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CULTURAL SOVEREIGNTY BEYOND THE MODERN STATE: SPACE, OBJECTS, AND MEDIA

Cultural Sovereignty beyond the Modern State

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Cultural Sovereignty beyond the Modern State

Space, Objects, and Media

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Introduction: Cultural sovereignty – claims, forms and contexts beyond the modern state

Crisis? What crisis? Sovereignty, its proponents and discontents

"Sovereignty is back" – thus was the apodictic statement of Canadian historian and politician Michael Ignatieff in 2012.[1] Indeed, sovereignty has made a most remarkable comeback both as a subject of political and scholarly debate as well as a feature of political practice. The list of recent and palpable assertions of state sovereignty in the traditional sense is long, and they found perhaps their most symbolic as well as their most concrete expression at that traditional site of state sovereignty since the nineteenth century that is the inter-state border. A few numbers for illustration: Between 2006 and 2015, an estimated 40,000 people died trying to cross state borders.[2] While the number of border walls was as low as twelve in 1989 – the year the Berlin wall came down – walls and fences to clamp down and channel cross-border movements have risen to around 70 by the year 2014.[3] Most recently, the pandemic caused by the SARS-CoV-2 virus has triggered a series of actions by the states from closing borders for citizens of other countries and preventing exports of medical goods to imposing curfews or restrict free movement within their territories. Even within the European Union, joint actions seemed to lag behind these unilateral measures so that international coordination appeared more the result of a competitive process than based on multilateral cooperation. Consequently, the global implementation of such harsh policies of excluding non-nationals during the SARS-CoV-2 pandemic stressed the current universal trajectory of sovereignty. If there has been a crisis of state sovereignty, as many political analysts have remarked over the last

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1 Michael Ignatieff, 'The Return of Sovereignty', in: *The New Republic* (25 January 2012) https://newrepublic.com/article/100040/sovereign-equality-moral-disagreement-government-roth. [2020-03-18]

2 Reece Jones et al., 'Interventions on the State of Sovereignty on the Border', in: *Political Geography* 59 (2017), 1–10, 1.

3 Elisabeth Vallet ed., *Borders, fences and walls: State of insecurity?* Farnham 2014, 1.

25 years, sovereignty has nonetheless retained its decisionist, authoritative, exclusive and even lethal edge.

Yet, there is more to sovereignty than the control of borders and mobilities. One of the major mobilising factors for Brexit supporters, for example, was the desire to restrict the freedom of movement for Central and Eastern Europe workers in the United Kingdom. This argument was, however, charged not only with the demand to regain "full" or "real" sovereignty over legislation and justice but also with imaginaries of British, or more to the point, English identity, and the desire to regain former greatness and global outreach often associated with an unspecified imperial past.[4] President Trump's blend of "making America great again" and "keeping" it great in 2020, building a wall at the southern borders towards Mexico and the withdrawal from international multilateral agreements and institutions followed a similar if more openly racist pattern.

Sovereignty has, therefore, extended well beyond the agencies and institutions of modern states. Contests over migration have reverberated far beyond the geographic locality of borders and unleashed polarizing political debates over rights and citizenship, national identifications, belonging, and the degree of social and cultural plurality in virtually all European societies. The last decade has, for example, witnessed the emergence of vociferous right-wing identitarian movements across Europe who often claim the defence of "cultural identity" already in their respective denominations.[5] Adherents of these groups draw on biologically-based ideas of a so called "ethnic pluralism" that draws a sharp distinction between people of Western European descent and immigrants, particularly with a Muslim background. In what is often taken as a founding moment of the movement, French identitarian activists unfolded a banner on the rooftop of a mosque in Poitiers in 2012, invoking the year 732 when Frankish troops under Charles Martel defeated the Umayyad caliphate in the battle of Tours-Poitiers or Ma'arakat Balāṭ ash-Shuhadā'. In Germany, similar ideas became part of a conspiracy theory of an engineered "population exchange" threatening "ethnic Germans" to become a minority in their own country after what has been called a loss of political control during the alleged Syrian refugee crisis of 2015.

The recently observable backlash of traditional state sovereignties, respectively claims of societal groups to authoritarian forms of governance and the defence of alleged cultural identity sit alongside, and in part react to what many

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4 See e.g. Beatrice Heuser, *Brexit in History: Sovereignty or a European Union?* London 2019 and Steve Buckledee, *The Language of Brexit: How Britain Talked Its Way Out of the European Union*, London 2018.
5 The Austrian branch of the Identitarian Movement, for example, was registered in 2012 under the name *Verein zur Erhaltung und Förderung der kulturellen Identität*.

political observers have referred to as a widespread crisis of the sovereign na-
tion state and the erosion of state sovereignty. Since the end of the Cold War,
these commentators see various developments that have undermined the deci-
sion-making powers of the European nation states.[6] For example, the creation
of supranational institutions, such as the International Criminal Court in The
Hague or the progressively integrated European Union, has effected the trans-
fer of core competencies of nation-state sovereignty to these institutions. Deci-
sion making in important policy fields has been shifted from the national level
of member countries to a cooperative or multilateral level, too.[7] The power of the
sovereign territorial state has been further eroded by the intensified cross-border
mobility of capital, goods, information, and labour. Starting in the 1960s, this was
reflected upon at first in terms of global interdependence and later globalization.[8]

Thus, it would be tempting to interpret many of the phenomena and devel-
opments to which we have just made reference as arising from the conflicting
interplay between nation-states and the forces of globalization and transnation-
alization. However, such a privilege of the global, respectively the national as
the most relevant levels of analysis obscures the involvement of a variety of
actors across several levels, as well as their contesting claims to governance
and decision-making. Similarly, placing such contestations of sovereignty too
strongly within the later part of the twentieth century could mislead us to over-
emphasise the decision-making power of earlier forms of statehood. Rather than

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6 From an extensive body of literature, see Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization*, New York 2nd ed. 1996); Manuel Castells, *The Rise of the Network Society*, Chichester 2010; Richard Joyce, *Competing Sovereignties*, Abingdon 2013; Dieter Grimm, *Souveränität: Herkunft und Zukunft eines Schlüsselbegriffs*, Berlin 2009; and in a historical context, James Sheehan, 'The Problem of Sovereignty in European History', in: *American Historical Review* 111 (2006): 1–15. This introduction is partly based on Gregor Feindt, Bernhard Gissibl and Johannes Paulmann 'Kulturelle Souveränität. Zur historischen Analyse von Deutungs- und Handelsmacht jenseits des Staates', in: Idem (eds.), *Kulturelle Souveränität: Politische Deutungs- und Handlungsmacht jenseits des Staates im 20. Jahrhundert*, Göttingen 2017, 9–46; translation by Dona Geyer, Munich.
7 On the leeway that so-called "cunning states" have thus gained to strengthen their sovereignty through the clever exploitation of overlapping sovereignties, see Shalini Randeria, 'Cunning States and Unaccountable International Institutions: Legal Plurality, Social Movements and Rights of Local Communities to Common Property Resources', in: *European Journal of Sociology* 44/1 (2003): 27–60; Shalini Randeria, 'Rechtspluralismus und überlappende Souveränitäten: Globalisierung und der "listige Staat" in Indien', in: *Soziale Welt* 57 (2006), 229–258; Andrea Rehling, 'Materielles Kultur- und Naturerbe als Objekt und Ressource kultureller Souveränitätsansprüche', in: Feindt, Gissibl and Paulmann (eds.), *Kulturelle Souveränität*, 257–284.
8 Martin Deuerlein, *Das Zeitalter der Interdependenz. Globales Denken und internationale Politik in den langen 1970er Jahren*, Göttingen 2020; Paul James and Martin B. Steger, 'A Genealogy of "Globalization": The Career of a Concept', in: *Globalizations* 11/4 (2014), 417–434.

assuming a principled antagonism between the global and the national or the essential decline of the modern state, we propose to speak of *contested sovereignties* in the plural. This allows for the analysis of a dynamic understanding of claims- and decision-making as a process throughout European history. It is sensitive to conflicts and contradictions not only between actors but also across the levels from the global to the local and a variety of societal fields. Necessarily, such an understanding challenges the received idea of sovereignty as authority over decision-making that is solely linked to the modern state. In consequence, this notion of sovereignty itself has to be taken as a claim rather than a given.

In contrast to received concepts, the contributions assembled in this theme issue employ and explore the concept of "cultural sovereignty" in order to denote the fluid and contested character of sovereignty. Cultural sovereignty, as we understand it, is essentially a heuristic concept for the analysis of decision-making power and various efforts at self-determination and self-assertion. It takes seriously the always contested character of sovereignty and the associated claims by competing actors and stakeholders. In doing so, we seek to arrive at a deepened understanding of sovereign contestations as they manifest themselves between external and internal factors and forces, between various actors and groups within states, and over different fields from political decisions and economic powers to societal behaviour and cultural politics. The "culture" in the composite term of cultural sovereignty denotes, on the one hand, a specific domain with peculiar resources that may be employed to claim sovereignty. On the other hand, our approach goes beyond this limited understanding and conceives power and authority as cultural practices that are both situated in and mediated through political, societal, economic and cultural spheres. The state as well as societal actors like companies, social movements, the media or scholars were engaged in claims over sovereignties and their different manifestations and interpretations.

In the following, we will, first, discuss recent contributions to rethinking sovereignty and, second, bring forward cultural sovereignty as a "heuristic tool". Finally, we will introduce the chapters to this volume and, in the conclusion, carve out their contribution to cultural sovereignty as a concept of analysis, which offers a heuristic for the historical analysis of sovereignty practices beyond the scope of the nation state.

Rethinking sovereignty beyond the modern state

In recent years, a rich literature has observed the various forces undermining sovereignty. These studies illustrate that sovereignty is changed if not challenged

not only by supranational institutions but also by transnational economic power centres, new digital means of communication and by the application of universal norms. They highlight the fact that, in addition to one's own government, other actors exert or lay claim to agency and interpretative power. These are not only other governments, companies as organizational forms of economic power, civil society organizations, and social networks, but also individuals who are usually understood as members of a social collective. Several non-state-centered terms have been proposed for the variety of sovereignty.

Shadow sovereigns: Alongside and even outside the realm of the state, economic centres of power in particular have sought to exercise sovereign agency and thus challenged state sovereignty. In reaction, there has been a "storm over the multinationals" since the 1970s amid the critical scrutiny and academic debate within civil society over the cross-border operations of multinational enterprises.[9] The political scientist Susan George refers to globally operating corporations as "shadow sovereigns"[10] because they exert their power through covert lobbying in national and, with increasing intensity, international bodies and institutions. It is here that, on a transnational scale, they influence labour law, healthcare, food and agriculture, consumer regulation, taxation, and international trade and investment conditions to the benefit of their own profit interests.

Sovereignty effects: With regard to the modern state and particularly finance, Joseph Vogl, a cultural studies scholar, has emphasized in turn that grey areas of sovereign power have been able to take hold and novel and competitive "sovereignty effects" develop.[11] Through the delegation of governmental agency to institutions, commissions, and expert bodies involved in finance, decisions concerning financial markets are removed from democratic control. Both the state and the finance economy profit from this form of strategic pull-back. The former partly evades its political responsibility, whereas the latter gains a greater radius to operate autonomously. This produces sovereignty effects without having to

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9 Taken from a broader debate, Raymond Vernon, 'Storm over the Multinationals: Problems and Prospects', in: *Foreign Affairs* 55/2 (1977), 243–262; Raymond Vernon, 'The Multinational Enterprise: Power versus Sovereignty', in: *Foreign Affairs* 49/4 (1971), 736–751; Joseph S. Nye, 'Multinational Corporations in World Politics', in: *Foreign Affairs* 53/1 (1974), 153–175; Mira Wilkins, 'The History of Multinational Enterprise', in: *The Oxford Handbook of International Business*, ed. Alan M. Rugman and Thomas L. Brewer (Oxford 2001), 3–35; Thorsten Brenner and Jan Martin Witte, 'Keine Macht den Multis? Die Rolle transnationaler Konzerne in Entwicklungsländern', in: *Internationale Politik* (September 2006), 39–45.

10 Susan George, *Shadow Sovereigns: How Global Corporations are Seizing Power*, Cambridge 2015.

11 Joseph Vogl, *Der Souveränitätseffekt*, Zurich 2015.

attribute ultimate responsibility for democratic participation, political responsibility and the accompanying risks to any one sovereign actor.[12]

Mobile sovereignty: The emergence of human rights as the universal norm of government action after the end of the Cold War also resulted in an increase in humanitarian interventions by states of the global North to safeguard human rights in crisis regions and so-called failed states. The relativization of state sovereignty linked to these interventions was caused not only by state actors but also by non-governmental organizations of civil society, who used human rights to justify their involvement with, against, or alongside that of national governments. The anthropologist Mariella Pandolfi speaks of *souveraineté mouvante* (mobile sovereignty) to designate the interaction among civilian and military actors of humanitarian intervention in exercising forms of on-site transnational rule.[13]

Digital sovereignty: In recent years, issues involving access to personal data and control over the Internet have emerged as conflicts over sovereignty between citizens, states, and globally operating enterprises. A broad transnational debate over "digital sovereignty" has emerged, in which experts on media law like Rolf Schwartmann have, for example, proposed the introduction on the European level of a legal instrument linked to a payment model. In this model, the users of social networks would be free to choose whether or not to grant companies like Facebook and Twitter access to the personal data profile that is created through their use of these respective platforms.[14] In addition to nation states and globally operating enterprises, Schwartmann is explicitly speaking of the

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12 Since 2008 this practice has come under strong criticism as a result, understandably, of the economic and financial crisis. In the interaction between finance and the state, the consequence has once again been intensified government control to the point of the temporary takeover of individual banks; see Jan Pieter Krahnen and Laura Moretti, 'A Greenhouse for Market Discipline: Making Bail-In Work', in: *European Economy – Banks, Regulation, and the Real Sector* 1 (2015), 59–74.

13 Mariella Pandolfi, 'L'industrie humanitaire: Une souveraineté mouvante et supracoloniale. Réflexion sur l'expériénce des Balkans', in: *Multitudes* 3 (2000), 97–105; see also Didier Fassin and Mariella Pandolfi, eds., *Contemporary States of Emergency: The Politics of Military and Humanitarian Interventions*, Cambridge, MA 2010; on mobile sovereignty, see Arjun Appadurai, 'Sovereignty Without Territoriality: Notes for a Postnational Geography', in: Patricia Yaeger (ed.), *The Geography of Identity*, Ann Arbor 1996, 40–58.

