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State, Society, and Social Capital

Hideaki Asahi[1]

Abstract

In the wake of the end of the Cold War, Francis Fukuyama provocatively announced the end of history in his debut writing with the same title, which implied the convergence of the eventual forms of political and economic institutions. But Fukuyama argued that the end of History, a single, directional, and coherent process of developments of human societies, does not mean an end to society's challenges for improvement, given the limitations of social change by government efforts. Fukuyama detected the critical delay in moral and social development, which should go 'hand-in-glove' with the progressive tendency of liberal political and economic institutions. Indeed, so vulnerable is the transparent framework of laws and institutions, which was built for political order, in place of moral consensus, drawing on law-abiding and rational yet individualistic behavior in pursuit of self-interest. Fukuyama maintained that the problem with most modern liberal democracies is that they cannot take their cultural preconditions for granted. Fukuyama also noted that liberal political and economic institutions depend on a healthy and dynamic civil society for their vitality. Fukuyama asserted that an abundant stock of social capital is presumably what produces a dense civil society, which in turn has been almost universally seen as a necessary condition for modern liberal democracy. Alexis de Tocqueville in *Democracy in America* best elucidated the political function of social capital in a modern democracy. Fukuyama argued that Tocqueville would agree with the proposition that without social capital, there could be no civil society, and that without civil society, there could be no successful democracy.

1. Samuel Huntington and Francis Fukuyama

1.1 Huntington's 1968 Book: Challenge to Modernization Theory

At the request of Samuel Huntington, Francis Fukuyama wrote the foreword of Huntington's 1968 book *Political Order in Changing Societies*, which was reprinted in 2006. In that foreword, Fukuyama, Huntington's student at Harvard, said, "It was one of the classics of late twentieth-century social science, a work that had enormous influence on the way people thought about development, both in academia and in the policy world.[2]" Fukuyama added that it opened a

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[2] Fukuyama 2006a, xi

variety of subfields for social science studies.

The intellectual significance of this book is Huntington's daring challenge to what was called modernization theory, the then dominant social science paradigm in the United States. The theory had been brought in with a group of European social scientists who fled Nazi-Germany and migrated to the United Sates in the 1930s. Modernization theory places a strong normative value on modernity originating in the nineteenth century European thinkers such as Henry Main, Emile Durkheim, Karl Marx, Ferdinand Tonnies, and Max Weber. It says that economic development, changing social relationships like urbanization and the breakdown of primary kinship groups, higher and more inclusive levels of education, normative shifts towards values like 'achievement' and rationality, secularization, and the development of democratic political institutions were all seen as an interdependent whole. Moreover, economic development would fuel better education, which would lead to value change, which would promote modern politics, and so on in a virtuous circle. In short, it is summarized as follows: All good things go together[3].

1.2 Dynamic Mechanism of Political Development and Ensuing Impact for Change

Fukuyama explained, however, that the gist of Huntington's arguments is quite contradictory. It is summarized in the following: All things do not go together[4]. According to Huntington, new social forces would come into being as a result of economic development and begin, in turn, to seek political freedom and political participation through mobilization of those new discontented people. Nevertheless, existing institutions are inclined to lag behind due to rigidity and, as a result, fail to keep up with the speed with which social change proceeds. Huntington argued that a "gap" subsequently emerges between new social forces and delayed institutional adjustment. Fukuyama commented that circumstances change and institutions fail to adapt. One of the core arguments Huntington forcefully advanced is a phenomenon of social instability that emerges in the course of modernization process. This is contrasted to stability retained in both traditional and modernized societies. Presumably, Fukuyama concluded that Huntington's development theory was shaped by drawing on the latter's understanding of the innate nature of modernization process: that is, instability, which was vindicated by disorder and violence of the 1950s and the 1960s[5].

Fukuyama was once asked at a seminar about how Huntington's argument for the "Institutions Matter" thesis differs from that of economists such as Douglass North, John Wallis, and Barry

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[3] Ibid.
[4] Fukuyama 2006a, xii-xiii
[5] Fukuyama 2006a, xi-xii

Weingast (2009), or Daron Acemoglu and James Robinson. A couple of years ago, Acemoglu and Robinson published a widely-read co-authored book entitled *Why Nations Fail* (2013), which also underscored the importance of institutions for economic development. Replying to the question, Fukuyama stressed that the main difference is seen in the "dynamic" mechanism to explain how transitional shifts occur from one developmental stage to another. Also, Fukuyama clearly said that economists lacked this explanation, despite the richness in vocabulary and plain binary formulations, such as "extractive" vs. "inclusive" or "limited access" vs. "open access," to mention a few examples. Fukuyama asserted that, on the other hand, Huntington had his own[6].

1.3   Fukuyama's Academic Work and Objectives: Succession of Huntington's Tradition and Revisions and Expansions

Fukuyama published a pair of sister books entitled *The Origins of Political Order* (2011) and *Political Order and Political Decay* (2014). Fukuyama stated that there were two main reasons that led him to the aforementioned undertaking. First, Fukuyama maintained that Huntington's book needed serious updating after a lapse of time. Momentous change has manifested itself in the form of the rise of Asia, the collapse of communism, and the spread of the "third wave" of democratization which Huntington had labeled. Fukuyama also maintained that, "There was still more fundamental work to be done in explicating the origins of political development and political decay[7]." Allow me to refer to a lengthy quote from Fukuyama's book: that is, "*Political Order in Changing Societies* took for granted the political world of a fairly late stage in human history, where such institutions as the state, political parties, law, and military organizations, and the like all exist. It confronted the problem of developing countries trying to modernize their political systems, but didn't give an account of where these systems came from in the first place in societies where they were long established[8]."

The other reason preoccupying Fukuyama's musing is, as he confessed, the real-world problems of weak and failed states, which he had struggled to address over the past decades. Fukuyama apparently came to harbor serious questions through his consulting work in Melanesian communities of what is nowadays called state (institution) building. In other words, how had any society ever made the transition from a tribal- to a state-level society? How had modern property

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[6]   Fukuyama 2014c
[7]   Fukuyama 2011, x
[8]   Ibid.

rights evolved out of customary ones? And how did formal legal systems, dependent on third-party enforcement that did not exist in traditional Melanesia, first make an appearance? Fukuyama argued that, "On further reflection, however, it seemed that it was perhaps a conceit to think that modern societies had progressed so far beyond Melanesia, since Big Men — that is politicians who distribute resources to their relatives and supporters — are ubiquitous in the contemporary world, including the U.S. Congress. If political development implied movement beyond patrimonial relationships and personalistic politics, one also had to explain why these practices survived in many places and why seemingly modern systems often reverted to them[9]."

1.4 Political Decay and Difficulties of Transition from "Patrimonial" to "Modern" States

I no doubt believe that Fukuyama has successfully made his case by revising as well as expanding Huntington's discourse on political development theory. Fukuyama's books are not only intellectually stimulating but also filled with many intriguing theses for sub-field studies. I would like to refer here to two particular arguments which I think are of primary importance from the view-point of the peace builder I am. First is the notion of "political decay" (of political institutions). Fukuyama explained that political decay was caused by the inability of institutions to adapt to changing circumstances. Fukuyama asserted that the very stability of institutions, however, is also the source of political decay. Drawing on Huntington's original but narrow interpretations, Fukuyama elaborated and reformulated the underlying notion so that it might fit into what is happening in the economically advanced countries and especially in the United States. Fukuyama brought in new vocabulary such as "intellectual rigidity", "insider capture", and "vetocracy"[10].

The other argument concerns the difficulties of transition from the patrimonial state to the modern state as I briefly mentioned earlier. The patrimonial state is one in which there is no distinction between "public" and "private" interest. And, therefore, kings dare to say that they naturally possess everything as their own property. On the other hand, the modern state is typically characterized by Max Weber's definition of "the monopoly of the legitimate use of physical force[11]" within a given territory. The modern state is a hardly natural but rather artificial construct in which its citizens are treated impersonally although equally, irrespective of their kinship or special relationships with political leaders or top government officials. Fukuyama said that, "It is much harder to move from a patrimonial or neopatrimonial state to a modern, impersonal one than it is to

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[9] Fukuyama 2006, xiii
[10] Fukuyama 2014a, 2014b
[11] Weber, from "Politics as a Vocation", 1948, 77-78

move from an authoritarian regime to one that holds regular, free, and fair elections[12]." Fukuyama called it the Achilles heel of recent democratic transitions. I will come back to this theme and discuss it at greater length later.

1.5 "Clash of Civilizations" vs. "The End of History" — Sources of Conflict or Cultural Cross Stimulation?

Incidentally, half a century has already passed since Fukuyama made a sensational yet celebrated debut by publishing a very controversial article entitled *The End of History?* (1989) and its book version (1992). Partly because of its provocative title, no other books seemed to be so intensely misinterpreted and intentionally misquoted. This signifies, in other words, the gravity of the intellectual shock the book had delivered.

In his second book entitled *Trust* (1995a), Fukuyama argued against Huntington's discourse especially on civilizational clash. Let me be more precise. Huntington argued that in the wake of the end of the Cold War, which turned out to be conflict over ideology, the world was moving into a collision course among peoples of different cultures. Although acknowledging that Huntington was correct in paying attention to cultural differences, Fukuyama, an heir to Huntington's tradition, contended that, "Where Huntington's argument is less convincing is that cultural differences will necessarily be the source of conflict[13]." Fukuyama counter-argued that, "On the contrary, the rivalry arising from the interaction of different cultures can frequently lead to creative change and there are numerous cases of such cultural cross-stimulation[14]." Fukuyama seems to strongly believe that the development of a convergence of political and economic institutions is transcendental across cultural boundaries. Fukuyama's *The End of History and the Last Man* clearly differs on this point from Huntington's *Clash of Civilizations* (1993, 1996). I should like to discuss Fukuyama's discourse next.

2. "The End of History" and Beyond

2.1 An End-Point of Evolution of Human Societies: Convergence of Political and Economic Institutions

The term "the End of History" is not necessarily Fukuyama's coined vocabulary. According to

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[12] Fukuyama 2015, 12
[13] Fukuyama 1995a, 5-6
[14] Fukuyama 1995a, 6

Fukuyama, capital H-history means history understood as a single, directional, coherent, and evolutionary process when taking the experience of all people at all times into account. Before Fukuyama, Karl Marx used the same logic of historical development when he penned *Capital*, a historic volume for communist followers. Ideologically, the idea of capital H-history originated from Georg Wilhelm Friedrich Hegel, a great eighteenth century German philosopher, and was then succeeded by Marx. Hegel mused on the so-called "dialectical" evolution through which human beings are led to full rationality and the eventual realization of human freedom in a liberal government. They differed, however, on what kind of society emerges at the End of History.

What Fukuyama meant by his version of the End of History is a convergence of institutions, political and economic. It is, in other words, a capitalist liberal democracy, which has today become the major ideology for global order. Fukuyama argued that, "There is a strong logic behind the evolution of political institutions in the direction of modern liberal democracy, one that is based on the correlation between economic development and stable democracy. For the world's most economically advanced countries, there has been a convergence of political and economic institutions over time and no obvious alternatives to the liberal political and economic institutions we see before us[15]." This combined form of order truly represents an end-point of a broad evolution of human societies in Hegel-Marx terms of historical interpretation. Fukuyama maintained that, "Today there is a broad global consensus about the legitimacy, at least in principle, of liberal democracy[16]." Fukuyama also quoted the economist Amartya Sen by saying that, "While democracy is not yet universally practiced, nor indeed uniformly accepted in the general climate of world opinion, democratic governance has now achieved the status of being taken to be generally right[17]." Sen's sentiment is convincing to me.

2.2 Three Political Institutions: State, Rule of Law, Accountable Government; Contingency and Necessity

As I briefly touched upon, in the sister volumes *The Origins of Political Order* and *Political Order and Political Decay*, Fukuyama discussed at great length not only the modern political order that human societies have eventually reached, but also problems people now face. Fukuyama explained that the modern liberal democratic order is composed of a set of three political institutions: the state, rule of law, and the accountability of government. The state is about power, or to generate

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[15] Fukuyama 1999, 10
[16] Fukuyama 2012, 56
[17] Ibid.

power, to enforce law, to deliver on the services people demand, and to protect people from threats from abroad. On the other hand, the rule of law is about checking against power, and so is the accountability of government. The rule of law means that not only citizens or subjects but also rulers and kings are, without exception, subject to rules once they are enacted. The rule *of* law is different from the rule *by* law in that the latter exempts rulers and kings. The principle of accountable government is meant to set up a government which represents the will of its citizens and puts it above that of rulers. Democracy is one form of accountable government based on procedural legitimacy.

All three institutions had their own historical origins and took respectively subsequent development paths which were subject to contingency and necessity. But what is important is how to establish a good and stable balance among those three institutions. A powerful state without rule of law or an accountable government tends to become despotic or dictatorial. On the other hand, a weak state, even if lawful and accountable, could secure neither its citizens' security nor prosperity. There has been a "democratic recession" in recent years around the world, apparently due to new democracies' poor state performance and "the inability to 'make democracy to deliver' in terms of shared growth and broadly available public goods has in turn weakened the legitimacy of democratic governments[18]." Fukuyama seemed therefore to underscore the importance of "'stateness' first[19].

2.3 Socio-Biological Foundations of Political Development, Order, and Organizations

I was amazed by Fukuyama's intellectual genius and especially by his methodological ingenuity. Fukuyama has done well in probing into the socio-biological origins of political order while making use of a multi-disciplinary approach which involves economics, sociology, anthropology, and biology — besides his own discipline of political science.

I would like to discuss some of those human components that Fukuyama referred to as the socio-biological roots for political order. Firstly, Fukuyama began with what is called human sociability. This notion demonstrates that human beings are social creatures by nature and negates the primary principle of modern Western political thought, paraphrased as the "Hobbesean fallacy"; that is, everyone is in a state of war against everyone. Fukuyama explained that human sociability consists of two natural modes of cooperative behavior, namely kin selection and reciprocal altruism[20]. Both of them are scientifically vindicated thanks to the recent progresses of related life

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[18] Fukuyama 2013, 5-6
[19] Fukuyama 2005, 84
[20] Fukuyama 2011, 30-31

sciences. Secondly, in Fukuyama's book, *Trust*, which is no less important than any other of his writings, there is a chapter entitled "Twenty Percent Solution." In this chapter, Fukuyama argued that, "We can think of neoclassical economics as being, say, eighty percent correct but there is a missing twenty percent of human behavior about which neoclassical economics can give only a poor account[21]." Fukuyama underlined the importance of unconsciously iterated patterns of social life which come to be embodied in the forms of habits, ethical norms, and institutions. None of them can be divorced from the influence of culture. On the other hand, in *The End of History and the Last Man*, Fukuyama discussed the problems concerning human impulse for recognition and strongly argued that human beings have a natural desire to have themselves recognized as beings with a certain worth or dignity. In this connection, Fukuyama returned to Plato, who described in *Republic* a part of the soul that the latter called *thymos*, or "spiritedness"[22]. Fukuyama maintained that the propensity to feel what is called "self-esteem" in today's popular language arises out of this part of the soul. The desire for recognition and the accompanying emotions of anger, shame, and pride are parts of the human personality that are critical, together with desire and reason, to political life[23]. Thirdly, Fukuyama pointed to the importance of the development of language, which opened up the possibility of abstraction and theory, critical cognitive faculties that are unique to human beings[24]. Fukuyama argued about the ability to create mental models and to attribute causality to invisible abstractions, which subsequently brought into being the rise of religion[25]. Fukuyama asserted that religion's functional role in strengthening norms and buttressing communities has long been recognized. In this connection, Fukuyama stated that, "Religion is not only the way that ideas can reinforce group solidarity — today we have nationalism and secular ideologies like Marxism as well — but in early societies it played a critical role in making possible more complex forms of social organizations. It is hard to see how human beings could have evolved beyond small band-level societies without it[26]." Fourthly, Fukuyama argued that, "Genetically speaking, human beings are norm-following animals and norm following is embedded in human nature via specific emotions of anger, shame, guilt, and pride[27]." The grounding of normative behavior in these emotions thus promotes social cooperation. It has clearly conferred survival benefits as the human species evolved into the present form.

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[21] Fukuyama 1995a, 13
[22] Fukuyama 1992, 162-198
[23] Fukuyama 2011, 40
[24] Fukuyama 2011, 35-36
[25] Fukuyama 2011, 35
[26] Fukuyama 2011, 38
[27] Fukuyama 1995a, 40

2.4 History Does Not End: Limits of Social Challenges by Government and Vitality of Civil Society

In his book, *Trust*, Fukuyama admitted that, "This convergence of institutions around the model of liberal democratic capitalism, or the end of History, however, has not meant an end to society's challenge for improvement[28]." Fukuyama referred to the limits of social change by government efforts which have not worked well, whether they are the idea of a welfare state, decentralization (or a small state), or other sorts of social engineering.

Fukuyama detected the critical delay in moral and social development which should go 'hand-in-glove' with the progressive tendency of liberal political and economic institutions. Fukuyama was alarmed, at the same time, by the vulnerability of the transparent framework of laws and institutions, which was built for political order, in place of moral consensus, drawing on law-abiding and rational yet individualistic behavior in pursuit of self-interest.

Fukuyama stated that, "Although formal law and strong political and economic institutions are critical, they are not in themselves sufficient to guarantee a successful modern society. Liberal democracy has always been dependent on certain shared cultural values to work properly[29]." Fukuyama maintained that, "The problem .with most modern liberal democracies is that they cannot take their cultural preconditions for granted[30]." Fukuyama also maintained that, "The most successful among them, including the United States, were lucky to have married strong formal institutions to a flexible and supportive informal culture. But there is nothing in the formal institutions themselves that guarantees that the underlying society will continue to enjoy the right sort of cultural values and norms under the pressures of technological, economic, and social change[31]."

However, Fukuyama noted that, "Today, having abandoned the promise of social engineering, virtually all serious observers understand that liberal political and economic institutions depends on a healthy and dynamic civil society for their vitality[32]." Fukuyama described civil society as the realm of spontaneously created social structures separate from the state that underlie democratic political institutions. Fukuyama maintained that, "These structures indeed often bear an inverse relationship to state power, growing stronger as the state recedes and vice versa[33]." I will come back to the significance of civil society to modern liberal democracy later.

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[28] Fukuyama 1995a, 4
[29] Fukuyama 1999, 11
[30] Fukuyama 1999, 12
[31] Ibid.
[32] Fukuyama 1995a, 4
[33] Fukuyama 1995b, 8

3. Peace-building and Social Capital

3.1 Tough Challenge of "Getting to Denmark (Ideal Governance)"

On one occasion of launching of the book *The Origins of Political Order*, Fukuyama said that having taken for granted the existence of their government, people of developed countries have almost forgotten where it came from. Even the Danes do not know how to "get to 'Denmark'"[34], a synonym of an ideal state of governance, which is named after a World Bank project. Peacebuilding is exactly a contemporary version of "getting to Denmark". I was once engaged in peacebuilding in a newly independent country together with Kamalesh Sharman, then SRSG of a UN mission in Timor-Leste and later Secretary-General of Commonwealth Nations. Sharma, a respected senior Indian diplomat, described the nature of the mission as "an effort from scratch".

In this regard, Fukuyama maintained that, "If we really want to increase the institutional capacity of a less-developed country, we need to change the metaphor that describes what we hope to do. We are not arriving in the country with girders, bricks, cranes, and construction blueprints, ready to hire natives to help build the factory we have designed. Instead, we should be arriving with resources to motivate the natives to design their own factory and to help them figure out how to build and operate it themselves. Every bit of technical assistance that displaces a comparable capability on the part of the local society should be regarded as a two-edged sword and treated with great caution. Above all, the outsiders need to avoid the temptation to speed up the process by running the factory themselves[35]." I have nothing else to add based on my own experience.

3.2 Transferable Knowledge of Institutions and Non-Transferable Underpinnings of Culture, Ethical Norms, and Habits

Fukuyama offered a very useful perspective to build state institutions[36]. That is, "stateness" is composed of four nested components and could therefore be anatomized at four different levels: (1) organizational design and management, (2) political system design, (3) basis of legitimization, and (4) cultural and structural factors. Transferable knowledge increasingly decreases downwards along (2), (3), and (4). And, on the other hand, non-transferable components such as habits, ethical norms and culture become increasingly important in this order. They prop up not only governmental organizations but also the state structure as a whole.

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[34] Fukuyama 2011, 14-19
[35] Fukuyama 2004, 88
[36] Fukuyama 2004, 23-39

With regard to culture, Fukuyama defined it as behavior learned and passed on through generations[37]. It is a-rational and *inherited ethical habit*[38]. Fukuyama stated that although it is malleable and can be affected by developments on the levels of ideology, institutions and civil society, it tends to change the most slowly of all. Fukuyama also said that, "Analytically, this is the sphere of sociology and anthropology and that in the field of political science, studies excavating the level of culture and exploring its influence on civil society have been much less common than studies of civil society[39]."

Fukuyama asserted that at the organizational design and management level, there is no theory to formalize the optimal organizational model of governmental agency because of a very delicate balance between delegated discretion needed for efficiency on the one hand, and control and supervision on the other[40]. In order to reduce vast administrative costs incurred by formal rules and regulations for the latter function, the adoption of informal norms internalized within the organization could be naturally advocated. It is here where two important but otherwise contested traditions of social science collide with each other. That is, the neoclassical economist theory of rational utility maximization is on one side, and the other side is the sociologist tradition of the primacy of norms as guidelines for human behavior[41]. There are also well-known axioms involved in this intellectual dispute, including "All knowledge is local" by Friedrich Hayek[42] and "government by laws not by men" by Aristotle[43].

3.3 Discovery of Social Capital: Un-trodden Study Area of Political Science

If I am correct, no single word of "social capital" appears in Fukuyama's maiden work, *The End of History and the Last Man.* Fukuyama discussed the notion of social capital at great length in the two volumes, *Trust* and *The Great Disruption*, which followed the former. Robert Putnam has shed light on that notion and established its academic validity as a multi-disciplinary analytical tool shared by scholars of social science[44]. In this connection, it is well-known that during his tour in the United States in the 1830s, Alexis de Tocqueville was taken by surprise by the American proclivity for organizing voluntary associations, or the American 'art of association[45],' and that Tocqueville

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[37] Fukuyama 1995b, 8
[38] Fukuyama 1995a, 34
[39] Ibid.
[40] Fukuyama 2004, 67-76
[41] Coleman 1988, 95-97; Fukuyama 2004, 43-91
[42] Fukuyama 2004, 82
[43] Fukuyama 2004, 72
[44] Putnam 1955
[45] Tocqueville 2000, 489-492

detected in such human capacity what was later called social capital. As Fukuyama plainly illustrated, "It was only by coming together in civil associations that weak individuals became strong; the associations they formed could either participate directly in political life or could serve as 'schools of citizenship' where individuals learned the habits of cooperation that would eventually carry over into public life[46]." Indeed, Tocqueville in *Democracy in America* (2000) best elucidated the political function of social capital in a modern democracy. As I have just referred to, this perspective was succeeded and brought into wider use first by James Coleman[47] and then by Putnam and other scholars in the late twentieth century.

3.4 Features of Social Capital: Ability to Work Together in Groups

According to Fukuyama, social capital is defined as "an instantiated informal norm that promotes cooperation between two or more individuals[48]." Or, as Coleman called, it is "the ability to work together for common purposes in groups and organizations[49]." Fukuyama explained that, "In this definition, trust, network, civil society, and the like, which have been associated with social capital, are all epiphenomenal, arising because of social capital but not constituting social capital itself[50]."

Fukuyama said that although economists typically argued that social capital arises through the playing of iterated Prisoner's Dilemma games, it is also a byproduct of religion, tradition, shared historical experiences, and other types of cultural norms[51]. Fukuyama also said that social capital is the crucible of trust or a capability that arises from the prevalence of trust[52]. "Trust is the expectation that arises within a community of regular, honest, and cooperative behavior, based on commonly shared norms, on the part of other members of that community[53]. Trust serves as a lubricant in the management of groups or organizations in society or in certain parts of society.

Social capital is embodied in all forms of human organization; namely the family, its basic unit, civil society, an intermediate one, and the nation, the largest form. Fukuyama said that, "Civil society — a complex welter of intermediate institutions — builds in turn on the family, the primary instrument by which people are socialized into their culture and given the skills that allow them to live in broader society and through which the values and knowledge of that society are

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[46] Fukuyama 2000, 7
[47] Coleman 1988
[48] Fukuyama, 2000, 3
[49] Fukuyama 1995a, 10; Coleman 1988
[50] Fukuyama 2000, 3
[51] Fukuyama 2000, 13-14
[52] Fukuyama 1995a, 26
[53] Ibid.

transmitted across the generations[54]." But Fukuyama explained that, "All groups embodying social capital have a certain 'radius of trust'[55]." That is, cooperative norms like honesty and reciprocity can be shared among limited groups of people and not with others in the same society[56].

Fukuyama argued that, "An abundant stock of social capital is presumably what produces a dense civil society, which in turn has been almost universally seen as a necessary condition for modern liberal democracy[57]." This is tantamount to what Ernest Gellner famously said "No civil society, no democracy[58]." Fukuyama further argued that, "Tocqueville would agree with the proposition that without social capital, there could be no civil society, and that without civil society, there could be no successful democracy[59]."

Although social capital is of "irrational" origins and is practiced irrespective of rules based on "rationality", it helps facilitate cooperation and coordination among groups of people who share informal values and norms. Fukuyama asserted that social capital makes important contributions not only in the economic but also in the political sphere. Economically, social capital reduces transaction costs associated with formal coordination mechanisms like contracts, hierarchies, and bureaucratic rules. Politically, it promotes associational life needed for the success of limited government and modern democracy[60].

Social capital, however, is unequally distributed although all societies have some stock. Nevertheless, there is a limited scope of policy options to create or increase the stock of social capital[61]. States can do some but should do much less. Education is the most important area where governments have the greatest ability to generate social capital directly[62]. But states' undertakings that tend to rob the private sector or civil society of their ability to breed spontaneous sociability would be less helpful and rather counterproductive. Fukuyama said that, "If we look beyond the role of the state, there are other potential sources of social capital[63]." The fostering of civil society could be a policy option. Furthermore, Fukuyama pointed to two potential external sources that may be more effective in promoting civil society: religion and globalization[64]. Regrettably, I cannot afford any time to elaborate on these sources.

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[54] Fukuyama 1995b, 4-5
[55] Fukuyama 2000, 4
[56] Fukuyama 1999, 17
[57] Fukuyama 2000, 7
[58] Gellner 1994, 184-189
[59] Fukuyama 1999, 19-20
[60] Fukuyama 2000, 6-7
[61] Fukuyama 2000,15-16
[62] Fukuyama 2000, 15
[63] Fukuyama 2000, 16
[64] Ibid.

3.5 Immigration and Contested Identities

In an article contributed to the Journal of Democracy (2006b), Fukuyama addressed the problem of immigration. Fukuyama focused in particular on the contradictory dilemma of immigration and identity, which is now unfolding critically in the form of radical Islamist violence in Europe and North America. Fukuyama argued that radical Islamism is a by-product of modern identity politics and that it claims for recognition of group identities or group rights. At the same time, Fukuyama admitted that there is a "hole" in the political theory underlying modern liberal democracy. That is, according to the Lockean tradition of individual rights, the scope of group exercise of religious freedom is left blurred and yet to be articulated. Moreover, Fukuyama, adherent to the principles of liberal democracy, offered two contrasted but respectively nuanced policy options as solution. The essence of these options seems to boil down to how the two contested identities, Muslims' group identity and a broad national identity, are reconciled. In addition to the macro-level analysis mentioned above, I would like to draw attention, at the same time, to a micro-level analysis as well. That is the importance of the sound or un-disrupted family structure of immigrants that could be instrumental to the creation of social capital in new circumstances.

4. Globalization and Middle-Class in Crisis

4.1 "Trump Phenomenon" and Political Decay in the Developed Countries

The 2016 U.S. Presidential campaign is now under way. It is an unprecedented political drama by traditional standards. Both parties' mainstream candidates are having difficulties connecting to a huge mass of discontented 'blue-collar whites.' Maverick candidate Donald Trump seems to be almost successful obtaining the Republican Party's nomination. On the Democratic side too, it is a mirror image of the Republican field. Hillary Clinton, once rumored an all-mighty candidate, is now far from being so. Behind this political mess is a radical socio-economic change that has swept the United States in the past decades.

4.2 Widening Economic Divide and Excessive Individualism in the U.S.: Eroding Basis of Middle-Class

Fukuyama has cautioned against signs of some troubling trends driven by a complex of political-economic factors. Fukuyama wondered, "What if the further development of technology and globalization undermines the middle class and makes it impossible for more than a minority of

citizens in an advanced society to achieve middle-class status?[65]" I fully agree with Fukuyama that both long-entrenched excessive individualism and socio-economic divides precipitated by globalization and IT innovations are two most serious dangers to American society. Fukuyama warned of excessive individualism prompted by a variety of socially pathological factors. Fukuyama asserted that, "The vice of modern democracy is to promote excessive individualism and an unwillingness to engage in public affairs[66]." Fukuyama asserted, at the same time, that, "The villain here is technology and today's technological world vastly magnifies inequality[67]." Concerning the impact of globalization, Fukuyama explained that, "With the lowering of transportation and communications costs and the entry into the global work force of hundreds of millions of new workers in developing countries, the kind of work done by the old middle class in the developed world can now be performed much more cheaply elsewhere[68]." Jobs can be easily outsourced overseas!

4.3 Fragility of Democracy and its Future

The Trump phenomenon unwittingly reveals the fragility of modern mass democracy. It also laid bare a weak mental condition democracy's constituent members tend to fall into when they suddenly face an unexpected crisis or when they slip down into worse-off economic situations. Fukuyama maintained that, "From the day of Aristotle, thinkers have believed that stable democracy rests on a broad middle class, and that societies with extremes of wealth and poverty are susceptible either to oligarchic domination or popular revolution[69]."

The industrial "working class" arose in the mid-nineteenth century and became the main target of the ideological competition with Marxism. Thanks to the rise in living standards generated by the economic prosperity of the twentieth century, they turned "middle-class" betraying the Marxist prediction and ended up constituting the vast majority of the populations of the advanced industrial countries.

According to a recent news column, however, the percentage of those Americans who now describe themselves as "working class" soars to almost half of America by people's self-perception. They apparently express a feeling about being shut out from the benefits of growth due to the socio-economic divide now under way in the United States and other countries. The writer of the

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[65] Fukuyama 2012, 58
[66] Fukuyama 2000, 7
[67] Fukuyama 2012, 58
[68] Fukuyama 2012, 59
[69] Fukuyama 2012, 55-56

column concluded that, "It is a very un-American state of mind[70]." It implies a decline of "middle-class" consciousness, a healthy and necessary basis of liberal democracy. At the same time, however, it has to be kept in mind that as Fukuyama clearly pointed out, "Middle-class people do not necessarily support democracy in principle: like everyone else, they are self-interested actors who want to protect their property and position[71]." And so, they may even join in support of authoritarian regimes as is recently seen in Thailand, for example, and become restive if it turns out that democratic government is of no help.

In the recent article titled "the Future of History" that appeared in the *Foreign Affairs* Magazine (2012), Fukuyama offered some hints of solution as to how to remedy the contemporary malaises of liberal democracy together with a set of orthodox yet nuanced policy options. The latter consists of two components: political and economic. The redesigning of the public sector, coupled with the sweeping away of existing confounded stakes of stakeholders, is the political component. The other economic component is the diversification of active capitalism models apparently in anticipation of such an emergence of democratic mobilization for social reform as was seen in the Progressive Era of the late 19th century. But let me elaborate more on this matter on another occasion.

In conclusion, I have discussed a host of issues that I presumed would be relevant as one of the common interests of social scientists in general and scholars of human security and *social capital* in particular. It would be most appreciated should readers find some food for thought among the issues.

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[70] Luce 2016b
[71] Fukuyama 2012, 56

References

Acemoglu, Daron and James A. Robinson. 2012. *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. New York: Crown.

Coleman, James. 1988. "Social Capital in the Creation of Human Capital," *American Journal of Sociology* 94: S94-S120.

Fukuyama, Francis. 1989. "The End of History?" *The National Interest* 16 (Summer): 3-18.

——— . 1992. *The End of History and the Last Man*. New York: Free Press.

——— . 1995a. *Trust*. New York: Free Press.

——— . 1995b. "The Primacy of Culture," *Journal of Democracy* 6(1): 7-14.

——— . 1999. *The Great Disruption*. New York: Free Press.

——— . 2000. *Social Capital and Civil Society*. IMF Working Paper (WP/00/74), April.

——— . 2004. *State-Building*. Ithaca: Cornell University Press.

——— . 2005. "Building Democracy after Conflict: 'Stateness' First," *Journal of Democracy* 16(1): 84-88.

——— . 2006a. "Foreword," in Samuel Huntington, *Political Order in Changing Societies,* New ed. New Haven and London: Yale University Press, 2006.

——— . 2006b. "Identity, Immigration, and Liberal Democracy," *Journal of Democracy* 17(2): 5-20.

