouralism by giving transnational relations an essential importance due to the effect they can have in changing norms, perceptions, and identities. Through this process a state, or

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relations between states, may be peacefully changed or take on a particular character. His constructivist approach is helpful in explaining the peculiar nature of ASEAN. It commits member governments to the informal discussion of issues rather than to formal negotiation processes, to decision making by consensus rather than by voting, to non-interference in each other's domestic problems rather than obliging common values and practices, to the non-use of force between members, and to the avoidance of collective defence measures. Together these and other norms constitute what is called the ASEAN Way, which has laid the foundation for ASEAN as a security community. Though ASEAN is not a formal rule-making and rule-enforcing institution, it has developed common aims such as protecting regional stability against disruption by external actors, as well as norms and a distinctive sense of corrective "we-ness" among its members. The author concludes that ASEAN has taught its members norms that help to preserve peace between them. As a result, ASEAN-style regionalism has produced a nascent security community. He finds that ASEAN has not been particularly successful, however, in reconstructing loyalties among its members, who remain sovereignty-bound actors. In addition, it is worth noting that he is not particularly optimistic about its future given the internal strains evident since membership expansion and the Asian Financial Crisis of 1997-98 as well as the external pressures generated by Western human rights lobbies and a more assertive China.

With respect to the theoretical framework of the book there are two minor points one could raise. First, there is the invocation of Deutsch's concept of a pluralistic security community while discarding his broader theory of transactionalism. That is, Acharya notes that ASEAN preceded, did not follow as a result of, intensifying transnational interactions and cultural convergence between member societies and that there is little popular support for ASEAN within member actors. On the question of what then created the ASEAN security community in the absence of the conditions outlined by Deutsch, Acharya refers to the learning and socialisation of norms that occur within international institutions, which then may lead national elites to redefine their notions of interest and identity. Critics can suppose that here he could have done more with the elite-led, cognitively based neofunctionalism of Ernst Haas.

The second point has to do with the effort of counter-factual, that is, evaluating alternative organisations other than ASEAN. The constructivist approach does put the focus on norms, but is this approach in the end better at explaining ASEAN as a security community than a realist insight of the diplomatic community serving separate interests of its members in maintaining stability or a neoliberal definition of ASEAN as a security regime dedicated to preserving cooperation among member actors?

It is true that such characterisations tend to exclude the possibility of weakening sovereignty or the formation of a collective identity by individual states engaged in cooperation, but by his account the sovereignty-bound national identities of ASEAN's members remain unchanged over thirty years after ASEAN's inception.

Despite these problems, Acharya has written a path-breaking work on ASEAN, Asian Regionalism, and the security cooperation in Southeast Asia as a whole.