14 Rolf Schwartmann, 'Digitale Souveränität: Wer unsere Daten anzapft, soll dafür zahlen', *FAZ*, 24 October 2015, <http://www.faz.net/aktuell/feuilleton/medien/digitale-souveraenitaet-wer-unsere-daten-anzapft-soll-dafuer-zahlen-13870819.html> (accessed 27 Oct. 2015). See further Stephane Couture, Sophie Toupin, 'What does the notion of 'sovereignty' mean when referring to the digital?', in: *New Media & Society* 21 (2019), 2305–2322; Mike Friedrichsen and Peter-J. Bisa (eds.), *Digitale Souveränität: Vertrauen in der Netzwerkgesellschaft* (Wiesbaden 2016).

citizen as a sovereign entity, who would retrieve through the payment model he proposes "an important bastion of civil liberty," namely "true informational self-determination." As citizens, individuals should reclaim sovereignty – albeit, tellingly, in the market-compatible form of an alienable basic right. This idea is prompted by the realization that the nation state is not in a position to effectively protect the data of its citizens against transnationally operating enterprises with significant market power. Schwartmann's proposal underscores both the very limited degree to which the state is able to assume ultimate responsibility in this area and points to the existence of new economic powers operating independently and parallel to the state. The edifice of state sovereignty is clearly cracked in some places, and other holders of agency and interpretative power are acting autonomously in the gaps left open by these cracks.

Yet there is more to question than just how sovereign individual citizens really are when they have no access to means of coercion and are left with no other option but to sell their right to informational self-determination in order to participate in the Internet and digital media. Another aspect is that today's digital communication technologies actually give state actors instruments with which to assert sovereignty on a sweeping scale. A case in point would be the global mass surveillance using the Internet and telecommunications regardless of whether there were grounds for suspicion by state intelligence services such as the NSA and Germany's BND that was revealed by whistleblower Edward Snowden in May 2013. Additional examples are data retention practices, which are justified as a means to fight crime, or the restriction of freedom of expression and unrestricted communication in the Internet, as is practiced not only in China, Iran, or Egypt, but also in Europe.[15] Moreover, recent attempts to slow down the outbreak of COVID-19 cases exposed the varying degree to which the usage or collection of mobile phone data for contact tracing was deemed acceptable. While South Korea, Israel, or Russia made extensive usage of such data, Germany and other mostly European countries cautioned to collect only anonymized data.

In sum, we observe at present a pluralization and relativization of modern attributions of sovereignty. This diagnosis is often accompanied by dramatic rhetoric postulating the end of the sovereign nation state and its capacity to act.[16] However, one is not doing justice to the current crisis of sovereignty to interpret it

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[15] For example, the internet tax introduced in Hungary is meant to hinder widespread access of its citizenry to blogs critical of the government. On the broader context of the relationship between the Internet and sovereignty, see Shawn M. Power and Michael Jablonski, *The Real Cyber War: The Political Economy of Internet Freedom*, Urbana, IL 2015.

[16] For example, see Wolfgang Streeck, *Gekaufte Zeit: Die vertagte Krise des demokratischen Kapitalismus*, Berlin 2013.

as an aberration that emerges in the late twentieth and early twenty-first centuries. Such a perception of crisis rather reflects a changing understanding of political and societal claims to power and their implementation. From a historical perspective, it is obvious that the wide range of actors wrestling for sovereignty is not merely the consequence of a recent crisis. Instead, it is the expression of the inherently processual and relational nature of claims to sovereignty both in relation to and beyond the state. In history, relational, limited, and conditional sovereignty is generally the rule. Sovereignty has never been anything but contested, starting with the confrontations between church and throne in the European middle ages, to the building of polycentric empires in the early modern period, to the conflicts between monarchical and popular sovereignty, and finally to the various episodes of *Kulturkampf* in the nineteenth century. This finding is not new, particularly if we think of the long contests over popular participation and representation in political decision-making.[17] If plurality is taken as given, however, then this implies a functional understanding of sovereignty as a guiding and regulative idea rather than a primordial attribute of the state or a preeminent political authority. This line of thought helps promote and advance historical observation because it directs attention to *manifold* articulations, forms, and contexts of claims to sovereignty.

"Cultural sovereignty" as a heuristic concept

We propose to employ the heuristic concept of cultural sovereignty that offers an analytical tool for the historic understanding of sovereignty practices beyond the scope of the modern state. It derives its value and, to no small degree, its intellectual allure from what at first seems like a paradoxical coupling of culture and sovereignty. What happens when we conjoin a fluid, process-oriented, and hybrid understanding of culture, as found in recent cultural studies, with the term sovereignty, a term often conceived in a monolithic sense and associated with the setting of clear borders? In doing so, the thoughts presented here also aim to decouple sovereignty conceptually from the narrow realm of state claims. The contributions in this issue diversify the idea of sovereignty in that they illustrate how various kinds of blueprints for sovereignty by various actors broadened, reshaped or in certain circumstances even challenged and replaced state agency. Likewise, cultural studies have expanded our understanding to

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17 See Richard Bourke and Quentin Skinner (eds.), *Popular Sovereignty in Historical Perspective*, Cambridge 2016.

include the claim of sovereignty as an instrument serving societal groups and their organizational forms in asserting difference. Thus it can also be shown how even the subversion of ultimate authority determined and produced sovereign power to interpret and act.[18] The approach historicizes what is said to be the "crisis" of sovereignty in our times by examining the inherently pluralistic and conflictual nature of interpretative power and agency in the political realm and by illustrating the societal setting. What we discover is that, in practice, sovereignty has seldom been the absolute or hermetic power constellation assumed in classic constitutional doctrine and political theory as suggested in the writings of Thomas Hobbes, Carl Schmitt, and others.[19] Instead, it was an arena of competing and conflicting, interrelated claims and practices that ranged from confrontations for state authority to demands for self-determination and decision-making power by various social actors.

The heuristic concept of cultural sovereignty is meant to explain conflicts over decision-making power, attempts at societal self-determination and self-assertion, as well as institutional and state demands for cultural resources. Here "culture" means more than the domain and source of state claims to power; instead it offers a heuristic for the historical analysis of sovereignty practices beyond the realm of the state. The concept operationalizes the following five basic assumptions. First, we are dealing with a cultural history approach which is open to interdisciplinary analysis. Second, the main focus is on the actors and their interpretations and intentions; they are the starting point of the study. Third, cultural sovereignty covers a multitude of strategies involving social, religious, ethnic, political, or economic agency and interpretative power. It is not limited to state decision-making power. Fourth, questions concerning power, hegemony, and their defense are highly relevant. However, they are not linked exclusively to types of political institutions and instruments, but are to be studied in many different ways. Fifth and finally, the concept is applicable to theoretical models focusing on the nation state or an empire, to groups within society or members of a group with regard both to their impact internally and downwardly and to what they project externally. Such a concept of sovereignty includes societal and political action from an actor-centered perspective and thereby distinguishes itself from categories currently prevalent in cultural studies like "identity," "hybridity," and "multiculturalism."

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18 Klein, 'Subversion der Souveränität'.
19 See the classic work, Thomas Hobbes, *Leviathan oder Stoff, Form und Gewalt eines kirchlichen und bürgerlichen Staates*, Frankfurt a.M. 2011; and very pointedly with his dictum on the state of exception, Carl Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität*, Munich 1922, 9.

The twentieth century is a period particularly suitable to the study of overlapping or even conflicting claims to sovereignty. First, it witnessed the worldwide implementation of the nation-state model as the defining form for organizing the body politic. The nation state as one form of modern statehood thus became an important normative framework for cultural processes. However, at the same time, the homogenizing capacities of the nation state were undermined and questioned by internal cultural fragmentation and by the dynamics of border-crossing structures of communication and governance. Second, culture was indeed strategically deployed in a novel way as outright propaganda and informal "soft power." Particularly in the later half of the century, culture became one of the main arenas of political controversy and conflicting identity politics for large strata of society. It was used as a political resource, claimed as a human right, and became a topic of scholarly reflection and debate to an unprecedented degree. This was, third, closely linked with the rise of democracy both as a form of government and cultural practice that affected all fields of politics, society, economy and culture. Democratic contestations and processes of democratization did, however, not only affect states internally, but transgressed borders between societies, for example in demands for global justice, the rights of minorities, or the establishment of democratic principles abroad. These requirements were thus not only made within established nation states but for colonial territories and on a global scale. The twentieth century, therefore, fourth, saw the fall of European colonial rule overseas, which meant political independence but left the question open how far the new state's sovereignty reached, for example in terms of economic and cultural resources. Contestations took place between state authorities, in the arena of the newly established international bodies, and within societies, turning decolonization into a protracted process whose key issues remain largely unresolved into the present. By considering the multifarious, competing, and contradictory constellations of cultural, social, and political agencies and interpretative power, we take the first step to introducing new perspectives on key issues, namely the functioning of sovereignty between space and governance, between resources and artefacts, and between media and communication during the twentieth century.

Space and governance

From the middle of the nineteenth century, European states tried to deepen their reach over the territory they ruled and the people that lived therein. One may interpret this simply as exercising state sovereignty. The historian Charles

S. Maier has proposed an interpretation that opens up a new approach. He used the term "territoriality" for the guiding idea in this process, which characterizes for him a new epoch lasting until the 1970s.[20] The term emphasizes the spatial dimensions of statehood and separates analytically the "nation state" into two dimensions: a decision space and an identity space. Contemporary rulers, politicians and societal actors sought to bring both into alignment and close correspondence. In terms of sovereignty, this analysis is useful because it allows us to relate the traditional idea of sovereignty to cultural activities to make up an effective notion where one is not simply the function of the other. We may thus conceive sovereignty as a process shaped by several forces and practiced through various means by the state as well as societal agents. As is well known, language policy in France was an instrument employed to strengthen the French state of the Third Republic turning "peasants into Frenchmen" and into republicans.[21] Silke Mende shows in her essay that the promotion of a standardized language and the idea of a certain form of political rule formed a dynamic concept that reached well beyond the confines of the so-called hexagon, i.e. French territory within Europe, and transformed relations between the metropole and the colonial empire. However, this kind of cultural sovereignty was not fixed but contested and variable according to where and when its proponents applied it.

State administration and politicians strongly supported by societal actors such as academic scholars and civil associations promoted Francophonie at the end of the nineteenth century. This was a modernization project aimed at geographically remote regions of the hexagon and backward rural populations but it also sought to spread republican values and civilisation in the sense of universal enlightenment. As Mende demonstrates, this mission when applied to dependent overseas territories and colonies revealed its variability rather than universality. Teaching French to colonized populations, in practice, had an instrumental function in terms of educating indigenous administrative staff in the lower ranks. The language courses and the certificates differed from the schooling in the metropole in aiming merely at basic skills. Clearly, the grand idea of spreading French civilization and integrating the beneficiaries had its limits. As in other fields of colonial rule, Francophonie was divided: there existed a language indigénat, we may conclude, as it did with regard to law based on racist

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20 See Charles S. Maier, 'Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era', in: *American Historical Review* 105 (2000), 807–831.
21 Eugen Weber: Peasants into Frenchmen. The Modernization of Rural France, 1870–1914. Stanford, Cal. 1976.

assumptions.[22] At the same time, various agents competed over Francophonie. One the one hand, Republican and Catholic organizations propagated different versions of French civilization as did the Jewish Alliance israélite universelle.[23] In addition, the Mission laïque pursued an aggressive secular agenda. One the other hand, the spread of French ideas was not easily contained and proponents of decolonization turned what they had learned against their teachers so-to-speak. The mandate territories after the First World War, in Mende's essay, serve as a good example for the ambivalence of Francophonie. Arab nationalists voiced their criticism of colonial rule in the language of the colonizers and based their demands for emancipation on French literature and Western liberal ideas. Some also recognized the value of language, in this case the Arab language, for propagating and furthering the idea of their national sovereignty, for example in Syria, and demanded teaching Arab rather than French in schools. This was, as Mende concludes, a kind of reversal of Francophonie and the French civilizing mission, which however speaks for the lasting importance of these practices of imperial cultural sovereignty. In the metropole, the propagation of the regional languages since the 1950s may be interpreted as a similar reversal.

In her essay on governing Mount Scopus, an international enclave in Jerusalem between 1948 and 1967, *Yfaat Weiss* analyses a situation that is best understood if we approach it as a process of contested claims for sovereignty on several interdependent levels. From the perspective of the Israeli government, the overall aim was to achieve what Leo Gross in 1948 called "Westphalian" sovereignty, i.e. sovereignty over territory free from outside intervention and based on the coexistence of a multiplicity of states equal to one another.[24] Yet, a closer look at the enclave of Mount Scopus in Jerusalem and the attempts to achieve this aim reveal a dynamic constellation of interlaced claims put forward by various means. On the level of state sovereignty, the Arab side did not accept the UN Resolution of 29 November 1947, which pronounced the partition of Mandatory Palestine into two states, while the Israeli government no longer felt committed to it after the 1948 war. The resolution had assigned Jerusalem a neutral status as a *corpus separatum* under international oversight thereby seeking to place it beyond state sovereignty. With the city de facto, though not de jure, divided between an eastern Jordanian sector including the Old City and a western sector under Israeli

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22 Olivier Le Cour Grandmaison: *De l'indigénat – Anatomie d'un « monstre » juridique. Le droit coloniale en Algérie et dans l'Empire français*, Paris 2010.

23 See, for example, Esther Möller: *Orte der Zivilisierungsmission: Französische Schulen im Libanon 1909–1943*, Göttingen 2013, 93–134.

24 Leo Gross, 'The Peace of Westphalia, 1648–1948', in: *American Journal of International Law* 42 (1948), 20–41, here 28–29.

control, there remained because of battle lines and ceasefire agreements a demilitarized enclave on Mount Scopus in eastern Jerusalem. UN forces controlled entry and exit to the two square kilometers, in itself divided into an Israeli and a Jordanian section. Israel enjoyed possession of three sites in the enclave: the Hebrew University with the library, the Hadassah Hospital, and a British war cemetery, while according to its proximity it was able to control the Arab village of Issawiya as well.

As Weiss explains, Israel sought to turn the effective grasp of territory into claims to sovereignty trying to close the gap between "possession" and territorial sovereignty. In western Jerusalem, it did so by establishing its High Court of Justice, moving government offices from Tel Aviv and opening the Knesset. These were classical instruments of sovereignty, while in the eastern part of Mount Scopus Israel could make claims only by different means. The opening of the Hebrew University in 1925 had already been such a claim two decades before the establishment of the state of Israel. Now, the university was de facto separated from Israeli west Jerusalem. In particular, the library became a "library in exile" or in "captivity" as contemporary sources expressed its status. Against the needs voiced by the academics, the government chose to accept this state of affairs rather than to move the books to the western part of the city. The decision to leave the books of the *national* library on Mount Scopus meant indeed upholding a cultural claim to sovereignty. In a different twist, Israel made use of the British war cemetery situated in the enclave. The cemetery had been mined during the 1948 war and the Israeli offered to remove the mines. The British Imperial War Graves Commission, however, rejected the offer, as it did not normally allow foreign powers to look after its military graves. Israel still went ahead and initially even denied the representatives of the Commission entry for renovations, gardening or annual ceremonies thereby subordinating British as well as Australian and New Zealand claims over its war dead to Israeli claims of territorial sovereignty. It finally granted access to the cemetery, but only from west Jerusalem and by Israeli permission rather than from east Jerusalem and under UN control. Access was also used to claim state sovereignty in the case of the village of Issawiya. Here, Israel did not allow the Arab population to repair the main road connecting the village to Ramallah with its own funds. It even demolished independent roadworks and limited traffic forcing the population to use a second connection, which resembled a trail rather than a road.