——— . 2011. *The Origins of Political Order*. New York: Farrar, Straus and Giroux.

——— . 2012. "The Future of Democracy: Can Liberal Democracy Survive the Decline of the Middle Class?" *Foreign Affairs* 91(1): 53-61.

——— . 2013. "Democracy and the Quality of the State," *Journal of Democracy* 24(4): 5-18 .

——— . 2014a. "America in Decay: The Sources of Political Dysfunction," *Foreign Affairs* 93(5): 5-26.

——— . 2014b. *Political Order and Political Decay*. New York: Farrar, Straus and Giroux, 2014

——— . 2014c. *The Huntington Legacy in Political Development*, which was delivered as the 2014 Edwin Godkin lecture at the JFK Forum at the Institute of Politics at Harvard University and published on October 15, 2014 <https://www.youtube.com/watch?v=KDcql1HIzmQ> (accessible as of September 12, 2016)

——— . 2015. "Why Democracy Is Performing So Poorly," *Journal of Democracy* 26(1): 11-20.

Gellner, Ernest. 1994. *Conditions of Liberty: Civil Society and Its Rivals*. New York: Penguin.

Huntington, Samuel. 1968. *Political Order in Changing Societies*. New Haven and London: Yale
 University Press.

———. 1993. "Clash of Civilizations?" *Foreign Affairs* 72(3): 22-49.

———. 1996. *The Clash of Civilizations and the Remaking of World Order*. New York: Free Press.

Luce, Edward. 2016a. "The Troubling Warnings from the 1930s," *Financial Times*, March 13.

———. 2016b. "The New Class Warfare in America," *Financial Times*, March 20.

North, Douglass, John Wallis and Barry Weingast. 2009. *Violence and Social Order: A Conceptual
 Framework for Interpreting Recorded Human History*. New York: Cambridge University Press.

Putnam, Robert. 1995. "Bowling Alone," *Journal of Democracy* 6(1): 65-78.

———. 2001. *Bowlig Alone: The Collapse and Revival of American Community*. New York:
 Simon & Schuster.

Tocqueville, Alexis de. 2000. *Democracy in America*. Translated and edited by Harvey C. Mansfield
 and Delba Winthrop. Chicago: University of Chicago Press.

Weber, Max. 1948. *From Max Weber: Essays in Sociology*. Translated and edited by H.H. Gerth and
 C. Wright Mills. London: Routledge & Kegan Ltd.

Addressing Governance Gaps in Afghanistan:
Reforming the Interface among the State, Traditional Institutions and Citizens

Yuichiro SAKAI[1]

Abstract

Governance in Afghanistan is characterized by "hybrid political order," in which state and non-state actors coexist and interact with each other. Neither state nor non-state actors are capable of filling existing governance gaps on their own. This paper argues that while the state has the responsibility to provide governance functions, and this role should be supported, institution building is a time-consuming process, and efforts by non-state traditional institutions to play governance roles should also be supported. The paper examines the utility of traditional institutions, such as the jirga, as a means to engage a broader population. The paper also analyzes how reforming the interface among the state, traditional institutions and the Afghan people may improve governance conditions. The paper then provides analysis on some initiatives occurred to this end in Afghanistan, such as the National Solidarity Programme and hybrid justice system. These initiatives indicated some progress on improving popular participation as well as people's perception of state legitimacy. Especially notable were improvements observed with regards to women's participation and service delivery at the community level. This indicates the potential positive impact of this approach on human security through supporting the capacity of the people and communities, including the most vulnerable, to identify and resolve issues on their own. At the same time, the efforts also have shown limitations and challenges. In order for future efforts to be effective, initial focus should be in areas where existing governance networks show a modicum of representativeness, local legitimacy, and accountability framework.

Keywords:
Hybrid political order, non-state actors, dispute resolution, protection and empowerment, legitimacy

1. Introduction

The extension of state authority has been a key national priority for the Afghan government since the fall of the Taliban in 2001. Historically, Afghanistan has faced complicated center-periphery relations with successive rulers and governments struggling to establish mutually

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[1] Programme Adviser, Secretariat of the International Peace Cooperation Headquarters, Cabinet Office, Government of Japan. The views expressed in this paper reflect the author's views and not those of Secretariat.

beneficial relationships with regions as well as rural and mountain communities. On the one hand, effective and responsive state institutions at the national and local levels are critical for maintaining security, enforcing laws and providing basic services to the population. On the other hand, while the extension of formal governance institutions in urban areas has been possible, although with varying degrees, their extension in rural and mountain areas where the state does not fully extend its reach has faced serious challenges. In rural Afghanistan, many Afghans turn to informal (non-state) institutions such as traditional and customary institutions including the community or tribal council of elders (jirga and shura) for key governance functions such as dispute resolution and maintenance of security. In this context, rather than focusing solely on formal governance and viewing informal governance institutions as something to be replaced quickly, it is equally critical to view informal institutions as a fundamental part of meeting existing governance needs.

In addition, when looked at from human security perspectives which place people at the center, traditional and customary institutions are highly relevant as they function as forums for people and communities to discuss, identify and resolve issues and improve existing conditions on their own. In fact, there is a growing body of research pointing to the key roles of non-state actors in fostering human security,[2] especially at the subnational level and in fragile states.[3] Current thinking around human security focuses on the protection and empowerment framework, which combines the top-down approach to support the local and central governments to respond to people's needs, and the bottom-up approach to support the people and communities to resolve their own issues.[4] This paper aims to make a contribution to the human security discourse by providing a detailed analysis of initiatives that were designed to improve state-society relations and engage a broader population including previously marginalized people such as women and youth.

This paper will analyze the utility of informal governance institutions in Afghanistan as a means to engage a broader population, and examine how improved interface and joint efforts by the state, traditional institutions and the Afghan people can strengthen governance. This paper first points to the limitations of an approach that solely relies on the state to meet governance challenges faced by Afghanistan, and argues for the need to recognize traditional and customary institutions. The paper then examines the nature of these pre-existing institutions that have provided a tradition of consultative and participatory decision-making and remain highly relevant today in performing key governance functions. Finally, the paper aims to shed light on policy implications for initiatives to

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[2] Kaldor, 2007
[3] Martin and Owen, eds. 2014, 323; Kurusu, 2009, 23-25
[4] Japan International Cooperation Agency, 2010, 3; United Nations, 2009, 8 and 18-19

reform interface among the state, traditional institutions, and citizens.

2.   Hybridity in Afghan Governance System

In developed countries, the state, or the government, is usually the dominant and legitimate supplier of governance functions such as the provision of security and maintenance of law and order, as well as delivery of justice and other basic services to the population. However, in Afghanistan, the state has not necessarily been the main supplier of governance in many parts of the country, but informal and non-state actors have traditionally played significant roles, especially in the rural and mountain areas. There has been a growing literature in the state-building discourse acknowledging the roles of non-state actors in state-building and peacebuilding. An environment in which the "state does not have a privileged position as the political framework that provides security, welfare and representation," and "has to share authority, legitimacy and capacity with other structures" is referred to as "hybrid political order" by Boege et al.[5] Similarly, Mac Ginty refers to "hybrid peace" as a context in which "liberal peace agents" characterized by freedom, human rights, democracy and market economy coexist with "local actors" characterized by indigenous and traditional values, and local actors may accept, resist or propose alternatives to liberal peace.[6] These concepts of hybridity do not necessarily deny the state, but are distinct from the narrow state-centric approach to state-building and peacebuilding in that they acknowledge co-existence with non-state actors as well as important positive roles they can play.[7]

2.1 Limitations of the narrow state-centric approach

In the case of Afghanistan, with the erosion of core functions of the state due to years of conflict, the state has yet to establish itself in recent years fully to provide security, deliver services, and build trust. Governance gaps with regards to the provision of services, rule of law, and representation, which also constitute the basis for legitimacy of the state in the eyes of the population, are regarded as some of the main causes that contribute to instability in the first place and to fuel insurgency.[8] In addition, structurally, some political institutions mandated by the constitution are still not in place at the local level. For example, while provincial councils are elected and in place in 34 provinces, councils are not in place at the district, municipal and village levels due to security

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[5] Fischer and Schmelzle, eds. 2009, 24
[6] Mac Ginty, 2011, 8-11
[7] Furuzawa, 2013, 44-45
[8] Jones, 2008, 19-26; Shurkin 2011, 19

concerns although they are mandated by the 2004 constitution to be elected. Informal actors, such as traditional and religious leaders and community councils step in to fill some of the gaps left out by the state.

While informal institutions are often ignored in conflict-affected areas, at times it is these resilient institutions that can mobilize the community to solve disputes and prevent conflicts from escalating in wider areas.[9] In addition, there is also an increasing acknowledgement that building legitimate, functioning and responsive institutions is an extremely long-term process that should be counted in generations and not years.[10] Thus, if state-building in Afghanistan is based on the principle of supporting the extension of state authority over its territory and displacing other governance actors, it is unlikely to bear fruits. Given the tremendous governance and institutional challenges in the Afghan context, it is critical that national institution building efforts focus simultaneously on non-state institutions alongside state institutions.

2.2 History of decentralized local governance

Examining the political history of Afghanistan provides key insights into challenges faced by today's Afghan governance system. The current constitution places most of the political authority at the center, creating a highly centralized state by structure. The subnational actors are to be closely supervised by the center to carry out their work although the central government does not have the full capacity to meet the responsibilities placed by the constitution. The dilemma is that while the governance authority is at the center, political power is decentralized at the regional and local levels.[11]

Throughout the modern history, Afghan rulers and governments have had to work within the federal and consultative political system. Effective Afghan rulers recognized the importance of consultation and accountability in making regional appointments, giving the officials and the people interests in mutual success. This system, in turn, buffered regions from collapse at the center in cases of such events. Some rulers aimed to establish a centralized state and take away autonomy from the regions. However, Afghanistan always tended to return to its natural state of federalism and consultative politics in which regions and local groups possessed political influence and had freedoms to govern themselves according to local practices and needs. Furthermore, there has been an increasing demand for popular political participation partly due to mass mobilization during

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[9] United Nations, 2012a, 15
[10] World Bank, 2011, 10; United Nations, 2014, 17; and International Dialogue on Peacebuilding ad Statebuilding
[11] Lamb, 2012b, 16

decades of conflict. Historically, there was a widespread cultural belief that the power belonged to old dynastic elite who only were entitled to hold the top office. However, today, this concept of tribal exclusiveness has lost broad support. In the past, ordinary people saw no role for them to play in governance, but now they demand participation and representation.[12] As Barfield and Nojumi note.

Here (Afghanistan) one finds adequate local governance in the absence of formal government institutions. Indeed, in rural Afghanistan, where the majority of the population resides this has been the norm rather than the exception. Local population expect, where possible, to solve their own problems through mediation and arbitration conducted by people of their own choosing.[13]

Thus traditional and customary governance institutions such as community councils provide a framework in which the people and communities resolve their own issues and disputes, and diffuse conflicts, giving them more stake in local administration.

2.3 Inclusive political system also needed for sustainable peace

In addition to strengthening national governance and institutions, popular participation and a more inclusive political process are critical also for a sustainable Afghan peace process. There is a growing research indicating that a successful transition from conflict to peace requires popular support and participation.[14] Three essential components of a durable peace agreement are considered to be public support along with political commitment of the parties to conflict and measures to deal with root causes of conflict.[15] As the Afghan peace process moves forward, a process that gives concessions to violent and armed opposition groups, such as the Taliban, but without a broad based support from a wide segment of the population is unlikely to yield sustainable peace but could lead to further instability.[16] Furthermore, those who suffered the most during the conflict such as the victims and the most vulnerable groups should be the central constituency to engage with peace and reconciliation as they would be most affected by the consequences of the peace process.[17] Sustainability of peace agreement and peace process as a whole will depend largely on the extent to which participation, interests and concerns of a wide segment of the population are represented and safeguarded.

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[12] Barfield 2010, 162-163, 293, 304-305, and 343; Shurkin 2011, 4
[13] Barfield and Nojumi, 2010
[14] See Wanis-St. John and Kew; Barnes, ed. 2002
[15] United Nations, 2012b, 30
[16] Lamb, 2011, 8
[17] Kouvo and Mazoori, 2011, 503

3. Jirga: Afghan Tradition of Consultative Decision-making

Unlike some other countries, Afghanistan has a long political tradition of consultative and participatory decision-making. At the local level, there are village and tribal councils, called jirgas or shuras, which are usually formed by tribal and village elders and draw on customary law to reach decisions through consensus. At the national level, Loya Jirga, or Grand National Assembly, has been convened throughout modern history where tribal leaders, elders and other representatives have gathered to discuss issues of national importance and have made collective decisions. These traditional forms of governance institutions have assumed critical roles in maintaining social harmony, resolving local conflicts and serving as channels of communication where people's concerns are communicated and represented. It is critical to examine the characteristics as well as key strengths and limitations of these pre-existing institutions that provide key governance functions in rural and remote areas.

3.1 Dispute resolution by jirgas

Village and tribal jirgas are traditional Afghan institutions with a long history. While the jirga is historically formed in areas where Pashtuns reside and its non-Pashtun equivalent, the shura, is commonly found in areas where Tajiks, Uzbeks, Hazaras and other ethnic groups are located, they share closely similar values, practices and procedures.[18] Today, the term shura is used for all kinds of gatherings with official character, and every Pashtun and non-Pashtun tribe has a shura. Shuras usually exist long term and has stable structures.[19] A survey conducted by Asia Foundation in 2015 shows that people are more likely to ask jirgas and shuras for help rather than state institutions.[20]

Table 1. Institutions for Problems Solving, by Problem Area

	Land	Water	Family	Healthcare
	%	%	%	%
Local elders of the shura	47	24	14	9
Government department	12	17	8	30
Malik/khan	9	16	9	5
Friends/family	3	4	30	8
District authority	6	5	5	11

(Source: A Survey of the Afghan People 2015, Asia Foundation)

Table 1 shows a comparison of different authorities that Afghans ask for help if they were to

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[18] Wardak, 2003, 5
[19] Heinrich Boll Foundation, 2006, 81
[20] Asia Foundation, 2015, 102

have problems. It shows that for disputes over land and water, Afghans tend to rely on the shura (or jirga) over other authorities such as government department, malik or khan (village representative that liaises between community and district government in a quasi-official capacity), and district authority. For land disputes, 47 percent of the people responded that they would ask the shura compared with far lower numbers for government department, malik and district authority. Figures for water disputes follow a similar trend. While more people turn to friends and family for family problems, and to the government department for problems accessing healthcare services, it is clear that more people rely on the jirga and shura for various types of dispute resolution.

Dispute resolution can be considered as the bedrock of local governance in Afghanistan because people's respect for authority largely hinges on its ability to solve their problems.[21]

Table 2. Perception of Dispute Resolution Institutions

	Fair and Trusted	Effective at delivering justice	Follow norms of the people
	%	%	%
Local jirgas/shuras	80	68	68
Haquq department	68	56	52
State court	60	49	48

(Source: A Survey of the Afghan People 2015, Asia Foundation)

Table 2 shows a comparison of people's perception of different local authorities.[22]When asked about their perception on authority dealing with dispute resolution, 80 percent of the people agreed that jirgas and shuras are fair and trusted, while 68 percent agreed they are effective at delivering justice, and 68 percent agreed that they follow norms of the people. These figures are also higher than Haquq department (department of the Ministry of Justice primarily dealing with civil matters and that can refer cases to state court) and state court. The survey information supports that local jirgas continue to be deeply engrained in communities, and people rely on them for delivering justice and maintaining social order. While there have been signs of erosion of these customary institutions over the last several decades due to the rise of armed commanders and religious leaders, emergence of new elites, and increased urban-rural mobility, the traditional institutions remain highly relevant especially in rural and mountain areas mostly cut off from the government.[23]

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[21] Ponzio 2011, 180
[22] Asia Foundation, 2015, 104
[23] Lamb, 2012b, 21-22; Ruttig, 2010, 8-9

Village and tribal jirgas deal with a wide range of disputes brought to them. Jirgas that take place in a village setting usually deals with civil and minor criminal matters such as water rights, boundaries of agricultural lands, and minor bodily injuries. Jirgas at a greater tribal level tend to deal with more serious conflicts within the tribe such as murder and disputes over land and water assets, as well as conflict between tribes such as disputes over communal land, mines, and forests or murder of a member of a tribe by another tribe. Jirgas are guided by unwritten customary law reflecting values and norms engrained in Pashtunwali, which is a simple yet harsh code with the principal aim of group survival, prevention of anarchy, and arbitration of feuds. Fundamental principles of Pashtunwali include vengeance for insult or bodily harm to a kinship group, hospitality for harmless strangers, bravery in wars, and integrity in conduct. Village jirgas usually consist of village elders and leaders, and for larger tribal jirgas, members would include notable representatives from all the villages from of the tribe who have proven experiences of leadership as well as prominent religious leaders from the region.[24]

3.2 Participatory and egalitarian nature

Jirgas are characterized by participatory and egalitarian nature in the process of consultation and decision-making. In a village jirga, ordinary villagers are allowed to sit in the outer circle and listen to the proceedings. Although they do not get involved in the discussions, ordinary participants are more than just spectators as they carefully observe the proceedings, reminding the jirga members that the village is watching and aware of what is being said and decided. Thus, the jirga process provides not only communication between the disputants and among disputants and the jirga members but also indirect communication among disputants, jirga members and ordinary villagers. This multi-dimensional process of direct and indirect communication helps to maintain social unity and a shared morality of the village. The jirga process is also critical in ensuring that actual damage inflicted on the victim as well as any symbolic damage on the social and moral order of the village are compensated. At a jirga, members sit in a circle and there is no hierarchy or chairperson, creating an open atmosphere where members see each other as equals. Jirga's final decisions are based on consensus rather than a majority vote, and the process may take days depending on the time it takes to reach a satisfactory decisions and the complexity of the dispute.[25]

Part of the reason that makes the dispute resolution process effective, egalitarian and participatory is that at the local level, political power of the leaders is derived from the consent of the

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[24] Wardak, 2003, 8-11
[25] Ibid, 8-11

people. With limited gaps between the rich and poor, the people are able to hold the village and tribal leaders as well as religious leaders accountable who are forced to respond to grievances and demands from the people. Afghan leaders at the local level are "first among equals," and work with the communities rather than commanding them, or else the leaders would be displaced and replaced by the people.[26]

3.3 Challenges of traditional institutions

While the traditional and customary institutions have considerable strengths and merits, their limitations should also be noted. For example, the extent of participatory nature of the jirga is limited as they are usually operated by tribal and village elders, excluding women and young people. Women have to rely on their male relatives to represent them to resolve issues. Also, the practice of marriage of culprit's female relative to the victim's close relative as punishment is not only a violation of human rights but also against Afghan laws and Islam.[27] On the issue of representativeness of the jirga, Afghans generally note the need to separate the issues, with a process for decision-making through deliberative consultations and broad consensus on the one hand and the notion that the representatives exclude women on the other hand.[28] However, these challenges show that while the jirga as an institution serves as a pre-existing political institution with a modicum of inclusiveness and representation, there are clearly remaining governance gaps in rural areas that these customary institutions do not address. Also while the traditional institutions in rural and mountain Afghanistan provide some key governance functions such as dispute resolution and maintenance of social order, these areas remain vastly underdeveloped and poor. These gaps clearly indicate that although traditional institutions are critical actors in governance, they are also not able to meet all governance challenges on their own.

4. Reforming the Interface among the State, Traditional Institutions and Citizens

As has been argued in this paper so far, neither the state nor traditional and customary institutions are capable of meeting governance challenges Afghanistan faces today on their own. Improving governance and meeting the needs of the population require sustained collective efforts and collaboration among all the actors involved in the provision of governance functions. This will

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[26] Coburn, 2011, 9-10
[27] Barfield et al. 2006, 17; Center for Policy and Human Development, 2007, 97; Wardak, 2003, 11
[28] Schirch, 2011, 23

require supporting both the state and traditional institutions as well as improved synergy and relationships between the government, traditional institutions and the Afghan people.

4.1 The National Solidarity Programme: Improving government-citizen relations

In the state-building process since the fall of the Taliban regime, there have been several national programs aimed at reforming the interface between the state and society. National programs have aimed to strengthen a sense of mutual obligations between the government and people and responsibilities to be performed over time.[29] Through program implementation, national programs combined were beginning to create a "network of rights and obligations" between the government and people that, if sustained, could gather momentum for nationally generated development.[30] The National Solidarity Programme (NSP) is one such national program which was initiated in 2003 with the aim of improving the relations between the government and citizens through the mobilization of popular participation at the community level in creating representative institutions and improving service delivery. It is the largest development program in Afghanistan and is widely considered as the most successful foreign funded program since the fall of the Taliban regime.

As part of the program, Community Development Councils (CDCs) are set up in villages through elections to make decisions on their own development process and implement projects with block grants provided from the government of up to US$60,000. Since its inception in 2003, NSP has been implemented in 32,000 villages across the country in 361 out of 398 districts in Afghanistan.[31] In addition to making decisions on development issues and managing development projects, CDCs are intended to strengthen community level governance in areas such as dispute resolution and social protection. CDCs are in a way hybrid institutions that are organized like the traditional village jirga but with formal sanction of the state. As the village councils, which are mandated by the constitution, do not exist, they are the only elected bodies at the subnational level other than provincial councils.[32] The experience of NSP has important implications for future policy on reforming the interface among the state, non-state institutions and citizens as well as its effect on critical issues such as the promotion of female participation, the relationship between service delivery and state legitimacy, and strengthening local governance.

4.1.1. Women's participation

One of the areas where NSP has had a durable positive impact is in promoting women's

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[29] Shurkin, 2011, 16-17
[30] Ghani and Lockhart 2008, 210
[31] Beath et al. 2013b, 2
[32] Lamb, 2012a, 13; Lamb, 2012b, 17; Shurkin, 2011, 11

participation. While elections of CDC members are often not conducted with firm democratic rules, CDCs are more representative than traditional jirgas in that many of them include female members and younger leaders. When it is not possible to form a mixed CDCs including both men and women, separate "women's CDCs" are formed.[33] In the areas they are operating, CDCs have had a sustainable positive impact on women's participation in political activities and local governance. CDCs had a positive impact on women's involvement in dispute resolution and aid allocation, and increased their ability to travel beyond their villages. What is more, CDCs increased male acceptance of women's participation in local governance.[34] In addition to dispute resolution, female CDC members are often active in performing social protection functions such as collection of money for the poor and vulnerable. However, while CDCs had an impact on strengthening inclusion and representation of women and other vulnerable groups, they are often dependent on the active facilitation by NGOs from outside the communities. Continued empowerment of women and vulnerable groups will also require continued facilitation support.[35]

4.1.2. Service delivery and state legitimacy

It is generally considered that improvement in access to basic services contributes to increased state legitimacy in the eyes of the population. Table 1 above also shows that at the community level, while people tend to rely on traditional authority for dispute resolution, they tend to turn to the government for provision of basic services. Randomized impact evaluation conducted on NSP in 2013 shows that CDCs' water and electricity projects increased access to drinking water and substantially increased electricity usage. Interestingly, CDC's presence increased access to other services such as education, healthcare, and counselling services for women although CDCs did not implement these projects, indicating the possibilities that these changes occurred indirectly from improvements brought by CDC projects.[36] However, in terms of state legitimacy, CDCs improve people's perception of the government while the projects are ongoing but the favorable views disappear with the end of the projects. Even though CDCs increase access to services, improving government legitimacy in the long run is contingent upon not only improvements in service delivery but also predictable future flow of public goods and services.[37]

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[33] Nixon, 2008, 41-42
[34] Beath et al. 2015, 312-313
[35] Nixon, 2008, 50-52 and 54
[36] Beath et al. 2015, 307
[37] Ibid, 314-316

4.1.3. Local governance arrangements

While CDCs have had a positive impact on female participation in governance and service delivery, recent qualitative and quantitative findings show that establishment of CDCs can have a negative impact on local governance. Initially, there is a need to examine local preconditions and accountability framework in communities where CDCs or any new councils plan to operate. This is particularly so as CDCs do not mobilize resources locally but are mostly dependent on resources provided by the government and international donors. Influx of resources in communities could disrupt local relationships and encourage misappropriation of funds if there is no functioning accountability framework.[38] In addition, rather than seeking to change local social order, any new program should recognize pre-existing conditions in communities. As much as possible, programs should identify, work with and build on existing institutions rather than ignoring or replacing them, and support should be provided where preconditions allow for working with groups that are committed to collective ends, fairly represent community, and demonstrate accountability in resource distribution.[39]

In fact, there seems to be a great deal of blending between CDCs and traditional jirgas already. A survey conducted by Asia Foundation shows that of the people aware of a CDC in their communities, most reported that elders of local jirga and other traditional leaders are members.[40]

Table 3: Reported Representation in Community Development Councils

Group	Representation (%)
Elders of local jirga/shura	84
Local malik/khan	71
Mullah	58
Local teacher	47
Farmers	45
Shopkeepers	39
Landless agricultural workers	37
Local commanders	28
Women	23
Municipal/district officials	23
Doctors	21

(Source: A Survey of the Afghan People 2011, Asia Foundation)

Table 3 shows that 84 percent of the people reported elders of local jirga are members of the CDCs. In places where there are pre-existing local jirgas for dispute resolution, their activities are

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[38] Bricks, 2008, 36
[39] Pain and Kantor, 2010, 43; Miakhel and Coburn, 2010
[40] Asia Foundation, 2011, 93-94

likely to overlap with CDC activities, rather than replaced by CDCs.[41] The political structure in some communities is such that approval by a local jirga is needed for CDCs to form themselves and develop project proposals.[42] Governance improvements with CDCs were achieved not through an attempt to replace pre-existing informal institutions but through acknowledging and working with them.[43]

The abovementioned randomized impact evaluation revealed a negative impact of CDCs on male perception on local governance quality. This, in turn, could be attributed to the diffusion of authority caused by the introduction of a new council in communities and the lack of a clear mandate and clarity of roles in local governance vis-à-vis pre-existing institutions.[44] When a council is created in parallel with existing customary institutions, and the council does not have a clear mandate different from existing institutions, this increases the number of decision-makers that can seek rent. However, if there are clear assignments of responsibilities among decision-makers, this can limit rent-seeing behavior and results in lower level of leakage.[45]

In addition to CDCs, there has been a proliferation of new councils or shuras focusing on service delivery supported by international aid agencies. While these development-oriented councils adopt more democratic policies and include more diverse members, there are criticisms that the compensation and payment from donors are leading to the decline in the sense of volunteerism and self-help mindset of communities to solve their own problems.[46] This is highly counterproductive for efforts to promote participation as these councils are created as a mechanism for community to identify and resolve issues affecting them through their own efforts.

4.1.4. Bridging informal and formal governance

The government, in principle, has proposed to have CDCs to act as village councils until elections can take place. It is still not clear how and if the transformation will take place, but if implemented, this would act as a bridge between informal and formal governance.[47] A 2013 government policy document on governance and development at the district and village levels gives guidance on the principal roles of the CDCs. According to the policy, the roles of a CDC are "to act as a formal institution for the Government and other actors to ensure community representation and

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[41] Nixon, 2008, 50
[42] Saltmarsh and Medhi, 2011, 59
[43] Nixon, 2008, 53
[44] Beath et al. 2015, 309-310
[45] Beath et al. 2013, 4 and 24
[46] Theros and Kaldor, 2011, 16; Mirahmadi et al. 2014, 32
[47] Lamb, 2012b, 25; Shurkin, 2011, 11

participation in community-based governance and socioeconomic developing including service delivery" as well as "to exercise oversight of planning, decision making and delivery in the implementation of development projects and services at the village level."[48] While this policy reveals the government's view of CDCs as an institution chiefly responsible for village-level service delivery, additional clarifications on their roles as well as their relations with other local actors will be critical in ensuring local accountability framework.

4.2 Hybrid system of justice: Case of Loya Paktia

Another area where increased cooperation and synergy between the state and non-state institutions are needed is in dispute resolution and justice system as a whole. The government recognized the importance of clarifying relations between the formal justice system and alternative dispute resolution (ADR) institutions. This hybrid system of justice was proposed by the 2007 national Human Development Report for Afghanistan sponsored by United Nations Development Programme which proposes not an integration of ADR institutions in the state system but the establishment of links between them based on existing realities. Key recommendations include that ADR institutions such as traditional jirgas, shuras, CDCs and civil society organizations can address minor criminal cases such as obscenity and misdemeanors and civil disputes such as property and commercial complaints while state institutions ensure consistency of decisions of ADR institutions with human rights principles as well as Afghan and international laws.[49]

Pressure from some in the human rights community and legal establishment have posed challenges for making the proposal of the hybrid system of justice a reality.[50] As a result, while steps were taken by the Afghan government with support of international community to develop a policy and legal framework within which state and non-state dispute resolution institutions could collaborate, a draft Policy on Dispute Resolution Shuras and Jirgas as well as a draft Law on Dispute Resolution Shuras and Jirgas were not adopted by the government.[51] However, it is a commonly observed reality that effective resolution of disputes already relies on cooperation between the formal and informal systems of justice,[52] and preliminary results of pilot cases of hybrid system indicate that it offers a workable solution for challenges that formal and informal justice sectors face.[53] This section will detail an experience and research of an Afghan NGO, The Liaison Office

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[48] Government of the Islamic Republic of Afghanistan, 2013, 10
[49] Center for Policy and Human Development, 2007, 129-131
[50] Wardak, 2011, 18-19
[51] The Liaison Office, 2013, 1
[52] Coburn, 2011, 6-8
[53] Wardak, 2011, 19

(TLO, formerly the Tribal Liaison Office), in linking formal and informal institutions in dispute resolution in Loya Paktia region as a case study that demonstrated positive synergy between the distinctive institutions.

4.2.1. Positive synergy between the state and traditional institutions

Given the major role that traditional institutions play in Afghan local governance, The Liaison Office (TLO) was founded with a mission to contribute to governance by identifying, engaging with and supporting customary Afghan bodies to collaborate with the state institutions and better respond to the needs of their communities.[54] TLO facilitated a creation of dispute resolution commissions bridging state and non-state actors in Loya Paktia region or Greater Paktia region (Paktia, Khost, Paktika, Ghazni and Logar provinces), which is located in Southeast Afghanistan. The commission, which was termed the Commission on Conflict Mitigation or CCM was initially established in Khost Province in 2007 upon the request of tribal leaders,[55] and the formation of the CCM was initiated by the Governor of Khost Province.[56] The Khost CCM was composed of six respected and influential elders nominated by tribal representatives in jirgas. The CCM was authorized by the Provincial Governor to arbitrate conflicts, and the Provincial Governor selected and referred appropriate conflicts to the CCM. The CCM then visited and engaged parties to work on the conflict, and proceeded to investigate, arbitrate and issue non-binding decisions after reaching a consensus for each case. Unlike traditional jirgas, either party could reject the CCM decision without penalty, but in the case of mutual acceptance, the parties and the Provincial Governor sign the decision. Thus, it is a complementary approach between the state and non-state bodies in which the Provincial Governor's Office would oversee traditional dispute resolution practices. The government appoints the CCM members and is responsible for oversight of case selection while the decision-making process is still in accordance with the traditional jirga practice.[57]

In the first eighteen months of operation, the Khost CCM was authorized by the Provincial Governor to work on 31 cases of land disputes, out of which 18 were resolved during the period. Rather than being antagonistic, the provincial government and the Khost CCM demonstrated a mutually reinforcing partnership, resolving 18 protracted conflicts, and managing and de-escalating emerging disputes. The CCM narrowed the gap between the state and customary system by allowing the government to have oversight in the process and being accountable to the community. Increased

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[54] Heinrich Boll Foundation, 2006, 69
[55] The Liaison Office, 2013, 2
[56] The Liaison Office, 2009a
[57] Ibid

access to justice and clearing of backlog of cases resulted in increased legitimacy of the process in the eyes of the community members. This is linked to a critical issue of credibility, which is needed for the government to establish legitimacy in rural Afghanistan. One way that this could be done, as the Khost case shows, is through working with a customary institution like the CCM that already has established credibility in the community.[58]

Following the initial success with the Khost CCM, the initiative was expanded to other provinces in Loya Paktia region. The Paktia CCM was established in 2008 and the Logar CCM followed. Together, these CCMs resolved 67 conflicts between September 2012 and October 2013. The conflicts resolved by the CCMs included conflicts over land and natural resources between tribes, ceasefire in violent conflicts and family cases. While measuring the success in working relationship between the formal and informal bodies can benefit from more experience, the cases in Loya Paktia demonstrate that given opportunities to link with non-state actors, local government authorities cooperate productively and, through the cooperation, improve their ability to provide dispute resolution services and meet the needs of the communities.[59]

4.2.2. Factors for positive synergy: local legitimacy and inclusiveness

In areas with strong tribal networks, the CCM initiatives were considerably successful while the areas with weak tribes did not experience the same level of effectiveness and success. In areas where high degree of tribal cohesion is observed, such as in Loya Paktia region in Southeast Afghanistan, tribal elders enjoy a certain degree of local legitimacy and are considered among the communities as the preferable provider of dispute resolution services. Researchers note the strength of the tribal cohesion in the region that has maintained a great degree of continuity in the leadership and decision-making structures despite decades of disorder and militarization of society that led to the erosion of tribal culture in other regions. In the Southeast, tribal leaders assume prominent roles in the provision of dispute resolution services and filling the existing governance gaps more successfully than their counterparts in other regions of the country.[60] An interesting addition to this is that some tribes in the region enjoy a high degree of human security due to agreements among tribes, and between the tribes and the government that guarantee security at the district and provincial levels.[61]

In addition, TLO emphasized on neutrality and inclusiveness when supporting the

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[58] Ibid
[59] The Liaison Office, 2013, 5-7.
[60] The Liaison Office, 2013, 2-3 and 5-7; Heinrich Boll Foundation, 2006, 62
[61] Heinrich Boll Foundation, 2006, 62-63; The Liaison Office, 2009b

establishment of CCMs in Khost, Paktia and Logar. For example, in Paktia, this meant working not with tribal leaders, but with a prominent local religious leader perceived as neutral among major tribes as a focal point for the CCM. This allowed the CCMs in Paktia, Logar and Khost to work with all tribes and to operate in all tribal areas. In some cases, the CCMs were able to operate in insecure areas and across provincial borders, demonstrating their credibility and acceptance by a wide range of tribal networks throughout the region.[62]

Some concerns often raised in working with traditional dispute resolution institutions include that doing so might undermine efforts to promote women's rights or to establish functioning state institutions and presence. Concerns on women's rights in non-state forms of dispute resolution are valid as it is the reality that traditional dispute resolution denies essentially all property rights to women, in contradiction to sharia law. However, TLO's research and experience indicate that it is possible to improve women's and human rights within the non-state system especially when Islamic Sharia can be leveraged and when individuals involved in the non-state bodies have higher levels of education.[63] On the concern that working with non-state bodies might diminish government roles, since the state involvement in resolving disputes in rural areas are minimal in reality,[64] linking the state to non-state justice processes has actually worked to increase, rather than undermine, state involvement in dispute resolution. This was particularly notable when state institutions collaborated with customary bodies that enjoy local legitimacy and credibility. Since the informal system retains more reach, rather than attempting to significantly modify the customary jirga system, the state would do better to leverage local legitimacy and credibility that the existing system already enjoys.[65]

4.3 Human security and traditional institutions

As Kaldor points out, human security and legitimacy are deeply linked, and people's sense of security is contingent upon their trust in institutions that surround them. As such, human security depends on the existence of institutions that have legitimacy and trust of the people with a certain degree of ability to implement policies and that can function even amid crisis. Legitimate political authority does not necessarily have to be the state but can be non-state actors including the local community.[66] As examined above in this paper, non-state, traditional bodies are critical players in fostering human security in Afghan communities, especially in rural areas. The case study on

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[62] The Liaison Office, 2013, 8
[63] Ibid, 8-10
[64] The Liaison Office, 2011, 1; The Liaison Office, 2013, 10
[65] The Liaison Office, 2011, 44; The Liaison Office 2013, 6 and 10-11.
[66] Kaldor, 2007

positive synergy between these two distinctive institutions in Loya Paktia demonstrates key roles of strong tribal networks in strengthening protection and empowerment framework, which is a prominent feature in human security.

Customary bodies like jirgas and tribal networks contribute to human security through promoting empowerment of the communities and people to identify and resolve issues and protect themselves. What's more, the case study shows that linking formal and informal institutions also enhanced the protection capacity of the government, and increased its reach and ability to respond to the needs of the people through dispute resolution. This was done through working with local customary bodies that possessed local legitimacy and credibility. Legitimacy was a key factor not only in strengthening human security and its protection and empowerment framework but also in enhancing positive synergy between the formal and informal institutions. As the examination of NSP shows, however, the authorities should not take legitimacy for granted because legitimacy is not only contingent upon the ability to meet people's needs but also predictable ability to do so in the future.

5. Conclusion

Afghan government has struggled in recent years to extend its authority nationwide, provide basic services and develop positive relations with its people in which mutual obligations are defined and exercised. These governance gaps, in turn, have contributed to instability and those involved in insurgency have been able to take advantage of this. This paper has argued that while the state has the chief responsibility for filling this governance vacuum and this effort should be supported, institution building is a time-consuming process, and the efforts by non-state institutions that already provide key governance functions should equally be supported. Unlike some other countries, customary and traditional institutions in Afghanistan such as the jirga and shura have a long tradition of consultative and participatory decision making. This paper has also argued that as neither the state nor traditional institutions on their own are capable of meeting this challenge, they have the joint responsibility for reforming the interface to provide governance functions as well as for creating favorable conditions for popular participation and representation.

The paper also examined some major initiatives to this end, such as the National Solidarity Programme and hybrid justice system, in order to shed light on the future policy implications. These initiatives indicated some progress on improving popular participation as well as people's perception of state legitimacy especially with regards to women's participation and service delivery in areas that they operated. This indicates potential positive impact of the approach utilizing protection and

empowerment framework, which is featured in human security, on the capacity of the people and communities, including the most vulnerable, to identify and resolve issues on their own. Progress has also been observed on recognizing the need for partnership between formal and informal justice institutions and clarifying working relations. At the same time these efforts for reforming the interface among the state, traditional institutions and the citizens have shown as many limitations and challenges. Afghanistan, as many other countries, includes diverse regions, localities and people with various cultures, interests and practices. The future efforts must be mindful of local preconditions, build on rather and replacing pre-existing institutions, and define clear roles and relations among governance actors. In order for these efforts to be effective, the initial focus should be in areas where existing governance networks show a modicum of representativeness, local legitimacy and accountability framework that can be identified, fostered and enhanced.

References

Asia Foundation, 2011. Afghanistan in 2011: A Survey of the Afghan People. Asia Foundation.

———. 2015. Afghanistan in 2015: A Survey of the Afghan People. Asia Foundation.

Barfield, Thomas. 2010, Afghanistan: A Cultural and Political History. Princeton: Princeton University Press.

Barfield, Thomas and Neamatollah Nojumi. 2010. "Bringing More Effective Governance to Afghanistan: 10 Pathways to Stability," Middle East Policy Council: Winter 2010, 17(4).

Barfield, Thomas and Neamat Nojumi and J Alexander Their. 2006, "The Clash of Two Goods: State and Non-State Dispute Resolution in Afghanistan,"
http://www.usip.org/sites/default/files/file/clash_two_goods.pdf accessed on 11/09/15.

Barnes, Catherine, ed. 2002, "Owning the Process: Public Participation in Peacemaking Featuring South Africa, Guatemala and Mali," http://www.c-r.org/downloads/13_Public_participation.pdf accessed on 08/28/15.

Beath, Andrew and Fotini Christia and Ruben Enikolopov. 2013a, "Do Elected Councils Improve Governance?: Experimental Evidence on Local Institutions in Afghanistan," MIT Political Science Department Research Paper No. 2103-24: SSRN.

———. 2013b, "Randomized Impact Evaluation of Afghanistan`s National Solidarity Programme: Final Report," World Bank Report No. 81107: Washington, DC: World Bank.

———. 2015, "The National Solidarity Programme: Accessing the Effects of Community-Driven Development in Afghanistan," International Peacekeeping: 2015: 302-320.

Brick, Jennifer. 2008, "The Political Economy of Customary Village Organizations in Rural Afghanistan," https://www.bu.edu/aias/brick.pdf accessed on 12/15/15.

Center for Policy and Human Development, 2007, Afghanistan Human Development Report 2007: Bridging Modernity and Tradition: the Rule of Law and the Search for Justice. Islamabad: Army Press.

Coburn, Noah. 2011, "The Politics of Dispute Resolution and Continued Instability in Afghanistan," http://www.usip.org/sites/default/files/sr285.pdf accessed on 11/10/15.

Fischer, Martina and Beatrix Schmelzle, eds. 2009. Building Peace in the Absence of States: Challenging the Discourse on State Failure. Berlin: Berghof Research Center.

Furuzawa, Yoshiaki. 2013. "State-Building and Non-State Actors," Kokusai Seiji: Vol. 174, 41-53. (Written in Japanese)

Ghani, Ashraf and Clare Lockhart. 2008, Fixing Failed States: A Framework for Rebuilding a Fractured World. New York: Oxford University Press.

Government of the Islamic Republic of Afghanistan, 2013, Policy for Improving Governance and Development in Districts and Villages. Kabul: Government of the Islamic Republic of Afghanistan.

Heinrich Boll Foundation, 2006. Publication Series on Promoting Democracy under Conditions of State Fragility, Issue 1: Afghanistan. Berlin: Heinrich Boll Foundation.

International Dialogue on Peacebuilding and Statebuilding, 2011. "New Deal for Engagement in Fragile States," http://www.pbsbdialogue.org/media/filer_public/07/69/07692de0-3557-494e-918e-18df00e9ef73/the_new_deal.pdf accessed on 12/07/15.

Japan International Cooperation Agency, 2010. JICA`s "Human Security" Approach: Features and Case Studies. Tokyo: Japan International Cooperation Agency.

Jones, Seth. 2008. "The Rise of Afghanistan`s Insurgency: State Failure and Jihad," International Security: 32(4), 7-40.

Kaldor, Mary. 2007, Human Security: Reflections on Globalization and Intervention. Cambridge, UK: Polity Press.

Kouvo, Sari and Dallas Mazoori. 2011. "Reconciliation, Justice and Mobilization of War Victims in Afghanistan," The International Journal of Transitional Justice: 5, 492-503.

Kurusu, Kaoru. 2009. "Human Security Research and International Relations," Kokusai Kokyo Seisaku Kenkyu: 14(1), 15-30. (Written in Japanese)

Lamb, Robert D. 2011, "Afghan Peace Talks as an Opportunity for Governance Reform,"
http://csis.org/publication/afghan-peace-talks-opportunity-governance-reform accessed on
11/10/15.

―――. 2012a, "Formal and Informal Governance in Afghanistan: Reflection on a Survey of the
Afghan People," https://asiafoundation.org/resources/pdfs/OccasionalPaperNo11AGSeries.pdf
accessed on 09/16/15.

―――. 2012b, "Political Governance and Strategy in Afghanistan,"
http://csis.org/files/publication/120426_Lamb_PolGovernanceAfgha_Web.pdf accessed
11/02/15.

Mac Ginty, Roger. 2011, International Peacebuilding and Local Resistance: Hybrid Forms of Peace.
Hampshire: Palgrave Macmillan.

Martin, Mary and Taylor Owen, eds. 2014. Routledge Handbook of Human Security. Abingdon, UK:
Routledge.

Miakhel, Shahmahmodd and Noah Coburn. 2010, "Many Shuras Do Not a Government Make:
International Community Engagement with Local Councils in Afghanistan,"
http://www.usip.org/sites/default/files/pb50.pdf accessed on 12/17/2015.

Mirahmadi, Hedieh and Waleed Ziad and Mehreen Farooq. 2014, "Afghanistan 2014 and Beyond:
The Role of Civil Society in Peacebuilding and Countering Violent Extremism,"
http://www.worde.org/wp-content/uploads/2014/02/WORDE-Afghanistan-2014-and-Beyond-T
he-Role-of-Civil-Society-in-Peacebuilding-and-CVE.pdf accessed 11/08/15.

Nixon, Hamish. 2008, "Subnational State-Building in Afghanistan,"
http://www.areu.org.af/Uploads/EditionPdfs/806E-Subnational%20State-Building-SP-print.pdf.
pdf accessed on 11/03/15.

Pain, Adam and Paula Kantor. 2010, "Understanding and Addressing Context in Rural Afghanistan:
How Villages Differ and Why,"
http://www.areu.org.af/Uploads/EditionPdfs/1046E-Understanding%20and%20Addressing%20
Context%20in%20Rural%20Afghanistan%20IP%202010%20web-1.pdf accessed on 11/01/15.

Ponzio, Richard J. 2011, Democratic Peacebuilding: Aiding Afghanistan and other Fragile States.
Oxford: Oxford University Press.

Ruttig, Thomas. 2008, "How Tribal Are the Taleban?: Afghanistan`s Largest Insurgent Movement
Between its Tribal Roots and Islamist Ideology,"
http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/10/20100624TR-Ho
wTribalAretheTaleban-FINAL.pdf accessed on 11/09/15.

Saltmarshe, Douglas and Abhilash Medhi. 2011, "Local Governance in Afghanistan: A View from

    the Ground,"

    http://www.areu.org.af/Uploads/EditionPdfs/1114E%20Local%20Governance%20in%20Afgha

    nistan%20SP%202011.pdf accessed on 11/03/15.

Schirch, Lisa. 2011, "Designing a Comprehensive Peace Process for Afghanistan,"

    http://www.usip.org/sites/default/files/Designing_a_Comprehensive_Peace_Process_for_Afgha

    nistan.pdf accessed on 07/08/15.

Shurkin, Michael. 2011, "Subnational Government in Afghanistan,"

    http://www.rand.org/content/dam/rand/pubs/occasional_papers/2011/RAND_OP318.pdf

    accessed on 10/19/15.

The Liaison Office, 2009a. "Between the Jirga and the Judge: Alternative Dispute Resolution in

    Southeastern Afghanistan,"

    http://www.tloafghanistan.org/Between%20the%20Judge%20and%20the%20Jirga%20(2009).p

    df accessed on 09/21/16

———. 2009b. "Tribal Jurisdiction and Agreements: The Key to Sub-National Governance in

    Southeastern Afghanistan," accessed on 9/21/16

———. 2011. "Formal and Informal Justice in Paktia and Nangarhar: A TLO Working Paper,"

    http://www.tloafghanistan.org/Formal-informal%20Justice%20in%20Paktia%20&%20Nangarh

    ar%20(2011).pdf accessed on 9/21/16

———. 2013. "Where Do We Go from Here? Towards Improved Structures for Dispute Resolution

    in Afghanistan,"

    http://www.tloafghanistan.org/2013%2012%2005%20TLO%20HBS%20Policy%20Paper%20J

    ustice.pdf accessed on 09/21/16

Theros, Marika and Kaldor, Mary. 2011, "Building Afghan Peace from the Ground Up,"

    http://www.tcf.org/assets/downloads/tcf-BuildingAfghan.pdf accessed on 08/28/15.

United Nations, 2009. Human Security in Theory and Practice: Application of the Human Security

    Concept and the United Nations Trust Fund for Human Security. New York: United Nations.

———. 2012a. "Peacebuilding in the Aftermath of Conflict: Report of the Secretary-General,"

    A/67/499-S/2012/746.

———. 2012b. "Strengthening the Role of Mediation in the Peaceful Settlement of Disputes,

    Conflict Prevention and Resolution: Report of the Secretary General," A/66/811.

———. 2014. Restore or Reform?: UN Support to Core Government Functions in the Aftermath of

    Conflict. New York: United Nations.

Wanis-St. John, Anthony and Darren Kew. 2008. "Civil Society and Peace Negotiations: Confronting Exclusion," International Negotiation: 13: 11-36.

Wardak, Ali. 2003, "Jirga- A Traditional Mechanism of Conflict Resolution in Afghanistan," http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan017434.pdf accessed on 12/04/15.

―――. 2011. "State and Non-State Justice Systems in Afghanistan: the Need for Synergy," Journal of International Law: 32(5), 1305-1324.

World Bank, 2011, World Development Report 2011: Conflict, Security, and Development. Washington DC: World Bank.

The Reality and Dilemmas of Voluntary Repatriation:
A Case Study of the Refugees in the Myanmar-Thailand Border Areas

Yuki Nishimori[1]

Abstract

This research essay focuses on Myanmar refugees in Thailand, and explores the reality and dilemmas of voluntary repatriation of the refugees under the recovering situation of regional security, from the perspective of human security. Contrary to the expectation upon the refugee repatriation due to some ceasefire brought by the stakeholders of the armed conflict in Southeast Myanmar as well as ongoing democratization in Myanmar politics, the voluntary repatriation has been occurring only limitedly. This research has found the refugees in fact have different backgrounds, particularly between the ones fled from the uplands and the ones from the lowlands, and also the refugees of different background have different type of concerns and dilemmas upon voluntary repatriation. The upland areas still have problems with regard to both regional and human security, so that the refugees from the area still see the repatriation as almost impossible. On the other hand, even though the situation in the lowlands is much safer and more stable, the refugees from the area cannot have good prospects of their livelihood after the repatriation due to the lack of employment opportunity and adequate support in the homeland. In addition, there are now some newly developed settlement sites in Myanmar side for the displaced who cannot find a place to return. This however meets only the limited needs of the refugees. The essay finally discusses the relevancy of the repatriation in the current conditions and also the effectiveness of sustainable security communities for facilitating sustainable repatriation as well as recovering human security.

Keywords:
Refugees, Voluntary Repatriation, Durable Solutions, Human Security, Southeast Myanmar**.**

1.   Introduction

Background

Voluntary repatriation is a key issue for durable solutions of refugee issues in Myanmar-Thailand border areas. It is highly conditional, since the necessary requirement is full recovery of security condition at national and regional level in the homeland (freedom from fear). Then it also requires some hopeful prospect for the livelihood after return (freedom from want). It is normally quite difficult for a nation or a region to achieve such plural process of recovery at once, particularly when the root cause of displacement is armed conflict. Even if the recovering process

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[1]Ph. D. Candidate, Graduate School of International Cultural Studies, Tohoku University..

from conflict starts at some point, it usually takes quite long time since it needs series of political negotiations among the stakeholders.

There are still approx. 100,000 refugees staying at nine temporary shelter sites (refugee camps, hereafter[2]) in Thailand side of the border for some years or decades sometimes[3]. Most of those refugees are ethnic minorities who used to live in Southeast or Central Myanmar[4], and they were somehow affected by the conflict among Myanmar National Army and Ethnic Non State Actors (NSAs) either directly or indirectly. The voluntary repatriation has recently become an agenda for those refugees, as some ceasefire situation realized in Southeast Myanmar in 2012 created a venue to discuss possibility of repatriation as one of the durable solutions for the refugee issues. Quasi democratisation of Myanmar politics followed by influx of international aid and investment has strengthened the trend in a context of realizing peace and development of the country.

Despite such positive changes, the voluntary repatriation of the refugees has been quite limited yet. The maximum possible figure of repatriation for the past four years is approximately 10,000 according to the data released by UNHCR[5]. This figure at least indicates that the current changes in Southeast Myanmar are not persuasive enough for many of the refugees to decide voluntary repatriation. It seems the changing situation in Southeast Myanmar, actually causing complicated political situation at the same time, has been causing mixed emotions such as expectation, confusion or anxiety among the refugees. While some might be motivated by the situation, others might be embarrassed by the increasing reality of repatriation. Consequently, the repatriation has become a quite sensitive issue for the refugees.

Research questions

Above mentioned situation poses some questions. How relevant is the refugee repatriation in the Myanmar-Thailand border areas under such limited conditions? Then what has enabled the returnees, even though the number is limited, to make decision upon voluntary repatriation? What are their human security conditions after return? The exploration in this essay will be a help to consider the issue of voluntary repatriation as durable solutions not only for this particular issue in Myanmar-Thailand border but also for other refugee issues occurring in the world today.

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[2]"Temporary shelter sites" is the name called officially in Thailand, however they are virtually refugee camps.
[3]According to UNHCR and Mae Fah Luang Foundation, the majority of the camp population came to the camp within 10 years, while some have been living for more than 10-20 years. (UNHCR et al. 2014, 17)
[4]The major ethnicities are Karen, Mon and Karenni. There are also some Burmese refugees (Burmese is the ethnic majority in Myanmar). (UNHCR et al. 2014, 15)
[5]Refer to the table below.

Methodology

The methodology includes review of relevant documents published by individual researchers, UNHCR and NGOs. Research trips were made to Yangon and Southeast Myanmar, as well as to Northwest Thailand[6]. Series of interviews and discussions were also made with relevant resource persons such as refugees, ex-refugees (who have already repatriated), a local staff officer of Myanmar government, NSA members and some members of Civil Society Organizations (CSOs) that have been supporting the refugees for years. Many of the sources of information stated below are kept anonymous due to the political sensitiveness.

2. Issues around Refugee Repatriation

2.1 Situation of refugees and increasing reality of repatriation

While the population of nine refugee camps[7] in Thai side of the border had been approx. 140,000 consistently before 2012[8], it has reduced to nearly 100,000 as of April 2016. The following table shows the transition of total refugee population and the number of departure to the third countries from all camps.

Transition of refugee population and departures to the third countries

	2012.2	2013.1		2014.1	2014.12	2016.4
Total Population in Camps						
Estimated population in 9 camps	139,042	128,200		118,563	110,094	105,261
Registered refugees	*85,554*	** 81,325*		*77,693*	*73,729*	*n/a*
Decrease (A)		10,842		9,638	8,469	4,833
Departure to the third countries						
Total number since 2005		82,204		88,065	94,350	101,817
Increase (B)		6,845	**	5,861	6,285	7,467
Maximum possible number of returnees (A minus B)		**3,997**		**3,776**	**2,184**	**-2,634**

*The figure in April 2012, **The figure of total departure in 2012
Source: UNHCR. 2012, *Myanmar Thailand Border - Refugee Overview*, UNHCR (February, 2012).;
　　　UNHCR. 2013, *Resettlement of Myanmar Refugees from Thailand*, UNHCR (February, 2013).;
　　　UNHCR. 2014, *Resettlement of Myanmar Refugees from Temporary Shelters in Thailand*, UNHCR (January, 2014).;
　　　UNHCR. 2014, *Resettlement of Myanmar Refugees from Temporary Shelters in Thailand*, UNHCR (December, 2014).;
　　　UNHCR. 2016, *Resettlement of Myanmar Refugees from Temporary Shelters in Thailand*, UNHCR (April, 2016).

According to the above table, the maximum possible figure of returnees from the beginning of

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[6]Conducted in November 2015 and February 2016.
[7]Ban Mai Nai Soi, Ban Mae Surin, Mae Ra Ma Luang, Mae La Oon, Mae La, Umpiem, Nupo, Ban Dong Yang and Tham Hin (in order from north to south).
[8]This probably means the influx of new refugees covered the outflow of the third country resettlement. The decrease of the camp population after 2012 indicates the inflow of newcomers has almost stopped since then. See also the website of The Border Consortium (TBC) for monthly camp population data since 1998: http://www.theborderconsortium.org/.

2012 to the end of 2014 can be estimated at maximum 10,000 approx. In addition, there are some tentative returnees that temporarily cross the border back to Myanmar side to see the situation of homeland or reunite with relatives and friends[9]. Increasing freedom of travel brought by the ceasefire situation after 2012 has enabled such tentative return. However, it means the situation is still not good enough for such tentative returnees to decide permanent return. In 2015-2016, the population decrease is much less than the previous terms, and the figure of departure to the third countries was bigger than the population decrease of the same term. This probably reflects the movement of some tentative returnees who came back to the camps to be counted in verification process conducted by UNHCR in earlier 2015[10]. If this is true, there will be thousands of people who have tentatively returned to Myanmar while still keeping their shelter and family in the camps.

The future prospect for the third country resettlement that used to be a sole realistic way to leave the camps until 2012 is uncertain. For instance, the United States, that has accepted nearly 80,000 refugees in total from Thailand[11], overwhelmingly the biggest number among other accepting nations, closed the application for resettlement in 2014[12]. While the US has still accepted thousands of refugees, who previously expressed the interest, even after 2014, the acceptance would probably be diminishing in near future. Other countries such as Australia, Canada, New Zealand and Japan also accept Myanmar refugees from Thailand, however the number of acceptance is much smaller than that of the US. In addition, only the registered refugees who have arrived at the camps before 2005 are eligible for the third country resettlement[13]. Non-registered refugees that account for about 1/3 of the camp population have no chance for the third country resettlement under the current regulation.

Moreover, the support to the camps from NGOs has been decreasing according to an interviewed resource person (called as "A", hereafter)[14] as well as media reports[15]. This is probably because the viewpoint of supporters from outside world has been shifting toward activities in Southeast Myanmar to support the return and settlement of the refugees. The refugees now have to face the increasing reality of repatriation because of not only the pull factors (some positive changes occurring in the homeland) but also the push factors (some negative changes occurring in the refugee

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[9]South and Jollife 2015, 21.

[10]The figure for 2016 in the table is based on the result of verification. The total count of the previous terms was reset at the time of the verification. (UNHCR 2016)

[11]UNHCR 2016.

[12]UNHCR 2014c.

[13]Takizawa 2014, 151.

[14]Interview with A who used to live in a refugee camp until recently (now living in Myanmar) conducted in November 2015.

[15]Karen News 2016.

camps).

2.2 Causes of displacement

The armed conflict is the root cause for the refugees in Southeast Myanmar. The root cause had generated some direct causes or decisive factors of displacement such as persecution, forced labour, arbitrary taxation and landmines. Also, the locals in the Southeast did not have freedom of travel during the time of the conflict due to the large presence of military as well as the security checkpoints set by the Myanmar Army or NSA troops.
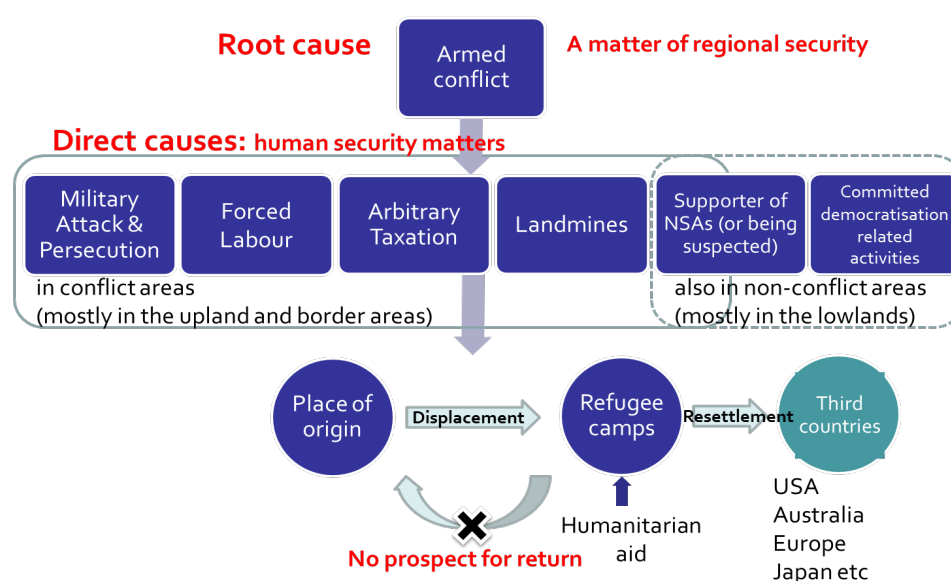

Figure 1   Causes of displacement (before 2012)

Figure 1 explains the causes of the displacement. Another important point here is that the displacement was not only occurred in the areas directly affected by the conflict. Even from less-conflict areas, some people fled to the refugee camps as they were suspected as supporters or collaborators of NSAs or committed activities related to democratisation. According to the profile survey conducted by UNHCR and Mah Fah Luang Foundation[16], not all the refugees in the camps are from the upland border areas that have been directly and severely affected by the fighting[17]. Some are actually from the lowlands where the damages of the conflict were relatively limited[18]. As

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[16]This comprehensive survey conducted in 2013-14 targeted all the refugee camps to identify the refugees' profiles and intention of repatriation.

[17]See also South 2011 for the detail of ethnic armed conflict in the Southeast.

[18]UNHCR et al. 2014, 18. The survey result tells which States and Townships the refugees came from. Some of the Townships in the result such as Hpaan Township are in the lowlands.

Figure 2 indicates, the refugees particularly in Mae La, Umpiem and Nupo camps, are considered to be from the lowlands as well as the uplands[19]. Also, according to the interviews with A[20], some refugees are from Central Myanmar such as Yangon or Ayeyarwardy Region where ethnic related fighting has not occurred, although they are usually reluctant to tell so not to be regarded as fake refugees[21]. This illustrates the difference between regional security and human security. When a particular region remains unaffected by armed conflict, the locals in certain categories such as ethnic minorities or political activists may face some risks caused by the conflict occurring in other regions.

Figure 2. Places of origin of the refugees with topography map of Kayin and Mon States

Source of the topography map: JICA et al. 2013, Chapter 2:3.
Arrows of refugee movement are traced from: UNHCR et al. 2014, 19.

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[19]See also TBC 2013. It also indicates that a considerable number of refugees are also from the lowlands not only of the Southeast but also of Ayeyarwardy and some other regions.

[20]The interview was conducted in November 2015.

[21]Ayeyarwardy Region and some parts of Yangon are also the areas where a considerable number of Karen people reside.

2.3 Multiple dilemmas caused in the recovering situation

The ceasefire situation in Southeast Myanmar that realized in 2012, has brought some positive changes in the area. The risks related to the conflict have become lower in the lowlands, while there still has been some insecurity situation in the contested uplands. The locals now have more freedom of travel except in the upland and border areas. Some development projects such as construction or renovation of public facilities have been brought to many places in the lowlands by the Government of Myanmar (GoM), international donors and NGOs[22]. The Figure 2 below describes the plural dilemmas of refugee repatriation since the realization of ceasefire.
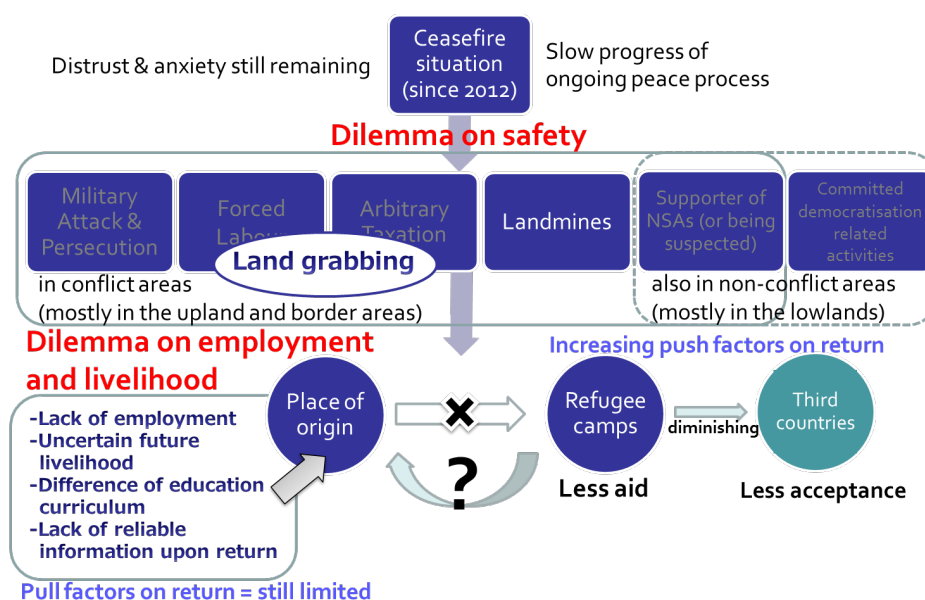

Figure 3. Dilemmas upon return (after 2012)

Firstly, the necessary condition for voluntary repatriation is political resolution of armed conflict as well as full recovery of security in the homeland. This has to assure the prevention of violation against human security for the locals as well as the displaced. In other words, the fulfilment of the regional security has to accompany with the recovery of human security for the individual locals. Also, the armed conflict in Southeast Myanmar is the domestic/regional one contested among the National Army and the ethnic NSAs, and the key issue for the resolution of conflict should be equality among the ethnicities[23]. The people of every ethnicity should equally be the beneficiary of

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[22]Such as roads, schools, medical clinics and village facilities (water supply, solar panels). The website of MIMU (Myanmar Information Management Unit) releases a database of aid activities conducted by UN agencies, donors and NGOs: http://www.themimu.info.

[23]Higashino 2003, 157.

recovering security.

However, the reality is not so straightforward. The progress of peace dialogue among GoM and NSAs have not been so fruitful yet24. Therefore, the refugees came from the uplands might be cautious and sceptical of the changing political situation until they see the complete resolution of the conflict. On the other hand, the ones came from the lowlands that have been kept safe and stable since the realization of ceasefire, city or town areas in particular, might see the repatriation as more realistic option.

The expectation for the refugee repatriation has risen among GoM, international aid agencies and NGOs25. Also, the chance for the third country resettlement as well as the humanitarian support to the camps may be diminishing. Due to such changes of external conditions, the refugees have been forced to consider their life after the refugee camp. This means the propriety of repatriation has been sorely judged by the political aspects, not by the human security perspective. Such entangled situation has been causing the dilemma on repatriation, namely dilemma on safety and dilemma on employment and livelihood. Although some positive change may have opened the door for their way back to the place of origin, the lack of credibility of regional security as well as employment and livelihood opportunities in Myanmar side has been posing multiple dilemmas to the refugees.