The case of the Mount Scopus enclave after 1948 illustrates the use made of cultural and humanitarian institutions as well as infrastructures for competing claims of sovereignty. Weiss describes how the different levels from the UN, Israel and Jordan to the British Imperial Commission and the Arab villagers were all interlaced in an intricate manner of possession, control and sovereignty.

Although "Westphalian" sovereignty guided Israeli actions, the historical analysis reveals that this was only a particular if powerful notion of sovereignty pursued by various means beyond classical state instruments. The case also shows not only a society of equal states contested sovereignties but that international organizations, imperial institutions, local populations or indeed university scholars put forward claims to decision-making, self-determination or self-assertion.

The next paper by *Saima Nakuti Ashipala* explores the many twists and turns in the regime governing the extraction of the most valuable natural resource to be found in the territories of the South-West African states of Namibia and Botswana: diamonds. In April 1908, Zacharias Lewala, an African working for the German colonial railway administration, was allegedly the first to find a valuable diamond in what came to be declared the *Sperrgebiet*, an extensive area in the South of Namibia that has been reserved for the exploitation of diamonds up to the present. It was not until 1994 until all of Namibia's citizens, including the black population, finally came to share the benefits of this resource. Starting from the first arrangements between the then German colonial state and private mining companies in 1908, Ashipala charts the changing development of these arrangements through Namibia's varying political regimes, culminating in the 1994 agreement between the government of independent Namibia and the De Beers diamond mining company, a corporation with long-standing interests and experience in the exploitation of diamonds in Namibia. The analysis of more than a hundred years of the diamond regime in South-Western Africa makes clear that sovereignties over diamond resources have always been blurred, repeatedly contested, and long been operationalized in a way that benefited company and colonial state to the disadvantage of the majority of the country's people. From the outset, the exploitation was conceded to private companies, a decision that was criticized within imperial circles in Berlin as sacrificing the sovereign interest of the state to the commercial interest of private enterprise. When the German colony of South-West Africa became a mandated territory under the League of Nations after the First World War, existing mining concessions were gradually taken over by Ernest Oppenheimer's Consolidated Diamond Mines of South West Africa Ltd (CDM), a company that found the trust also of German investors thanks to the German heritage of its founder. In the course of Oppenheimer's takeover of De Beers, a market leader in the diamond industry based in South Africa, CDM became a subsidiary of this company. Although the League of Nations had not invested the government entrusted with the mandate over the territory with sovereign rights, the so-called Halbscheid Agreement of 1923 nonetheless assigned the ownership of the diamond resource to the Administration of Southwest Africa while CDM was granted the sole right of exploitation. Colonial government and diamond

company had entered a mutually beneficial partnership in which, as Ashipala argues, "guaranteed revenue for the colonial administration" was exchanged "for monopoly over the diamond industry".

Namibia's independence in 1990 after years of armed resistance by the SWAPO movement necessitated a renegotiation of the diamond regime. Backed by the 1962 UN resolution that had established sovereignty over natural resources as a principle of international law, but short of mining expertise and capital the new Government of Namibia had neither the power nor the will to assert sovereignty by removing or nationalizing a company that was historically so rooted, privileged, and experienced in the exploitation of Namibia's diamonds like De Beers. Without downplaying significant differences in the role of the diamond industry in both countries, Ashipala emphasizes the exemplary character of the diamond regime in Botswana for the renegotiations between De Beers and the government of Namibia in the early 1990s. Many elements of the arrangement achieved in Botswana, in particular the equal shareholding between government and De Beers, was applied to the newly-founded Namdeb Corporation, which has not only benefited the Namibian people through taxes and revenues, but also by investment and development schemes within the country.

The Namibian diamond regime is a fascinating example of the long shadow cast by colonial arrangements between a financially weak central state and private companies that were granted concessions to exploit natural resources and assumed the role of "shadow sovereigns" in the governance of these resources and, in the case of diamonds, the whole area of the *Sperrgebiet*. As Ashipala notes, the concrete terms of the 1994 agreement between De Beers and the Namibian government have never been fully disclosed, which can be interpreted as a continuation of the decontestation of sovereignties through sharing and the intentional blurring of stakes and ultimate responsibilities. The 1962 principle of permanent sovereignty over resources might have granted the post-independence state a basis for claims-making in international law. In practice however, a corporation as historically rooted, as financially powerful and as experienced in the mining and marketing of diamonds was simply too big and too sovereign for the Namibian state to ignore.

Media and communication

As the 1962 UN Resolution over the Permanent Sovereignty over Natural Resources shows, the question of control and exploitation of such resources has been a source of constant conflict and international deliberation and regulation. Very

much the same applies to the field of media and communication and the ways how the modern state exerts control over information, its citizens and its global relations.[25] This holds true especially after the Second World War when technological innovation and globalisation expanded information and communication beyond national borders to a precedently unknown degree. New media such as television or the internet have provided an arena for the contestation and redistribution of power relations within polities. Decolonisation affected the economic and infrastructural relations in the global production of information making the circulation of news a promising platform for remaking international relations. These challenges to received political cultures contributed to both the emergence of new claimants of sovereignty and the altered character of sovereignty as such – eventually becoming apparent to contemporary discourse. For many observers, the globalisation of television pointed to the cultural quality of national sovereignty[26] and the economisation of digital communication laid bare the contestation of supranational European sovereignty.[27]

In his essay on the early years of Czechoslovak television, *Sebastian Lambertz* inquires into the "people's own media" and contributes to the recent emphasis of individual agency and the ambivalence of power under state Socialism. Here, cultural sovereignty cautions against any too simplistic emphasis on violence, oppression, and victimhood. Studying the repressive regime of Czechoslovak Stalinism and its ensuing, yet short-lived, liberalisation in the 1960s, television serves as a case study into the relative spaces of individual articulation under authoritarian rule. Lambertz argues that viewers employed their role as Socialist citizens and especially as Socialist workers to influence the programme's content and its organisation even expressing their individual and collective agency. Socialist ideology and its vernacular appropriation provided a language to express individual demands and relate to party and state. Since its introduction in 1953, Czechoslovak television encouraged its viewers to respond to programmes and write to the editors with a special television show regularly presenting selected letters to a broader audience. In comparison to responses to radio programmes or the ubiquitous petitions to state administration or party officials, television viewers spoke their minds and were highly critical of what they saw. As programme editors and directors cautiously monitored such

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25 Monroe E. Price, *Media and Sovereignty: The Global Information Revolution and Its Challenge to State Power*, Cambridge MA 2002.

26 Daya Kishan Thussu, "Globalisation of the 'infotainment' industry", *Third World Quarterly* 18.2 (1997), 391–396.

27 Guillaume Klossa, *Towards European Media Sovereignty: An Industrial Media Strategy to leverage Data, Algorithms and Artificial Intelligence*, Brussels 2019.

audience responses, a clear gap in understanding television came to the fore: state and party officials and programme directors envisioned television as a tool of education and propaganda, but most viewers obviously considered it to be nothing but entertainment.

Demanding entertainment and objecting against any ideological prerogatives viewers, effectively claimed sovereignty over their free time and during this time of non-work. The viewers' arguments drew upon the ideological framework provided by Stalinism and to a lesser degree reformist Communism; the very ideology that viewers wanted to avoid watching. In addition to the self-evident argument that watching television was an integral part of individual free and recreational time after work, three argumentative scripts underpinned claims for individual and collective sovereignty. First, the authors of letters to the editors demonstrated a specific sense of entitlement as diligent Socialist workers who deserved entertainment after a day's work. Second, this script was presented in the form of collective rights: moving beyond the individual agency of a Socialist worker, the imaginary of the working class as the vanguard of society extended this claim into the collective and reproduced Stalinist propaganda. Third, authors drew parallels between the work of television employees and their own work in the factory or the office demanding diligence. In contrast to the aforementioned affirmative construction of Socialist identity, this script referred to the harsh disciplining of work spaces under Stalinism and thus an autonomous self-understanding of workers. Authors demanded that any television programme that did not meet the standards should be sanctioned in the same ways poor performances were sanctioned in other workplaces.

Such claims dynamically employed both the symbolic language and the ideological axioms of Socialism and often succeeded in influencing decision makers, for instance when viewers demanded to align programme timetables with the country-wide system of three shifts in factories. Making use of ideological catchphrases and outlining their individual or collective contribution to the making of Communism in Czechoslovakia, authors created legitimacy and agency. Here, the authors styled themselves as Socialist subjects and revealed varying degrees of ideological subjectification which allowed them to phrase their personal demands as hegemonic. Demands for self-control over their free time necessarily contested the alleged sovereignty of cultural decision makers such as television programme directors. However, mobilising hegemonic discourse allowed for avoiding open confrontation with party and state. In this relation between programme makers and audience, any demand of Socialist workers or other "productive members of society" that followed the hegemonic discourse was legitimate. In other words, proficiency in ideological vernacular allowed for expressing every-day needs well beyond Socialist free time. Against this background, cultural

sovereignty provides new insights into Socialist society and the societal negotiation of power under dictatorial rule. Bringing to the fore the ambivalence of hegemony and counter-hegemony and the relational quality of legitimacy helps to differentiate the roles of state and party and society. In fact, what Lambertz analyses points to recipient sovereignty, i.e. the viewers sovereign decision to watch television and receive its content – or to refrain from doing so.

Jonas Brendebach's contribution continues the theme of decolonization as a hotbed of sovereign contestations that have continued and remained relevant to the very present. Political independence did not automatically bring about sovereignty, but spawned controversies over the extent of state sovereignty in the fields of economy and culture that remain unresolved to this day. Newly independent states addressed this shared void of sovereignty within their postcolonial statehood in the international arena through organizations like the Non-Aligned Movement and the United Nations Educational, Scientific and Cultural Organization. Brendebach shows how the push for a reform of the international economic order through the Non-Aligned Movement in the early 1970s provided an opportunity for UNESCO to extend this reform agenda into the realm of "culture", communication and the media. Particularly under the Senegalese Director-General Amadou Mahtar M'Bow, UNESCO aligned its norm-setting capacities with the non-aligned movement, both arguing that the achievement of a "new and more equitable world order" would remain incomplete without the decolonization of information and without addressing different forms of "cultural imperialism", i.e. the uncontrolled import of information, content, and news via media organizations particularly from the United States and Europe.

Brendebach traces how, in a series of expert meetings and conferences, UNESCO evolved into a key arena for debating international policies of media and culture, trying to bring together national sovereignty and "cultural identity" in order to achieve a more just and equitable flow of global communication. Addressing both the level of international organizations and concrete policy attempts between states, the article shows how the envisioned "decolonization of information" was attempted by pooling the news agencies of several non-aligned states in order to enrich the global news flow with genuine Third World perspectives. This effort was, however, soon frustrated, amongst others because attempts at government control negatively affected the credibility of information. Other efforts, like the introduction of a prior-consent-clause to satellite broadcasting over foreign state territory, were rejected by an alliance of Western powers within UNESCO, leaving the clause without binding normative authority. In a similar manner, Western states defused Third World attempts at anchoring cultural sovereignty over communication flows and news production in the Mass Media Declaration of 1978, rendering it, as Brendebach argues, an "inconclusive compromise".

Although UNESCO failed at enshrining cultural sovereignty into binding international law, Brendebach emphasizes the debates' capacity to generate academic knowledge and produce appealing, politically applicable concepts for non aligned states. However, it did so at the price of nourishing a nationally contained understanding of "culture" that made the term politically expedient, but contradicted both UNESCO's own notion of cultural plurality as well as the multiethnic, multireligious and multilingual realities of decolonizing societies across the Southern Hemisphere. For these new states, UNESCO provided an important and internationally visible platform enabling new states the performance of sovereignty. At the same time, UNESCO's very function as a node that connected all sorts of transnational actors, experts, and state representatives resulted in a plurality of voices that contributed to the diffusion and dispersal of sovereign claims forwarded within the organization.

Ingrid Volkmer's contribution continues these international debates about the order of global communication into the present and analyses the scholarly and political debates about digital sovereignty over the last three decades. If the debate about the establishment of a New World Information and Communication Order of the 1970s and early 1980s was about determining the limits of state sovereignty and attempts at the territorialization of communication flows, recent discussions have crystalized around the means and ways how state actors could exert at least some degree of sovereign control over the communication flows within internet and cyberspace. Volkmer shows how scholarly analysts grappled to come to terms with the ambiguous nature of the internet as an essentially networked and deterritorialized, initially civic and increasingly commercial sphere. Apart from recognizing the limitations and exclusions of a networked space that long operated essentially in the English language and along a very uneven network infrastructure across the globe, Volkmer argues that states only realized the internet as a potential threat to their sovereign national polities with the challenge of cyberterrorism and, most recently, the potential to influence public opinion in election campaigns e.g. through digital microtargeting of voters. She distinguishes a first phase in the general attitude of states worldwide towards the evolution of the internet and digital communication which was marked by a more or less "blind eye on digital developments" around the turn of the millennium. At that time, the global monopolies that dominate the internet today began to establish themselves while states stood "side by side" allowing these corporations to develop platforms that influence, regulate and determine fundamental aspects of the everyday lives of billions of people, including consumption, information, communication and political participation. Since then, states have started to transform into "network states" adopting different answers and strategies to the challenge of globalized data flows, from authoritarian

attempts at nationalizing digital space at the cost of civic rights and opportunities, as practiced by Russia or China, to the struggle of liberal European democracies how to adapt their traditional territorialized tools for regulating media and communication infrastructures to the fluidity of digital communication spaces.

Volkmer identifies at least four arenas in which territorially framed notions of sovereignty are hard to adapt to today's realities of globalized data and communication platforms that overlay national borders: first, the application and extension of notions of "public service" – e.g. the provision of reliable and trustworthy information according to professional journalistic standards on e.g. political and public affairs, health or in situations of crisis communication –that developed with a view to largely nationalized communication spaces and public spheres, which are now partially provided by big transnational combination, but only in connection with the undermining of individual citizen rights through excessive data mining; second, the governance of data clouds and communication transmission technology; third, the difficulty to harness blockchain data interaction, data flows, and spatially disjointed server geographies by territorialized jurisdiction; and fourth, the challenge of actually existing and practiced digital citizenship and the realities of post-territorial civic interaction in the thoroughly dataified democratic state. As a consequence she proposes the development of transnational regulatory regimes that go beyond "ad hoc"-interventions and acknowledge the impossibility of governing digital fluidity within territorial or rigid borders. Models of "shared sovereignty" are required which are based upon "legal interoperability" and the transnational alignment of digital policies among democratic states willing to protect and, ideally, further, digital and post-territorial public spaces of communication.