The dilemma on safety is due to the remaining insecurity situation in some areas of Southeast Myanmar. Most of the lowland areas in the Southeast, that are more accessible to the ordinary locals as well as foreign visitors, have been kept safe in general, so that the outsiders tend to think the situation is now ready to accept the returning refugees. However, the context in the upland border areas is different from that in the lowlands. The upland border areas of the Southeast have been directly affected by the fighting[26]. Therefore, the refugees particularly who have been involved in the fighting, would see the changing situation in different way, and might feel dilemma on safety in this changing situation. They know there are still some minor fighting occasionally occurring in the contested upland and border areas in the Southeast and even the major conflicts still ongoing up

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[24]The major NSAs throughout the country, including the ones in the Southeast, have developed some unity and jointly started a comprehensive dialogue for the Nationwide Ceasefire with GoM in 2013. Despite the effort made by each side for over two years, only eight NSAs out of sixteen eventually signed the new agreement for the Nationwide Ceasefire in October 2015. The major actors based in Kayin State all signed. The future prospect for peace dialogue is still unclear, because of 1) the regime change of GoM according to the result of general election held in earlier November 2015, and 2) the issues of inclusiveness of remaining non-signatory NSAs. The new NLD (National League for Democracy) led government is expected to proceed further dialogue for concrete action for peacebuilding throughout the nation.

[25]For example, Japan International Cooperation Agency (JICA) started supporting activities in the Southeast in 2012 based on the expectation towards the return of the refugees (JICA et al. 2013, Chapter 1:11).

[26]South 2011, 6.

north in Kachin and Shan State of Myanmar[27]. Such situation degrades their credibility of the ongoing peace process. Moreover, landmines are still a major remaining risk in the upland and border areas, and it is still difficult to proceed demining or even investigation at the stage of ceasefire. Land grabbing is another major concern for the refugees who have been away from the place of origin for many years. Their land of origin might have been grabbed by somebody else or even transformed to military post or plantation[28].

The dilemma on employment and livelihood is another serious issue for prospective returnees. Employment opportunity in Myanmar, particularly in rural areas, is still quite limited. This is so serious that 2.3 million people from Myanmar (mostly Eastern and South-eastern Myanmar) are actually in Thailand as migrant workers according to the estimation released by IOM[29]. Difference of school curriculum between the ones in Myanmar and the ones in refugee camps is also a headache for parents of school age children or those who have finished school in the refugee camps, since their academic careers are not considered as proper ones in Myanmar[30].

The dilemma on safety is obviously more applicable to those who came from the uplands. On the other hand, the dilemma on employment and livelihood is probably concerned more by the people who came from the lowlands. The people in the uplands have no option for their livelihood other than farming, livestock breeding and forestry[31], so that the concerns of the returnees to the uplands would be security and availability of lands. However, the ones in the lowlands should have more options such as general wage labourers, owning business, working in public services and many others. Therefore, the concerns of the returnees to the lowlands will tend to be the ones related to employment and livelihood. In other words, those who have voluntarily returned to Myanmar at earlier stage should be the ones in either way, 1) those who have felt safe to return to their villages or towns of origin and found a way to be self-sustained, or 2) those who somehow found a way to sustain themselves as employed or self-employed in a new place.

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[27]This was told by some CSOs based in Thailand that support the refugees and IDPs.
[28]Karen Human Rights Group 2015.
[29]IOM 2014, 1 and 8. The population of Myanmar is 51 million according to the census in 2014.
[30]GoM started to conduct matriculation exam in 2013 for students who studied in schools in refugee camps or special private schools for the children of migrant workers in Thailand. Those who pass the test are eligible to enter universities in Myanmar.
[31]Iijima 1971; Omori 1997.

3. Mismatch between The Reality and The Ongoing Policy on Facilitating Voluntary Repatriation

3.1 Settlement site development by GoM and NSAs

GoM started settlement site development programme around 2011 to facilitate the future voluntary repatriation of the refugees[32]. Kayin State Government has initiated the cooperation with ceasefire NSAs based in the State to proceed the programme[33]. Each NSA has made proposals for the programme and taken initiative in planning and implementation with fund assist from the State Government. Twelve sites with 1,100 shelters in total have been constructed by November 2015[34]. The sites also have some public facilities necessary for livelihoods such as access roads, water supply, schools and clinics. The residents of the sites are not only the returning refugees but also the ex-combatants of NSAs. Some are disabled due to the fighting or landmines. The following text illustrates an outline of Mae Taree site, constructed in 2014, as an example to see the reality of new settlement sites.

Mae Taree settlement sites[35]

Mae Taree is in north of Myawaddy Township of Kayin State and locates just beside the border. The site used to be an army base of a brigade of Karen National Liberation Army (KNLA), an armed wing of Karen National Union (KNU), one of the major NSAs in the region. The senior members of the brigade have made a proposal, and the State Government has approved to provide the fund. The construction for 50 shelters for the first phase was completed in 2014. The brigade members wish to construct more shelters as well as necessary public facilities such as schools and clinics, however the fund was not secured yet as of November 2015.

Most of the residents of the shelters are ex-combatants of KNLA and their family members. The family members (and some of the ex-combatants also) used to live in a refugee camp, so that they are also ex-refugees in that sense. All shelters are wooden made with metal roof and high floor. The high floor makes some space underneath the floor, and the residents prefers to spend the daytime in the space during dry seasons. This is because the inside of the shelter becomes extra hot due to the metal roof heated by the sunbeam.

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[32]JICA et al. 2013, Chapter 8:13-17.
[33]Kayin State locates in the southeast, and is adjacent to five camps out of nine.
[34]The source is the interviews with a government official and a member of an NSA conducted in November 2015.
[35]The source is the interviews with a government official and a member of an NSA conducted in November 2015. See also: Karen News 2014 and The Irrawaddy 2016.

The social facilities available in the site are still limited. The electricity is provided by solar panels. The access roads to major towns are, however, still in poor conditions. The site has no school and clinic though it has a nursery. There is no plantation or factory around the site, so that the way to get cash income is small scale gardening and livestock breeding only.

3.2 Issues on settlement site development

While the settlement sites have minimum living environment and infrastructure, the question is how the settlers can sustain their livelihood in such sites. The NSAs will assure the security of the concerned sites, as GoM has committed to the site development. However, there is no option for having better employment and livelihood other than running small scale gardening and livestock breeding. In addition, how many of the refugees can be satisfied with working in such small scale farming. It is unlikely that the younger refugees who know the life in outside world should be attracted to the life as farmers in remote villages[36]. As long as the return is voluntary, they would prefer to settle down at the place that gives them more chance to realize desirable livelihood.

The settlers for those sites would possible be the ones who 1) prefer traditional agriculture and livestock oriented livelihood, 2) wish to have protection from NSAs, and 3) prefer group return with their neighbours, relatives or friends. Group return means transferring a group or a community of refugees to somewhere in Myanmar, and giving some support to restart their livelihood of origin usually based on agriculture. This will be a possible scenario for many of such settlement sites. The internally displaced persons (IDPs) who are unable to return to their place of origin should be included in this scenario.

As the peace process progresses, more return and settlement would occur. Then more settlement sites would be needed by the future returnees, and GoM and NSAs would seriously consider the expansion of settlement sites and also promoting group return. However, the consideration on employment and livelihood after return is essential, otherwise the settlement sites would not be sustainable without some aid from NSAs or NGOs. In other words, those settlement sites might become virtual IDP camps[37]. The returnees with lands and houses though without sustainable livelihood are likely to be dependents on aid, and there is not much difference between such settlers and IDPs.

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[36]It is common for the refugees to communicate with the friends or relatives who have resettled in the third countries according to the interview with A.
[37]The Border Consortium 2014, 15.

4. Relevancy of The Refugee Repatriation from Human Security Perspective

This section focuses on the issues of repatriated refugees. It examines what factors have enabled them to voluntarily repatriate as well as their problems arouse by the repatriation in the cases of uplands, lowlands and newly developed settlement sites respectively.

4.1 Return to the Uplands

Returning to the uplands in Southeast Myanmar is probably the most difficult option for the refugees at the moment. Firstly, the remaining insecurity situation including the risks of landmines in the uplands has been making the return difficult. Secondly, those who have fled from the uplands are usually the ones directly and severely affected by the conflict, so that their fear would still be much greater than the ones who have fled from the lowlands[38]. It is totally unknown how many of the refugees have returned to the upland areas since the political conditions make the areas inaccessible for outsiders. This inaccessibility is also the proof of insecurity. Repatriation cannot be "freedom from fear" for many of the refugees who have fled from the uplands at present.

Another important issue is the availability of their land of origin. The people in the uplands, the ethnic minorities, usually have traditional type of livelihood based on farming, livestock breeding and forestry[39]. Owning private land is absolutely necessary to continue such type of livelihood. Therefore, voluntary return of the refugees who have fled from the uplands highly depends on the availability of the land of origin. However, the refugees have fled to the camps many years or sometimes decades ago, so that there is no guarantee that their land has been kept vacant during their displacement. If they are unable to use their lands of origin anymore due to some reasons, the return to the uplands would no longer be their option. According to Takahashi[40], owning farmlands is more common for ethnic minorities in uplands compared with the ones in lowlands. This is because it is hard to live without having own lands in uplands. On the other hand, once such people in uplands give up their own lands for some reasons, they tend to move down to lowlands.

There is no wonder that the refugees fled from the uplands, assumedly the majority in the refugee camps, would see the present situation of homelands as "too early" to consider the voluntary repatriation. Particularly, the refugees who are unable to return to their land of origin have almost no choice other than to stay at the refugee camps until they regain the access to their land. It would be

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[38]South 2011, 6.
[39]Iijima 1971; Omori 1997.
[40]Takahashi 2012, 88.

extremely difficult for the ones who only knew the traditional type of livelihood and the livelihood with some assistance in the camps, to restart a new life from nothing in a place unfamiliar to them. Full recovery of regional security as well as human security matters is needed to facilitate the return of refugees to upland areas in the Southeast.

4.2 Return to the lowlands including cities and towns

The return to the lowlands is totally different from that to the uplands, because the security has been kept in the lowlands in general since the realization of ceasefire in 2012. Therefore, the concerns upon repatriation of the refugees fled from the lowlands could tend to be more about employment and livelihood. Two refugees (one is actually an ex-refugee) interviewed in November 2015 expressed concerns about this point. One refugee living in a camp (called as "B", hereafter), who used live in the lowlands in the Southeast, expressed strong wish for repatriation. B said there is no hope for the future in the refugee camp, particularly for the children, so that B wishes to repatriate as soon as possible to find good education for the future of the children. However, B still cannot decide on return at the time of the interview because of little prospect of finding good job in Myanmar. Another interviewee ("A" mentioned previously), who has also fled from the lowlands in the Southeast, voluntarily repatriated a few years ago. Finding a job was the decisive factor for the voluntary repatriation in A's case. A used to work for an NGO in a camp, so that A would not have repatriated without a job with better conditions. Although those cases are just the examples, it seems to represent the feeling of some refugees.

Also, there will be the ones who used to engage in farming and livestock breeding among the refugees fled from the lowlands. While they might wish to return to the land of origin and restart their original livelihood, it would depend on the availability of their original land same as the cases in the uplands. Or some might hesitate to return since the available support upon restarting their livelihood is still quite limited in Myanmar. Although the regional security has been recovered to some extent in the lowlands, the recovery of the conditions related to the livelihood is still very much needed.

Another concern related to the repatriation is the issue of re-migration. Migrant work is a common choice for the people in Myanmar as there are more than two million of migrant workers from Myanmar in Thailand[41]. There is a possibility that the returning refugees might outflow to Thailand again as job-seekers. The returnees can expect to have some support from international

[41]IOM 2014, 1.

organizations or NGOs upon return such as provision of petty cash or legal documents for identification[42]. This might enable the returnees to have consultation with brokers who facilitate the migration of job seekers to Thailand.

Re-migration could still be presumed as a solution regarding the refugee issue, however the continuation of outmigration will be a problem for the future of Southeast Myanmar. For example, most of the migrant workers from Myanmar in Thailand are engaging in simple labour and do not have much chance to get professional skills that may give themselves some additional value. Moreover, the youths who are actually at the age of higher education, work for simple labour in another country without obtaining any special skills. This is not only a loss of future potential for individual youths but also a great loss of millions of human resources for Myanmar as a nation[43]. A society that relies too much on migrant work in neighbouring country seems not to be sustainable in longer term at least.

4.3 Return to the newly developed settlement sites

The settlement sites are basically for the returnees who are unable to go back to their place of origin due to some reasons related to the conflict. It is understandable that the initial settlers are the ex-combatants and their families, as they have close relationship with the NSA that has committed to the development of the sites. The ex-combatants and their family members, particularly the disabled due to the fighting, should have some right to be protected and supported by NSAs because of their profiles that might also make them difficult to settle anywhere under the authority of GoM.

While the sites can meet the needs and demands of the people who need special assistance, they are unlikely to attract the people, the young ones in particular, who have desire to have better life after camp. If the sites became like IDP camps or camps only for the people with special needs, the cost of maintaining them would be much higher. This issue is actually not only for the settlement sites but also for ordinary remote villages in the Southeast. The young ones move to towns or the neighbouring countries to work, and only the elders and the children remain in the villages[44]. Then the main source of income of village people will be cash transfer from the migrated family members.

The keys for realizing sustainable communities in this context are; 1) construction of "security community" and 2) development of indigenous industries. "Security community" means communities comprised of the people with common identity, and it assures their own human

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[42]UNHCR 2015.
[43]Yamada 2012, 299.
[44]It is quite common to see such families in ordinary villages in Southeast Myanmar at the time of the field visits.

security[45]. Then how can the settlement sites for the repatriated refugees in Southeast Myanmar become security communities? Firstly, the communities' security has to be kept by political effort, not by the militarization of the locals. Although someone may have to give some protection and assistance to the communities in the transition period, the communities are expected to be self-help after certain period of time.

Secondly, the security communities have to have its own industry based on the local resources. The important point here is value addition of the products. If communities produce and export raw products only without processing, it will not be competitive and produce only the minimum value. There should be some help from aid agencies or NGOs as facilitators since the processing needs some expertise, skills and equipments. The role of facilitators is to communicate with the locals to find out appropriate products, skills and equipment together in the local contexts.

The advantage of this indigenous approach is that even settlement sites can have potentials to produce some additional value from farming, livestock or any locally-based industry. This idea is applicable not only to the settlement sites but also any remote village in the area. If the quality and variety of products improves in the areas, the neighbouring towns will also have benefit as market or processing hub. It means the returnees, villagers and town people can equally see some hope to take part in development and also to have better quality of life. Such hope is important to overcome the returnees' dilemma on employment and livelihood. This also helps to avoid family or community breakup if the returnees can have some hope to realize better livelihood even in settlement sites or villages.

In this context, any policy or aid programme for voluntary return and settlement has to include a scope for medium to long term development from regional to community level. Outsiders tend to think that the progress of peace process will spontaneously bring the refugees' return, however it is unlikely. Although the peace is the most important for those who were affected by the conflict to be motivated for return, unfortunately only the peace cannot bring better livelihood. Many years of displacement forces the people to resume livelihood from little or nothing. Support is needed for such people, and it should focus on how they stand up, create additional value and generate development by themselves. How they settle sustainably is more important than how they return.

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[45]Mushakoji 2003, 133.

5. Conclusion: Voluntary Repatriation of Refugees and Human Security Perspective

This research essay focuses on Myanmar refugees in Thailand, and explores the issues of voluntary repatriation under the recovering situation of regional security in the homeland, from the perspective of human security. Firstly, the refugees have different backgrounds, particularly between the ones fled from the uplands and the ones from the lowlands. Also, the difficulty upon repatriation differs among the refugees. The upland areas in the Southeast still have problems regarding to both regional and human security, so that the refugees from the area still see the repatriation as almost impossible. On the other hand, even though the situation in the lowlands is much safer and more stable, the refugees from the area cannot have good prospects of finding jobs and restarting livelihood back in Myanmar. In addition, there are now some newly developed settlement sites for the refugees and IDPs who cannot find a place to settle after return. However, this is virtually the sites for the returnees with special needs rather than an additional option for the refugees' future after camp at the moment.

The progress of the peace process as well as the recovery of the regional security in all areas in the Southeast is essential for the voluntary repatriation. At the same time, the repatriation has to be voluntary basis, and should be motivated by pull factors rather than push factors[46]. Also, the destination of returnees would not always be their place of origin. There has to be some consideration upon the aspect of migration in the process of repatriation. The new settlement sites will be necessary for those who cannot find appropriate place to settle. Some of the refugees fled from the uplands might still find some difficulties in the place of origin even if the security situation fully recovered, because of the complicated land issue or any other personal problem such as aging. There is no wonder that some of them have been totally depending on the external support in the camps. If the support to the camps provided by NGOs diminishes, they might seriously consider moving to the settlement sites to seek another support and protection. However, as previously stated, if the settlement sites become like "new camps", it would not be sustainable without external help (unsustainable security community). The settlement sites should aim at "sustainable security community", and the necessary condition for this is to create community-based indigenous industries that should attract every type of refugees, the young ones in particular.

The propriety of the voluntary repatriation depends on not only the recovery of

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[46]UNHCR 1996, 10-11.

national/regional security (freedom from fear) but also the prospect of better and sustainable livelihood after return (freedom from want). Further research will be needed to understand the actual needs and profiles of the refugees and to explore the adequate way of constructing "sustainable security community" for the sustainable repatriation as well as the recovery of human security for all the displaced.

Reference

Abe, Akiko. 2014, "Whose Peace and Development? -Aid Struggles: The Dilemma of Stakeholders in the Field-," *The Waseda Journal of Social Sciences*: 23: 91-103.

Higashino, Makoto. 2003, *Ogata Sadako – Nanmin Shien No Genba Kara*. Tokyo: Shueisha.

Iijima, Shigeru. 1971, *Karen Zoku No Shakai Bunka Henyo*. Tokyo: Sobunsha.

International Organization for Migration - IOM, 2013, *Assessing Potential Changes in The Migration Patterns of Myanmar Migrants and Their Impact on Thailand*. IOM.

Japan International Cooperation Agency - JICA and Ministry of Border Affairs of the Government of Myanmar. 2013, *Preparatory Survey for The Integrated Regional Development for Ethnic Minorities in The South-east Myanmar, Final Report, Main Report*. Tokyo: JICA.

Jolliffe, Kim. 2014, *New Issues in Refugee Research, Research Paper No. 271, Ceasefires and Durable Solutions in Myanmar: a lessons learned review*. Geneva: UNHCR.

Jolliffe, Kim. 2015, *Refugee Decision-making Processes, Community-based Protection and Potential Voluntary Repatriation to Myanmar*. UNHCR.

Karen Human Rights Group - KHRG. 2015, *'With only our voices, what can we do?': Land confiscation and local response in southeast Myanmar*. KHRG.

Karen News. 2014, "KNU Housing For Families of Disabled Soldiers and Some Displaced Villagers Almost Completed,"
http://karennews.org/2014/06/knu-housing-for-families-of-disable-soldiers-and-some-displaced-villagers-almost-completed.html/ accessed on 10/01/2016.

Karen News. 2016, "Refugees Food Rations Under Threat Of Further Cuts,"
http://karennews.org/2015/05/refugees-food-rations-under-threat-of-further-cuts.html/ accessed on 06/20/2016.

Koizumi, Koichi. 2015, *Global Jidai No Nanmin*. Kyoto: Nakanishiya Shuppan.

Mushakoji, Kinhide. 2003. *Ningen Anzen Hosho Ron Gaisetsu Global Fascism Ni Koshite*. Tokyo: Kokusai Shoin.

Omori, Kinuko. 1997, *Thai Sangaku Minzoku Karen: Kokusai Hoken Iryo Katsudo No Genba Kara*. Osaka: Toki Shobo.

Osa, Yukie. 2012, *Nyumon Ningen No Anzen Hosho*. Tokyo: Chuo Koron Shinsha.

South, Ashley. 2011, *Burma's Longest War Anatomy of The Karen Conflict*. Amsterdam: Transnational Institute and Burma Centre Netherlands.

South, Ashley. 2014, *New Issues in Refugee Research, Research Paper No. 271, Commentary: IDPs and Refugees in the Current Myanmar Peace Process*. Geneva: UNHCR.

South, Ashley and Jolliffe, Kim. 2015, *New Issues in Refugee Research, Research Paper No. 274, Forced Migration and the Myanmar Peace Process*. Geneva: UNHCR.

Takahashi, Akio. 2012, *Myanmar No Kuni To Tami – Nichi Men Hikaku Shakairon No Kokoromi*. Tokyo: Akashi Shoten.

Takizawa, Saburo. 2014, Nihon Ni Okeru Nanmin Dai Sangoku Teijyu Pilot Jigyo: Nanko No Haikei O Saguru, in Hakata Kei, Sugiki Akiko, Ikeda Josuke and Ozawa Ai, eds. *Nanmin Kyosei Ido Kenkyu No Frontier*. Tokyo: Gendai Jinbun Sha.

The Border Consortium - TBC. 2012, *Changing Realties, Poverty and Displacement in South East Burma/Myanmar*. TBC.

The Border Consortium - TBC. 2013, *Refugees by Township of Origin*. http://www.theborderconsortium.org/media/58170/2013-02-12-news-mapping-refugee.pdf accessed on 10/01/2016.

The Border Consortium - TBC. 2014, *Protection & Security Concerns in South East Burma/Myanmar*. TBC.

The Irrawaddy. 2016, "KNU Prepares Land For Future IDP and Refugee Repatriation," http://www.irrawaddy.com/burma/knu-prepares-land-for-future-idp-and-refugee-repatriation.html accessed on 10/01/2016.

UNHCR. 1996, *Handbook Voluntary Repatriation: International Protection*. Geneva: UNHCR.

UNHCR. 2012, *Myanmar Thailand Border - Refugee Overview*, UNHCR (February, 2012).

UNHCR. 2013, *Resettlement of Myanmar Refugees from Thailand*, UNHCR (February, 2013).

UNHCR, and Mae Fah Luang Foundation. 2014, *Displaced Persons in the Temporary Shelters along the Thai - Myanmar Border: Future Hopes and Aspirations*. Geneva: UNHCR.

UNHCR. 2014a, *Resettlement of Myanmar Refugees from Temporary Shelters in Thailand*, UNHCR (January, 2014).

UNHCR. 2014b, *Resettlement of Myanmar Refugees from Temporary Shelters in Thailand*, UNHCR (December, 2014).

UNHCR. 2014c, "US wraps up group resettlement for Myanmar refugees in Thailand,"
http://www.unhcr.org/news/latest/2014/1/52e90f8f6/wraps-group-resettlement-myanmar-refuge
es-thailand.html?query=myanmar%20resettlement%20refugee accessed on 06/20/2016.

UNHCR. 2015, *Strategic Roadmap for Voluntary Repatriation: Refugees from Myanmar in Thailand
2015-2017 Update - March 2015*, UNHCR.

UNHCR. 2016, *Resettlement of Myanmar Refugees from Temporary Shelters in Thailand*, UNHCR
(April, 2016).

Yamada, Miwa. 2012, Myanmar Jin Imin No Mondai -Ekkyo Suru Jinteki Shigen No Yukue-, in
Kudo, Toshihiro, ed. *Myanmar Seiji No Jitsuzo - Gunsei 23 Nen No Kozai To Shinseiken No
Yukue –*. Tokyo: IDE-JETRO.

Capturing human rights in evaluation
A case study on human trafficking in Myanmar

Sabine Becker-Thierry[1]

Abstract

International development players have been embracing "crosscutting" topics, such as human rights and human security, since the late 90s. This is apparent in their planning and implementation of development interventions: with regard to human rights, many organisations refer to 'human rights mainstreaming' and a few apply a 'human rights-based approach' where all results are expected to contribute to the improvement of human rights. When it comes to evaluating results of development interventions, however, human rights are rarely if at all included in the assessment. Little practical guidance is currently available on how to address human rights in evaluation. In the evaluation literature, human rights are only indirectly tackled: either evaluation is considered the medium through which others are being empowered or how social justice is supported.

Thus, the question for this paper is how to, methodologically, assess human rights as a crosscutting theme in a 'typical' evaluation of a development project? To respond to this question, this paper suggests combining elements of the evaluation theory on 'use' with the evaluation theory on 'valuing'. This paper also shares the main results of a recent pilot-test of this methodology in an evaluation of an anti-trafficking project in Myanmar. Findings include a wide(r) context analysis for better understanding the stakeholder situation, capture knowledge and attitudes of rights holders and reveal capacity bottlenecks for duty bearers. The author concludes that these would not have been obtained without an added human rights dimension and underlines the feasibility of the approach.

Keywords:
development evaluation, human rights, participatory approach, mixed methods, human trafficking.

1.   Introduction

Over the past two decades, "crosscutting"[2] concepts of human rights and of human security became more and more connected to the development discourse. Today, most development interventions intend to strengthen – at least not negatively affect – human rights and human security.

1.1 The Human rights and human development nexus

In the human rights literature two earlier contradicting paradigms - economic development and human rights (Uvin, 2002; Gready and Ensor, 2005) – gravitate to each other after several decades of ideological divide due to the neoliberal economic theory in the 1980s and the political rhetoric of the Cold War. In 1986, the UN formally acknowledged the relationship between human rights and (human) development with the adoption of the Declaration on the Right to Development by the General Assembly. The Member States recognized development as a human-centred, participatory process and linked human development to the realization of international human rights obligations (Frankovits 2002, 7). This was confirmed at the World Conference on Human Rights in Vienna (1993)[3].   And in 1997, the Secretary-General in its UN Programme for Reform labelled them as a 'crosscutting topic': "Human rights are integral to the promotion of peace and security, economic prosperity and social equity. For its entire life as a world organi[s]ation, the United Nations has been actively promoting and protecting human rights, devising instruments to monitor compliance with international agreements, while a the same time remaining cognizant of national and cultural diversities. Accordingly, the issue of human rights has been designated as cutting across each of the four substantive field of the Secretariat's work programme (peace and security; economic and social affairs; development cooperation; and humanitarian affairs)."[4]

In response, the UN and many other international players accepted the value of human rights in human development. They adopted new policies on integrating rights with development: "human development is essential for realizing human rights, and human rights are essential for full human development" (UNDP, HDR 2002). Some players went so far as to apply a so-called (Human) Rights-Based Approach. The implications of the approach are three fold: all development programmes, policies and technical assistance should contribute to the realization of human rights as laid down in the Universal Declaration of Human Rights (UDHR); human rights standards and principles derived from the UDHR should guide all development cooperation and programming in all sectors and in all programming phases; and development cooperation should contribute to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights (HRBA Portal).

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[3]   OHCHR, 2003: "Development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing."
[4]   United Nations, 1997, 26.

1.2 The human rights and the human security nexus

In parallel, human security as a normative concept also entered the development discourse. In January 2001, in response to the UN Secretary-General's call at the 2000 Millennium Summit for a world 'free of want' and 'free of fear', the Commission on Human Security was established. It was chaired by Sadako Ogata and Amartya Sen, who in their final report, *Human Security Now* (2003) called for a change in the concept of security that can be seen as moving it closer to elements of the rights and development discourse: "*Attention must now shift from the security of the State to the security of the people – to human security.*" (Ogata, Sen, 2003). The definition of human security in the same document also links human security to human rights: "*to protect the vital core of all human lives in ways that enhance human freedoms and human fulfilment. Human security means protecting fundamental freedoms – freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations (...). The vital core of life is a set of elementary rights and freedoms people enjoy. (…) [The] concept must be dynamic.*"[5]

According to Ogata and Sen (2003), human rights and human development are both "*concerned with the basic freedoms that people enjoy*", hence "*mutually reinforcing*".[6] Several scholars, including Anand, Sen (2000) and Alkire (2003) have since explained the similarities between both concepts,[7] including: there is the indivisible nature of human rights while human security "*(…) addresses what most would consider to be the most basic and universal of human rights*"; both concepts address violence and poverty, and both are concerned with issues of duty or obligation.[8]

Consequently, evaluation today is required to reflect the recent programming shift towards human rights mainstreamed development. In other words, evaluation should be able to reflect to what extent the development intervention has had effects on human rights in its initial assessment.

This paper discusses a pilot-test of including human rights as a crosscutting evaluation topic in a project evaluation of an anti-trafficking project in Myanmar. After first presenting the issue of the limited field-tested guidance on how to conduct evaluation inclusive of human rights in the evaluation literature, this paper summarizes the mixed approach applied. This paper concludes with a presentation of the the results of the pilot test.

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[5]   Commission on Human Security 2003, 4.
[6]   Commission on Human Security, 2003, 10.
[7]   See Anand, Sen (2000); UNDP HDR (2000) and Alkire (2003).
[8]   Alkire, 2003, 38.

2. Theory

This section outlines the evaluation literature considering human rights. It also summarizes the evaluation practice based on currently available practical guidance of UN agencies, before then indicating the knowledge gap and research question this paper is trying to address.

2.1 Evaluation literature and human rights

In evaluation theory, human rights have been implicitly, not explicitly, considered in 'development evaluation'. The typology and tree metaphor by Alkin (2013) that describes the purposes and development of evaluation theory is a useful illustration. It is based on the understanding that *"all prescriptive theories must consider (a) the issues related to the methodology being used, (b) the manner in which data are to be judged or valued, and (c) the user focus of the evaluation efforts."* This creates three distinct categories for evaluation theory: (I) use, (II) methods, and (III) judgment/valuing. Each of these three categories represents a distinct branch of a theory "tree" (see figure 1 below). Evaluation scholars are categorized into one of these three branches, depending on what their emphasis is – use, methods, or valuing.[9]

The tree itself has three *"roots – social accountability, systemic social inquiry, and epistemology – "[that] provide the basis or rationale on which the evaluation theory tree has grown."*[10] On the thick part of the branch sit the main scholars that focus on the category, whereas the smaller branches indicate names of scholars who further defined a distinct sub-category of evaluation derived from the main scholar(s).

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[9] It is not always that obvious that a scholar strictly falls into one of these three categories. For that, Alkin explained that the categorization is based on *"relative emphasis"* by asking the question *"When evaluators must make concessions, what do they most easily give up and what do they most tenaciously defend?"*, (Alkin and Ellet, 1985).

[10] Christie and Alkin, 2013, 11.

Figure 1   Evaluation Theory Tree

I - USE   II - METHODS   III - VALUING
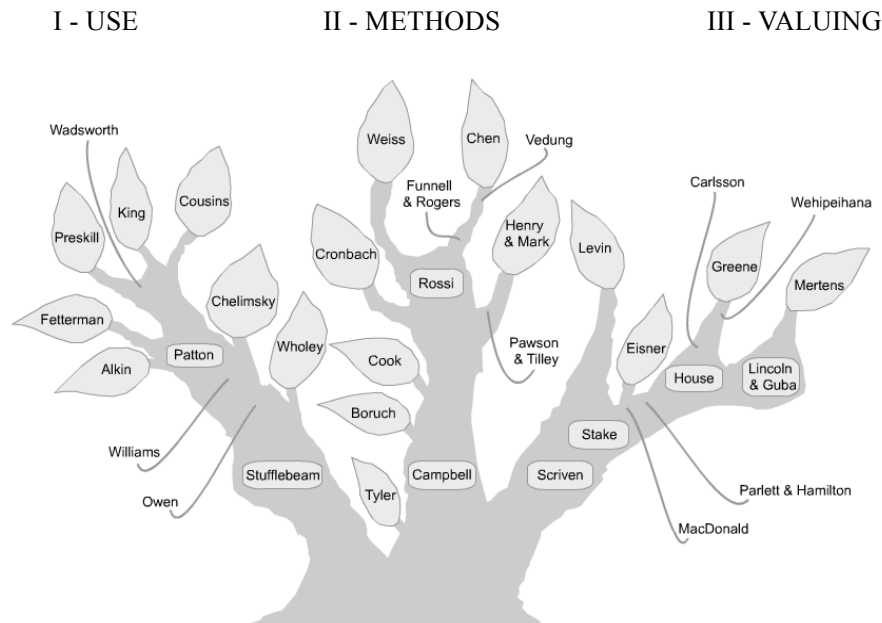
Source: Alkin 2013, 388.

This model clearly shows that few evaluation scholars specifically addressed human rights. They can be found to some extent in the first branch and to a larger extent in the third branch, but no scholar has explicitly used the term human rights.

While evaluation scholars within the first branch - focusing on evaluation use - do not particularly address human rights, scholars around the topic of empowerment evaluation and participatory evaluation need to be mentioned. According to Fetterman, empowerment evaluation has as a goal a participatory process, in other words increased utilization through stakeholder participation. Evaluation becomes a means of *empowerment* (Fetterman, 1996). Practical participatory evaluation (P-PE) described by Cousins and Whitmore (1998) consists of the tailoring of an evaluation to fit the needs of primary users, with the result of stakeholder buy-in.[11] Thus the focus is on those for whom the evaluation makes a difference, generally those at the grassroots level. The evaluator engages with them to make the exercise as useful to them as possible.

The second or central branch, growing from the social inquiry root is the branch that is most strongly focused on research methodology. Its scholars are looking at research methodology and the techniques used in the conduct of evaluation. There is no reference that could be linked to human rights, as the field is more concerned with the technicalities of the approach.

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[11]   The authors also discuss transformative participatory evaluation (T-PE), which is more focused on social justice and involving stakeholders beyond primary users only.

It is the third branch – the valuing branch – that comes the closest to human rights. This branch focuses on evaluation as a vehicle for enhancing social justice. Valuing or values in this context are understood as the foundation of normative statements (Alkin 2013). Three scholars have centred their work on that: House, Greene and Mertens. For House (1999), evaluation focuses on values in the pursuit of social justice and it attempts at being responsive to stakeholders. This draws on John Rawl's Theory of Justice. Evaluation is never value-neutral and supports social justice efforts by specifically addressing the needs and interests of the powerless. Thus the evaluator is cast in the role of the representative of the powerless. From there, Greene (2000) conceptualized the value-engaged approach to evaluation that incorporates elements of responsive evaluation. It assesses three criteria – inclusion, dialogue, and deliberation - and provides as reasons for including stakeholder views from diverse groups that this is pragmatic, emancipatory, and deliberative (diversity approach). Mertens (2009) builds on that further and uses an inclusive approach for diverse groups. Evaluation becomes a tool to confront social inequality and to promote equality (*"inclusive transformative model of evaluation"*).

2.2 Evaluation practice with regard to human rights

Several international players have developed guidance documents for addressing so-called 'cross-cutting' topics, with a few of them also including human rights. A closer look at these guidance documents issued by UN entities reveals that they, generally, fall into one of four categories: (i) gender equality (see for example guidance by the UN Evaluation Group (UNEG) and the UN Development Programme (UNDP)); (ii) women's rights or children's rights (see guidance by UN Population Fund (UNFPA) and UN Emergency Fund for Children (UNICEF), Save the Children, Care International); (iii) equity (see guidance by UNICEF).

Connectng these categories with evaluation theory on human rights, the guidance on assessing gender equality ((i) above) and on specific rights ((ii) above) can be seen as primarily focusing on the rights of specific interest groups; the practical guidance focused on equity ((iii) above) however, can be seen as assessing the wider context and social system in which the most vulnerable groups are located. Thus, the practice is to some extent reflecting the evaluation theory.

In practice, the guidance becomes more specific and technical and a greater variety of methods can be applied than those indicated in the main guidance documents. Yet, based on interviews conducted with evaluation managers and practitioners mostly at UN Headquarters, the author finds the following approaches to be used the most, in descending order of frequency: gender-responsive evaluation, equity-focused evaluation, and evaluation with a focus on children's or women's rights.

*G*ender-responsive   evaluation   is the prevailing evaluation approach. It is inspired by the *gender in   development* approach (see for example equality guidance by UN Women (2015)). Most UN entities follow the UNEG guidance; its most recent guidance specifically addresses how to evaluate gender and human rights (UNEG 2014). Yet, in its explanations and examples, and as critiqued by UN human rights practitioners in several UN agencies (author's interviews 2015), it remains focused on the importance and ways of evaluating gender equity and provides very little information on how to evaluate human rights.

Equity-focused   evaluation is driven by UNICEF (UNICEF, Segone 2012). However, equity is being considered as *one* evaluation criterion among others. In particular, UNICEF continues to emphasize the importance of gender in its evaluations next to equity. And discussion remains among UNICEF evaluation staff as to how equity is to be understood and hence to be assessed in addition to other priorities such as gender equality (author's interviews 2015).

Evaluation with a focus on children's or women's rights can frequently be seen among those International Non-Governmental Organisations (INGOs) that adopted a HRBA. And a few of them have been exploring ways of approaching human rights in their development interventions when it comes to monitoring and evaluation. For example, Save the Children UK has developed checklists and carried out practical tests on children's rights (Patel and Jonsson, 2001).

Interestigly, none of the above mentioned evaluation guidance documents is fully focused on human rights, even while some of the members of the UN Development Group's Working Group on Human Rights Mainstreaming as well as evaluation practitioners (author's interviews, 2015) continue to underline the need for identifying appropriate ways of measuring and tools for assessing human rights.[12]

2.3   The knowledge gap identified in evaluation

Critique of the evaluation practice ten years ago was that exactly this piece was missing: the focus remained on the planning (programming) phase (Cornwall and Musembi, 2004). Others explained that, where it was done, it was not done systematically (Powell 2005, 605-617); or *"(d)espite the potential of human rights to inform [...] policies and programs, evaluations methods and indicators that specifically capture human rights concerns are not well developed and those that exist are often used inconsistently."*[13]

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[12]   The Office of the High Commissioner for Human Rights (OHCHR) is part of that Working Group but not specifically focusing its work on developing evaluation guidance on human rights as its mandate is concerned with monitoring treaty obligations.

[13]   Gruskin and Ferguson, 2009..

While this gap, in practice, is still valid today it leads to the question of *why*. Looking at the related evaluation theory discussed above, a different focus of the approaches adhering to the use theory versus the approaches that follow the values theory becomes visible: The first (diversity and transformative approach linked to the values theory) are concerned with the overall structure with the system itself. The goal of evaluation in that context is to support systemic, structural change. By ensuring that, evaluation is primarily focusing on questions of the overall/underlying system, the structure that enables change. While it does not explicitly exclude the individual stakeholders, the primary focus is on the capacity of those (including the structures) that enable the system to function in order to protect and fulfil rights. This form of evaluation can be seen as only focusing on the duty bearers. In contrast, the (participatory and empowerment) evaluation approaches following from the use theory have as its ultimate goal of facilitating stakeholder voices to be heard, in particular the small or vulnerable groups at the 'grassroots level'. Hence, that part of the theory and related approaches can be interpreted as focusing primarily on the rights holders.

3. Underlying objectives and research question

One of the objectives of this research is to demonstrate that assessing human rights in evaluation is feasible and worthwhile. Therefore, the main question this paper intends to respond to is: How to address human rights as a crosscutting topic in a project evaluation?

3.1 Proposed Hybrid Methodology

When an evaluation of a project is neither specifically focusing on improving the duty bearers' capacity nor the rights holders' ability, but that is meant to include human rights as a crosscutting topic, the assessment needs to include both: a focus on duty bearers *and* rights holders. Ideally, this dual-focus should be woven throughout the evaluation, from design and preparation over evaluation conduct to data analysis and reporting. So far, in the evaluation theory and practice, however, either duty bearers *or* rights holders have been looked at separately in evaluations, not both. If either/or approach is used, the assessment will not be 'balanced' in how it views human rights. Figure 2 schematically illustrates this by showing an imbalance when only one part of the picture of human rights is included in the assessment. If the focus is on duty bearers (value theory), the weight of the scale shifts to one side whereas focus on rights holders only (use theory) also results in an

imbalanced scale.

Figure 2: Double focus

Source: author
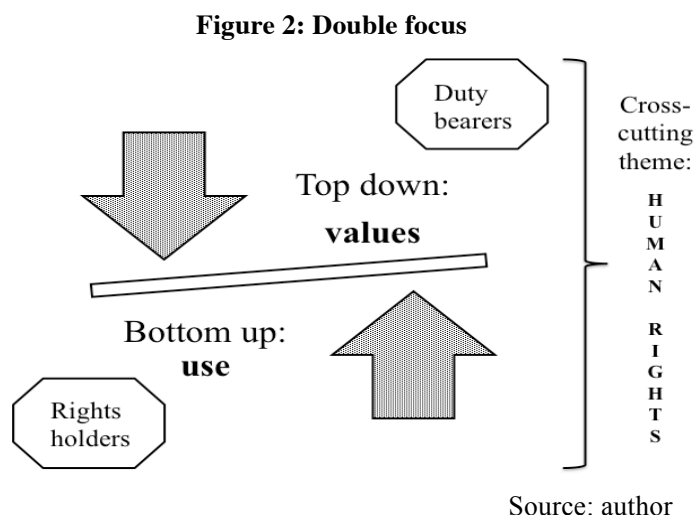
The same can be illustrated with the terms *protection* and *empowerment* in the human security concept: *"Protection strategies (...) shield people from menaces. (...) To protect people   (...) their basic rights and freedoms must be upheld. (...)"[14]* This includes that those offering protection to the citizens - the duty bearers - need to have the capacity to do so. In the figure this is symbolized to the "top down" arrow. It is the duty bearers who need to be knowledgeable about their roles and responsibilities and have the appropriate resources. Also, the citizens that are being protected need to be *empowered.* They need to be capable of claiming their security. In figure 2, this is symbolised by the arrow "bottom up": it is the citizens (rights holders) who have to be aware of their rights. They have to have the *"ability to act on their own behalf – and on behalf of others (...)".[15]*

If an intervention focused *only* on the State authorities and other key players (duty bearers), the people at large (rights holders) would be excluded from the intervention and vice versa. It would be difficult to judge whether the intervention was successful or not. Thus, when conducting an evaluation, both sides – duty bearers and rights holders – need to be given due consideration in order to successfully assess to what extent human security (and/or human rights) is guaranteed.

How is that done? Through a combination of the methods applied in practice that belong to the value *and* the use theories and bridging these two.   By using the *use* theory objective to assess the structure/capacity and duty bearer situation with the *valuing* theory's aim of analysing the situation of the bottom stakeholders and getting them involved. By combining these two parts, human rights can be successfully addressed as a crosscutting theme. More specifically, the author categorized the

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14   Commission on Human Security, 2003, 11
15   Ibid.

various methods of the evaluation guidance documents into use vs. valuing theory and then combined several of their elements to ensure sufficient coverage of rights holders and duty bearers. These elements included a stakeholder-defined assessment framework and mixed methods for data collection (use theory), a participatory approach and data collection methods (use theory), in-depth situational as well as bottleneck analysis (valuing theory), and a few additional elements.[16]

3.2 Myanmar case study – project background

A project evaluation of an anti-trafficking development project in Northern Shan State in Myanmar is used as an illustrative example of this method. [17] Although human trafficking negatively affects several human rights,[18] the project is not focused specifically on developing human rights. According to the implementing agency, the Young Men's Christian Association (YMCA), and funding partner, Norwegian Church Aid (NCA), the project aim is to strengthen resilience and empower the beneficiaries, as well as increase the duty bearer's capacity to protect human rights. Though the term "human rights" is not mentioned anywhere in the project documents, the project should at least aim to "do no harm" to the obvious human rights scenario. The author classifies this project as 'traditional development project'.

The project targets ca. 8,000 adults and focuses on fighting human trafficking by organizing awareness raising activities. Examples of these activities include training for increased knowledge and resilience among villagers, providing psychological support services, and distributing financial microloans to support small business development for vulnerable people and victims.

a) Increasing migration and trafficking to China

Myanmar is a source country for women, children, and men trafficked for the purposes of forced labour and commercial sexual exploitation - both internally and cross-border. Main destination countries include Thailand, China, Malaysia, South Korea, and Macau. Some Myanmar migrants end up in situations of forced or bonded labour or forced prostitution; children are

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[16] For more details see section 4 of this paper.

[17] The author has piloted parts of the methodology for this case study in a UNICEF evaluation on Community Primary Schools in Cambodia in the summer of 2015; lessons learned from were factored into this methodology.

[18] Human rights affected by human trafficking include: The prohibition of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status; The right to life; The right to liberty and security; The right not to be submitted to slavery, servitude, forced labour or bonded labour; The right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment; The right to be free from gendered violence; The right to freedom of association; The right to freedom of movement; The right to the highest attainable standard of physical and mental health; The right to just and favourable conditions of work; The right to an adequate standard of living; The right to social security; The right of children to special protection. See United Nations, Office of the High Commissioner for Human Rights (2014), Fact Sheet No. 36: Human Rights and Human Trafficking, New York and Geneva, p. 4.

particularly vulnerable in these contexts.[19]

Migration to China's Yunnan Province has been increasing in recent years.[20] This includes women from the age of 14 that are forced into marriage/child marriage or into the sex industry.[21] Several "push" and "pull" factors include: the flourishing industry in China, thus needs of labour and higher pay of Chinese farms and factories. The effects of the Chinese one-child policy resulting in a male vs. female imbalance. And the high dowry expected by parents of a Chinese bride.[22]

b) Government efforts to fight human trafficking

The Government of Myanmar sees trafficking in persons as a global problem and national concern. They have been making efforts to combat human trafficking at the global, regional and national levels since 1997.[23] Still, various Treaty Body reports continue to point out that trafficking is among the top important issues that require greater action by the government.[24]

The latest United States Trafficking in Persons Report (2016) downgraded Myanmar into the 3rd and lowest tier by stating that Myanmar "(…) *does not fully meet the minimum standards for the elimination of trafficking and did not demonstrate overall increasing efforts compared to the previous reporting period*.[25] The government has continued to prosecute and raise awareness about trafficking, but has not done enough to hold civilian officials responsible.[26]

Since 2005, Myanmar has enacted the "Anti-Trafficking in Persons Law", which prohibits sex and labour trafficking offenses. In addition to allegations about slow enforcement this law has been critiqued by the Anti-Trafficking Working Group (composed mostly of UN organisations in Myanmar) that its content leaves too much room for interpretation. The document is thus being revised. While the law penalizes trafficking, it does not (yet) consider it as a violation of human

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[19]   UN-ACT.

[20]   While there are no reliable estimates of the number of persons that are trafficked in/from Myanmar, there are some statistics since 2005. E.g. in 2008, 134 trafficking cases were investigated that involved 303 victims, and 342 traffickers were prosecuted. However, these numbers seem small compared to estimates by UNICEF (author interview) that every year 10,000 girls are trafficked from Myanmar to Thai brothels; or by Save the Children that 140,000 Burmese have relocated across the Chinese border.

[21]   SIREN, 2009, 2.

[22]   IRIN, 2011.

[23]   The Myanmar Government has ratified and accessed the UN Convention against Transnational Organized Crime and its protocols (2004), including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Related, it had accessed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW; 1997) and the Convention of the Rights of the Child (1991). In addition to bilateral agreements with Thailand and China, Myanmar has engaged in several regional initiatives to fight trafficking, including: ASEAN[23], the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), the Coordinated Mekong Ministerial Initiative Against Trafficking in Persons (COMMIT; 2004), and the (Australia) Asia Regional Trafficking in Persons Project ((A)ARTIP)

[24]   See for example CEDAW, 2015.

[25]   US State Department, 2016, 113.

[26]   Ibid.

rights - despite the fact that many human rights are at play and can be violated at various points in the trafficking 'cycle'.[27] Trafficking is seen in connection with prostitution, border control, and organized crime. This lack of oversight ignores the lack of basic rights of trafficked persons.

4. Case study results

Prior to conducting this case study in Myanmar and including a human rights dimension into the evaluation, the author had neither extensively embedded human rights focused questions into the assessment framework nor followed a strongly participatory approach that spanned for a comparatively long time period of over one year. Therefore, the author considers the results of this case study against the backdrop of earlier evaluations conducted that can be described as 'traditional' evaluation and not including a specific human rights dimension.

4.1 Evaluation results

The project has showed mostly positive results to date. It is filling a vacuum that few other actors in Myanmar are currently able to fill considering the wide-stretched needs vs. the limited capacity and programming funds available. Considering the small budget allotted to a wide variety of activities, the project has been running rather economically. Its 'backbone' is the so-called 'Community-based Groups', community volunteers through which YMCA Lashio operates. They are the 'eyes and ears' for issues of trafficking. Through them, the project is highly effective and strongly rooted in the community, which makes sustainability possible even if the project funds were discontinued. Overall, the project provides value in terms of building people's resilience in the fight against trafficking in the target area. YMCA is a very strong partner for NCA because of its long-standing community basis and its high reputation as working across religions. In that context, NCA offers much needed funding in the project area that is exposed to important human trafficking numbers while maintaining a highly valued flexible approach of trust and support, when needed.

Coordination with other actors such as the Police, the Judiciary, the Department of Social Welfare, the Myanmar Maternal and Child Welfare Association, and the Department of Basic Education/ directors of schools is essential for the project to be most effective and sustainable. Not enough coordination is currently undertaken at the local and regional level to build on anti-trafficking partners' strengths and thereby create further efficiencies. And while there is a solid community base and rights holders are being empowered, the same cannot yet be said about the

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[27]   For more details see section 3.2.

capacity built through the project when it comes to the duty bearers.

4.2 Methodological results from the Myanmar case study

a) Participatory, flexible approach

The case study followed a participatory approach throughout. A participatory approach is currently a trend in the evaluation theory but not yet widely applied in practice. The Myanmar case study underlines the importance of this trend: only the close exchange with the stakeholders and their involvement in shaping the evaluation framework enabled the evaluator to understand how the rights holders and how the duty bearers interpret human rights in their immediate cultural context. Through this approach, the evaluation could ultimately be of use to all of them.

In this case study, a total of twelve stakeholder groups were included in the assessment at the central and local level in Myanmar.[28] Different from a 'traditional evaluation' is that these stakeholder groups were not only included in the study during a small time window of the data collection phase, but during all phases. Maintaining a regular exchange with all these groups provide critical – as did work through a local researcher, who was able to interact in the local language and more regularly present in the field than the author. This provided a clear understanding of the different groups and their specific interests in the project early on. For example, the so called 'Community-based Groups" (CBGs) that the author saw as project volunteers and project beneficiaries defined themselves more as implementing partners of YMCA and the local authorities. And only through focus group discussions with the CBGs was the author made aware of the lawyers' network that has been offering legal counselling and had started educating the community about human rights.

Furthermore this approach allowed the author to get a more local perspective of the project context. Listening to beneficiary stories, especially of victim survivors, clarified the complexity of the human trafficking situation in the Lashio area. For example, villagers became trafficking agents and had actually trapped members of their family in order to survive themselves. That was important information for better tailoring the evaluation.

Participatory data collection methods were also used, which are generally not used in 'traditional' evaluations. In the case study, this included a photo contest as a specific form of photo

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[28]   The 12 stakeholder groups were: beneficiary - training participant; beneficiary - victim/ vulnerable group; beneficiary – financial recipient; beneficiary – other; community-based group (CBG); local leader (community leader, religious leader); implementing staff; INGO, NGO, local authorities (Police Anti-Trafficking Task Force (ATTF), Department of social Welfare (DSW)); media; UN agency/ bilateral donor; and other.

voice, a community household survey that was led by the CBGs, and a feedback workshop about the evaluation findings and recommendations as well as feedback about the evaluation process.

The photo-contest was entitled 'how would a world free of human trafficking look like' and was used to gain a deeper understanding of the rights holders' context, perceptions, and values. By using images and explaining them briefly instead of telling a long story during an interview, stakeholders were asked to share their views/experiences with human trafficking and human rights. Based on stakeholder feedback after the evaluation, this was perceived as the most useful and eye-opening way of understanding human trafficking in relation to human rights. As only one camera was provided for 8,000 people in different areas around Lashio, the CBGs had to agree on ways of making this photo-contest work. Ultimately, each village took turns borrowing the camera, and they were allowed to chose their own approach of how/who to take pictures for the contest. Among the many photographs that were sent in, the four winning pictures showed situations in the daily life of village people: for example mothers working the rice fields, villagers participating in a thanksgiving ceremony after harvest; and children playing peacefully in a preschool playground. Each winner explained the story depicted as well as the indirect message it was meant to send. By using terms such as "peacefulness"; "freedom to live one's own life/no fear"; "happiness", "safety/security" most contest winners explained a positive imagination and hopes. As the contest was embedded into several 'Days of Activism', a wide audience including police and DSW representatives, donors and the media attended. This allowed discussing human trafficking and human rights quite widely while providing a stage for the project and its stakeholders for exchange.

A household survey (in person, paper-pencil-based) was also part of the methodology and it was prepared jointly with and conducted by the CBGs.[29] Similarly to the photo contest, the survey was not only a way of tailoring data collection to the local situation (cultural and ethical context) but also instilling a conversation in the community (facilitated through the CBGs, who are well connected in their communities) about the project and about human rights. While several challenges were encountered in having the CBGs conduct the survey, it ultimately offered a much wider coverage than the author alone could have obtained. This provided additional contextual information on the household situation and on the respondents' knowledge of the project and of human trafficking.

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[29] The survey was conducted between January and February 2016 and efforts were made to follow certain criteria to make the data as representative and balanced as possible. Thus, a systematic sampling approach was followed, which consisted of every 3rd house in each village surveyed and within that house, the eldest available person (above 15, who had lived in household for 1 year or more) asked. If nobody was at home, the neighboring house to the left (otherwise to the right) was asked. The target number was set at 557 households. 590 responses were collected, and thus a confidence interval at 3.88 and a confidence level of 95% achieved.

b) Situational analysis

The situational analysis began with a stakeholder mapping exercise, based on available facts. Stakeholders labelled rights holders, duty bearers, and main partners - and in several instances this was different from the evaluators view. For example, project stakeholders included religious leaders, village elders, teachers, and the media - which community volunteers and others defined as duty bearers whereas the evaluator would not necessarily thought about all these or not have labelled them alike.

The evaluator then used the stakeholder map during data collection to ensure all stakeholders were given the possibility to provide input and during data analysis for a bottleneck analysis. This completed the picture on the stakeholders as information about the situation and capacity of the rights holders and duty bearers was added. Subsequently, imbalances between the two became visible. For example, while the project worked with both rights holders and duty bearers, the bottleneck analysis highlighted a meagre cooperation with duty bearers. Thus, the project had focused much more on rights holders despite the fact that it was set out to support both sides equally.

c) Assessment framework

In line with guidance of the Organisation of Economic Cooperation and Development's Development Assistance Committee (OECD-DAC), the methodology was guided by four of the five international standards evaluation criteria – relevance, efficiency, effectiveness, and sustainability. Impact was not included for several reasons.[30] The criterion 'value added' was included in order to assess the benefits of having two faith-based organisations involved in the project (YMCA and NCA). The criteria were further specified through evaluation questions and then sub-questions that identified the human rights link. Importantly, this also meant that not all human rights were assessed nor could the assessment be imagined in a generic way. On the contrary, human rights had to be defined and connected as closely as possible to the actual situation in order for the stakeholders to be clear and enable the collection of appropriate information. Thus, the evaluator first asked the stakeholders to explain human rights in the context of human trafficking - and then realized that most rights holders were not familiar with human rights as a concept as such, rather with the (translated from Burmese) term of 'freedom to make own choices in life', 'freedom to marry', and 'ability to choose a job and be well treated'.

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[30] Reasons for excluding impact: the project had been running for five years only, which is too early to assess long-term results; it was not possible to include a full scale randomized control trial; and beneficiaries and donors were mostly interested in knowing the current state of affairs of the project in order to decide on future funding

To obtain responses to the questions laid out by the analytical framework, mixed methods were used with an emphasis on qualitative measures. Different methods and information sources (in particular from duty bearers and rights holders) for the same question/topic were important to facilitate triangulation and ensure robust data. Most of these were in line with 'traditional' evaluation, for example: (i) Desk review to take stock of available project documents and conduct research for relevant external documents/data; (ii) Secondary data, especially available quantitative data on the wider situation of human trafficking and forced migration); (iii) Theory of change and logical framework analysis, further adjusted through stakeholder input; (iv) Sampling: purposeful samples for all large stakeholder groups to inform data collection; (v) Semi-structured interviews were the main data source; and (vi) Focus groups were used for observing interaction/discussions among peers and to obtain specifications and/or confirmation about specific data points.

d) Other methodological elements

The author partnered with a local evaluator. This was essential for supporting translation (into/from Burmese from/to English as well as additional dialects in the Kachin area in Northern Shan State), obtaining clarifications about the context and obtaining access to stakeholders such as authorities. Most importantly, however, was that this partnership enabled the author to decipher the cultural layers when interpreting responses. The evaluation partner was a staff member of NCA Myanmar but had not yet been involved in this project so as to avoid conflict of interest.

The author also developed a database system to track all qualitative data in one place by labelling the entries with rights holders and duty bearer categories. It allowed easy examination of the qualitative data while ensuring a coherent and transparent data trail.

4.3 Additional benefits stemming from the human rights dimension

In addition to the direct effects observed in applying a methodology with a human rights dimension, there were several other benefits that the case study revealed.

a) Human rights terminology is vague and removed from the local reality

Those that were aware of the YMCA project in the Lashio area were able to discuss human trafficking issues, primarily based on interactions they have had with CBGs or YMCA training or other events. Very few interviewees, in particular stakeholders with higher education such as lawyers and teachers, were able to define human rights, the difficulties around human rights with regard to human trafficking and the local complex situation in Northern Shan state. But they were also able to

provide examples of human rights and/or what rights they have that are jeopardized by human trafficking. However, this was not representative of all the stakeholders. The majority of interviewees, when asked how they saw human trafficking connected to human rights, either skipped the question or said that they did not understand the connection.

On a related topic, several interviewees explained that human rights was a great idea, but that it was far very removed from their living situation in Myanmar today. This was also an opinion frequently shared by participants during the photo contest event, as one of the contest winners put it: *"it is nice to think about these ideal situations, but let's face it we are not anywhere near that in Myanmar."* In interviews, (I)NGO as well as UN staff further shared that human trafficking represented a difficult term in Burmese as there was no direct translation. Hence using it required that a person already understood English at some level. Others criticized the term being used without clear purpose. An example of this was during the YMCA training activities when several villagers suggested renaming these trainings 'towards safe migration'.

b) Increased stakeholder confidence and willingness to engage

Over the evaluation span of one year that included three different data collection phases, the author observed considerable change among the stakeholders - both rights holders and duty bearers. It may be due to the unique situation of the author to consult with the same stakeholders at different time points, which is not the case in 'traditional' evaluation. It may also be due the participatory approach that allowed stakeholders to create greater ownership of the project (and of the evaluation). Or, it may be due to a relationship between the stakeholders and the author that inspired trust. Possibly all these reasons are linked.

The fact remains that the author was able to observe a radical positive change among several of the human trafficking victims that the project had supported. When meeting with the author initially, most of these victims barely spoke and appeared shameful; it took time and sensitivity to obtain responses to interview questions. In comparison, one year later at the debriefing workshop, most of the victims were engaged and present, mingled easily among other project stakeholders, and in a few instances spoke up for themselves or in their working group. Witnessing such a tremendous change after one year's time was something the author would not have imagined at the start of this study.

In a process questionnaire that most stakeholders who had attended the debriefing and process workshops had filled out, many stakeholders shared positive results about the evaluation process over the course of one year. Responses included: *"regular meetings are an opportunity to coordinate work among the different players and to find opportunities to work with new ones." "I gained*

confidence and I learned lots. "Now, I realize what I am doing is very valuable".

Similarly, the author also observed a positive shift among the duty bearers. When comparing their initial hesitation with information sharing with the author and project stakeholders, to their eagerness to engage in the debriefing and process workshops after one year of evaluation, one could have thought different people attended the workshop. For example, officers from the ATTF came forward during the workshop and explained what activities they were able to provide to registered human trafficking victims, and which ones they could not. ATTF Officers said that they saw a big gap between their ability to protect these victims, and framed clearly how they could see YMCA and other players fill that vacuum and assist ATTF in the long run to fill itself that void. One can see a clear and steady increase of information sharing through the interview notes; including sharing sensitive topics and challenges, such as describing own capacity gaps and staffing limitations.

c) Increased understanding of project and own influence, thus greater learning

Among the key stakeholders involved in implementing the project – YMCA staff and CBGs – all those who attended the debriefing workshop agreed that the evaluation process over the period of one year increased their grasp of the project and its wider contribution. Many also underlined that having been asked questions or having actively supported data collection (through the community survey) made them see the scope and positive effects of their own role; whether as paid staff working towards project goals or as unpaid volunteers (CBGs) caring for their communities. A few specifically mentioned that the evaluation served as an 'eye opener' to them or as an essential motivating factor to keep up their work of caring for their communities. Most went insofar as mentioning that they would continue their work even if the project funds decreased or ceased, as they were not only convinced of the benefits of the project now but also confident in their own ability to share their knowledge and influence others.

5. Conclusion

This case study illustrates the feasibility and the value of adding a human rights dimension to a project evaluation by applying a mixed methodology coupled with a participatory approach to assess effects on duty bearers and rights holders. Stakeholder participation throughout the process was strong - without increasing financial costs - and development contributions with regard to human rights could be assessed as they were scoped in a way that related to the actual intervention.

The evaluation findings contained more depth about people's understanding, feelings, and

knowledge of their rights/duties through this evaluation approach than it would have been the case in a 'traditional' evaluation. This became particularly visible when tracking the victims of human trafficking who were supported by the project throughout the evaluation span. These individuals transformed from insecure to confident citizens that are now ready to claim their rights and inform people in their environment about human trafficking and human rights. Similarly, findings about capacity bottlenecks on the duty bearer side underlined that these may not have been uncovered without their willingness to share limitations.

The participatory approach chosen also had positive effects on the stakeholders. Many started seeing the importance of the project, the value of the CBGs, the different roles of the various stakeholders, and the importance of coordination among rights holders and duty bearers. The human trafficking victims realized the value in sharing their story in order to deter others from similar fates. The CBGs were motivated to continue their community work because they saw a clear benefit. YMCA, the implementing organisation became more committed to cooperate with state authorities after initial hesitations and understood the necessity of building a strong alliance. And the authorities underlined the unique value of YMCA and its CBGs for their work.

All this required several preconditions: general openness to an approach that is evolving; an open, frank communication channel that favors a learning environment and transparency over accountability; local support; and a much longer time frame than in a 'traditional' evaluation. Still, challenges remain for conducting such an evaluation. These include the complex and unstable environment in which this project takes place and that requires a flexible approach. And the difficulty of attributing the study results to one or more key elements that made this study - the approach, the methodology, or the vocabulary used to address human rights in the data collection.

Overall, this represents one way of conducting a human rights-inclusive evaluation by expanding the evaluation theory on *use* and on *valuing* through combining elements of both theories and applying them in practice that offers value to all involved. While this methodology is replicable in its approach and methodological elements, one has to be cognizant of tailoring it by the stakeholders to fit another case. Referring back to Alkin's 'tree metaphor' imagine this evaluation expanding the tree by an additional branch overlapping the "use" and "valuing" ones.

References:

Alkin, Marvin, C. ed. 2013, Evaluation roots: A wider perspective of theorists' views and influences. Los Angeles: Sage.

Alkin, Marvin C., Ellet, F. 1985, Evaluation Models and their Development, in: T. Husen and T.N. Postlethwaite eds. International encyclopedia of education: Research and studies Vol.3, 1760-1766, Oxford, England: Pergamon Press.

Alkire, Sabina. 2003, A conceptual framework for human security. Working Paper 2, Centre for Research on Inequality, Human Security and Ethnicity, CRISE, Queen Elizabeth House, University of Oxford.

Association of South East Asian Nations (ASEAN). 2004, The ASEAN Declaration Against Trafficking in Persons Particularly Women and Children.

Bamberger, Michael and Donna Podems. 2002, "Feminist evaluation in the international development context". New Directions for Evaluation, Vol.96, 83-96.

Carden, Fred, Marvin C. Alkin. 2012, "Evaluation roots: An international perspective". Journal of MultiDisciplinary Evaluation, Vol.8, No.17.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). 2015, List of issues and questions in relation to the combined fourth and fifth periodic reports of Myanmar, CEDAW/C/MMR/Q/4-5, 27 November.

Commission on Human Security 2003, Human Security Now: Protecting and Empowering People, New York.

Cornwall, Andrea and Celestine Nyamu-Musembi. 2004, "Putting the 'rights-based approach' to development into perspective". Third World Quarterly (2004), Vol.25, No.8, 1415-1437.

Cousins, J. Bradley and Elizabeth Whitmore. 1998, "Framing participatory evaluation" in E. Whitmore ed. "Understanding and practicing participatory evaluation". New Directions for evaluation, Vol.80, 5-23.

Fetterman, David. 1996, "Empowerment evaluation: An introduction to theory and practice". In D. Fetterman, S.J. Kaftarian, and A. Wandersman eds., Empowerment evaluation: Knowledge and tools for self-assessment and accountability. Thousand Oaks, CA: Sage.

Frankovits, Andre. 2002, "Rules to live by: The human rights approach to development", Praxis, The Fletcher Journal of Development Studies, Vol.XVII.

Gready, Paul and Jonathan Ensor. 2005, Reinventing development? Translating rights based approaches from theory into practice, London/New York: Zed Books.

Greene, Jennifer R.   2000, "Challenges in practicing deliberative democratic evaluation". In K.E. Ryan & L. DeStefano (Eds.), "Evaluation as a democratic process: Promoting inclusion, dialogue, and deliberation". New Directions for evaluation, Vol.85, 13-26.

Gruskin, Sofia and Laura Ferguson. 2009, "Using indicators to determine the contribution of human rights to public health efforts", WHO Bulletin, Vol.87, 714-719.

http://hrbaportal.org, http://hrbaportal.org/human-rights-mainstreaming-mechanism.

House, Ernest R. and K. R. Howe. 1999, Values in evaluation and social research, Thousand Oaks, CA: Sage.

http://www.irinnews.org/report/92868/myanmar-bride-trafficking-to-china-unveiled.

IRIN News 2011, Myanmar bride trafficking unveiled, http://www.irinnews.org/report/92868/myanmar-bride-trafficking-to-china-unveiled, accessed 05 June 2016.