What conclusions can we draw from these six different studies into cultural sovereignty across the long twentieth century? We regard four aspects as particularly pertinent for developing cultural sovereignty further as a field of research. First, we argue that cultural sovereignty originated in the political practice of twentieth century contestations and reflects the long heritage of European, respectively Western imperialism calling for a postcolonial critique. Second, we hold that defining culture is the fundamental claim of sovereignty in the twentieth century and the arena of negotiating global relations in the context of decolonisation and post-colonialism. Third, we stress that sovereignties are best understood in the plural and their various actors and claimants must also be understood in the plural. Fourth, we conclude that cultural sovereignty is a continued, yet inconclusive process. Future studies into the procedural nature of sovereignty should inquire into the growing gap between the imaginary of sovereignty and the factual decision making power of those parties involved.

Silke Mende

French imperial politics and the long shadow of Francophonie

Abstract: *The essay analyzes French language policy as a probe to set forth different notions of "cultural sovereignty" in France from the end of the 19ᵗʰ century to decolonization. It traces the construction of Francophonie as a political project of the early 3ʳᵈ Republic that involved statal actors and institutions as well as scholarly and intellectual engagement and an emerging civil society. Although French language policy changed over the years and followed quite different ideas and practices in- and outside the Hexagon it aimed at control, cohesion and cultural sovereignty inside the French nation-state as well as in its colonies. In both cases the different target groups received and appropriated it in diverse and unintended ways. By analyzing the actors, ideas and practices of Francophonie as well as its internal and external facets in the same analytical field the essay tries to bring out the differences and commonalities of French notions of cultural sovereignty between metropole and empire.*

"C'est avec 76.900 hommes que la France assure la paix et les bienfaits de sa civilisation à ses 60 millions d'indigènes."[1] This slogan praising the French colonial army adorned a well-known propaganda painting that was shown at the *exposition coloniale* in 1931. The exposition held in Paris during six months and attracting an estimated 8 million visitors is seen as the peak of French colonialism. After the allocation of the mandates by the League of Nations in the wake of the First World War the French colonial empire was larger than ever before but crises were looming everywhere. Against the background of nationalist and independence movements the exposition at the *Porte Dorée* and in the *Parc de Vincennes* was directed inwards as well as outwards and therefore also served to strengthen the self-assurance and identity of France as an influential colonial power.[2]

Accordingly, the painting does not only reproduce classical racist stereotypes towards indigenous people but also inscribes itself on the well-known

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1 Transl.: "It is with 76,900 men that France ensures peace and the benefits of its civilization to its 60 million natives."

2 Charles-Robert Ageron, 'L'Exposition coloniale de 1931. Mythe républicaine ou mythe impérial?', in: Pierre Nora (ed.), *Les lieux de mémoire*. Vol. 1, Paris 1984, 561–591; Catherine Hodeir/Michel Pierre, *L'Exposition coloniale*, Paris 1931, Paris/Brussels 1991.

Figure 1: Map by B.Milleret, exhibited at the *Exposition coloniale* in Paris, 1931. Photo (C) RMN-Grand Palais (musée du quai Branly – Jacques Chirac) / Hervé Lewandowski.

iconography of the *mission civilicatrice* by illustrating how the Hexagon as the "centre" of civilisation enlightens its colonial "peripheries" and beyond. But the idea of a civilizing mission – in the French as well as in other colonial empires – should not be dismissed as a mere ideological superstructure. As the legitimizing ideology of colonialism it was a genuine element of French colonialism and therefore closely related to ideas and practices of power and sovereignty.[3] One of the pillars of the French civilizing mission was the spread of the French language. In this sense, to mention only one prominent example, Jules Ferry in a statement in the French Senate in 1891 maintained that

> la conquête morale, la civilisation progressive de l'indigène, peut prendre une autre forme. On attire à soi le peuple vaincu, non seulement en respectant sa religion, son statut personnel, ses droits de propriété, mais on l'attire surtout en lui ouvrant des écoles, en le mettant en possession de la langue française, seul véhicule des idées françaises parmi ces populations que nous donnons pour tâche d'élever jusqu'à nous.[4]

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3 Alice L. Conklin, *A Mission to Civilize: The Republican Idea of Empire in France and West Africa, 1895–1930*, Stanford, Ca. 1997; Boris Barth/Jürgen Osterhammel (ed.), *Zivilisierungsmissionen: Imperiale Weltverbesserung seit dem 18. Jahrhundert*, Konstanz 2005.

4 Jules Ferry, 'Discours sur la question algérienne au Sénat (6 mars 1891)', in: *Discours et opinions de Jules Ferry*, publiés avec commentaires et notes, par Paul Robiquet, tome septième:

The citation shows that language and linguistic politics were not only crucial for the French idea of the *mission civilisatrice* but also for the conception of "cultural sovereignty". The promotion of civilisation and language as well as a certain idea of power, political rule and sovereignty were not stable but flexible quantities that were closely related to dreams of growth and expansion as well as to fears of loss and decline.

The main purpose of this article is to show how a certain conception of Francophonie developed since the last third of the 19th century, how it shaped French imperial politics and in which ways it was related to ideas and practices of cultural sovereignty. Different to usual assumptions Francophonie and language politics did not only come into being when they were invented as an institutionalized area of policy by President de Gaulle and others against the backdrop of decolonization since the 1960s. Instead what one may call a *"Francophonie républicaine"* has been developed since the end of the 19th century and was a common endeavour of different actors in politics and state administration, in universities and in the scholarly field as well as in a nascent and growing "civil society". The related ideas and practices of this francophone project aimed towards the inside as well as the outside of the Hexagon, shaped national as well as imperial politics and referred to diplomacy and international politics.[5] Despite these different but interconnected levels of action, Francophonie as well as the closely related notion of cultural sovereignty are firmly linked to the idea of the "nation-state". Far from being neither a stable nor an absolute category itself, the latter remains a central reference as well as a crucial actor of "sovereignty". With this in mind, the francophone project concerned different, but interconnected notions of "cultural sovereignty": First, it meant the capacity to exercise sovereignty on cultural and educational policy in a strict sense. Second, it defined the project to obtain, defend and expand sovereignty by the means of culture, especially by the expansion of the French language. In this sense, language policy closely linked to a certain conception of cultural sovereignty, reaches far beyond a

Discours sur la politique intérieure (2è partie, depuis le 30 mars 1885), Paris 1898, 197–214, here: 207. Transl.: "the moral conquest, the progressive civilization of the indigenous, can take another form. We attract the defeated people to ourselves, not only by respecting their religion, their personal status, their property rights, but we attract them above all by opening schools to them, by putting them in possession of the French language, the only vehicle for French ideas among these populations that we give the task of raising up to us."

5 See my *habilitation* thesis, Silke Mende, *Ordnung durch Sprache: Francophonie zwischen Nationalstaat, Imperium und internationaler Politik, 1860–1960*, Berlin et al. 2020. This article largely relies on the findings of the book.

narrow conception of culture and constitutes an important aspect of a culturally broadened history of the political.[6]

In a first step, I will therefore analyse the relationship between language, nation-state and cultural sovereignty that was central to the formation of the *Francophonie républicaine* since the end of the 19th century. In a second step, the perspective will be widened to the French colonial Empire, asking for transfers and entanglements. Especially those nation-states that were at the same time imperial powers were often seeking to translate their conceptions and practices of sovereignty to their empires even though they did this frequently in a modified way. This was also the case for francophone language policy which was characterized by manifold contradictions and fault lines. Finally, in a third step, conflicting conceptions of cultural sovereignty move into the centre and special attention is given to indigenous and (post-)imperial appropriations of the francophone project.

Language, nation-state and cultural sovereignty in the "age of territoriality": The birth of the "Francophonie républicaine"

Cultural sovereignty is a relational concept that is not a fixed or stable category but more a movable frame that could be filled in many different ways. Despite its flexibility it is closely related to the exclusive claims of the nation-state, both in its intentions to homogenize populations and societies and in expanding its influence in- and outside its own territory. The context for this was the "age of territoriality": According to Charles Maier it began in the midst of the 19th century and endured until the last third of the 20th century. For a certain imaginary of territoriality the formation and further development of modern statehood was crucial. Much more than in early modern times and significantly based on statistical knowledge, statehood now was increasingly seeking to explore, control and grasp its own territory in order to form a common "decision space" as well as a shared "identity space".[7] For the rising ambitions of nation-states language and

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6 See Gregor Feindt/Bernhard Gissibl/Johannes Paulmann (eds.), *Kulturelle Souveränität: Politische Deutungs- und Handlungsmacht jenseits des Staates im 20. Jahrhundert*, Göttingen 2017, 9–46.

7 Charles S. Maier, 'Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era', in: *AHR* 105 (2000), 3, 807–831; Charles S. Maier, *Once Within Borders: Territories of Power, Wealth, and Belonging Since 1500*, Cambridge, Mass./London 2016.

language policy became important elements. As is well-known, modern historical research on nationalism in the tradition of Benedict Anderson has already emphasized the importance of a uniform language for the construction and maintenance of an 'intact' national identity.[8] Others like the historian Eugen Weber, himself deeply shaped by modernization theories, have underlined the instrumental character of language and education for the development and "modernization" of rural France since the last third of the 19th century.[9] In this view language becomes a form of "soft infrastructure" comparable to railroads and telegraphs that helped the state in capturing, exploring and governing the country. The prominent school reforms in the 1880s initiated and carried out by Jules Ferry went in this direction. In a vigorously secular spirit they did not only fight the catholic influence on education but they also sought to push back dialects and regional languages that were still widespread in a number of French regions.[10] In this sense the Third Republic pursued a partly radical language policy in order to implement visions of cultural sovereignty in the supposed "peripheries" of the country that were not only depicted as geographically remote and socioeconomically backward but also as culturally retarded. In this sense the republican Léon Gambetta had proclaimed already in 1871:

> Les paysans sont intellectuellement en arrière de quelques siècles sur la partie éclairée du pays. Oui, la distance est énorme, entre eux et nous qui avons reçu l'éducation classique et scientifique, même imparfaite, de nos jours; qui avons appris à lire dans notre histoire; nous qui parlons notre langue, tandis que, chose cruelle à dire, tant de nos compatriotes ne font encore que la balbutier.[11]

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8 Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, London/New York 1983.

9 Eugen Weber, *Peasants into Frenchmen: The Modernization of Rural France 1870–1914*, Stanford, Ca. 1976.

10 Cf. for a very differentiated perspective on this topic: Jean-François Chanet, *L'école républicaine et les petites patries*, [Paris] 1996.

11 Léon Gambetta, 'Discours prononcés le 19 février 1871 à l'Assemblée nationale (proposition de M. Jules Favre, tendant à la nomination d'une commission pour assister M. Thiers dans les négociations), et le 26 juin 1871, à la réunion des délégués des comités républicains de la Gironde, à Bordeaux', in: *Discours et plaidoyers politiques de M. Gambetta*, publiés par Joseph Reinach, Tome II, 2è partie (19 février 1871–24 juillet 1872), Paris 1881, 1–35, here: 22. Transl.: "The peasants are intellectually back some centuries on the enlightened part of the country. Yes, there is a great distance between them and us, who have received a classical and academic education, however imperfect, that is up-to-date; who have learned to read from our history; who speak our language, while, cruelly enough, so many of our compatriots are still just stammering."

However, not only politicians and the state were crucial for the genesis of a franco-phone project since the last third of the 19th century. Various actors in politics and state administration worked hand in hand with the expanding academic field as well as with an emergent "civil society". They formed a dispositive of institutions, discourses and practices that one can name the "*Francophonie républicaine*". The promotion of the French language went hand in hand with the spread of republican values and a civilizational model that was deeply rooted in the universalistic ideas of 1789.[12]

Even before the 1880s, several disciplines had fostered the association of language, population and territory and therefore potentially provided arguments for language policy. But in the late 19th century the political context changed and made former utopias of linguistic governing more feasible. On the one hand, eager debates about national rivalries and regeneration became louder. On the other, the republican state and the academic field formed a kind of symbiotic relationship that the figure of the "republican intellectual" (Christophe Charle) embodied.[13] The financial and personal expansion of universities and academic research encouraged the differentiation and the foundation of new disciplines, linguistics among others.[14] Not only the latter helped to structure and prefigure discourses on language and influenced reflections on Francophonie. Particularly those branches of linguistics that continued to work and argue in a historical and geographical perspective supported national discourses that imagined the French nation as a linguistic community despite Ernest Renan's famous rejection of this idea in 1882. However, knowledge generated by linguists helped to objectivate ideas of a national territory that should be integrated by the spread of French as a common language. In this sense Ferdinand Brunot, the author of a monumental history of the French language, argued in 1905: „Si, en effet, l'unité de langue n'est pas, comme on l'a dit quelquefois, le lien même qui fait la patrie, du moins elle resserre ce lien au point de le rendre presque indissoluble."[15]

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12 For the visions and attempts of language policy by the Revolutionaries of 1789 see: Michel de Certeau/Dominique Julia/Jacques Revel, *Une politique de la langue: La Révolution française et les patois. L'enquête de Grégoire*, Paris 1975; Alyssa Goldstein Sepinwall, *The Abbé Grégoire and the French Revolution: The making of modern universalism*, Berkeley 2005.

13 Christophe Charle, *La république des universitaires, 1874–1940*, Paris 1994; Christophe Charle, *Naissance des „intellectuels"*, 1880–1900, Paris 1990.

14 Giulio Lepschy (ed.), *History of Linguistics*. Vol. IV: Nineteenth-Century Linguistics, London/New York 1992; Sylvain Auroux (ed.), *Histoire des idées linguistiques*. Vol. 3: L'hégémonie du comparatisme, Liège 2000.

15 Ferdinand Brunot, *La réforme de l'orthographe: Lettre ouverte à M. le Ministre de l'Instruction Publique*, Paris 1905, 15. Transl.: "If, indeed, the unity of language is not, as has sometimes

As a kind of paradigmatic "republican intellectual" Brunot not only embodied the close alliance between academic scholarship and the state but also the relationship to a third important actor in the nascent francophone project, namely the growing "civil society". A huge number of new associations and scholarly societies arose with educated citizens as their major clientele who often originated from the academic or liberal professions.[16] Beyond their engagement for the promotion of the French language, they were characterized by many commonalities. Besides their social background in the academic Parisian middle class, they widely shared political attitudes that grounded in the values of the Third Republic and referred to the "great revolution". From the ideas of 1789 they deduced a conception of Francophonie that considered the French language as an outstanding medium that incarnated the ideas of the Enlightenment as well as rationality and absolute modernity. According to the universalistic mission of the revolutionaries language promotion went hand in hand with the propagation of a civilizational model. It did not only aim at all groups and classes inside the Hexagon but also outside France, both in its colonies and in foreign countries.