Mertens, Donna M. 2009, Transformative research and evaluation. New York, NY: Guilford Press.

Organisation for Economic Development (OECD). 2014, Mainstreaming Crosscutting Issues: 7 Lessons from DAC Peer Reviews, Paris.

Patel, Mahesh and Urban Jonsson. 2001, Human rights as an emerging development paradigm and some implications for programme planning, monitoring and evaluation, (unpublished draft paper for UNICEF).

Patton, Michael Quinn. 2008, Utilization-focused evaluation, 4th edition, Thousand Oaks, CA: Sage.

Podems, Donna R. 2010, "Feminist evaluation and gender approaches: There's a difference?" Journal of MultiDisciplinary Evaluation, Vol.6, No.14.

Powell, Marie. 2005, "A rights-based approach to gender equality and women's rights", Canadian Journal of Development Studies/Revue canadienne d'études du développement, Vol.26, Suppl.1.

Segone, Marco (ed.). 2012, Evaluation for equitable development results, New York, UNICEF Evaluation Office: New York.

Seigart, Denise and Sharon Brisolara. 2002, "Editors' notes", New Directions for Evaluation, Vol.96, 1-2.

Sen, Amartya K. and Sudhir Anand. 2000, "Human development and economic sustainability", World Development Vol. 28, No. 12. 2029-2049.

Strategic Information Response Network (SIREN) 2009, Human trafficking data sheet, Myanmar, March.

Theis, Joachim. 2003, Rights-based monitoring and evaluation. A discussion paper, Save the Children.

United Nations (UN). 1997, Renewing the United Nations: A programme for reform, A/51/950, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N97/189/79/IMG/N9718979.pdf?OpenElement

UN Development Programme (UNDP). 2002, Human Development Report: Deepening democracy in a fragmented world, United Nations Publications: New York.

(http://hdr.undp.org/sites/default/files/reports/263/hdr_2002_en_complete.pdf)

UNDP. 2000, Human Development Report: Human rights and human development. Any society committed to improving the lives of its people must also be committed to full and equal rights to all, United Nations Publications: New York.

UN Evaluation Group (UNEG). 2014, Integrating human rights and gender equality in evaluations, New York.

UN Action for Cooperation against Trafficking in Persons (UN-ACT), http://un-act.org/countries/myanmar/.

UN Office of the High Commissioner for Human Rights (OHCHR) 2003, Commission on Human Rights resolution 2003/36.

OHCHR. 2014, Fact Sheet No. 36: Human Rights and Human Trafficking, New York and Geneva.

UN Women. 2015, Manager's guide to gender equality and human rights responsive evaluation, UN Women Headquarters: New York.

US Department of State. 2016, Trafficking in Persons Report.

Uvin, Peter. 2002, "On high moral ground: The incorporation of human rights by the development enterprise", in Praxis, The Fletcher Journal of Development Studies, Vol.XVII.

A Human Rights-Based Approach to Human Security:
The United Nations Approach to the Right to Adequate Housing in Kyrgyzstan

Mamiko Yano, J.D.[1]

Abstract

The United Nations (UN) has adopted a human rights-based approach (HRBA) since the 1990s and tries to promote all human rights through its various development projects. Human rights aim at realizing the inherent dignity of all human beings, which is also targeted by human security. This article analyzes the effectiveness of an HRBA as a measure for human security through examining the case of Kyrgyzstan.

The right to adequate housing is defined as everyone's right to obtain a secure home and community in which to live in peace and dignity. Since its independence from the Soviet Union in 1991, Kyrgyzstan has shifted to a free market economy and faces issues of urban migration, poverty, privatization, and ethnic conflicts. These factors result in housing problems for vulnerable groups such as low-income families, the disabled, ethnic minorities, women, and children. Informal settlements on urban peripheries have faced forced eviction, resulting in homelessness. Lack of adequate housing increases insecurity in the society and becomes a potential trigger of conflicts.

The UN has supported the government to enhance its capability through technical assistance and the encouragement of the incorporation of international human rights standards. Progress has been made in implementing the right to adequate housing. Nevertheless, respect of the state's sovereignty and facilitation of economic growth are indispensable to fully achieve the right. The Kyrgyzstan case indicates that an HRBA is an effective measure for peacebuilding, development, and realization of an inherent dignity, namely, human security; however, its implementation needs to overcome existing constraints.

Keywords:
The right to adequate housing, human rights-based approach, human security, urban poverty, Kyrgyzstan

1.　Introduction

Located on the Silk Road in Central Asia, Kyrgyzstan (officially the Kyrgyz Republic) has experienced dramatic changes since independence from the former Soviet Union in 1991. Since then, the state has shifted to a free market economy and faces issues of urban migration, poverty,

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[1]　Policy Analyst, Mitsubishi-UFJ Research and Consulting Co., Ltd. .

privatization, and ethnic conflicts. These factors influence several sectors of the society, including the housing sector, which significantly affects the lives of the people, particularly vulnerable groups. The issue of adequate housing increases insecurity and tension in the society and becomes a potential trigger of conflicts.

The United Nations (UN) has adopted a human rights-based approach (HRBA) since the 1990s and promotes human rights through its various development projects. To address the issue of adequate housing, the UN has endeavored to enhance the capability of the Kyrgyzstan government by providing technical assistance and facilitating incorporation of international human rights standards. The idea of human rights is universal, and results of the UN efforts can be sustained once this idea is rooted in the society.

Protection of human rights aims at realizing the "inherent dignity" and "freedom from fear and want" of all human beings,[2] which human security correspondingly targets. Analyzing the UN approach to Kyrgyzstan housing issues, this article aims at clarifying the effectiveness of an HRBA to achieve peacebuilding, development, and realization of an inherent dignity, namely human security.

First, this article reviews the basic idea of an HRBA and the right to adequate housing. Second, it overviews current housing issues in Kyrgyzstan. Recently, the Committee on Economic, Social and Cultural Rights (CESCR) completed the consideration of the second and third states parties' reports at its 55th session in 2015. Several of the latest documents were submitted to CESCR by the states parties and civil bodies (including local nongovernmental organizations (NGOs)); hence, this part largely refers to the data in such documents.[3] Third, the article summarizes the UN approach to the issues and its progress, and analyzes the state's reaction and challenges. Finally, the article analyzes the relation of an HRBA to human security, and considers the effectiveness and constraints of an HRBA as a measure to realize human security.

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[2] Preamble of the Universal Declaration of Human Rights (UDHR).
[3] Types of documents submitted to the 55th session of CESCR are listed on the website. Office of the United Nations High Commissioner for Human Rights (OHCHR) 2016.

2. An HRBA and the Right to Adequate Housing

2.1 An HRBA

(1) Description of an HRBA

International aid agencies, including the UN, started to introduce an HRBA in the 1990s.[4] Reform of the UN in 1997 introduced the idea of mainstreaming human rights in development projects,[5] and in 1998, Kofi Annan, the UN's seventh Secretary-General, reported (A/53/1) that the UN had started using an HRBA in development projects.[6] In 2003, the Second Interagency Workshop on Implementing a Human Rights-based Approach in the Context of UN Reform was convened to share a common understanding of an HRBA among UN bodies and agencies. According to the common understanding, an HRBA recognizes that realization of human rights is a main objective of all development projects, and considers human rights standards and principles to be guides for implementation of development projects. In addition, it states that "development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights".[7] "Duty-bearers" of human rights protection means primarily the state (the government), whereas "rights-holders" means all individuals.[8] By distinguishing these roles, the approach clarifies who is responsible for protecting human rights. Adaptation of an HRBA entirely modified the existing view that development assistance was "charity," and turned it into "protection of rights," by enhancing the capacity of recipient governments to implement their duties and empowering individuals to claim their rights.[9]

(2) Background of Introduction of an HRBA

Since 1945, several international human rights treaties have been adopted, and the number of states parties has increased, resulting in global acceptance of human rights standards and principles.[10] In 1986, UN General Assembly Resolution 41/128 adopted the Declaration of the Right to Development and clarified the international community's will to regard development as a human

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[4] According to Kawamura, an HRBA has not been fully adopted in all UN activities yet. Instead, through trial and error, each agency actively attempts to adopt the approach in the fields where it can be adopted more easily. Kawamura 2005, 13.

[5] UN Document (A/51/950) 1997; UN Document (A/RES/52/12) 1997.

[6] UN Document (A/53/1) 1998, para. 173.

[7] UN Interagency Workshop 2003, 17.

[8] Preamble of International Covenants on Human Rights (International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR)). OHCHR 2003, 4.

[9] UN Interagency Workshop 2003, 8, 38.

[10] Kawamura 2005, 3-4.

right. This idea promoted mainstreaming of human rights in development projects.[11]

The concept of poverty has shifted over time. The capability approach proposed by Amartya Sen, a Nobel Prize-winning economist, viewed development as an expansion of freedoms, and poverty as the deprivation of basic capabilities, meaning "the substantive freedom to achieve alternative functioning combinations."[12] Sen's approach went beyond the field of economics and attracted growing attention to the relation between poverty and freedoms.

Furthermore, there has been progressive argument on the value of "freedoms" versus "social rights." The former dominant view was that freedoms should be more prioritized or valued than social rights. This is because social rights were deemed as rights to demand benefits from the state. Owning to government budgetary and technical constraints, the government had discretion and could afford to realize social rights in gradual steps.[13] Nevertheless, the buildup of arguments brought further focus on human rights principles of "indivisibility" and "interdependence."[14] "Indivisibility" means that human rights are not divisible and, whatever their nature, all human rights are intrinsic in human dignity and are equally significant. "Interdependence" means that the realization of a right, fully or partially, depends on realizing other rights.[15] Consequently, it became the dominant view to place the same priority on realization of any right, including both freedoms and social rights.[16]

Realization of human rights is a major aim of the UN.[17] In pursuit of progress toward that aim, the UN has integrated human rights into its core activities and adopted an HRBA.[18]

2.2 The Right to Adequate Housing

(1) Legal Framework

Because all human rights are indivisible, the right to adequate housing is protected in international human rights law and through an HRBA. Primarily, the International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 11(1), recognizes the right as part of the right to an adequate standard of living and regards it as a primary right to enjoy economic, social, and cultural rights.[19] Several other human rights treaties recognize the right to adequate housing.[20]

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[11] Katsuma 2004, 85-86; Shin 2013, 192-198.

[12] Sen 1999, 3, 75, 87, 99.

[13] ICESCR, Article 2(1), provides that each state party to the present covenant undertakes to "take steps" with a view to achieving "progressively" the full realization of the rights. Watanabe 2009, 49. Kawashima 2014, 62.

[14] OHCHR 2003, 692-696.

[15] UN Interagency Workshop 2003, 18.

[16] UN General Assembly Resolution 41/128 in 1986 refers to this; OHCHR 2003, 693.

[17] The Charter of the United Nations, Articles 1, 13, 55, 56.

[18] Kawamura 2005, 15.

[19] *General comment No.4*, UN Document (E/1992/23) 1992, paras. 1, 3.

[20] Other human rights treaties are listed in OHCHR and UN-HABITAT 2009, 11.

Declarations or action plans adopted by international conferences also clarify the nature of the right and confirm the commitments of states parties to its realization (e.g., Habitat Agenda, para. 61, adopted at the United Nations Conference on Human Settlements in 1996).[21]

(2) Definition and Elements of the Right

General comment No.4 by the CESCR provides that, from the viewpoint of inherent dignity of individuals, the right to adequate housing should be interpreted not as merely physical "housing," but as "adequate housing" with consideration of several elements related to living in security, peace, and dignity.[22] Kothari (2001), the first Special Rapporteur on adequate housing, defined the right as "the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity."[23]

General comment No.4 presents seven elements of "adequacy" of the right: "legal security of tenure," "availability of services, materials, facilities and infrastructure," "affordability," "habitability," "accessibility," "location," and "cultural adequacy."[24] Accordingly, the right to adequate housing considers not only physical satisfaction of housing, but also legal, mental, and cultural aspects such as legal security, access to infrastructure, consideration of vulnerable groups, and cultural adequacy. In addition, Kothari (2008) elaborates another 14 elements of the right, incorporating some new elements such as environmental goods and services (including land and water), access to finance, freedom from dispossession, information, capacity building, participation in decision making, and resettlement, as well as security and privacy.[25]

Thus, in international human rights law, the right is interpreted rather broadly and comprehends several elements related to housing, lands, and properties.[26] The right is significantly complicated in nature and cannot be simply divided into freedoms, entitlements, social rights, civil rights, or property right ("indivisibility" of the right). In addition, full and effective enjoyment of the right is interdependent with, or a precondition for, enjoyment of other human rights such as the rights to health, education, work, privacy, and, essentially, the right to live in an equal and nondiscriminatory manner ("interdependence" of the right). As well as protection of other human rights, protection of the right to adequate housing is particularly crucial to realizing fundamental human rights.

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[21] OHCHR and UN-HABITAT 2009, 13-14; UN Document (A/CONF.165/14) 1996, para. 61.
[22] *General comment No.4*, UN Document (E/1992/23) 1992, para. 7.
[23] UN Document (E/CN.4/2001/51) 2001, para. 8.
[24] *General comment No.4*, UN Document (E/1992/23) 1992, para. 8.
[25] UN Document (A/HRC/7/16) 2008, para. 5. There is a further attempt to organize and develop these elements and to present 13 basic elements. NRC/IDMC and MIT/DRAN 2015, 18-19.
[26] OHCHR and UN-HABITAT 2009, 3, 6.

3. Issues of the Right to Adequate Housing in Kyrgyzstan

3.1 Country Overview

Located in Central Asia, Kyrgyzstan has a mountainous territory; 90 percent of the land is above 1,500 meters in altitude, and 40 percent is above 3,000 meters.[27] The population comprises several ethnicities: Kyrgyz (72.6 percent), Uzbek (14.5 percent), Russian (6.4 percent), and others, including Tajik and Uyghur. Religions of the various ethnicities include Sunni Muslim (75 percent), Russian Orthodox Church (20 percent), and others (5 percent). The national language is Kyrgyz, while the official language is Russian. The primary industries are agriculture and farming (30 percent of the total gross domestic product), food processing, and mining (gold digging).[28] The percentage of people living below the poverty line increased from 31.7 percent in 2009 to 37.0 percent in 2013. The rate is 41.4 percent in rural areas, higher than 28.5 percent in urban areas.[29]

After independence in 1991 from the former Soviet Union, the country rapidly underwent democratization and free-market reforms. Nevertheless, owing to insufficient natural resources, economic growth stagnated and political instability continued. In 2010, in the southern region, a severe ethnic conflict between Kyrgyz and Uzbek residents resulted in a massacre and creation of refugees and internally displaced persons (IDPs). After a national referendum, a new constitution was enacted in 2010 and currently the country is in the process of reconstruction for development.[30]

3.2 Housing and Land Market Issues

Several shifts of the government, such as withdrawal of the state from direct housing provision, reduction of public subsidies for maintenance and utility, decentralization to local authorities, and privatization, greatly affected the housing and land market in Kyrgyzstan. The housing stock of Bishkek city has increased to 71,116 buildings with an area of 11,493,200 square meters. Nevertheless, it is reported that since 1991 population has grown faster than the housing stock, resulting in housing demand not being fulfilled. Besides, the purchasing capacity of residents is low and only a small number of high-income households (less than 5 percent) are able to purchase housing from the market.[31]

A major portion of housing lacks essential utilities, and renovation is desperately required. This

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[27] Embassy of Japan in the Kyrgyz Republic 2013, 2.
[28] MOFA 2015.
[29] UN Document (E/C.12/KGZ/Q/2-3/Add.1) 2015, 14.
[30] MOFA 2015.
[31] UN Document (E/C.12/KGZ/2-3) 2013, para. 240; UNECE 2010, 5; IOM 2014, 50.

is because approximately 85 percent of the existing housing stock was constructed during the Soviet era, generally in the form of multi-apartment buildings. Some renovations have been done inside the buildings, while the common areas have not been fully refurbished.[32] Provision of basic services, such as gas, water, sewerage, central heating, and hot water, declined from 2008 to 2013.[33]

Although a general legal framework for mortgages has been established, the practice of mortgage lending has a gap in implementation. The interest rates of currently available mortgages are high, averaging 15 to 18 percent per annum, and the repayment period is short, i.e., 5 to 10 years. For most of the population, the accessibility of mortgage lending is quite limited.[34]

3.3 Informal Settlements

Due to the increase in internal migrants from rural to urban areas, the formation of informal settlements (*novostroiki*) around urban peripheries has become a critical issue. For instance, Bishkek had 610,630 residents in 1989, while as of 2016 it has about 958,500.[35] Overpopulation has escalated housing demand and resulted in unlawful occupation of land and proliferation of *novostroiki*.[36]

As of 2010, 47 *novostroiki* were identified in Bishkek, and eight were in the city of Osh. It is estimated that approximately 125,000 to 200,000 people live in such settlements.[37] Migrants occupy former agricultural land and build houses with discarded construction materials. Lacking basic infrastructure, residents live without electricity, water supplies, or access to medical services.[38] Severe cold weather in Kyrgyzstan, particularly in the wintertime, impedes the life and health of people living there. Redevelopment of urban areas for city expansion leads to land expropriation and evictions in these areas without adequate consultation, compensation, or participation of the marginalized and vulnerable groups.[39]

3.4 Housing Issues of the Vulnerable Groups

(1) Homeless People

Recently, the number of homeless has been on the rise. The official government figure is that there are, in total, 947 homeless people, mainly in Bishkek. However, according to Fountain Jizni

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[32] UNECE 2010, 5.
[33] UN Document (E/C.12/KGZ/2-3) 2013, para. 243.
[34] Nashe Pravo 2015, para. 5.7.
[35] National Statistical Committee of the Kyrgyz Republic. City Population.
[36] UNECE 2010, 16.
[37] UNECE 2010, 53-54.
[38] UNECE 2010, 5-6.
[39] UNCT in Kyrgyzstan 2014, 12; UN Document (E/C.12/KGZ/CO/2-3) 2015, para. 19.

(an NGO), there are more than 3,500 homeless in Bishkek (with less than a million population) and this number is increasing constantly. Many are internal labor migrants. In addition, the number of young homeless, and of those of the older generation who had a proper occupation in the Soviet era, has increased.[40] Homelessness itself is a gross violation of human dignity. Even worse, in this situation without proper housing or a registered address, the other essential rights, such as rights to health, education, privacy, or voting, are also violated.

(2) Orphans

A growing number of children are left without care by their parents, including orphans. It is reported that there are 10,908 children living in 117 residential institutions.[41] The Ministry of Education provides orphanages and boarding schools for children left without care. Research in 2012 clarifies that the quality of orphanages and their services does not comply with international standards, modern requirements, and social necessities of those residing there.[42] Such lack of the right to adequate housing impedes physical and psychological development and overall well-being of orphans.

(3) Persons with Disabilities and the Elderly

Housing issues of the disabled and the elderly are also of concern. According to the National Statistics Committee, the number of disabled persons is growing about 32.59 percent each year, and they face housing concerns.[43] A large number of disabled persons, as well as the elderly, live under insufficient and unqualified care services at a specialized housing foundation. The Ministry of Social Development provides 15 residences with health care for them. In total, 2,300 of them live in these residences, including 900 elderly. Social guarantees by the state for utilities payments for the elderly are quite inadequate.[44]

(4) Women

Although laws and policies of the state are relatively gender neutral, unequal treatment of women prevails in practice owing to dominant custom and a tradition of patriarchy in Kyrgyzstan. Especially in rural areas, women's access to and control over land, housing, and property is quite

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[40] Pray for the Nations 2013; UN Document (E/C.12/KGZ/Q/2-3/Add.1) 2015, para. 87.
[41] UNICEF 2012, 7.
[42] Nashe Pravo 2015, para. 7.1.
[43] Nashe Pravo 2015, para. 7.3.
[44] Nashe Pravo 2015, paras. 7.1, 7.4.

limited. The Committee on the Elimination of Discrimination against Women (CEDAW) is concerned about property rights of women in unofficial marriages, particularly in rural and remote areas.[45] Due to these factors, women are more vulnerable to homelessness and poverty.

Bride kidnapping, an illegal conduct seen in rural Kyrgyzstan, is also a significant threat to adequate housing of women. According to the Women's Support Centre in Bishkek, at least 11,800 women and girls become victims of kidnapping in the country every year. Several victims face violence (including rape) and insufficient living conditions, and many cases result in divorce or abandonment by their kidnappers, impoverishing and stigmatizing such women. In 2012, the government enacted a new law to toughen penalties for bride kidnapping, although effective implementation of the law is necessary.[46]

3.5 Ethnic Conflict in 2010 and City Reconstruction

A large-scale ethnic conflict occurred in June 2010 between Kyrgyz and Uzbek residents in Osh and Jalal-Abad regions, in the southern part of Kyrgyzstan. A large number of Uzbeks reside there: Osh city is 47 percent Kyrgyz and 44 percent Uzbek.[47] A series of violent acts, including killing, sexual violence, and arson, was carried out. Houses and buildings of Uzbeks were destroyed. It is estimated that 2,843 buildings were ruined in the cities of Osh and Jalal-Abad and in Bazar-Korgon village during the conflict.[48] The official record numbers the killings at more than 470, whereas the unofficial record indicates that several thousand were killed.[49] About 75,000 refugees were evacuated to Uzbekistan and approximately 300,000 people became IDPs.[50]

As an emergency measure, 1,780 transitional shelters were constructed in the Osh and Jalal-Abad regions in 2011, supported by the international community.[51] However, transitional shelters have issues of technical and cultural acceptance and of registration, particularly in Osh.[52]

The Kyrgyzstan Inquiry Commission (KIC), reporting after the June 2010 incidents, identified Soviet "ethno-territorial construction" as a cause of the conflict. In addition, the report recognized that disputes over land were a basic cause.[53]

Upon receiving state allocations from the national budget, the Osh and Jalal-Abad regions

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[45] UN Document (CEDAW/C/KGZ/CO/3) 2008, para. 39.
[46] UN WOMEN 2013, 1. Hughes 2013.
[47] KIC 2011, para. 80.
[48] UN Document (E/C.12/KGZ/2-3) 2013, para. 244.
[49] KIC 2011, ii.
[50] UNHCR 2011, 195.
[51] UN Document (E/C.12/KGZ/2-3) 2013, para. 247.
[52] UN Document (A/HRC/17/41) 2011, paras. 54, 55.
[53] KIC 2011, paras. 38, 41, 80.

started reconstruction. As of August 2011, nine multistory residential buildings with 417 apartments had been constructed in Osh. As of 2013, 18 multistory apartment buildings with a total of 1,070 apartments are under construction, overseen by the State Directorate.[54] There is concern that Osh city authorities have not paid fair compensation for compulsory sale of residential property for state use, although state legislation requires it.[55]

In Osh city, Uzbek residents had lived in *mahallas*, which are areas of traditional habitat in Central Asia with collective fenced houses, narrow streets, and sanitation facilities that are outdated for large families.[56] The local authorities indicated that traditional residences should not be reconstructed and victims of housing destruction should be transferred to newly constructed housing in line with the master plan, which attempts to redevelop former residential areas of Uzbek ethnics. The UN High Commissioner for Human Rights has shown concern that these attitudes disrespect the Uzbeks' land and property rights.[57] Moreover, such indifference to the culture of the Uzbek minority threatens family ties and raises tensions and fear in their community.

4.   The UN Approach in Kyrgyzstan

4.1 Interactions through the UN Human Rights Mechanism

Although there are several donor institutions which have addressed housing issues in Kyrgyzstan, this article focuses on activities by the United Nations, in particular, the Office for the UN High Commissioner of Human Rights (OHCHR), because it has assisted and addressed housing issues in Kyrgyzstan consistently along with an HRBA.

In 2010, the first report of the Universal Periodic Review (UPR) was adopted by the UN's Human Rights Council (HRC). In 2011, the HRC adopted a resolution on "Technical assistance and cooperation on human rights for Kyrgyzstan." Accordingly, the HRC was determined to urge the state to improve the situation regarding human rights, including the right to adequate housing.[58]

Upon receiving the resolution, in 2012, the UN High Commissioner for Human Rights submitted a report on technical assistance for Kyrgyzstan. It recommended that the authorities ensure availability of the required documents for housing registration for victims of the June 2010 incidents, and prevent those victims from being vulnerable to arbitrary intervention in their property

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[54] UN Document (E/C.12/KGZ/2-3) 2013, paras. 245, 247.
[55] Human Rights Watch 2014, 2-3.
[56] Matveeva et al. 2012, 17.
[57] UN Document (A/HRC/17/41) 2011, para. 55.
[58] UN Document (A/HRC/RES/17/20) 2011, para. 10.

right. In addition, the report recommended that the authorities prepare a comprehensive housing strategy with a concern for social housing.[59]

In 2013, the Committee on the Elimination of Racial Discrimination (CERD) encouraged the state to provide adequate support to IDPs who had returned to their original places of residence in the south and to confirm their reintegration, particularly regarding their access to housing and the labor market.[60] The UPR's second report, adopted in 2015, recommended that Kyrgyzstan develop a national strategy to realize fully the right to adequate housing, incorporating social housing and reconstruction of housing ruined in the 2010 conflict.[61]

Also in 2015, the CESCR adopted the latest concluding observations on the combined second and third periodic reports of Kyrgyzstan. The observations recommended that the state implement a national strategy to reduce homelessness and ensure that justifiable eviction or relocation is carried out consistent with international human rights standards. The CESCR also recommended that the state allocate further resources to develop basic infrastructure and utility services.[62] The CESCR is particularly concerned about vulnerable people who are under threat or risk of homelessness: the poor, households headed by single women, persons with disabilities, migrants, children leaving institutions, and former detainees. The CESCR has shown a concern that social housing is inadequate for low-income and vulnerable populations, and that a large number of people, particularly internal migrants residing in both formal and informal settlements, lack access to basic utility services and are vulnerable to forced evictions.[63]

4.2 The UN Projects and Progress of the Right to Adequate Housing in Kyrgyzstan

(1) UN Projects and Reaction by the State

In 2008, OHCHR established the Regional Office for Central Asia (ROCA) in Bishkek and supported capacity building of the government, human rights institutions, and the civil society.[64] ROCA conducted workshops and seminars on the right to adequate housing and facilitated participation of the government and the civil society. ROCA also advised the government and parliament members to draft a new housing code in line with international standards on the right to adequate housing. ROCA encouraged the Working Group on the Elaboration of the Draft Housing

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[59] UN Document (A/HRC/20/12) 2012, paras. 94-95.
[60] UN Document (CERD/C/KGZ/CO/5-7) 2013, para. 11.
[61] UN Document (A/HRC/29/4) 2015, paras. 117, 124.
[62] UN Document (E/C.12/KGZ/CO/2-3) 2015, para. 19.
[63] UN Document (E/C.12/KGZ/CO/2-3) 2015, para. 19.
[64] UN Document (A/HRC/17/41) 2011, para. 2.

Code to hold public hearings and facilitated the participation of civil society.[65]

To support the government's implementation of the aforementioned recommendations through the UN human rights mechanisms, ROCA analyzed recommendations and progress of implementation by the government and submitted research papers for the government's reference. In November 2013, the government set up the Coordination Council on Human Rights to promote implementation of each recommendation and interaction with the UN human rights mechanism.[66] In May 2014, the parliament held a second hearing for drafting a law to disclose master plans of cities and urban planning documents, and to abolish corruption in urban development.[67]

(2) Legislative Reform and Challenges

With such support by the OHCHR through ROCA, Kyrgyzstan made significant progress in legislation that incorporated the right to adequate housing and improved its realization. In 2010, a new constitution was enacted, incorporating provisions on adequate housing. For instance, Article 46 recognizes everyone's right to housing and prohibits arbitrary deprivation of housing; it ensures that state or local authorities shall provide housing to low-income households for free or at an affordable price. Article 12 declares that property is inviolable and cannot be arbitrarily confiscated unless otherwise ordered by a court decision or stipulated by law.[68] Nevertheless, despite these provisions, there is concern that several laws and practices do not fully reflect the obligation of the state as set in the Constitution, and there is a gap in implementation.

In 2013, the government enacted the new housing code. ROCA's engagement with the government resulted in increased compliance of the code with international human rights standards on the right to adequate housing. It incorporates provisions regarding evictions, security of tenure, compensation for land capture, mortgage loans, and identification of groups of people in need of assistance.[69]

Despite such progress, the code still has faults and needs further improvement. One criticism is that it fails to define comprehensively the right to adequate housing and to clarify the state's obligation to realize the minimum primary aspects of the right, such as access to basic shelter for those who are vulnerable, such as the poor and homeless.[70] The implementation gap persists because of a lack of funding and probably also because of the government's low priority or low level

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[65] OHCHR 2013, 296.
[66] OHCHR 2013, 298.
[67] UNCT in Kyrgyzstan 2014, 12-13.
[68] Nashe Pravo 2015, para. 1.1; FAOLEX.
[69] OHCHR 2013, 296.
[70] UN Document (A/HRC/WG.6/21/KGZ/2) 2014, para. 58; UNCT in Kyrgyzstan 2014, 12-13.

of interest in housing issues.

(3) Changes in National Housing Policies and Challenges

The state adopted several policies and programs on housing, such as the "Concept on the Development of Housing Construction until 2010," the "State Housing Development Program until 2010," and the "National Program on Housing Construction in Kyrgyzstan for 2008–2010." However, there was concern that these programs lacked efficient implementation mechanisms and therefore could not be fully implemented.[71]

In 2013, the "National Strategy for Sustainable Development of the Kyrgyz Republic for the Period 2013-2017" was adopted, although it paid little attention to social housing. The state initiated a program, "Available Housing in the Kyrgyz Republic for 2012-2014," targeted at providing housing through the state's financial support of construction of social housing. Government Resolution No.165 on "Outcomes of the social economic development of KR in 2012" provided specific measures to develop mortgage credit lending for construction of social housing, and was supposed to initiate a program of available housing. However, according to Nashe Pravo, a public foundation, these programs are not fully implemented or supported by the government due to lack of financing. Changes in leadership and in policy priorities limit the development of an available housing program.[72]

4.3 Considerations

To sum up, adequate housing issues in Kyrgyzstan are largely related to the vulnerability and dignity of the people. Housing and land issues are potential sources of instability and tension. In short, protection of the right to adequate housing is essential for peace and development of the society.

The UN has supported the state through its development assistance to facilitate realization of the right. Through this approach, the notion of human rights gradually penetrates into the state's legislation, programs, and policies. Nevertheless, several deficiencies still exist in legislation and practices that need to be improved in accordance with international human rights standards. Besides, lack of financing and lack of concern by the state seem to be major obstacles in implementing the state's duties. In addition to the UN support, the government itself must be proactive. Economic growth is also essential to realize the right to adequate housing, and endemic poverty and economic

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[71] UNECE 2010, 4; UN Document (E/C.12/KGZ/2-3) 2013, para. 250.
[72] Nashe Pravo 2015, paras. 2.1-2.3; IOM 2014, 50-51.

stagnation constrain such realization in Kyrgyzstan. For this reason, further financial and technical support by the international community is required to effectively address the issues of adequate housing in this country.

5. A HRBA and Human Security

5.1 Human Rights as Fundamental Elements of Human Security

Consideration of the case of Kyrgyzstan presents several perceptions regarding the relation between an HRBA and human security. A controversy over the notion of "human security" has converged by the adaptation of a resolution (A/RES/66/290) of the UN General Assembly in 2012 ("the Resolution").[73]

According to the Resolution, human rights seem to consist of fundamental elements of human security. The Resolution defines human security to include "(a) [t]he right of people to live in freedom and dignity, free from poverty and despair" and "freedom from fear and freedom from want," "with an equal opportunity to enjoy all their rights."[74] These phrases have been identified in very similar wording by human rights laws over the ages. For instance, the Preamble of the Universal Declaration of Human Rights (UDHR) uses the same terms, such as "the inherent dignity and … the equal … rights," "freedom from fear and want," "faith in fundamental human rights, in the dignity and worth of the human person and in … equal rights." Similarly, Article 1 of the UDHR affirms that "all human beings are born free and equal in dignity and rights."

Mine (2009) points out that human security has two components: freedom from fear and freedom from want. These correspond to "civil liberties" and "social rights" in international human rights law.[75] As examined in the case of Kyrgyzstan, such bilateral nature of human rights is equally fundamental for realization of peace, development, and the inherent dignity of the people, namely human security. Sen (2006) recognizes that human rights and human security complement each other effectively.[76] The idea of human rights significantly overlaps with human security, and human rights comprise fundamental elements that are indispensable for full realization of human security.

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[73] UN Document (A/RES/66/290) 2012.
[74] UN Document (A/RES/66/290) 2012, para. 3.
[75] Mine 2009, 57.
[76] Sen 2006, 40-42.