Three closely interrelated associations became crucial to the "*Francophonie républicaine*": That was, firstly, the *Alliance Française* (AF).[17] Founded in 1883 it comprised not only fervent republicans but a large coalition of supporters from different political camps. Although its goal was (and remains) the promotion of the French language outside France its leaders also recognized its integrative character inside the country. Thus in 1888 its general secretary, Pierre Foncin, came to talk about the huge divergences that shaped France and its political landscape "between North and South, West, East and the Centre". He argued that language was an important element of cohesion able to overcome all rivalries and conflicts: „La langue française est l'expression de toutes les consciences, elle plane au-dessus de toutes rivalités et de toutes les batailles. La propagation pure et simple de la langue française est un programme que tout le monde peut admettre et signer."[18]

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been said, the very bond that makes the homeland, at least it tightens this bond to the point of making it almost indissoluble."

16 Pierre Singaravélou, 'Aux origines coloniales de la francophonie. Le rôle pionnier des associations et des sociétés savantes', in: Sylvie Guillaume/Noble Akam (eds.), *Les associations dans la francophonie*, Pessac 2006, 63–74.

17 François Chaubet, *La politique culturelle française et la diplomatie de la langue: L'Alliance française, 1883–1940*, Paris 2006.

18 'Conférence de M. P. Foncin', in: *Bulletin de l'Alliance Française* 26 (1888), 166–173, here: 171. Transl: "The French language is the expression of all consciences, it hovers above all rivalries and battles. The pure and simple propagation of the French language is a program that everyone can admit and sign."

Another important actor within this francophone network of associations was, secondly, the *Alliance israélite universelle* (AIU), a Jewish organization that had been founded already in 1860 in order to fight the discrimination and persecution of Jews, particularly in the declining Empires of Central and Eastern Europe as well as in the Balkans.[19] A second pillar of its work became the education of Jewish children outside France. For this purpose the AIU established a large network of French-language schools throughout the Mediterranean including North Africa and the Ottoman Empire following a kind of own civilizational mission in order to emancipate Jewish communities in these regions.[20] Thirdly, in 1902, the *Mission laïque française* (MLF) was launched with a clearly secular agenda.[21] In order to compete with religious, mostly catholic missions that were firmly established in the French colonial empire as well as in France's informal zones of influence they founded French schools with a main emphasis, analogues to the AIU, in the Ottoman Empire. Thus the *Francophonie républicaine* did not only concentrate on the French colonies and 'classical' foreign countries but turned also more to the informal zones of influence envisaged by French imperialism, namely the *Bassin Méditerranéen*.[22]

In the "age of territoriality" language and language policy thus became a serious element of political assertiveness and a significant symbol of state sovereignty in- and outside France. As seen it was a political program that aimed at the cohesion of the nation-state and the control of its territory. But at the same time its promoters expanded their horizons beyond the Hexagon. Thus in a second step the French colonial Empire becomes the centre of interest. Which ideas and practices of Francophonie shaped French imperial politics? What were the transfers and entanglements between the empire and its metropole? And how was this related to the concept of cultural sovereignty?

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19 André Kaspi (ed.), *Histoire de l'Alliance israélite universelle de 1860 à nos jours*, Paris 2010.

20 See Aron Rodrigue, *French Jews, Turkish Jews: The Alliance israélite universelle and the politics of Jewish schooling in Turkey, 1860–1925*, Bloomington 1990.

21 *Éléments pour une histoire de la Mission Laïque Française, 1902–1982* (Numéro spécial de "Dialogues. Bulletin de liaison des professeurs français à l'étranger"), [Paris 1982].

22 See Patrick Cabanel (ed.), *Une France en Méditerranée: Écoles, langue et culture françaises, XIXè–XXè siècles*, Grâne 2006.

Francophonie "en flagrant délit": French language policy and cultural sovereignty in the French Empire

The rising of national aspirations and rivalries as well as the second imperial expansion since the 1880s were closely related to the idea of the *mission civilisatrice.* Already in 1885 the notorious Jules Ferry, not only one of the architects of the Third Republic's educational reforms but also a fervent promoter of its imperial expansion, had highlighted the importance of the French language as a geopolitical factor. France, he argued, could not content itself with a similar role as smaller nations like Belgium or Switzerland. For the "*grandeur de la France*" the French language was an outstanding asset. According to Ferry, the republican party had shown that France "ne peut pas être seulement un pays libre, qu'elle doit aussi être un grand pays, exerçant sur les destinées de l'Europe toute l'influence qui lui appartient, qu'elle doit répandre cette influence sur le monde et porter partout où elle le peut sa langue, ses mœurs, son drapeau, ses armes, son génie."[23]

The metropolitan discourse inspired especially the discourses concerning Francophonie and language policy at large. At least in theory an empire-wide promotion of the French language should allow the progressive rapprochement of indigenous people to French "civilization". Conversely this meant that indigenous languages and its speakers were devalued and oppressed.[24] In his instructions published in 1903 that also summarized French educational policy in Madagascar since the official integration of the country into the French colonial empire in 1896 Governor Galliéni insisted that teaching in all schools had to be organized "in a resolutely French sense". On the one hand he reminded that:

> l'extension donnée à l'usage de notre langue était l'un des plus puissants moyens dont nous disposions pour assimiler nos nouveaux sujets, les initier à nos idées et à nos coutumes et enfin, les préparer à fournir le concours nécessaire aux entreprises de nos colons.[25]

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23 Jules Ferry, 'Discours du 28 juillet 1885', in: *Discours et opinions de Jules Ferry*, publiés avec commentaires et notes par Paul Robiquet, tome cinquième: Discours sur la politique extérieure et coloniale, Paris 1897, 172–220, 220. Transl.: "cannot only be a free country, that it must also be a great country, exercising over Europe's destiny all the influence that belongs to it, that it must spread this influence over the world and carry wherever it can its language, its customs, its flag, its weapons, its genius."

24 See the classical study of Louis-Jean Calvet, *Linguistique et colonialisme: Petit traité de glottophagie*, Paris 2002 [first edition: 1974].

25 'Instructions', in: *Bulletin Officiel de Madagascar et de ses Dépendances*, année 1903, Nr. 87, du 1er au 30 juin 1903, 548–574, here: S. 551. Transl.: "The extension given to the use of our

On the other hand he referred to another decree that in 1897 had stipulated that all Malagasies employed by the French government or administration must have skills in French language.[26] Thus a mere functional and instrumental approach to the promotion of French language went hand in hand with a discourse that preached assimilation and that was more oriented at the ideas of the *mission civilisatrice*. We have already seen the interaction of both perspectives in the context of nation-building in the metropole, and both were closely interrelated with a certain concept of cultural sovereignty.

As in the metropoles, politics of territoriality shaped colonial empires, the French included. It did not only aim at quantitative expansion but also at the spatial penetration and control of the territory and tried to determine colonial borderlines.[27] In his rather brief words on the colonial dimension of territorial statehood Charles Maier also refers to the various attempts of empires at establishing spatial control of imperial territories, especially with the help of infrastructural projects.[28] Although, at first sight, these attempts were quite similar to the ideas and practices of territorial governing in the metropole it is necessary to underline the significant differences. Despite local dissimilarities within the empire, the French colonial administration on the whole was far away from the professionality and efficiency of administrative structures and practices in the metropole. With regard to the needs of administration and governing, however, some functions attributed to education and language politics in the empire were quite similar to those in the Hexagon.

From a mere instrumental and administrative perspective that was especially interested in smoothly running processes it was only a basic knowledge in French that was considered as necessary. As a consequence the curricula were largely arranged according to the needs of the local colonial administration. Particularly in state-run schools the majority of the graduates were only certified with special diplomas that were not the same as in the metropole. Only a small indigenous elite had the chance to enjoy higher education with equivalent French degrees. As a consequence the vast majority of indigenous people were only familiarized

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language was one of the most powerful means at our disposal to assimilate our new subjects, to introduce them to our ideas and customs, and finally to prepare them to provide the necessary assistance to the enterprises of our settlers."

26 Ibid., 552.

27 See Hélène Blais, 'Reconfigurations territoriales et histoires urbaines. L'emprise spatiale des sociétés coloniales', in: Pierre Singaravélou (ed.), *Les empires coloniaux, XIXè–XXè siècle*, Paris 2013, 169–214; Hélène Blais/Florence Deprest/Pierre Singaravélou (eds.), *Territoires impériaux: Une histoire spatiale du fait colonial*, Paris 2011.

28 Maier, *Once Within Borders*, especially chapter 5. For the German example see: Dirk van Laak, *Imperiale Infrastruktur: Deutsche Planungen für eine Erschließung Afrikas, 1880–1960*, Paderborn et al. 2004.

with basic skills in reading and writing. Altogether, this aimed principally at the formation of workers and administrative staff in the lower ranks.[29]

The instrumental and functional considerations that shaped the sector of education in general as well as the promotion of the French language in particular may be illustrated, with all the cynicism that went with it, by the following episode in Annam-Tonkin. After the end of the Sino-French war Paul Bert was appointed general resident of Madagascar in 1886 in order to "pacify" the new French protectorates. He quickly began to establish schools for which he, however, provided only a modest budget and few professional teachers. For Bert, the promotion of the French language served purely instrumental needs:

> Il n'était pas nécessaire qu'un jeune garçon indigène pût dire à nos officiers: ‚voulez-vous me permettre de vous accompagner, j'ai appris un peu le français, je pourrais vous servir d'interprète et je tiendrais votre cheval'. Il suffit qu'il dise: ‚moi aller avec vous, parler français, tenir cheval'.[30]

It was the same Paul Bert, as a close political companion of Jules Ferry, that had vigorously campaigned for republican school politics and educational reform in the metropole. His statement therefore underlines again the huge gap that divided imperial from metropolitan practices of Francophonie. To name only a few examples, at the end of the 19th century elementary schools in French West Africa counted altogether only 2,500 pupils. The numbers in French Equatorial Africa were similarly low. Especially in sub-Saharan Africa the number of schools remained very small, and this only should change after the Second World War.[31] In Algeria that was an integral part of France and therefore a special case of French colonialism the quota of scolarisation in 1890 amounted to only 1.9 per cent, in 1930 it had only increased to 6 per cent.[32]

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29 With examples from different colonies: Dalila Morsly, *L'enseignement du français en colonies: Expériences inaugurales dans l'enseignement primaire*, Paris 2010. See also Antoine Léon, *Colonisation, enseignement et éducation*, Paris 1991; Robert Aldrich, *Greater France: A history of French overseas expansion*, Basingstoke 1996, 224f.

30 Stéphane Kotovtchikhine, *Paul Bert et l'instruction publique*, Dijon 2000, 110–119, here: 114. Transl.: "There was no need for a young native boy to tell our officers: "Would you allow me to accompany you, I've learned some French, I could interpret for you and I'll hold your horse. All he has to do is say: "Me go with you, speak French, hold your horse."

31 The numbers in: Aldrich, *Greater France*, 225. For West Africa see also Conklin, *A Mission to Civilize*, 73–86, and the classical study of Denise Bouche, *L'enseignement dans les territoires français de l'Afrique Occidentale de 1817 à 1920: Mission civilisatrice ou formation d'une élite?* 2 Vol., Lille 1975.

32 The numbers in: Claude Liauzu, 'L'école du colonisé. Une immense faim scolaire non satisfaite', in: Claude Liauzu (ed.), *Dictionnaire de la colonisation française*, 2007, 260–264, here: 262. For Algeria see: Fanny Colonna, *Instituteurs algériens, 1883–1939*, Paris 1975.

Although we need to underline the varieties within the French empire, we may conclude: Despite official discourses that praised assimilation French imperial educational policy as a whole fell far short of the grandiose promises made in the name of *mission civilisatrice*. As is well known such striking contradictions did not only characterize education and language promotion but nearly all fields of colonial rule. As Sylvie Thénault has noted with regard to the French colonial state: "la IIIè République française est ainsi prise en flagrant délit de contradiction avec ses propres principes".[33] But how things were developing after the long turn of the century and especially after the First World War? And what were indigenous reactions to the francophone project?

Conflicting "cultural sovereignties" and (post-)imperial appropriations

In the wake of the „Great War" the second French colonial empire grew larger than ever before thanks to the League of Nations mandates in sub-Saharan Africa as well as in Syria and Lebanon. The latter were former zones of influence where French language policy could tie up to an already dense francophone network formed by long-time established catholic missionaries as well as by the actors of the *Francophonie républicaine* that had entered the imperial stage since the late 19th century, namely the *Alliance israélite universelle* and the *Mission laïque française*. Thus, since the turn of the century *"deux France"*, a catholic and a republican one, had coexisted and often bitterly concurred in the Mediterranean and in other areas of the French colonial empire in order to proselytize local populations.[34] The following will not focus on these inner-French conflicts about cultural sovereignty but it will draw attention to indigenous perspectives and appropriations of the francophone project. The French mandate Syria-Lebanon in the inter-war-years will serve here as an example.[35]

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33 Thénault, *L'État colonial*, 244. Transl.: "the Third French Republic is thus caught in flagrante delicto of contradiction with its own principles."

34 See J. P. Daughton, *An Empire Divided: Religion, Republicanism, and the Making of French Colonialism, 1880–1914*, Oxford 2008; Owen White/J.P. Daughton (eds.), *In God's Empire: French Missionaries and the Modern World*, New York 2012. With special regard to Syria and Lebanon: Julia Hauser/Christine B. Lindner/Esther Möller (eds.), *Entangled Education: Foreign and Local Schools in Ottoman Syria and Mandate Lebanon (19–20th centuries)*, Würzburg 2016.

35 See Jennifer M. Dueck, *The Claims of Culture at Empire's End: Syria and Lebanon under French Rule*, Oxford/New York 2010; Esther Möller, *Orte der Zivilisierungsmission: Französische Schulen im Libanon 1909–1943*, Göttingen 2013.

In its newly acquired mandate, French rule immediately was called into question by anticolonial movements of emancipation. During the Paris Peace conference, they had tried in vain to prevent mandatory rule.[36] However, for the Syrian opposition, particularly the pro-Arab "National Bloc", the French language often played an ambivalent role. For a long time some propagandists of colonization had feared too intensive dealing with francophone authors and particularly with the pioneers of the Enlightenment because this might furnish critiques of colonialism and engender movements for national independence. Indeed such anticipations should partly become true although the role that language played for this was as diverse as the wide range of emancipation movements. One example was an essay entitled "*Bilan d'une equivoque"*, written in French by a prominent protagonist of the Syrian National Block in 1939. The author, Jamîl Mardam Bey, could look back on an almost paradigmatic biography for anticolonial leaders. He had passed a part of his education at the *École libre des sciences politiques* in Paris where, on the eve of the First World War, he and other fellow students formed a pro-Arab network. After the war, he participated as an observer at the Paris Peace Conference. Above all his essay was a sharp critique of the French mandate in Syria. Nevertheless, its author expressed his appreciation of the French language and culture: "La langue française n'a pas été pour les Syriens de l'intérieur un moyen de gagner leur vie ou d'avancer en grade, mais une sorte de fenêtre ouverte sur l'Occident."[37]

Like Mardam Bey many members of the Syrian elites were not only francophone but in an abstract cultural sense also quite francophile. They referred to European and Western ideas and principles all the more when they were open-minded about liberal ideas. Towards the idea of *mission civilisatrice* and its inherent francophone project this entailed another ambivalence that did not only concern the protagonists of the anti-mandatory opposition but also other actors, like teachers for example that were employed at French schools. Their dilemma has best been described by Esther Möller who points out that they "were teaching a literature that was based on the principles of self-determination but they

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36 See Philip S. Khoury, *Syria and the French Mandate: The Politics of Arab Nationalism, 1920–1945*, London 1987; Daniel Neep, *Occupying Syria under the French mandate: Insurgency, Space and State formation*, Cambridge 2012.

37 Quoted from: Salma Mardam Bey, *La Syrie et la France: Bilan d'une équivoque (1939–1945)*, Paris 1994, 13–35, here: 9. See also: Doc. 32: ',,Le bilan d'une équivoque": le mandat français jugé par un nationaliste syrien (1939)', in: Anne-Laure Dupont/Catherine Mayeur-Jaouen/Chantal Verdeil (eds.), *Le Moyen-Orient par les textes, 19è-20è siècles*, Paris 2011, 112–115. Transl.: "The French language was not a means of earning a living or advancing in rank for the Syrians inside, but a sort of window open to the West."

were part of a quasi-colonial regime that forbid self-determination for the Lebanese and the Syrians. It was this literature that also served to Arab nationalists as inspiration for their uprising against the French rulers."[38]

Another important strategy of emancipation movements was the appropriation of some elements of the francophone discourse to justify their own national aspirations. A complaint submitted to the League of Nations in 1935 illustrates this. It originated from the surroundings of the pro-Arab "National Bloc" and was jointly signed by a lawyer and a farmer. The text went through different European concepts of nation-building and discussed the importance of a common language and culture. For many centuries, it argued, the vast majority of Syrians shared the same language, the same culture, the same habits and customs. And even more: "Bien des nations, et la France elle-même avec ses Alsaciens, ses Auvergnats, ses Basques, ses Bretons, ses Corses et ses Provençaux qui tous ont encore leur entité raciale et linguistique, pourraient envier à la Syrie ses éléments d'unité humaine."[39]

Supporters of the national movements often used this argument, which was borrowed from European conceptions of nations, in a strategic way. However, certain aspects regarding the link between language and "civilisation" structured also the case made by those who sought to strengthen the use of the Arab language in school or in everyday life. For example, French-directed schools like those run by the MLF or the AIU provided teaching in the Arab language. With the advent of the mandate, the necessity to master the national language became even more urgent. The personnel on the ground was much more sensible to these needs than the central administrations of the MLF or the AIU in Paris. Quite typical was the following view expressed by a director from Aleppo. In his letter to the president of the *Alliance israélite universelle* he wrote:

> Vous savez que depuis que je suis à la tête de vos écoles d'Alep, j'ai pris à cœur le développement de l'enseignement de la langue arabe, la langue nationale des Syriens, qui leur est si nécessaire pour les transactions commerciales et pour leurs relations journalières tant entre eux qu'avec les autorités locales.[40]

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38 Möller, *Orte der Zivilisierungsmission*, 196.

39 Pétition: Abdulkader Sarmini et Djemil Ibrahim Pacha, Alep, le 15 juin 1935, p. 3 (Achives Diplomatiques, La Courneuve: SDN, Côte: 242QO, N° 597). Transl.: "Many nations, and France itself with its Alsatians, Auvergnats, Basques, Bretons, Corsicans and Provençals, all of whom still have their racial and linguistic entity, could envy Syria its elements of human unity."

40 M. Penso à Monsieur le Président de l'Alliance Israélite Paris, Alep, le 5 juin 1931, 2 (Archives de l'Alliance israélite universelle (AIU): Syrie VII E 063 f). Transl.: "You know that since I have been at the head of your schools in Aleppo, I have taken to heart the development of the teaching of the Arabic language, the national language of the Syrians, which is so necessary to them for

In the course of the mandate, beyond such pragmatic reasons, political considerations came more and more to the fore, all the more since the perspective of Syrian and Lebanese independence were negotiated since the mid of the 1930s. Particularly meaningful for this view was an appeal that A. Rahmani, AIU-director in Sidon, sent to the *Rue La Bruyère* in Paris, the headquarters of the *AIU*, in 1937. On nearly 20 pages, he required an equal status for the Arab language in comparison to French.[41] According to him the changing political and cultural atmosphere had to result in a "new cultural formula for our schools in the Orient."[42] Implicitly he blamed his superiors in Paris not only to neglect Arab in its curricula but to nourish fundamental distrust towards it. This, he argued, ran the risk that young Jewish Syrians might become strangers in their own land:

> Ce qui est plus significatif, c'est le sentiment même de nos élèves en ce qui concerne la langue arabe. Ils témoignent peu d'intérêt à son égard, et l'apprendre est pour eux presque une corvée. [. . .] Que nous le voulions ou non, nous entretenons parmi nos élèves le mépris de leur langue maternelle, de leur langue nationale![43]

The idea of contesting "cultural sovereignties" also shows in his argument: „Dans la mesure où nous avons réussi à enseigner le français, nous avons détourné la jeunesse de la culture arabe. Systématiquement. Ce fait est inacceptable, incroyable."[44] In the same way as we saw before with Mardam Bey or the complaint to the League of Nations, he reversed the idea of the French civilizing mission and its inherent francophone project:

> Nous sommes Orientaux, et je dirai sans crainte du ridicule, que notre mission historique est de cultiver et d'approfondir la langue et la civilisation arabes; de les comprendre, de les aimer, de montrer à l'europe [sic!] les caractères propres de leur génie, de dégager clairement leur originalité, de mettre en lumière leur apport à la civilisation. En d'autres termes, fidèles à notre mission séculaire, nous devrions servir d'intermédiaire, de trait d'union entre l'Orient et l'Occident.[45]

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commercial transactions and for their daily relations both among themselves and with the local authorities."

41 Le directeur de l'École de Saida au Président de l'AIU, Saida, le 26 décembre 1937 (Archives de l'AIU: Liban XIII E 118).

42 Ibid., 1.

43 Ibid., 4f. Transl.: "What is more significant is the very feeling of our students regarding the Arabic language. They show little interest in it, and learning it is almost a drudgery for them. [. . .] Whether we like it or not, we maintain among our students contempt for their mother tongue, their national language!"

44 Ibid, 9 Transl.: "To the extent that we have succeeded in teaching French, we have diverted youth from the Arab culture. Systematically. This fact is unacceptable, unbelievable."

45 Ibid., 9f. Transl.: "We are Orientals, and I will say, without fear of ridicule, that our historical mission is to cultivate and deepen the Arab language and civilization; to understand them,

With regard to the Francophonie in its imperial context and contesting "cultural sovereignties" the harsh critique of Rahmani illustrates how claims of Arab culture and language in different milieus of the Syrian society were vehemently rising and entered more and more into competition with the francophone project. However, the French language and culture remained an important cultural point of reference – albeit often in quite another way than originally intended by the *Francophonie républicaine*.

Conclusion

What has been exemplary shown for Syria and the Lebanon under French mandate became even more vigorously after the Second World War and in the whole French colonial Empire: The question of emancipation and national independence as well as the issue of an enduring influence of the French "civilization" and language were nearly everywhere on the agenda. French reactions to these challenges were also situated in the fields of education and language policy. Only now, a stronger effort for schooling and alphabetization was seriously undertaken, particularly in the African colonies. After decolonization, it was the institutionalized Francophonie "invented" by Charles de Gaulle and others that was meant to maintain French influence over its former colonies. One of the many long lasting consequences of this policy was a persistent ambivalence towards French culture, language and "civilization" that shaped the post-colonial societies of the former French empire. In order to illustrate this only briefly the well-known Congolese author Emmanuel Dongala should be cited. In his *Les petits garçons naissent aussi des étoiles* published in 1998 he got to the heart of the paradox that had always been inherent to the project of *Francophonie républicaine*:

> Ils nous commandaient, ils dirigeaient le pays, l'exploitaient, nous ont appris leur langue, nous ont envoyés dans leurs écoles et nous ont donné comme nouveaux ancêtres les Gaulois. C'est pourquoi nous parlons encore français aujourd'hui, adorons la bouffe française et nous aimons toujours aller passer nos vacances en France même si aujourd'hui il est plus facile d'avoir un visa pour aller sur la Lune que d'en avoir un pour aller dans ce pays.[46]

to love them, to show europe [sic!] the characteristics of their genius, to clearly identify their originality, to highlight their contribution to civilization. In other words, faithful to our age-old mission, we should serve as an intermediary, as a link between Orient and Occident."

46 Emmanuel B. Dongala, *Les petits garçons naissent aussi des étoiles*, Paris 1998, 14. Transl.: "They commanded us, ran the country, exploited it, taught us their language, sent us to their schools and gave us the Gauls as our new ancestors. That's why we still speak French today,

At the same time after the Second World War, not only in the empire but also in the metropole the imaginary of cultural sovereignty closely linked to the francophone project became more and more fragile. While decolonization required a reformulation of Francophonie outside the Hexagon, dialects and regional languages regained ground inside it. On the one hand this became visible on the political-institutional level with the *"loi Deixonne"* in 1951 that readjusted the teaching of regional languages in French schools. Even if it concerned only some of them and their use in class was only facultative, for the first time the French republic officially recognized their right to existence. On the other hand the regional question and with it the cause of regional languages became increasingly important in intellectual debates and French society, especially since the 1960s. Once again scholarly engagement and civil society went hand in hand. One of the most prominent examples is the French linguist Robert Lafont, a well-known expert of Occitan and fervent advocate for the cause of regionalism. In the 1960s and 1970s in his political writings he put the case of a "regionalist revolution" and required the "decolonization of France".[47] As he denounced French regional politics as "internal colonialism", he had to face harsh criticism, also by other intellectuals like the writer and left-wing intellectual Jean-Marie Domenach.[48]

This concluding episode underlines again the challenges and pitfalls of treating questions of language policy and Francophonie as well as associated notions of cultural sovereignty in the French metropole and its former empire in the same analytical field – a task that requires sensibility and differentiation but nonetheless bears the potential to better understand notions of cultural sovereignty and self-conceptions of political entities that were at the same time "nations-states" and "empires".[49]

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we still love French food and we still like to go on holiday to France even though today it is easier to get a visa to go to the moon than to go to this country."

47 Robert Lafont, *La révolution régionaliste*, Paris 1967; Robert Lafont, *Décoloniser en France: Les régions face à l'Europe*, Paris 1971.

48 This finds expression in the issue "unité nationale et minorités culturelles" of the journal *"Esprit"* in December 1968 with contributions among others by Jean-Marie Domenach and Robert Lafont. See Esprit 12 (1968).

49 See Jörn Leonhard/Ulrike von Hirschhausen, *Empires und Nationalstaaten im 19. Jahrhundert*, Göttingen 2009.

Yfaat Weiss

Sovereignty in Miniature: The Mount Scopus Enclave, 1948–1967

Abstract: *Contemporary scholarly literature has largely undermined the common perceptions of the term sovereignty, challenging especially those of an exclusive territorial orientation and offering a wide range of distinct interpretations that relate, among other things, to its performativity. Starting with Leo Gross' canonical text on the Peace of Westphalia (1948), this article uses new approaches to analyze the policy of the State of Israel on Jerusalem in general and the city's Mount Scopus enclave in 1948–1967 in particular. The article exposes tactics invoked by Israel in three different sites within the Mount Scopus enclave, demilitarized and under UN control in the heart of the Jordanian-controlled sector of Jerusalem: two Jewish institutions (The Hebrew University of Jerusalem and Hadassah hospital), the Jerusalem British War Cemetery, and the Palestinian village of Issawiya. The idea behind these tactics was to use the Demilitarization Agreement, signed by Israel, Transjordan, and the UN on July 7, 1948, to undermine the status of Jerusalem as a* Corpus Separatum*, as had been proposed in UN Resolution 181 II.*

The concept of sovereignty stands at the center of numerous academic tracts written in the decades since the end of the Cold War and the partition of Europe. These days, with international attention focused on the question of Jerusalem's international status – that is, Israel's sovereignty over the town – there is particularly good reason to examine the broad range of definitions yielded by these discussions. Such an examination can serve as the basis for an informed analysis of Israel's policy in the past and, to some extent, even help clarify its current approach.

This article seeks to do so by focusing on a supposedly exceptional issue, taking into consideration that a rule is expressed most clearly in the exception.[1]

On this topic, see: Søren Kierkegaard, *Die Wiederholung*, München 1998, 93–94, quoted in Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, Chicago 2005, 15.

It describes the ways Israel developed and implemented its conception of sovereignty within an overt geo-political anomaly: the confines of the Mount Scopus enclave in Jerusalem.[2] Alongside an account of various expressions of sovereignty, presented and exemplified through the spaces under Israeli control within its portion of the enclave – the buildings of the Hebrew University and the Jewish National and University Library and the Hadassah hospital, the British military cemetery, and the village of Issawiye – the article claims that the specific insistence on the principle of non-intervention on the one hand, and the replacement of possession with sovereignty on the other, were the most significant processes of Israeli policy both within the enclave and beyond it.

Westphalian Sovereignty

The solidification of the principle of non-intervention is typically associated in international relations scholarship with the "Peace of Westphalia", from which also follows its description as "Westphalian sovereignty". That particular turn of phrase apparently originates with Leo Gross' article "The Peace of Westphalia, 1648–1948", published in early 1948 under the impression of the ratification of the United Nations charter. Gross suspected that the UN would – like its predecessor the League of Nations and perhaps even more so – lack any effective authority to restrain the independent and unregulated actions of sovereign states and would rely solely upon the goodwill of member states and their voluntary cooperation to maintain security and world peace.