5.2 Effectiveness of an HRBA in Realization of Human Security

(1) Advantages of an HRBA

An HRBA can be an effective tool to realize human security. The UN report *Human   Security Now,* issued in 2003, regards "protection" and a "capacity building" approach as a comprehensive strategy to realize human security.[77] The Resolution clarifies that "(*g*) [g]overnments retain the primary role and responsibility for ensuring the survival, livelihood and dignity of their citizens. The role of the international community is to complement and provide the necessary support to Governments, upon their request, so as to strengthen their capacity to respond to current and emerging threats."[78] This is exactly how an HRBA works, as indicated in the aforementioned "common understanding" of the Interagency Workshop. Through international assistance, an HRBA targets the enhancement of the capacity of governments ("duty-bearers") to fully implement their obligations in human rights standards. The case of Kyrgyzstan indicates that support of capacity building of the government is effective for mitigating threats to dignity of the people, especially vulnerable groups.

The Resolution also defines that "(*c*) [h]uman security recognizes the interlinkages between peace, development and human rights, and equally considers civil, political, economic, social and cultural rights".[79] This corresponds largely to the human rights principles of interdependence and indivisibility, and to the reason why an HRBA has developed and been adopted by the UN. As seen in the UN approach in Kyrgyzstan, protection of the right to adequate housing can contribute to realization of other rights, such as rights to health, education, work, and life. They all contribute toward lasting peace, development, and dignity.

The Resolution recognizes that among three pillars of the UN, namely development, peace and security, and human rights, "achieving development is a central goal in itself and the advancement of human security should contribute to realizing sustainable development … including the Millennium Development Goals".[80] In 2015, the new Sustainable Development Goals (SDGs) were adopted to serve as indicators of the achievement of development in human security. Similarly, human rights targets several goals of the SDGs, such as "no poverty," "zero hunger," "quality education," "gender equality," and "clean water and sanitation." Hence, an HRBA is effective in realization of SDGs and progress of human security.[81]

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[77] Yoshida 2004, 21.
[78] UN Document (A/RES/66/290) 2012, para. 3.
[79] UN Document (A/RES/66/290) 2012, para. 3.
[80] UN Document (A/RES/66/290) 2012, para. 4.
[81] Sustainable Development Knowledge Platform.

(2) The Remaining Challenges of an HRBA

There are some constraints that an HRBA has to overcome. First, the Resolution clarifies that "(*f*) [h]uman security is based on national ownership" and "(*h*) [h]uman security must be implemented with … full respect for the sovereignty of States".[82] A fundamental question is whether an HRBA interferes in the ownership and sovereignty of states. European countries apparently recognize human rights in human security, while some Asian states insist that human rights should be out of the scope of human security.[83] Although goals of human security and human rights coincide broadly, human security seemingly attempts to be more politically neutral and acceptable in the global community based upon the Resolution.

Nevertheless, intervention by an HRBA is justifiable to the extent that it is based on a request or consent of the recipient state. International human rights standards have been more or less accepted globally, as seen in the increased number of states parties to human rights treaties. If the recipient states are members of the UN and have ratified international human rights treaties, they are obliged to realize human rights. An HRBA closely ties development assistance with human rights as a set. Kyrgyzstan is rather keen to be democratic in Central Asia, and development assistance is its urgent necessity. In this situation, the objectives of both the UN and Kyrgyzstan correspond, and UN intervention via an HRBA can be justified and beneficial for the state.

Second, another fundamental question is whether protection of human rights drives or slows down economic growth, which is one of the goals of SDGs. In Kyrgyzstan, some components of the adequate housing right, such as access to essential utilities, prevention of arbitrary deprivation of private property, and adequate housing for migrant laborers, possibly form economic infrastructure, which is a precondition to boost the economy. On the other hand, there seems no clear evidence to confirm that an HRBA is directly beneficial to economic growth. Human rights and economic growth must be not mutually exclusive. However, in the case of Kyrgyzstan, endemic poverty prevails and economic development is essential to enhance the state's capacity to realize rights that require financial resources, namely social rights and entitlements. Apparently, the international community's financial and technical assistance is rather effective for achieving these rights. On the other hand, it is questionable whether an HRBA, an approach emphasizing government intervention to protect human rights, can neutrally coexist with the idea of a free market economy, free

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[82] UN Document (A/RES/66/290) 2012, para. 3. Originally "human security" was born to overcome the traditional national security framework, although it had been severely criticized due to its potential to infringe on states' sovereignty. In this historical context the new Resolution in 2012 seemed to adopt such new definition avoiding conflicts with states' sovereignty.
[83] Fukushima 2010, 51.

competition, or neoliberalism, namely, approaches that emphasize less government intervention to achieve economic growth through a free market mechanism.

6. Conclusion

To sum up, this article indicates that an HRBA is an effective approach to achieve human security, although there are constraints of states' sovereignty and economic growth. The ideas of human security and human rights overlap broadly. An HRBA does not violate states' sovereignty as long as development assistance is based upon consent and requests of the recipient countries. In addition to the UN supports, recipient states themselves must be proactive to implement their duties to realize human rights. Economic growth is also required to enhance the states' capacity to provide social services and protect human rights. The relation between an HRBA and economic growth is unclear, so further empirical studies are necessary. Effective technical and financial support from the international community is needed for developing states to meet their duties to protect the dignity of their people.

As a final consideration, the Resolution has congregated a controversy over human security, and a remaining question is how each state and international society can practice the concept in the real world. Several donor countries recognize human security as a core object of their national policy on development assistance. Nevertheless, the implementation process varies among donor countries, and there is a lack of comprehensive strategies, indicators, or guidelines for their real practice. To overcome this situation, the arguments in this article indicate that human rights standards and principles are universal and can be comprehensive guidelines and indicators. Although there are some constraints, an HRBA can be a useful reference for donor states to set up their own guidelines for achieving human security through their development assistance.

References

City Population. "Kyrgyzstan," http://www.citypopulation.de/Kyrgyzstan.html
accessed on 06/16/2016.

Embassy of Japan in the Kyrgyz Republic. 2013. "Kyrgyz Gaikyo,"
http://www.kg.emb-japan.go.jp/20130311 キルギス概観.pdf accessed on 11/12/2015.

FAOLEX. "Constitution of the Kyrgyz Republic," http://faolex.fao.org/docs/pdf/kyr127812E.pdf
accessed on 11/12/2015.

Fukushima, Akiko. 2010. *Ningen no Anzenhosho: Gulobaluka suru Tayou na Kyoui to Seisaku
Freimwaku*. Tokyo: Chikurashobo. 31-58.

General comment No.4, UN Document. E/1992/23. 1 January 1992.

Hughes, Ailey Kaiser. 2013. "Bride Kidnapping and Land Rights in Rural Kyrgyzstan,"
http://www.trust.org/item/20130516180147-8kznc/ accessed on 11/16/2015.

Human Rights Watch. 2014. "Human Rights Watch Submission to the UN Committee on Economic,
Social and Cultural Rights in Advance of its Pre-Sessional Review on Kyrgyzstan,"
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCES
CR%2fICO%2fKGZ%2f18753&Lang=en accessed on 11/12/2015.

International Organization for Migration (IOM). 2014. "Country Fact Sheet: The Kyrgyz Republic,"
http://iomvienna.at/sites/default/files/IOM%202014_CFS%20Kyrgyzstan.pdf accessed on
11/12/2015.

Katsuma, Yasuhi. 2004. "Kaihatsu ni okeru Jinken no Shuryuka: Kokurenkaihatsuenjyo Wakugumi
no Keisei wo Chushin toshite," IPSHU Research Report Series. 31: 89-90,
http://home.hiroshima-u.ac.jp/heiwa/Pub/31/katsuma.pdf accessed on 11/12/2015.

Kawamura, Akio. 2005. "Kankyo Hairyo ni okeru Jinken Hairyo," JICA Research Institute.
http://jica-ri.jica.go.jp/IFIC_and_JBICI-Studies/jica-ri/publication/archives/jica/kyakuin/pdf/200503
_aid.pdf accessed on 11/12/2015.

Kawamura, Akio. 2008. "Kokusaikaihatsukyoryoku no Aratana Chouryu: Jinken ni Motozuku
Kaihatsu Approach," Kokusai Jinken Hiroba. 77,
http://www.hurights.or.jp/archives/newsletter/sectiion3/2008/01/--.html accessed on
11/12/2015.

Kawashima, Takashi. 2014. "Jinkenhoshou niyoru Heiwakouchiku: Kokusai Heiwa Kyoryoku
Katsudou niokeru Jitumusya no tameno Houkihan,"
http://www.mod.go.jp/js/jsc/jpc/research/image/jap06.pdf accessed on 5/27/2016.

Kyrgyzstan Inquiry Commission (KIC). 2011. "Report of the Independent International Commission of Inquiry into the Events in Southern Kyrgyzstan,"

http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_490.pdf accessed on 11/12/2015.

Matveeva, Anna and Igor Savin, Bahrom Faizullaev. 2012. "Kyrgyzstan: Tragedy in the South,"

Ethnopolitics Papers. No.17, http://www.valerytishkov.ru/engine/documents/document1928.pdf accessed on 11/12/2015.

Mine, Yoichi. 2009. "Ningen no Anzen Hoshou to Kaihatsu," Kinhide Mushakoji, ed. *Ningen no Anzen Hosyou: Kokka Chusinsyugi wo Koete*. Kyoto: Minerva Shobo. 45-67.

Ministry of Foreign Affairs of Japan (MOFA). 2015. "Kyrgyz Kyowakoku Kiso Data,"

http://www.mofa.go.jp/mofaj/area/kyrgyz/data.html accessed on 11/12/2015.

Nashe Pravo. 2015. "Alternative Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights by the Kyrgyz Republic,"

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fKGZ%2f19878&Lang=en accessed on 11/12/2015.

National Statistical Committee of the Kyrgyz Republic. "Population,"

http://www.stat.kg/en/statistics/naselenie/ accessed on 06/19/2016.

NGOs of Kyrgyz Republic. 2015. "Alternative Report─2015,"

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fKGZ%2f18502&Lang=en accessed on 11/12/2015.

Norwegian Refugee Council (NRC)/Internal Displacement Monitoring Centre (IDMC) and Massachusetts Institute of Technology (MIT)/Displacement Research Action Network (DRAN).

2015. *Home Sweet Home: Housing Practices and Tools That Support Durable Solutions for Urban IDPs*. Geneva: NRC/IDMC,

http://www.internal-displacement.org/assets/publications/2015/20150325-global-home-sweet-home/20150325-global-home-sweet-home-en-full-report.pdf accessed on 11/12/2015.

Office of the United Nations High Commissioner for Human Rights (OHCHR). 2003.

Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers. New York and Geneva: United Nations,

http://www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducationtwo.aspx accessed on 11/13/2015.

OHCHR and UN-HABITAT. 2009. "The Right to Adequate Housing," Fact Sheet No. 21/Rev.1,

http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf accessed 11/12/2015.

OHCHR. 2013. "OHCHR Report 2013,"

http://www2.ohchr.org/english/OHCHRReport2013/WEB_version/ accessed on 11/12/2015.

OHCHR. 2016. "Reporting status for Kyrgyzstan,"

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=KGZ&Lang
=EN accessed on 5/27/2016.

Pray for the Nations. 2103. "Living on the margins: Homelessness in Bishkek,"

https://pray.interserve.org/198/ accessed on 06/19/2016.

Sen, Amartya. 1999. *Development as Freedom*. Oxford and New York: Oxford University Press.

Sen, Amartya. 2006. *Ningen no Anzen Hosho*. Erika Togo, trans. Tokyo: Shueisha. 35-43.

Shin, Hae Bong. 2013. *Kokusaijinkenhou: Kokusai Kijyun no Dynamism to Kokunaihou tono
Kyouchou*. Tokyo: Shinzansha.

Sustainable Development Knowledge Platform. "Sustainable Development Goals,"

https://sustainabledevelopment.un.org/topics accessed on 11/12/2015.

UN Document. A/CONF.165/14. 7 August 1996.

UN Document. A/HRC/RES/17/20. 14 July 2011.

UN Document. A/HRC/WG.6/21/KGZ/2. 12 November 2014.

UN Document. A/HRC/7/16. 13 February 2008.

UN Document. A/HRC/17/41. 1 April 2011.

UN Document. A/HRC/20/12. 3 April 2012.

UN Document. A/HRC/29/4. 9 April 2015.

UN Document. A/RES/52/12. 14 November 1997.

UN Document. A/RES/66/290. 25 October 2012.

UN Document. A/51/950. 14 July 1997.

UN Document. A/53/1. 27 August 1998.

UN Document. CEDAW/C/KGZ/CO/3. 14 November 2008.

UN Document. CERD/C/KGZ/CO/5-7. 19 April 2013.

UN Document. E/CN.4/2001/51. 25 January 2001.

UN Document. E/C.12/KGZ/CO/2-3. 7 July 2015.

UN Document. E/C.12/KGZ/Q/2-3/Add.1. 7 April 2015.

UN Document. E/C.12/KGZ/2-3. 8 November 2013.

UNHCR. "Global Appeal 2011 Update," http://www.unhcr.org/4cd96d639.pdf
accessed on 11/16/2015.

UNICEF. 2012. "Analysis of the Situation of Children's Residential Institutions in the Kyrgyz

Republic," http://www.unicef.org/kyrgyzstan/ANALYSIS_OF_THE_SITUATION.pdf accessed on
11/16/2015.

UN Interagency Workshop. 2003. "The Second Interagency Workshop on Implementing a Human

Rights-based Approach in the Context of UN Reform: Stamford, USA, 5-7 May, 2003," United

Nations Development Group,

http://www.fao.org/eims/secretariat/right_to_food/eims_search/details.asp?lang=en&pub_id=21
2902 accessed on 11/12/2015.

United Nations Country Team (UNCT) in Kyrgyzstan. 2014. "Joint UNCT submission for the 2015

Universal Periodic Review (UPR)," http://www.refworld.org/docid/54c0b92c4.html accessed on
11/12/2015.

United Nations Economic Commission for Europe (UNECE). 2010. *Country Profiles the Housing*

Sectors Kyrgyzstan. New York and Geneva: United Nations,

http://www.unece.org/fileadmin/DAM/hlm/documents/Publications/cp.kyrgyzstan.e.pdf
accessed on 11/12/2015.

United States Agency for International Development (USAID). 2005.

"Land Tenure and Property Rights Assessment for Kyrgyzstan,"

http://www.usaidlandtenure.net/sites/default/files/USAID_Land_Tenure_LTPR_Assessment_fo
r_Kyrgyzstan.pdf accessed on 11/12/2015.

UN WOMEN. 2013. "New Law in Kyrgyzstan Toughens Penalties for Bride Kidnapping,"

http://www.unwomen.org/~/media/headquarters/attachments/sections/library/publications/2013/12/u
n%20women-evaw-kyrgystan-brief_us-web%20pdf.ashx?v=2&d=20141013T121456 accessed
on 11/25/2015.

Watanabe, Shigemi. 2009. *Kokusai Jinkenho*. Tokyo: Kokusai Shoin.

Yoshida, Fumihiko. 2004. *'Ningen no Anzenhoshou' Senryaku*.

Tokyo: Iwanamishoten. 11-29.

Whose Decision Matters?: School Dropout Issue in Laos

Gnangnouvong Itthida [1]

Abstract

This paper examines how individuals make choices in their daily lives. The case in point is the children at primary schools in rural Lao PDR, many of whom often drop out of school pushing down the overall graduation rate. How to secure the basic needs for the family has often been held to be the main reason for children (and their parents, for that matter) to forgo the choice of continuing schooling. However, it is found that many of the children choose to leave school because the choice of staying on often doesn't meet their "schooling" needs that schools are supposed to offer.

Primary school dropout has been a persistent problem for Laos (low survival rate to grade 5 slightly over 50% for more than the past 10 years). This problem is particularly critical in rural areas where the majority of population is still living near the subsistence level. Unstable income from farm works sometime drives them (and their family members) to migrate to different places like Vientiane and some cities in Thailand. However, that is only a part of the whole "drop-out" problem.

To address the problem, narrowly defined as a low graduation rate, in 2009 Progressive Promotion Policy (PPP) was introduced to allow students to proceed to higher grades without final exam. The idea was that PPP would lure the children to stay at school until their graduation and to encourage the students to return to school when they are not occupied without the need to repeat the class. PPP, however, overlooked one serious problem: graduation alone is not strong enough as an incentive for the children to stay in school. Moreover, the absence of remedial classes and other means to prepare the returned children place these children in difficult positions where they have to struggle in keeping up with the classes and in picking up the contents of the classes. A net result is the increase in dropout and the decline in the graduation rate.

Keywords:
Dropout, Laos, Primary Education, Progressive Promotion, Choice Making

1. Introduction

The Lao government is one of the countries, who emphasizes on promoting universal education as a priority for national development. Cooperation with international organizations is one of the tools for Laos to meet this goal. The recent development partners from 2011-2015 were EFA-FTI[2],

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1 Doctoral candidate, Keio University Graduate School of Media and Governance
2 EFA-FTI (Education For All- Fast Track Initiative), the international community facilitating the Educational Development of UN, two major conditions were necessary in order to access FTI funding. There had to be an education sector development plan, and that plan had to be assessed and endorsed by the local donor group.

JICA, World Food Program, World Bank, UNICEF, LuxDevelopment, Room to Read and Plan International (MOES, 2015). There have been numbers of mutual attempts to expand the school accessibility, to improve the quality of the education and to solve the educational challenges. These challenges include low graduation, high repetition and high dropout rate as shown in the low survival rate, which has been approximately 50% in 2000s (MOE, 2000). In 2000 at the World Education Conference in Dakar, Laos has adopted the Millennium Development Goal 2 (MDG2): Universal Primary Education and set the commitments as the national education development goals. The goals were to achieve the primary school enrollment rate of 95% and to achieve the primary school survival rate of 95% by 2015. With the adoption of MDG2, primary education was set as the most prioritized level to develop among all educational levels. And for the first time, the compulsory primary education level was fully implemented (MOE, 2000). As a result, the primary school enrollment rate has been improving from 68% in 2000 to 78% in 2006-07. However, there have been students dropping out of school, as evidenced by low primary survival rate to grade 5, which had always been slightly above 50% and only reached 63% in 2006-07. According to the cohort study[3] conducted by the Ministry of Education and Sports of Laos (MOES) during 1998-2011, there were approximately 280,000 students enrolled in Grade 1 in 1998-99, however only 110,000 stayed until Grade 5 in 2003-04. This seriously pushed down the rate of student moving up to higher level, only approximately 50,000 in the tertiary level in 2011, as shown in figure 1 (MOES, 2011).
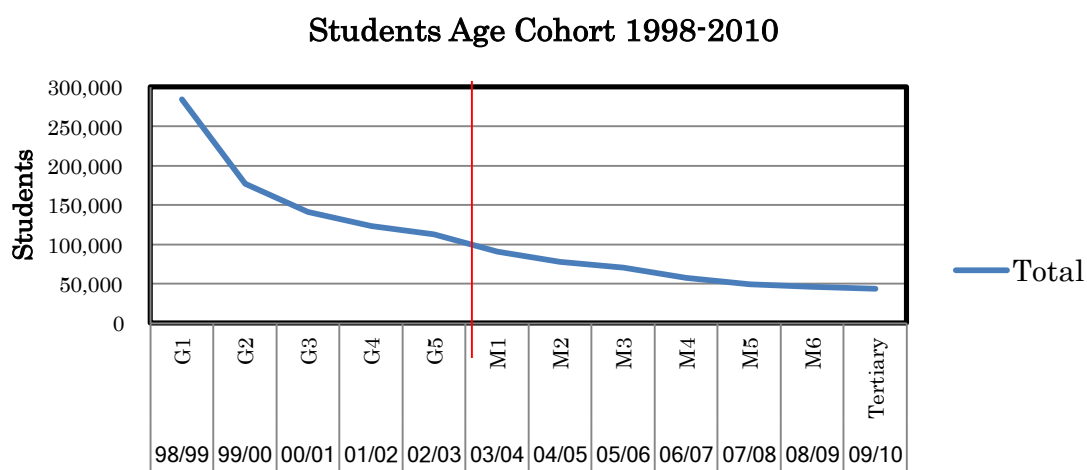

Figure 1: Students Age Cohort from 1998-2010 (G: Primary Grade, M: Secondary Grade)

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[3] Cohort study by MOES contains the calculation of number of the same group of students who enrolled in grade 1 until grade 5

One reason affecting low primary survival rate is the persistence dropout rate. It is above 10% each year for over the past ten years. Until 2010, the rate fell to 8%. But today, the rate had increased to 12% in 2015 (MOES, 2015), approximately one in eight students drop out after grade 1 enrollment. This problem is particularly critical in rural areas where the majority of population is still living near the subsistence level (MOES, 2012). According to the interviews with the Lao educational officers[4], the need to secure household economy has been the main reason of dropout issue. And sometimes unstable income from farm works drives them and their family members to migrate to work in different places such as Vientiane and some cities in Thailand, the neighboring country.

Therefore, as a mean to address the problem of high dropout and the low graduation rate, in 2009 Progressive Promotion Policy (PPP) was introduced by the government to allow students to proceed to higher grades without the need to pass a final exam. The idea was that PPP would encourage the students to stay at school until their graduation by making sure that they will be able to graduate within 5 years. This would also ease the economic burden of the family, as there used to be cases who spent as many as nine years to finish the primary schooling.

what was found in the research is that graduation alone is not strong enough as an incentive for the children to stay on at school. PPP, on the contrary ends up being the incentive for parents to let the children out of school. Since regardless of their performance students will get promoted to higher class. Parents feel comfortable to ask the students to leave school for sometime to help working at the farm and put them back to school when they are not occupied. The problem is when these students return, schools fail to prepare them to be back to school. There is no remedial classes to prepare the returned children to resume their schooling. This places these children in difficult positions where they have to struggle in catching up with the classes. This led the students to dropout for the second time posting a more problematic issue because when they dropout this time, they do not return to school again.

The research examines the decision making of individuals in their daily lives through understanding the decision making process of children going, leaving and returning to school. Also, to uncover neglected issues regarding the dropout problem, including that of the returned students in order to provide new insights to the policy making process for solving the dropout issue in Lao PDR.

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[4] Interviewing the Lao educational official at the central level during the fieldwork (2011-2016)

2. Education, the Mean to Increase Economic Growth

The current Lao education system has been shaped by the changing of Lao politics in the past. Historically, Laos has gone through many changes (Stuart Fox, 1997). France came to colonize Laos in 1893, in 1902 France introduced the formal education to Laos (Noonan, Phommalangsy and Phetsiriseng, 2013) replacing the temple education where monks were the instructors; providing the learning (reading, writing, literature, mathematics, medical science and basic morals). Only males were allowed to study. The French started by constructing two schools, one in Vientiane and one in Luangprabang, the two main provinces of Laos (Noonan, 2011). The schools were mainly accessible for the children of the elites and people who worked for the French administration. After half a century of the introduction of formal education, only 4.6% of the population had enrolled primary school (1954) (Stuart Fox, 1997). Most France-Aid on education was used not to expand education access in the country but to finance the Lao elites' higher education in France (Viliam Phraxayavong, 2009).

After receiving the independence from France in 1954, the country fell into a civil war between the Royal Lao Government and the revolutionary force, the Pathet Lao. The United States involved in the political turmoil in Laos and became the main supporter of the Royal Lao government through development projects in Laos during that time. Among the projects, Lao educational sector was encouraged to join the UNESCO conference on education development and review its goal to achieve universal education (Noonan, 2014). Since then there has been more students and schools. Still education was limited to some groups of people because schools were still lacking in remote areas. Moreover, Lao education was also struggling with its low quality. In 1962, only 11% of the students could graduate from primary school (Noonan, 2014). In 1975, 65% of the population aged between 15 to 45 was considered illiterate (Ng Shui Meng, 1991).

In December 1975, full independence was established in the country under the Pathet Lao government. Laos adopted a socialist system to manage its national policy with a centralized command. All the people were encouraged to participate in the national economic development and to be involved in the national building as a whole, President Kaysone had emphasized on the role of education as "the mean to raise the level of knowledge, patriotism, love of the people's democracy, the spirit of solidarity between ethnic groups and the spirit of independence. The pursuit of compulsory primary education is important", as a response in 1978, a decree of 'Universal Primary Education' was announced (Mya Than and Joseph L. H Than, 1997). What to note is that during this time, Laos was not prepared to accomplish the goal of universal education, the country was facing a

serious shortage of teachers. As more than 90% Teachers and other educated people fled the country. There was also a lack of civil servants; therefore the remaining teachers were absorbed into the government administration offices. There was also no enough instructional material and school building, few books were available for students and foreign books were destroyed (Noonan, 2014). Monks were asked to be one source of instructors and many temples provided educational service to people, especially in the rural areas. Lao educational performance was recorded to be poor. Although, the number of schools and students increased, many schools were considered as 'skeleton schools' only to formally fulfill the commands from the central government. More than 50% of teachers had only a few years of primary schooling and more than 50% of the schools were incomplete (Noonan, 2011). While there was a serious issue of the lack of teachers, there was only one teacher training school for the whole country; as a result, there was no possibility of providing a six-year primary school. Primary school shifted to be only five years. High dropout and repetition problems have always been the challenges of the Lao educational sector (Somlith Bouasivath, Khamphao Phonekeo, Oudom Chaleunsin, Khammy Bouasengthong, 1996). Regardless of the obstacles, the government was determined to place primary education in every village of the country.

Until 1986, the economic system was shifted from a central command to a market-oriented model. The government adopted the 'Opening Door Policy' for foreign cooperation and assistance from foreign countries to establish the national socio-economic development strategies. In March 1990, UN World Conference on 'Education For All' (EFA) was held at Jomtien, Thailand, promoting the basic learning needs of all'. Laos was one of the signees committed to achieve the target of 96.8% of Primary Enrollment Rate by 2010 (from 59% in 1990) (MOES, 2015). In September 1990, Laos also attended the 2nd UN Conference on the 'Least Developed Countries' at Paris, the conference announced that 'the least developed countries have the responsibility for the formulation of appropriate policies for their growth and development' (UN, 1990). Accordingly Laos targeted to achieve 7% of GDP growth by 1995 from 4% in 1990. The two goals commitments were purposed in the 3rd Five Year Socio-Economic Development Plan and approved at the 5th party congress in 1991. To collaborate with the new reform of the economic development, education was set as the tool to increase the GDP growth (MOPI, 1996).

However, according to the 1992 employment survey, the scarcity of skilled workers was shown to be the main factor leading to the concentration of industrial and service activities only in certain provinces. While in some provinces, a very large proportion of the labor force lacked even the basic skills (literacy and numeracy). The lack of skilled workers was crucial and was the most serious problem faced by the employers, coming before wages and labor market legislation (Yves Bourdet,

1998). Laos need to prepare skilled labor forces and create the good environment for foreign investors.

Regarding the current development indicators, Laos' GDP has increased from 1.3 Billion USD in 1986 to 12.3 Billion USD in 2014. However, the country is considered as one of the least developed countries, with 73% living under $2 a day, in addition to the HDI rank of 139/169 (2014) (UN, 2014). Education, thus, plays a crucial role as a key for people to be able to participate in the national economic development and make used of it particularly to improve their own household economy.

3.   Educational Development Policies

Following the 3rd Social Economic Development Plan, the 3rd Educational Development Plan was committed to achieve Education For All (EFA) goal of 96.8% primary school enrollment rate by 2010 (MOPI, 1996). Strategies were set to improve the educational sector in Laos, for example, to expand education to reach remote and mountainous areas, to construct the ethnic boarding schools, to promote private initiative in primary education and to improve the quality of education to meet international standards. As a result, primary enrollment rate had increased from 58% in 1992 to 75% in 2000 (UN, 2008). However, approximately 50% of the schools were still incomplete giving students difficulties on completing the 5 years schooling. Furthermore, the education quality improvement could not be fully implemented because of the lack of resources and the lack of quality causing by the unskilled teachers and their teaching practices (Noonan, 2013).

The joining of Laos the UN World Education Forum in Dakar and signed the MDG2, Universal Primary Education, where committed to achieve two main indicators by 2015. The first goal was to increase the primary enrollment rate to 95%. The second goal was to bring the survival rate for grade 5 to 95%. The commitments, there were more supports from international organizations, since 2000 international grants has been increasing. From less than 2 million USD in 2000 to more than 10 million USD in 2006. Regarding, the performance of the primary education during this time, school enrollment rate increased from 75% in 2000 to 84% in 2006. Repetition and dropout however were the problems affecting the survival rate, between 2005-06. 33% of the students repeated grade 1 and 20% repeated grade 5. 12,5% of the enrolled students dropped out after grade 1 in 2006. In 2006 the survival rate thus was recorded to be only 57% (MOE, 2009).

The grants on education went up to 20 million USD in 2010, which is the outcome of the signing of the Vientiane Declaration on Aid Effectiveness in 2006 between the Lao government and

the foreign organization development partners (UNDP, 2007). The declaration sought to increase the role of the international donors to become 'partnership' sharing mutual cooperation, accountabilities as well as playing the role of advising the educational development plans. For instance, in 2009 the Educational Sector Development Plan (ESDP) on primary education improvement was formed. Three main areas were to be reformed. First was to expand equitable access, second was to improve the quality and third, to reduce the dropout rate and lower the repetition rate of the primary school level.

3.1 Expansion of the Equitable Access

The equitable access was promoted through four main strategies. One of the strategies was the introduction of school block grant to offset the informal fee that school used to ask from the parents. Second was a scholarship to support children from poor financial condition families. Third was to form a multi-grade class in the incomplete school, so that the students could complete the 5 years primary schooling in these schools. The last one was the need to ensure the access to education for both genders.

In reality, according to the Education Sector Development Plan 2016-2020, the strategies set however were not fully implemented due to the problem of budget allocation and the incompatibility with the real situation at the local community. First the school block grant was recorded to be delayed and insufficient (6$ per student per year) to cover schools' basic needs such as purchases of utility and teaching materials. Therefore, many schools still continue asking parents for contribution. The strategy of giving scholarship to students from poor families is delayed due to the issue of channeling of community grants has not been taken place.

On the other hand, the implementation of the multi-grades class although can secure that students will be able to enroll all the 5 grades and has more possibility to graduate, the quality still needs to be questioned. The remaining problem of low quality as shown in the Assessment of Student Learning Outcomes (ASLO) in 2006-07, in Lao language slightly three-quarters of grade 5 students were at a functional level (78.5% in 2006 and 77.5% in 2007). In mathematics, nearly half of grade 5 students performed badly equivalent to grade 2 (49.1% in 2007). Therefore, mixing the grades could worsen the learning quality of the students.

Lastly, on the part of the gender parity, there is no specific gender promotion policy.

According to the interview with the educational authority at the district level, it was found that the local authority (the head of the village, village's youth and women union) has been playing an important role in promoting the benefit of girl schooling. Regarding the gender disparity of school enrollment, the rate has not shown to be problematic. Female rate of primary school enrollment has increased from 85% in 2000 to 92% in 2010. This led to an increasing of the overall enrollment rate in 2014 to be as high as 97%. As a result, the target MDG goal, primary school enrollment rate (95%), was achieved ahead of time (MOES, 2015).

3.2 Quality Improvement

The government had put in efforts to improve the quality of the nation's education. First, the instructional hours were increased. Additionally, recruitment of teachers from rural areas also increased. This was to ensure an adequate supply of teacher in rural areas. Moreover, improvement of the school management and the education of the teachers themselves were also focused on. However, despite with all the efforts the outcome did not appear to be positive (MOES, 2015).

The plan to increase the instructional hours failed to be implemented because the teachers lacked the understanding of lesson plan based on analysis on learners' context and demands. On the other hand, the second strategy led the teachers' training center to focus on recruiting entrants from rural ethnic areas. Less than 50% of the graduates become teachers. One reason mentioned during the interview with the educational official at the central level was that students are privately funded, hence, it is difficult to trace them after their graduation. Lastly, the third strategy to strengthen school management and delivery of teacher education, the difficulty of the task was the lack of leadership skill of the principle teachers, effective school management remained a problem and this affects teachers' performances (MOES, 2016).

This could explain some of the factors leading to primary school high repetition and dropout problems, as shown in Figure 1. The decline at the primary education level was the most problematic one, pushing down the rate of graduation and leaving much less students moving to higher classes. Less than 10% could make it to tertiary levels. When looking at the performance of Laos among ASEAN countries. Laos appeared to have the least graduation rate in the primary schooling among the ASEAN nations in the year 2008, as shown in table 1.

Table 1: Primary Graduation Rate of ASEAN Countries

	Both Sexes		Female		Male	
	2000	2008	2000	2008	2000	2008
Southeast Asia						
Brunei Darussalam	121.7	105.7	121.3	106.9	122.0	104.6
Cambodia	47.2	79.5	41.2	79.0	53.1	79.9
Indonesia	98.2	108.1	98.7	106.9	97.8	109.3
Lao PDR	69.3	74.7	63.3	71.0	75.1	78.3
Malaysia	94.0	96.4	93.4	96.2	94.6	96.5
Myanmar	79.9	96.9	77.8	99.7	82.0	94.1
Philippines	101.5	92.3	106.3	95.1	96.8	89.6
Singapore						
Thailand	87.0	87.5	86.7	88.5	87.3	86.6
Viet Nam	96.4		94.2		98.5	

3.3 Efforts to reduce Dropout Rate and Repetition Rate

Dropout and repetition issues have always been the problems of the Lao educational development, they become also the main challenging obstacles for Laos to achieve their national education development goals and MDG2 as a whole. As a response, ESDP has formed numbers of policies, including school feeding program and 'Progressive Promotion Policy' (PPP).

The school feeding program aims at encouraging children in lower primary grades to remain in school throughout the day. With the program, it is believed that students will not need to go back home for having lunch, which could create a possibility for them to not coming back to school in the afternoon classes. However, the program has not shown a concrete finding if it is effective. According to the current report of the ESDP 2016-2020, the school feeding could not be implemented regularly due to the delay of the budget allocation and it has not been applied in many schools (MOES, 2016).

PPP, as an incentive to lure students to stay at school until they graduate by allowing the students to be able to move up to higher grades automatically without a final exam. To offset the concern about the performance of the students, remedial classes during the vacation period were set to be provided to the poor performers (MOE, 2009).

When looking at the outcome, the rate of dropout has not shown to be improved but instead it has increased after the implementation of PPP, as shown in the graph below (Figure 2).
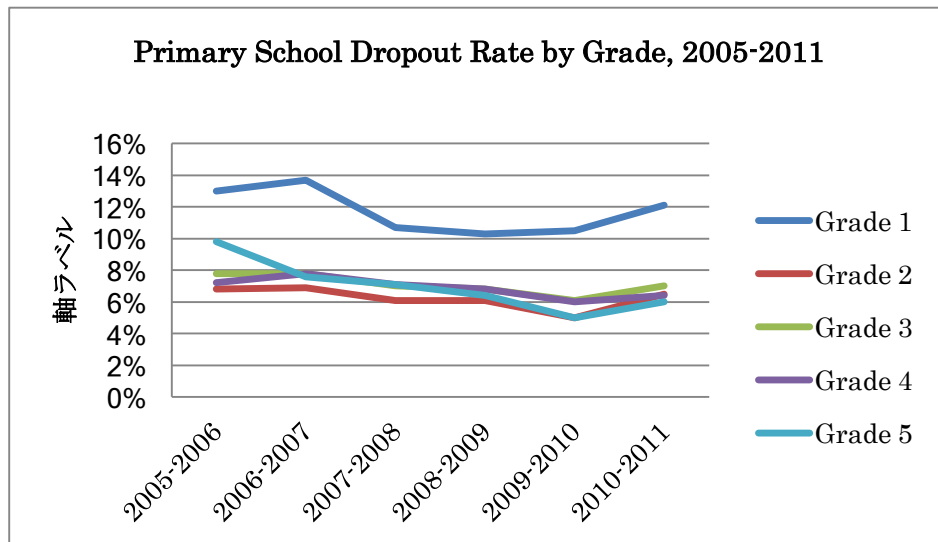
Figure 2: Primary School Dropout Rate by Grade, 2005-2011

Figure 2 illustrates the rate of dropout of the primary school level from grade 1 to 5 during 2006-11. Overall, the dropout rate had decreased during 2005-2009, then it went up again in the academic years of 2009-2010, when PPP was introduced. The rate in the following years also shown to be negative, as evidenced by the record of the dropout rate from 2008-09 and 2014-15 in Figure 3.
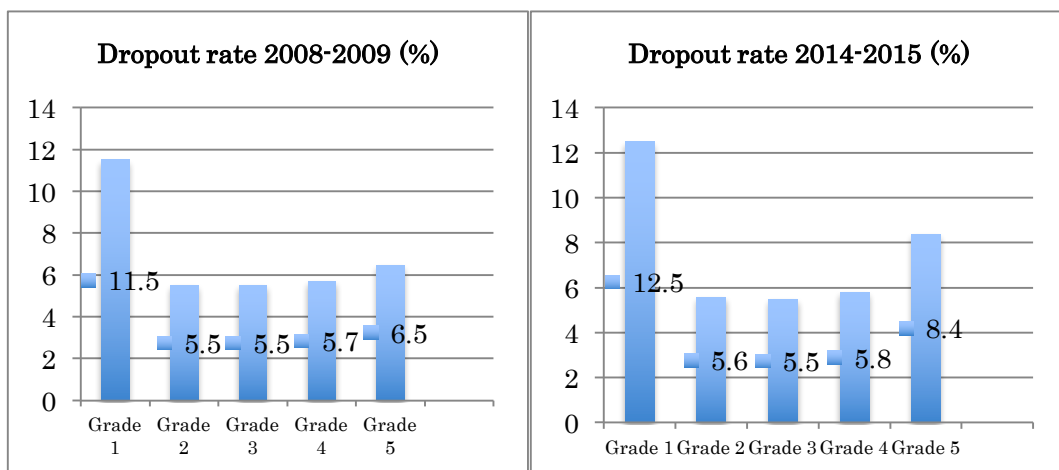

Figure 3: Primary School Dropout Rate 2008-2015

The ESDP educational reform including that of the PPP, represents one among the efforts from the government on promoting primary education in the country. What is puzzling is that

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regardless of the efforts from the government, there has not been a positive respond from the people. What leads to the increase of the dropout rate and what are the outcomes of PPP are what the research will examine through understanding how do people (parents and the children) make decisions in their daily lives regarding the primary schooling.

4.   Decision Making Process of Schooling

The important role of education has been promoted throughout the country. It serves as the most promising tool to have higher and stable income, and have more job opportunities. However, in the communities where the majority of the population are still living under the subsistence level such as growing rice and vegetables, catching fish in the river nearby and raising livestock (e.g. pigs, cows and buffaloes) as the only source of food security and the insurance of the household. Therefore, investing on children's education might not be an affordable option. Such investment idea is shared more among parents of middle to high-income families, as it is costly both time and money.

In order to understand the issue of dropout and PPP closely, a fieldwork at Pak Ngum District will serve as the case study to examine how the local people perceive the role of education in their daily context. And to re-examine the role of school and PPP, to identify the unmet needs that lead students to dropout of school.

4.1 The Case Study

A. Research Site

Pak Ngum locates in the rural area in Vientiane and is also one of the nine provinces out of 17 provinces that lie along the Mekong River sharing border with Thailand. It shares similarities with other rural areas in the country of having the majority of the population engaging in rice farming as their subsistence way of living. Furthermore, it has a poor economic performance, limited job opportunities and not enough infrastructure to form industrial farming activities.

Pak Ngum is currently consisting of 50,169 people locating in the suburb area in Vientiane (the capital city), 80 KM from the city centre. Approximately 90% of the population relies on rice farming, the other 5% engages in factory working and migrating to work in big towns (Vientiane or Thailand) and the rest 5% includes students and office workers.. The economy was primarily based on agriculture and the economic performance is considered to be the poorest in Vientiane with the GDP per capita of 580 USD as opposed to one of Chanthabury District, the main cities where has

1920 USD (MOPI, 2015).

Regarding, the education performance of Pak Ngum, despite the high primary school enrolment rate 81% (2013-14), it had the annually dropout rate of 3.5% (2013-14) while the other areas are around 1-2 %, which was the highest rate of dropout among districts in Vientiane. Additionally, the primary survival rate to grade 5 was as low as 65% in 2013-14 (MOE, 2015) as shown on the table 2.

Table 2: Primary school dropout rate in each district in Vientiane in 2013-14[5]

Districts in Vientiane (City town Area)	Primary school dropout rate	Districts in Vientiane (Suburb Area)	Primary school dropout rate
Chanthabury	1.9	Nasaithong	2.8
Sikodtabong	1.5	Saythany	2
Saysetha	2.2	Haisaifong	3.4
Sisattanak	1.6	Sangthong	2.4
		Pak Ngum	**3.5**

B. Methodology

The research relies on an ethnographic method, in-depth interviews and participatory observations. Ten rounds of fieldworks were conducted between July 2011 to July 2016, in Pak Ngum District, where 175 informants, students (8 schools), parents, teachers and educational officers were interviewed.

C. Findings

Rice farming is the main source of food and income of the population in Pak Ngum. There are two main types of rice farming: rice paddy and 'slash and burn' or shifting agriculture. Rice paddy takes around 7 to 8 months. It starts from April to clear the land, in May (rainy season) to plant the rice, to remove weeds consistently for five months, and in October or November to harvest, which is the busiest time of the farmers. Another method is the slash and burn takes place on the mountain, the practice takes even longer up to 9 to 10 months. It starts from clearing the land by slashing the small plants and trees, these plants are left to get dried enough for the farmers burn them and re-burn until the land is completely cleared. Later is the planting process, then consistently weeding and lastly harvesting. Slash and burn method is known not only to be time consuming but also labor incentive than one of the rice paddy. The farmers and their family members need to settle on the mountain during the busiest time including slashing, burning and harvesting.

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[5] The dropout rate shown on the table is the yearly average rate of Grade 1 to Grade 5, the rate will be accumulated for 5 years to calculate the survival rate to grade 5

One way of dealing with labor intensive during the busy time is to form a cooperative labor force moving from one field to another, however, the original idea of cooperative was adjusted. Members of the group need to be paid by the owner of the field after they are done with the task before shifting to others fields. The only differences of this from hiring the private peasants is that this way the farmers can pay slightly cheaper and can secure the labor forces. Therefore, forming the cooperative group is only an option for farmers with enough capital. Otherwise, they have to rely on children to be the source of labor force.

Therefore, in November of each year, it is recorded to be the time schools have the most absence record of students, usually one to two weeks. Rice harvesting depends heavily on water from the rainfall, the amount of rice varies from the condition of the climate. Sometimes this unstable outcome of rice farming drive the parents to look for job elsewhere. In case of Pak Ngum that shares borderline with Thailand, thus the neighboring country is one of the choice at which people choose to go and work there, letting the children to dropout from school and move with the parents. There has not been the exact record about number of immigrant worker from Pak Ngum to Thailand, because the majority have moved illegally. However, the interview with the heads of the villages (Ban Pao, Ban Mark Nao, Ban Natarm, Ban Hai, Ban Nason) could provide the overall number that approximately 5 out of 10 families have migrated to work in Thailand. The majority usually stay there for 5 months to 10 months and some stay as long as 2 to 3 years.

Although, the role of school has been promoted widely as a tool to secure the lives of the people, as it is the most promising tool to secure the stable income and job opportunities in the future, the current needs seem to be more urgent that they tend to response to it more. For parents and their children at rural areas, besides children schooling, there are also other priorities to take care of, such as the rice field and the household income.

PPP, the incentive to encourages students to graduate thus fails to meet the unmet needs of the people as graduation is the only their main concern. PPP instead end up encouraging the parents to take the students in and out of school whenever they need to respond to the basic needs of the family e.g., to help with the farm and follow the parents to work elsewhere. Furthermore, PPP makes the problem worse, by placing the returned students in higher classes without the remedial class to help the students to catch up with the classes. This discourages the returned students to stay on at school and dropout for the second time become their only choice. The most serious problem is that when they quit school for the second time they never return.

Reasons of going to, dropping out and resuming school

School for the educational officials is a place for students to be trained academically. Parents are the actors who need to assure that this duty will be fulfilled. However, schools could also be viewed by the parents as a safe place for their children to stay when they are busy working. On the other hand, as for children, beside studying, schools could simply be a place where they can interact with their friends and discover new things together. When they have no need to provide labor force at the farm, they go to school like many children in the neighborhood.

Regardless of the important role of school, when families need to respond to secure the household economy, children need to forgo the choice of schooling. They were asked to dropout to provide labor helping on the farm, especially during the harvesting time, or to take care of the younger siblings and sometimes to follow parents to work elsewhere. Especially when the parents do not have an exact plan to come back. Staying together is another priority for them.

However, whenever the students are not preoccupied with the work. They do return to school to meet with their friends and to be back to the environment where they can have fun. It is surprising that actually these returning students are not being mentioned in any educational report before. Therefore, there has not been any policy to support the returning students, thereby rending them with no assistance to resume school. As a result, they do have problems of catching up with the content of the classes. According to the principle teacher of Natarm Primary School, returning students are usually ending up being the poor performers of each class.

PPP, the incentive from the government for the students to stay on at school and the outcome

PPP was introduced in the end of 2009 to allow students to advance to the next classes progressively. Regardless of the results of chapter-end tests and marks obtained in the personal record. Hence, students can move to higher grades. The idea is to encourage the students to remain in school and graduate the primary school within 5 years.

In reality, however, PPP resulted in the opposite outcome it ends up bringing the incentive for the parents to take the children out of school and put them back when they are not occupied. Parents feel less pressure not to take their children to school. This is because PPP has loosen the 'rules of school'. For example the lack of attention to the student is attendance and efforts makes resuming easier than before. The returning students do not need to repeat the grade where they were, but can be moved up with their classmates.

Keo (10 years old, grade 4) is a son of a family who rely on the rice farming for household consumption. Because the family does not have enough capital to hire labor, Keo was used to be

asked to leave school during the harvest time, which usually takes 2 weeks. However, later the parents started to also ask him for other process of the farming. Another case is Dork Huk, an 11 years old student, her parents were farmers and during the non-cultivation time, they often go to Thailand to do piece job for extra income. When parents go to Thailand, Dork Huk stayed with her grandparents going to school regularly. After PPP, her parents sometime take her out of school and follow them to Thailand. When she was in grade 2, she followed her parents to Thailand and stay as long as one year. Dok Huk returned to school, without the need to repeat grade 2, she was placed to grade 3.

Despite the interval of their absences, the students were placed in the higher grades. However, there is no remedial classes to support these returning students in particularly and other poor performers before schools start. None of the 53 primary schools in Pak Ngum could provide the remedial classes. Some schools like Ban Phao and Ban Hai Primary School, provided extra lessons during the school academic year, but only the main subjects (mathematics and Lao language). In other schools such as Ban Mak Nao and Ban Natarm Primary School, teachers mainly gave the students homework as a way to improve their performances. Phonemy, teacher at Natarm Village said, parents need to make sure the students do their homework, otherwise, the performances of the students will not be improved.

Although teachers play an important role in promoting children schooling, teaching is one of the many concern in their daily life. Due to the lack of budget allocated from the central government, remedial classes cannot be implemented. This is because of the low paid salary of teachers (80USD to 100USD) that leads them to look for other side jobs such as farming and selling food at the market. Therefore, providing remedial classes without extra payment could be a real burden for the teachers, who also need to secure their household needs.

Regardless of what the officials, teachers and parents are preoccupied, with PPP students are left with minimum help. As seen in the case of Keo, when he resumed school, without planned assistance from school, Keo cannot follow the content of the class and his overall performance has been remaining poor. However, it is more problematic for the students who have left school for a longer period of time.

The majority of the returnees come to school without remembering the previous lessons they had learnt when they were at school. Furthermore, many of them had lost their study habits. Therefore, for them, the materials presented in their new class were entirely new and unfamiliar. Especially the returnees who had stayed for a years in Thailand, they even became accustomed to speaking Thai. As evidenced by the case of Dork Huk, she was expecting to return to school to have

the same environment as before, but was exposed to a totally new environment, where she could not compete with the classmate, finally she had to drop out from school for the second time.

Six out of ten returning students (one and more years of absence) in the seven visited schools, dropout from school for the second time for not being able to pick up the content of the lesson. Buabane serves as another case study. She is 13 year old, she went to Natarm Primary School. Her parents migrated to work in Thailand when she was in Grade 2. Buabane was asked to leave with her parents and stayed there for two years. When the family returned to the community, Buabane returned to school, under PPP, she did not repeat Grade 2 and 3 but was placed in Grade 4. However without receiving the preparation to resume, the lessons were completely new to her. After being at school for several months, she could not survive the difficulties of learning. This discouraged her from staying in school and quitting school again and never return.

What was found to be more serious is that when the returning students dropout for the second time, none has returned to school again. Based on the fieldwork, the first reason are the students expecting to go back to the environment where they used to have fun and enjoy to stay, which is one of their schooling needs. Another is to receive the learning based on their ability. But with the unsuitable lesson to their level, with minimum help from teachers, school is not a place where they can enjoy anymore and this drives them to have the only choice, dropout. This explains the puzzle why the dropout was not improved regarding the introduction of PPP.

PPP, a misplaced policy

PPP helps to improve the overall performance of schools (reducing repetition rate and over-aged students in classes), however, not the individuals. Throughout the academic, there have been actually student's dropout and resuming school. Without the remedial classes, these students fail to catch up, resulting in having poor performance and get discouraged to stay on at school. Leaving dropout as their only choice. What poses a more difficult problem is when they quit in the second time, they will not come back to school again. Because of the reason, PPP failed to improve the dropout problem, consequently the primary school survival rate failed to meet the goal of 95% by 2015 with only 78% (MOES, 2016).

5.　The Implications of Dropout as a Choice

The Lao government recognizes the significant role of education, i.e., job opportunities and stable income. However, the idea receives little response from the local people, especially from the

ones whose lives are based on a subsistence way of living. Going to school for the children and the parents is one of the many things in their lives that they worry about. Their main concern has always been about how to secure the household basic needs. Although, the parents and their children are informed about the important role of education, their situations and conditions do not allow them to reach the choice of schooling.

Without paying a close attention to the local context, PPP, as an incentive to lure students to stay in school, ends up being the incentive for parents to let the children dropout from school easier and return to school when they are not occupied. This is because there have always been a temporary leave of some students to help securing family's basic needs. The problem is when they resume, schools are not prepared to have them back and students fail to catch up in higher classes. When they are exposed to the competition they cannot survive, dropout is left as their only choice.

More attentions were gathered at the educational development goals, which shown in the adoption of PPP. Graduation does not answer the needs of the people's lives, which the main concern had always been how to secure the household's income. With PPP the choice to resume and to stay on at school becomes difficult. The real irony here is that the situation of the family is a result of the lack of education rending them not to have many choices. And the problem is if parents don't send their children to school, the children might not send their kids to school as well and the family will remain in the circle of poverty, as stated by Torado (Michael P. Torado Stephen and C. Smith, 2009).

The research has a great significance in making the local people's voices heard to narrow the gap between the local people and the central educational authorities; regarding the children's schooling problem and the effects of the newly adopted PPP. Education in practice must be contextually defined (reflecting on the daily life of the local people) if it can achieve its stated goals such as raising the survival rate through PPP.

References:

ADB, Key Indicators for ASIA and the Pacific 2010, retrieved from:
  http://www.adb.org/publications/key-indicators-asia-and-pacific-2010
IFC-World Bank Enterprises Surveys. (2009). International Labor Organization. (2010). Retrieved from: http://www.ilo.org/ipec/Informationresources/WCMS_202334/lang--en/index.htm
MOE, 2000, "Education Law, Ministry of Education", Vientiane, Laos.

MOE, 2007, "Grade 5 National Assessment Survey", Ministry of Education, Research Institute for the Educational Sciences, Vientiane.

MOES, 2015, "Lao Educational Statistic 2015", Department of Statistic, Ministry of Education and Sport, Vientiane, Laos.

MOES, 2009, Instruction on Implementation the Progressive Promotion for Primary Education Level No.1203/MOE/2009, Ministry of Education, Vientiane.

MOES, 2012, "The challenges to achieving the millennium development goal 2 & 3: the rapid assessment of school dropouts, the distribution of textbooks and teachers' guidelines primary education (In Lao)", Educational Strategy Research and Analysis Center, Ministry of Education, Vientiane, Laos.

MOES, 2016, "Education and Sector Development Plan 2016-20", Ministry of Education and Sport, Vientiane, Laos

MOES, 2016, "Education and Sector Development Plan", Expand the equitable access of problem of the real situation.

MOES, 2015, "Pak Ngum Educational Annual 2014-2015 Report", Pak Ngum Educational Office, Pak Ngum District, Vientiane.

MOES, 2012, Teacher Monitoring and Evaluation, Ministry of education, Planning Department, Vientiane.

MOES, 2013 "Education Sector Development Plan 2011-2015", Mid-term review, Vientiane, Ministry of Education and Sport.

MOPI, 1996, "National Socio Development Plan 1996-2001", Ministry of Planning abd Investment, Vientiane, Laos.

Mya Than and Joseph L. H Than, 1997, "Laos's Dilemmas and Option", Institute of Southeast Asian Studies, Singapore.

Michael P. Todaro Stephan and C. Smith, 2009, "Economic Development", Pearson Education Limited, England.

Noonan, 2013, "Lao PDR: The Great Transformation", Chapter 6 in Lorraine Pe Symaco (ed.), Education in Southeast Asia, London, Bloomsbury.

Noonan, 2014,   "US Aid to Education in Laos, 1955-1975: A Contribution to Historical Comparative Education", Embedded in Time and Space, Journal of International and Comparative Education, Volume 3, Issue 1.

Noonan, 2011, "Education in the Lao People's Democratic Republic: Confluence of History and Vision", Education in the Southeast Asia, Oxford Studies.

Ng Shui Meng, "Social Development in the Lao People's Democratic Republic: Problems and Pros- pects," in Laos: Beyond the Revolution, ed. Joseph J. Zasloff and Leonard Unger (London: Mac- millan, 1991), pp. 162-63.

OECD, Basic Education, Grants VS Laons, retrieved from:
http://www.openaiddata.org/purpose/745/112/top/

Somlith Bouasivath, Khamphao Phonekeo, Oudom Chaleunsin, Khammy Bouasengthong, 1996, "History of Lao Education", Ministry of Education, Vientiane, Laos.

Stuart Fox, 1997, A History of Laos, Cambridge University Press, Melbourne, Australia.

UNESCO, 2005, "Education For All: National Plan of Action 2003-2015", UNESCO Asia and Pacific Regional Bureau for Education, Bangkok, Thailand.

UN, 2008, "The Millennium Development Goals report 2008", Retrieved from:
http://www.un.org/millenniumgoals/2008highlevel/pdf/MDG_Report_2008_Addendum.pdf

UN, 1990, Second United Nations Conference on the Least Developed Countries, retrieved from:
http://www.un.org/en/development/devagenda/ldc.shtml

UNDP, Human Development Indicator, Retrieved from:http://hdr.undp.org/en/countries /profiles/LAO

UNDP, 2007, "Vientiane Declaration on Aid Effectiveness",
http://www.la.undp.org/content/lao_pdr/en/home/library/poverty/Vientiane_Declaration_Aid_E ffectiveness.html from buffer state to crossroads?".

United Nation, 2008, "The Millennium Development Goals report 2008", retrieved from:
http://www.un.org/millenniumgoals/2008highlevel/pdf/MDG_   Report_2008_Addendum.pdf

UNFPA, 2014, Universal quality education impossible without upholding girls' and young people rights, retrieved from:
http://www.unfpa.org/news/universal-quality-education-impossible-without-upholding-girls%E 2%80%99-and-young-people%E2%80%99s-rights

Vatthana Pholsena and Ruth Banoyong. (2006). "Laos from buffer state to crossroads?" Mekong Press. Chiang Mai, Thailand.

Viliam Phraxayavong, 2009, "History of Aid to Laos: Motivation and Impacts", Mekong Press, Silkworm Books.

Yves Bourdet, 1998, "The Dynamics of Regional Disparities in Laos: The Poor and the Rich", Asian Survey, Vol. 38, No.7, University of California Press.

Oliver Richmond, *Peace: A Very Short Introduction*, Oxford University Press, Oxford: 2014, ISBN: 978-0-19-965600-4, 140 pp.

Yoshiaki FURUZAWA [1]

This little book captures "the evolution of peace in practice and theory" (p. 4). This is quite a timely endeavor as almost two decades of peace-building records by the international community since the 1990s pose an old (but new) question: what is peace? That is, should war-torn societies (which are mostly non-western countries) follow the Western model of liberal peace or not? This book is divided into the following chapters:

Introduction: The Multiple Dimensions of Peace

Chapter 1: Defining Peace

Chapter 2: Peace in History

Chapter 3: Peace in Modernity

Chapter 4: The Victor's Peace in History

Chapter 5: The Constitutional Peace

Chapter 6: The Institutional Peace

Chapter 7: The Civil Peace

Chapter 8: Peacekeeping, Peace-building, and State-building

Chapter 9: Hybrid Forms of Peace

Epilogue: New Agendas for Peace

Since the way this book is written is unique in utilizing a genealogy (which will be touched upon later in this review), this review will divide the book into following three parts: (1) conceptions of peace (Chapter 1); (2) a historical review of peace (Chapters 2 and 3); and (3) different approaches to peace (Chapters 4, 5, 6, 7, 8 and 9).

First, acknowledging that "[d]efining peace and its dimensions is a difficult task" and "[t]here is no single definition," Chapter 1 summarizes discussion of peace into three categories: narrow, broad, and multiple versions of peace (p. 5). The first two are referring to well-known conceptions of peace by Johan Galtung: negative and positive peace. Thus, the narrow version (or negative peace) refers to "the ending of violence but not resolving its underlying causes," and the author adds that the narrow version is fragile because "it is based on ever-shifting configurations of power in the

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[1]. Hiroshima City University

international system or within the state" (pp. 5 and 6). The broad version (or positive peace) is more sustainable, and implies "the lack of open violence between and within states" as well as "conditions for society to live without fear or poverty" (p. 8). The third category of peace is based on a discussion of the "hybrid peace" that problematizes post-Cold War attempts to build the broad version in war-torn countries, which tends to create "a peace agreement, peaceful state, and society according to a *single* universal model" (p. 5). Thus, multiple versions of peace (or, hybrid peace) imply "the coexistence, but simultaneously agreement to differ, of very different social and political systems" (p. 5). The author's stance towards each conception can be observed in his attempts to illustrate underlying questions for each: "does one make peace by subjugating one's enemies (negative peace), assimilating them by converting them into something similar to the dominant group (positive peace), or by accepting, and thus becoming reconciled to their difference (hybrid peace)?" (p. 6).

Next, illustrating the point that peace is not a modern invention, Chapters 2 and 3 capture a historical evolution of the concept of peace – with the former covering up to the 20th century and the latter from the 20th century on. In Chapter 2, with the "flowering of peace thinking during the Enlightenment" and "the birth of an array of social movements, activists, and lobbyists for peace" from the 19th century, Richmond illustrates that peace is built not only by the elite/state, but also by the hand of ordinary people, reflecting a shift from a negative to a positive peace (pp. 33 and 36). Chapter 3 illustrates that, especially following the collapse of the Soviet Union, liberal peace became the leading response to a conflict, promoted by western, dominant peace-building actors (e.g. the United Nations, EU, USA, UK, etc.). This development, for example, can be observed in a concept of "human security" (instead of "national security").

The following chapters show different "approaches" to peace (Chapters 4, 5, 6, and 7), culminating in a contemporary discussion of peace and peace-building (Chapters 8 and 9). When reading through these chapters, it is important to understand that the author is utilizing a methodology known as a genealogy, which can be observed from a figure used in its Epilogue called "A Genealogy of the Liberal Peace" (p. 123). Genealogy is a methodology developed by Friedrich Nietzsche and Michel Foucault, which aims to investigate development of concepts which "we tend to feel [are] without history," in this case, a concept of "peace."[2] Here, genealogy is not about search for an origin, rather it aims to understand how current conceptions were have been created over time. Thus, a development illustrated in genealogy is not necessarily linear, often including a

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[2] Michel Foucault. 1980, *Language, Counter-Memory, Practice.* Ithaca, NY: Cornell University Press. p. 139.

strand of thinking that may seem incoherent (in this case, "victor's" peace within "liberal" peace).[3] The following chapters trace historical developments of liberal peace framework, which author breaks into the following four intellectual traditions/practices: victor's peace (Chapter 4), constitutional peace (Chapter 5), institutional peace (Chapter 6), and civil peace (Chapter 7).

Chapter 4 explains a form of negative peace known as victor's peace – a view that peace emerges from a military victory – which is based on understandings that "power can be exercised by the hegemon (meaning a state or empire that controls the most resources), driven by their imperial or strategic interests" (p. 57). This, however orderly, is only sustainable while a hegemon remains in power, which leads to the following three approaches to peace in realizing a positive peace (i.e., constitutional peace, institutional peace, and civil peace).

Chapter 5 explains an approach to peace that focuses on domestic political architecture called "constitutional peace," which is based on the understanding that "peace could be constructed through law, institutions, rights, and prosperity" that emerged during and after the Enlightenment (p. 60). This is "an advance" of the victor's peace, however, a problem is that states often exploit their peoples. Developing around the same time as constitutional peace, Chapter 6 explains another approach focusing on an international architecture, called "the institutional peace," supporting the consolidation of a constitutional peace within and between states. It aims "to anchor states within a specific set of values and a shared legal context through which they agree multilaterally how to behave" (pp. 67–68), although it can often be "slow, cumbersome, and sometimes unenforceable because states have to agree on a direct course of action" (p. 77). While the aforementioned constitutional peace is "an elite-level official discourse by state and government" (p. 65), tracing back to social and advocacy movements emerging during the 19th and 20th centuries, Chapter 7 explains another approach, called the "civil peace" – which sees that "every individual in society has the capacity to mobilize for peace" (p. 79). Without the civil peace, constitutional and institutional peace discussed in previous two chapters would not be able "to connect with ordinary people" (p. 79). In the early 1990s with the end of the Cold War, these four approaches to peace culminated into the liberal peace.

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[3] Elsewhere, citing a different work written by Richmond, Paris criticized Richmond about "including" victor's peace in a discussion about liberal peace. For example, Paris stated that the "assertion that liberalism [liberal peace] contains a penchant for military victory over negotiated settlement [victor's peace] … is dubious on both theoretical and an empirical grounds." This is because, as Paris rightly pointed out, "this belief [victor's peace] is more accurately associated with the realist project." Touching upon victor's peace when discussing liberal peace may seem "dubious" from one perspective, however. If one understands that Richmond's effort is a genealogy, then, that is not necessarily the case. Thus, this reviewer disagrees with Paris on this point. This reviewer feels that this miscommunication could have been avoided had Richmond touched upon genealogy in his works (including this book). See, Paris, Roland. 2010. "Saving Liberal Peacebuilding," *Review of International Studies*, 36(2): 337–365.

With this background, Chapter 8 illustrates a contemporary discussion on peace-building, which has become the dominant approach for responding to intrastate conflicts. Despite mixed records of peace-building practices, the author notes that peace-building has "continued the shift towards a much more positive understanding of peace" (p. 101). The author, however, points out that peace-building often has become "a system of governance in post-conflict and development settings," resulting in a situation where peace-building does not always match "the lived experiences of individuals and their needs in everyday life, or vis-à-vis their culture and traditions" (p. 104). This is where the concept of hybrid peace comes in.

Chapter 9 focuses on the specifically contextual version of peace called "hybrid peace," which are emerging as an international and local cooperation around the world. It is "neither strictly a liberal nor a local form of peace, but a hybrid, formed through political contestation involving a range of actors, their preferences, and security interests," incorporating local organizations ranging from civil society organizations to local customary practices (p. 106). The author describes this phenomenon as "a slow movement towards what might be called a *post-liberal   peace,* one where international norms and institutions interact with different, contextual, and localized polities" (p. 108).

This reviewer finds the following two characteristics of the book quite interesting. First, the author acknowledges the contributions of ordinary people in building and maintaining peace in a broader historical evolution – from negative to positive peace: "A public or official narrative of history tends to be dominated by elites … However, there is also a private transcript of everyday history that offers a more nuanced understanding of human history and society" (p. 9). This stance allows the author to perceive positive peace as "[reflecting] the growing demands of populations for their rights and needs to be met, and for essential public services to be provided in order to transcend the identity, religious, material, ideological, and territorial differences" (p. 11).

Secondly, this reviewer also believes that this little book makes important contributions towards understandings of peace (and peace-building) in the following two ways. First, people have different views on the term "state-building," but it is interesting to see the author labels "state-building" as a "neo-liberal peace-building," as having emerged in the early 2000s, which author explains as "a significant retreat from the normative aspirations of the liberal peace" (p. 101). Secondly, it is interesting to see a distinction made between "negative" and "positive" hybrid peace, since this illustrates that hybrid peace is also not a panacea (p. 107). Furthermore, the author mentions that, without support from local actors, hybrid peace would be "negative", which is less sustainable: "without local peace formation dynamics, international actors will probably be ineffective in

promoting change or transformation, resulting in at best a negative hybrid form of peace" (pp. 115–116).

While the contributions made by the little book are impressive, however, this reviewer would also like to make a comment on a relationship among the three peace conceptions introduced in Chapter 1 – narrow, broad, and multiple conceptions of peace. This reviewer wonders whether or not Chapter 1 is the best place to introduce the concept of multiple versions of peace (or hybrid peace). For example, in Chapter 9, the author notes "[a] hybrid peace may represent an evolution beyond a positive peace," but it is not clear whether a hybrid peace is *beyond* or *another   form* of positive peace (p. 107). This is particularly the case when the author makes the distinction between "positive" and "negative" hybrid peace in Chapter 9. Rather than introducing all three in Chapter 1, this reviewer feels that it may have been better to mention them in Chapter 9 in order to avoid confusion among readers about a relationship between positive peace and hybrid peace.

Despite my comment, this is a good concise book covering discussions surrounding the concept of "peace" and "peace-building." It is a must-read for students of International Relations and Peace Studies, as well as researchers and practitioners of peace-building and conflict resolution.