In his article, Gross – who, like a host of well-known Jewish scholars of international law, escaped occupied Europe only by the skin of his teeth – traced the development of the system of international relations and the formation of international law from the Peace of Westphalia onwards.[3] The article did much to forge the iconic status of the Peace of Westphalia. Among other observations, Gross claimed that:

> in the political field [the Peace of Westphalia] marked man's abandonment of the idea of a hierarchical structure of society and his option for a new system characterized by the

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2 On the essence of the enclave as a geo-political anomaly and the conclusions to be drawn therefrom, see: Fiona McConnell, 'The Fallacy and the Promise of the Territorial Trap: Sovereign Articulations of Geopolitical Anomalies', in: *Geopolitics* 15 (2010), 762–768, here 762–766.
3 Leo Gross, 'The Peace of Westphalia, 1648–1948', in: *American Journal of International Law* 42 (1948), 20–41.

coexistence of a multiplicity of states, each sovereign within its territory, equal to one another, and free from any external earthly authority.[4]

This conclusion reflected an accepted conception of the essence of the sovereign state in modern history. This sovereign status, which marked the liberation of states from under the yoke of Pope and Emperor, had unfortunately not yielded the desired result. In Gross' words: "Instead of heralding the era of a genuine international community of nations subordinated to the rule of the law of nations, it led to the era of absolutist states, jealous of their territorial sovereignty to the point where the idea of an international community became an almost empty phrase."[5]

Over the past two decades, the "near-canonical"[6] status enjoyed by Gross's arguments and the impression they created regarding the Peace of Westphalia and the system formed in its wake has aroused much critique and opposition. Some found it objectionable that a scholar without historical training, unfamiliar with the documentary sources in question, had determined the interpretation of history, even blaming Gross for the mistaken underlying assumptions formed across the field of international relations in the wake of the Second World War.[7] Historically speaking, say the critics, Westphalia was a process rather than an event, and as such included developments that anticipated the conclusions reached as well as later divergences from the agreement's principles.[8] These critics emphasize that the Peace of Westphalia included processes far more complex and ambivalent than those identified by Gross.[9]

The critical tone and the precise evaluation of the article's empirical findings are somewhat curious: the article's iconic weight owed not to any professional authority of the author regarding early modernity, but almost certainly from the contemporary motivation for its writing. After Gross' emigration, his scholarship focused less on theoretical elements and more on practical issues in international

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4 Ibid., 28–29.

5 Ibid., 38.

6 A "code-word," as Markus Kirchhoff describes it in his recently-published article: Markus Kirchhoff, 'The Westphalian System as a Jewish Concern – Re-Reading Leo Gross' 1948 "Westphalia" Article', in: *Simon Dubnow Institute Yearbook* 15 (2016), 239–264, here 241.

7 Andres Osiander, 'Sovereignty, International Relations, and the Westphalian Myth', in: *International Organization* 55/2 (Spring 2001), 251–287, here 264.

8 Ibid. See also Heinz Durchhardt, "Westphalian System": Zur Problematik einer Denkfigur, in: *Historische Zeitschrift* 269/2 (1999), 305–315.

9 See a summary of the critique: Rainer Grote, 'Westphalian System' (June 2006), in: *Max Planck Encyclopedia of Public International Law*, https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1500, (2019–10-18).

law.[10] The problems of the day were the explicit motive for Gross' article on the Peace of Westphalia, especially his apprehensions regarding the structural weakness of the newborn United Nations. As he stated clearly in conclusion:

> That rugged individualism of states ill accommodates itself to an international rule of law reinforced by necessary institutions. It would seem that the national will to self-control which after a prolonged struggle first threw off the external shackles of Pope and Emperor is the same which *mutatis mutandis* persists today in declining any far-reaching subordination to external international controls. It was one of the essential characteristics of the League of Nations and it is one of the chief weaknesses of the United Nations.[11]

Corpus Separatum

In the beginning came the United Nations. The UN was entrusted with determining the future of Mandatory Palestine after Great Britain chose to return the Writ of Mandate granted it by the League of Nations. Based on the recommendations of the United Nations Special Committee on Palestine (UNSCOP), the UN on November 29, 1947 pronounced the partition of Palestine into two states, a Jewish state and an Arab state. It also determined the fate of Jerusalem by setting its future status as a *corpus separatum*, that is, a neutral entity under international oversight. Under this decision, Jerusalem was to be demilitarized, neutral, and administered by a Trusteeship Council headed by a governor and an administrative staff comprised of locals, an international police force, and an elected legislative body. The Trusteeship Council was charged with preparing and ratifying a detailed legal code within five months, which was to become valid on October 1, 1948 and remain current for a decade.[12]

Yet the UN Resolution, accepted by the Jewish side, was rejected by the Arab side, and as war broke out the intended principles for the demilitarization of Jerusalem and its transformation into a *corpus separatum* could no longer keep pace with events or corresponded with the geopolitical reality forged in battle. In any case, Israel had acquiesced to the *corpus separatum* merely as a

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10 Jörg Kammerhofer, 'Leo Gross (1903–1990)', in: Robert Walter, Clemens Jabloner & Klaus Zeleny (eds.), *Der Kreis um Hans Kelsen: Die Anfangsjahre der Reinen Rechtslehre*, Wien 2008, 131.
11 Gross, 'The Peace of Westphalia', 40–41.
12 Michael Brecher, 'The Legal Struggle over Jerusalem', in: Eli Sha'altiel (ed.), *Episodes in the History of Modern Jerusalem: Book in Memory of Ya'akov Herzog*, Jerusalem 1989, 389–390 [Hebrew]; Motti Golani, *Zion in Zionism: Zionist Policy on the Jerusalem Question, 1937–1949*, Tel Aviv 1991, 53–64 [Hebrew]; Meir Ydit, *Internationalised Territories: From the 'Free City of Cracow' to the 'Free City of Berlin'. A Study in the Historical Development of a Modern Nation in International Law and International Relations, 1815–1960*, Leyden 1961, 290.

necessary condition for the achievement of a majority in favor of the Partition Plan at the UN General Assembly. Once the resolution passed, and especially in light of the war's outcome, Israel withdrew its initial agreement. Ben Gurion expressed this openly and directly, saying that, in retrospect:

> when we agreed on the 29ᵗʰ of November [to accept the Partition Plan], we agreed in earnest. We were willing to accept less – via peace, an international agreement, and a Jewish-Arab agreement – as opposed to more via war. [But now, after the war] the 29ᵗʰ of November does not exist [any longer] and there is no idiot in the world who would bring it back to life. . . the international reality and the reality in the Land of Israel has changed, and there's no going back.[13]

As a matter of fact, the stabilization of the battle lines in practice did not remove the *corpus separatum* plan from the international diplomatic agenda. In June 1948 Ben Gurion quickly responded to his internal critics on the Provisional State Council, stating that:

> . . . regarding the question of whether Jerusalem is inside the country or not. . . until peace reigns and borders are set, with international approval and agreement between the sides, [Jerusalem] is under the purview of the Jewish government. Jerusalem is under the purview of the Jewish government (at the moment, unfortunately, without the Old City) no less than Tel Aviv, and there is no distinction between Jerusalem and Tel Aviv, between Haifa and Hanita. . . all are under the purview of the Jewish government.[14]

The picture looked different on the international stage, however. Count Bernadotte, who would meet his death while on a UN mission to treat between the warring sides, considered the prospect of transferring Greater Jerusalem to Jordan in June 1948.[15] Later he withdrew this suggestion and – on September 16, 1948, the day before his murder – proposed before the UN General Assembly a return to the plan to internationalize Jerusalem. Israel hastened to make a symbolic display of its sovereignty by establishing its High Court of Justice in Jerusalem in the middle of September 1948.[16] In the meantime, agreed-upon borders of *de facto* partition were set both for Jerusalem and for the remaining frontier between Israel and Transjordan as part of the Armistice Agreement signed under UN auspices on April 3, 1949.

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13 January 12, 1949, quoted in Zeki Shalom, 'The State of Israel's Struggle to Foil the UN General Assembly's Resolution on the Internationalization of Jerusalem in the 1950s', in: *Iyunim Betkumat Israel* 3 (1993), 75 [Hebrew].

14 Brecher, 'The Legal Struggle over Jerusalem', 387–388.

15 Folke Bernadotte, *To Jerusalem*, Jerusalem 1993, 108 [Hebrew].

16 Brecher, 'The Legal Struggle over Jerusalem', 393.

Yet even this did not do away with the plan to internationalize Jerusalem. The Palestine Conciliation Commission that visited the area on behalf of the UN presented its own plan to internationalize the city to the UN Secretariat in August 1949,[17] a plan Israel opposed. This proposal would prove to be more moderate than the suggestion to place Jerusalem under a permanent international regime, a plan submitted by the Australian delegation and approved by a sweeping majority of the General Assembly as Resolution 303.[18] As a response to this UN Resolution, only 36 hours later, the transfer of government offices from Tel Aviv to Jerusalem was officially declared on December 11, 1949, over the hesitant and careful stances of such members of the Israeli government as Foreign Minister Moshe Sharett.[19] Four days later, the Knesset also approved the move to Jerusalem. While Israel refrained from passing legislation on the subject, the government nevertheless declared: "With the establishment of a Jewish state, Jerusalem once again became its capital."[20]

In complete contravention of the *corpus separatum* decision, Jerusalem remained de facto divided between the eastern Jordanian sector and the western Israeli sector, separated by a border laid down by the Armistice Agreement of April 1949. The *de facto* division of Jerusalem would not be discussed by the UN after 1952, though the *corpus separatum* decision has never been officially reversed. In the heart of the Jordanian sector, a demilitarized enclave under UN supervision remained: about two kilometers long and one kilometer wide, itself divided into an Israeli and a Jordanian sector separated by a strip of no-man's land.

The origins of this anomaly – the Mount Scopus enclave – lay in the battles of summer 1948. In the absence of a military resolution, Israel and Transjordan chose on July 7, 1948, during the first ceasefire, to sign a UN-sponsored Israeli-

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17 Shalom, 'The State of Israel's Struggle', 75–76. See also: Yemima Rosenthal (ed.), *Sources for the Foreign Policy of the State of Israel*, vol. 4, May–December 1949, Jerusalem 1986, 461–464 [Hebrew].

18 Uri Bialer, 'The Road to the Capital – Making Jerusalem into the Official Seat of the Israeli Government in 1949', in: *Catedra* 35 (1985), 181–185 [Hebrew]. On UN Resolution 303 see: Elihu Lauterpacht, *Jeruslaem and the Holy Places*, Anglo-Israel Association, Pamphlet 19, London 1968, pp. 27–33; Sally V. Mallison and W. Thomas Mallison, 'The Jerusalem Problem in Public International Law: Juridical Status and a Start towards Solution', in: Hans Köchler (ed.), *The Legal Aspects of the Palestine Problem: With Special Regard to the Question of Jerusalem*, Vienna 1981, 98–119, here 101–103.

19 Shalom, 'The State of Israel's Struggle'. Motti Golani calls these steps the shift from the 'tacit act' to the 'symbolic act'. See his article: Motti Golani, 'Longings are Longings and Actions are Actions: Israel's Policy on Jerusalem, 1948–1967', in: Anita Shapira (ed.), *Independence: The First 50 Years*, Jerusalem 1998, 267–296 [Hebrew], especially 272.

20 Brecher, 'The Legal Struggle over Jerusalem', 403.

Jordanian non-aggression pact on Mount Scopus.[21] The extent of the enclave[22] was hastily marked at this time and later ratified on July 20, 1948 – most likely by Transjordan and the UN alone. It was approved a third time as part of the "sincere ceasefire" of November 30, 1948 in a document signed between Moshe Dayan, the Jewish Commander of the Jerusalem Sector, and Abdullah Tal, the Arab Commander. At the time, the agreement nearly collapsed as fighting resumed and the Jewish demilitarized territory became more difficult to supply.

The Armistice Agreement signed directly between Israel and Transjordan on April 3, 1949 was based on previous understandings between the sides. But because, unlike the ceasefire agreement, it was bilateral rather than trilateral, and since these previous understandings differed on some points and were not always accompanied by agreed-upon maps, the Armistice Agreement left the designation of space imprecise and in doubt, which would feed the tension and misunderstandings of the following years.[23] The territory of the "Mount Scopus enclave" was a mere two square kilometers, within which Israel was allowed to maintain 85 police officers holding small arms and 35 civilian employees; Jordan in turn could host 46 police officers in its portion. Both sides of the enclave were demilitarized and subject to the protection of the UN command, which controlled entry to and exit from the territory. Within this enclave, the sides repeatedly tested limits, possibilities, opportunities, and dangers. The territory in question was an exception both in terms of the broader urban space of Jerusalem and, in many ways, in relation to other portions of historical Palestine.

The international status of Jerusalem after the Armistice Agreement clearly remained complex.[24] Israel's sovereignty over West Jerusalem had not been recognized *de jure*, to say nothing of recognition of its sovereign status within the

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21 See: Yfaat Weiss, „Nicht durch Heer oder Kraft, sondern durch meinen Geist": Die Hebräische Universität in der Skopus-Enklave', in: *Simon Dubnow Institute Yearbook* 14 (2015), 59–90.
22 Though commonly referred to it as an "enclave," from an Israeli point of view it was, of course, an exclave. On the difference see: Tobias H. Irmscher, 'Enclaves', *Max Planck Encyclopedia of Public International Law*, https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1037 (2019–10-18).
23 On the status of the Mount Scopus enclave in international law see: Ludwig Kippes, *Der Skopus-Berg in Jerusalem: Ein Beitrag zur Lehre von den Exklaven*, Diss. Julius-Maximilians-Universität Würzburg 1959, 68; Hubert Auhagen, *Die Völkerrechtliche Stellung der Enklaven und Exklaven*, Diss. Georg-August-Universität Göttingen 1967, 26–27. For a view that questions whether the Mount Scopus enclave was in fact an enclave, see: Rudolf E. Scherrer, *Der Zollanschluß der deutschen Enklave Büsingen an die Schweiz: Zugleich ein Beitrag zur Lehre von der Gebietshoheit*, Diss. Universität Zürich 1973, 18.
24 See the comprehensive article of Ruth Lapidoth, 'Jerusalem – Some Jurisprudential Aspects', in: *Catholic University Law Review*, 45: 3 (1996), 661–686, here 671–676.

demilitarized enclave. In practice, Israel enjoyed "possession" within the enclave.[25] Throughout the twentieth century, international law was repeatedly forced to confront the gap between sovereignty and "possession" – that is, physical control. Hans Kelsen – Leo Gross was his assistant until Kelsen's 1933 firing from Universität Köln against the backdrop of the race laws – questioned in his well-known 1920 book *Das Problem der Souveränität und die Theorie des Völkerrecht* (The Problem of Sovereignty and the Theory of International Law) "whether the relationship between territory and state [can] be compared to some kind of property right, that is: that the territory legally 'belongs' to a state, that the territory is dominated by the state."[26] Kelsen's student Albert Vordross, meanwhile, distinguished between "territorial sovereignty" and "possession" (*Gebietshoheit*).[27] He did identify possession as a necessary condition of "territorial sovereignty," but nevertheless insisted possession might also be achieved by means that were improper under international law and would not necessarily be recognized as sovereignty.

This gap between "possession" and territorial sovereignty, and between *de facto* and *de jure* recognition, explains all of Israel's actions and motive within the enclave. When, in response to UN Resolution 303, Ben Gurion sought to display Israel's sovereignty over the territory in its possession by pushing through a decision in December 1949 to move the government's offices from Tel Aviv to Jerusalem, he did so in spite of the dangers, the hesitation, and criticism from within his own government. He did so on the basis of his fundamental understanding that, "we are stronger than thirty nine states that voted for internationalization, because we are here."[28] His belief in the power of possession was

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25 Helmut Ridder, 'Gebietshoheit', in: Hans-Jürgen Schlochauer (ed.), *Wörterbuch des Völkerrechts*, vol. 1, Berlin 1960, 624–629.

26 "ob das Verhältnis zwischen Gebiet und Staat nach Art des Eigentumsrechts, etwa in der Weise vorgestellt werden dürfe, dass dem Staat als Rechtsobjekt ein bestimmtes Gebiet als Sache 'gehöre', dass das Gebiet vom Staate beherrscht werde"; Hans Kelsen, *Das Problem der Souveränität und die Theorie des Völkerrechts: Beitrag zu einer reinen Rechtslehre*, Aalen 1981, 73. See also: Alfred Verdross, Bruno Simma and Rudolf Geiger, 'Territoriale Souveränität und Gebietshoheit', in: *Österreichische Zeitschrift für öffentliches Recht und Völkerrecht*, 31 (1980), 223–225.

27 Alfred Verdross and Bruno Simma, *Universelles Völkerrecht: Theorie und Praxis*, Berlin 1984, 655–662, especially clause 1039 and 1043.

28 Mapai Party meeting, 12 December 1949, Mapai Archives. Quoted in Shalom, 'The State of Israel's Struggle', 88. See a similar evaluation by an external observer heading the Palestine Conciliation Commission, Pablo de Azcárate, in a book written in 1952 and published in 1966: "Israel's attitude has the immense advantage of being able to count on the irresistible tendency of all *de facto* situations to become, with the mere lapse of time, converted into *de jure* situations – a transformation that takes place all the more readily if, as has happened in this case, it receives a political and moral reinforcement as powerful as that represented by the guarantee conferred in

even starker with regards to Israel's policy within the enclave, the goal of which was to turn Israel's effective grasp of the territory – "we are here" in Ben Gurion's words – into a fundamental claim to sovereignty.[29]

Article 8

In order to convert its possession into the sovereignty it sought with its every step in the Mount Scopus enclave – part of its broader demand for sovereignty in Jerusalem – Israel was in need of international recognition. Its starting conditions were rather favorable. Though the enclave's founding agreement was upheld by UN mediation, in many ways the Mount Scopus enclave resembled the demilitarized enclaves created by League of Nations decisions in the wake of the First World War. At that time, under the existing laws of war such enclaves were still seen as feasible means of neutralizing active military conflicts.[30] In any case, Mount Scopus' fate was more favorable than the hundreds of godforsaken enclaves formed elsewhere during the late 1940s as a result of postwar processes of de-colonization. Hundreds of thousands of residents of those enclaves were abandoned in situations of acute distress in the no-man's-lands of chronic national conflicts, for example during the partition of the Indian subcontinent between Indian and Pakistan in 1947.[31]

Unlike these enclaves, Jerusalem in general and the Scopus enclave in particular – home to the central Jewish national institutions of the Hebrew University of Jerusalem, the National Library, and the Hadassah hospital – enjoyed significant

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1951 by the United States, France and England on the demarcation lines established by the armistices." Pablo de Azcárate, *Mission in Palestine 1948–1952*, Washington D.C. 1966, 198.

29 See Baruch Kimmerling's distinctions between three terms – sovereignty, ownership, presence: Baruch Kimmerling, 'Change and Continuity in Zionist Territorial Orientations and Politics', in: *Comparative Politics* 14/2 (1982), 192, 196, 198–199. On sovereignty as a "claim" see: James J. Sheehan, 'The Problem of Sovereignty in European History', in: *The American Historical Review* 111/1 (2006), 1–15, here 3.

30 Theodor Meron, 'Demilitarization of Mount Scopus: A Regime That Was', in: *Israel Law Review* 3 (1968), 501–525, here 503–504; Ydit, *Internationalised Territories*, 44–62; Wolfgang Ramonat, *Der Völkerbund und die Freie Stadt Danzig, 1920–1934,* Osnabrück 1979.

31 Pradyumna P. Karan, 'The India-Pakistan Enclave Problem', in: *The Professional Geographer*, 18/1 (1966), 23–25; Reece Jones, 'Sovereignty and Statelessness in the Border Enclaves of India and Bangladesh', in: *Political Geography* 28/6 (2009), 373–381; Willem van Schendel, 'Stateless in South Asia: The Making of the India-Bangladesh Enclaves', in: *The Journal of Asian Studies* 61/1 (2002), 115–147.

international exposure. Located in the town's northeast, isolated and distant from the western, Jewish portion of the town, these institutions had already ceased activities during the hostilities, when their buildings and the road leading to them were attacked as part of the Arab response to the UN Resolution. Their functions were frozen definitively following the bloody attack that killed 78 members of a convoy bearing medical professionals, university staff, and students to Mount Scopus on April 13, 1948.[32]

Figure 1: Rear View of Mount Scopus Campus. © Archives of the Hebrew University of Jerusalem/Photographer unknown.

When Israel signed the Armistice Agreement with Jordan in April 1949 – an agreement that was to have been a temporary measure pending the signing of a peace agreement that, as the years wore on, began to seem ever more distant – it had of course hoped to change this situation and bring routine life and activity back to Mount Scopus. Israel placed the bulk of its aspirations in Article 8 of the Agreement, which appointed a special Israeli-Jordanian committee to discuss any issue raised by one of the sides regarding which there had already been agreement in principle and to discuss "resumption of the normal functioning of the cultural and humanitarian institutions on Mount Scopus and free access thereto."[33] Yet Jordan consistently refused to fulfill this clause, that is, to engage at the joint meetings in discussion of the Jewish institutions' status and the resumption of their regular activities, which

32 Mount Scopus – I. Background, 21.12.1957, UN Archives, S-0326-003-10. On the efforts to continue the activities of the two institutions after the convoy attack, see Moshe Arnewald, *Siege within a Siege: Mount Scopus in the War of Independence*, Jerusalem 2010, 191–205 [Hebrew].
33 Article 8 of the Hashemite Jordan Kingdom–Israel General Armistice Agreement, 1949, Israeli Ministry of Foreign Affairs, https://mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/israel-jordan%20armistice%20agreement.aspx (2019–10-18).

Jordan justified on grounds of "security difficulties."[34] Over the years, Israel cease-lessly reminded international actors, including UN representatives, of this article and insisted it be respected. Well aware that its demands were hopeless, Israel's concentration on Article 8 seems intended less to return regular activity to the Mount Scopus institutions than to gain points in the international arena by illus-trating that the Kingdom of Jordan refused to fulfill the conditions of the Armistice Agreement. At the same time, Israel itself avoided steps that might have initiated the formulation of a new settlement, fearing that such a renewed agreement might be to its detriment.[35]

Over the course of the twentieth century, Mount Scopus' importance to the Jewish side ranged from hidden religious and declared national symbol to explicit or implicit strategic goal. Though "The Grey Hill Estate" on Mount Scopus pur-chased on the eve of the First World War as part of Haim Weizmann's efforts to found a university[36] was chosen thanks to a chance opportunity in the local real estate market, one may nonetheless identify a keen yearning for sovereignty in the plot's location. A clear expression of this can in fact be found in the words of Lord Arthur James Balfour, former British Foreign Secretary and author of the eponymous declaration. At the university's inaugural celebration in April 1925, he declared:

> . . . it was from this hill, this Mount Scopus, that the Roman destroyer of Jerusalem con-ducted the siege which brought to an end that great chapter of the Jewish people. Could there be a more historic spot? From this hill you can see the beginning, from this you can see the end, or what appeared to be the end, of the Jewish community [. . .].[37]

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34 Meron, 'Demilitarization of Mount Scopus', 510–511. See Ben Gurion's comment on the Jor-danian argument of 'security reasons' and his disagreement with it: Protocol of Government Meeting 11, December 8, 1957, p. 19, Israel State Archive. Though security is not the issue at the center of this article, protocols of the armistice committee, the government, and the Foreign Affairs committee were examined; where they could expand the argument, they were used. Likewise, many files in the IDF Archives were also examined in depth, and in cases when the material was not limited to tactical and practical aspects, use was made of them as well.
35 See for example: Protocol of Government Meeting 44, 22 June 1958, 2–9, and Protocol of Government Meeting 28, 31 January 1965, 6–31, Israel State Archive.
36 Ya'akov Wahrman, 'From the Grey Hill Estate to "The University Plot" on Mount Scopus,' in: Shaul Katz and Michael Heyd (eds.), *The History of the Hebrew University of Jerusalem: Roots and Beginnings*, Jerusalem 1997, 163–200 [Hebrew].
37 Earl of Balfour, *Speeches on Zionism*, London 1928, 75–76. See Arthur A. Goren, 'Sanctifying Sco-pus: Locating the Hebrew University on Mount Scopus', in: Elisheva Carlebach, John M. Efron and David N. Myers (eds.), *Jewish History and Jewish Memory*, Hanover 1998, 330–347, here 333–336.

Balfour's words reveal the explicit connection between the loss of sovereignty in the Second Temple period and the hopes for its renewal represented by the foundation of the Hebrew University.

A decade after the establishment of the university, the Mount Scopus ridge and the institutions it housed had already claimed a central position in the consciousness of the political leadership and begun to overshadow sites of renowned religious significance. This is clear from preparations made by the Jewish Agency to respond to the recommendations of the British Royal Commission of Inquiry (the Peel Commission) of 1937 – which proposed not only to divide Palestine into a Jewish and an Arab state but suggested turning Jerusalem and its environs into a mandatory state under British protection as well. The Jewish Agency worked diligently on a counter-proposal to the division of Jerusalem, which it submitted in 1938 to the Woodhead Commission, the Palestine Partition Commission.[38] Remarkably, the Jewish Agency, supported by David Ben Gurion and Haim Weizmann, was inclined to give up on any claims to the Old City – that is, to sacrifice the holy sites – but made sure to include among its demands the Mount Scopus ridge isolated in the city's northeastern corner. This preference, incidentally, became a consistent approach central to the strategy of the Israeli *Haganah* forces during the battles for Jerusalem in 1948, when it chose to submit to the Arab Legion in the Old City but to maintain its positions on Mount Scopus.[39] In fact, by 1937 central figures in the Zionist leadership entertained this alternative, given anticipated objections from the international community and the unlikely prospect of successfully gaining the Old City. Menachem Ussishkin, director of the Jewish National Fund, for example, announced: "Mount Scopus will be the cultural center of the Jewish People, with thousands of students and hundreds of professors."[40]

This proved no more than an illusion. On the eve of partition, the professors numbered no more than fifty among an academic staff of less than two hundred;

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38 Golani, 'Longings are Longings and Actions are Actions', 269–270. See also his general discussion on the Zionist policy towards Jerusalem in 1937, 1948, and 1949, and his conclusion regarding the understanding that "any chance for the Jewish state's control over Jerusalem depends on its partition," ibid., 273.

39 Yair Paz, '"The New Jerusalem" in the Jewish Agency's Plan for the Partition of Jerusalem (1937–1938)', in: *Catedra* 72 (1994), 113–134 [Hebrew]. And see Golani's observation that "in the Zionist partition plan of 1937 and in Israel's Jerusalem policy after 1948, Mount Scopus serves (to borrow the phrase) as 'the holy place' that must not be sacrificed even more than the actual holy places;" "it is not coincidental, as noted, that Mount Scopus was a far more crucial goal for Israeli governments until 1967 than the Temple Mount." Golani, 'Longings are Longings and Actions are Actions', 277.

40 Paz, '"The New Jerusalem"', 133.

the number of students barely surpassed one thousand.[41] The physical isolation of this ivory tower, spatially, in the town's northeast was, moreover, a reflection of the distance between the views of those working within the university's confines and the public discourse outside it. Whether or not they were among the members of "Brit Shalom," the well-known association that broke with the Jewish public's rising national sentiments to support the idea of a bi-national state in the late 1920s, or of "Ihud" in the 1940s – many advocated a compromising stance towards the Arab side. When the security situation escalated against the backdrop of the Partition Decision, they sought a means of allowing scientific activities to continue and keeping the university outside the cycle of violence.

The university's Operating Committee asked the Academic Senate to discard a drafted call to the nations of the world "to take urgent steps to end the bloodshed in the Holy Land" since it wasn't in accord with the diplomatic line of the political leadership.[42] Yet University President Judah L. Magnes continued to seek international intervention, for example by enlisting the help of Jewish and Arab doctors in announcing the "neutrality" of the Hadassah hospital and other medical institutions, as well as attempts to demilitarize Mount Scopus and make it neutral through the intervention of the Red Cross and the Mandatory authorities.[43] After the massacre of the Mount Scopus convoy and his disappointment with the toothless British response during the episode, Magnes – of American origin – hurried to the United States in a desperate attempt to convince the government there to withdraw its support for the Partition Plan, which he saw as a disaster.[44] He would almost certainly have found confirmation for his predictions in the results of the war and the fate of the campus, but he died during this mission abroad, leaving the university's remaining administrators to face the consequences of Mount Scopus' definitive disconnection from West Jerusalem, which left the university inside an enclave.

Formal control over the West Jerusalem sector was transferred to the State of Israel with its establishment, and in parallel the security and financial oversight of the Hebrew University was gradually handed over by the World Zionist Organization to the Israeli government.[45] At the same time, the desires and considerations

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41 Arnewald, *Siege within a Siege*, 76.

42 Yair Paz, 'Political and Symbolic Perspectives on Mount Scopus, 1948–1967', in: *Catedra* 163 (2017), 77 [Hebrew].

43 Ibid., 78.

44 Joseph Heller, *From Brit Shalom to Ihud: Judah Leib Magnes and the Struggle for a Binational State in Palestine*, Jerusalem 2003, 369–375 [Hebrew].

45 Paz, 'Political and Symbolic Perspectives', 69. See also: Uri Cohen, 'Conflict in Academia: The Hebrew University during the War of Independence, 1947–1949', in: *Journal of Israeli History: Politics, Society, Culture* 22/2 (Autumn 2003), 96–129.

of the university's faculty grew ever further from those of the political leadership. While the politicians were not wholly blind to cultural and spiritual considerations, they nonetheless granted preference to strategic considerations.[46]

At the end of March 1949, Werner Senator, the Administrative Director of the Hebrew University, complained to Executive Director of the Israeli Foreign Ministry Dr. Walter Eitan that the university's position was not being taken into account at the ongoing talks in Rhodes towards an Armistice Agreement between Israel and Jordan.[47] In a warm but unequivocal letter Senator stressed to Eitan that, "as representatives of the two institutions, the university and Hadassah [hospital], we have a special interest in any recognition of the general, political, and military importance of Mount Scopus. *We* have special knowledge about our *own* needs, and about the principles of the place."[48] To advance matters, he offered to pull strings available to the two institutions, "in both the cultural and the political worlds."[49] The Foreign Ministry agreed to allow Senator to travel to the United States to promote his outlook and that of the university, primarily the enactment of Article 8 of the Armistice Agreement,[50] but the ministry remained largely indifferent to such initiatives and focused on other goals. The fate of the university on Mount Scopus was subsumed at this point under the State of Israel's fundamental stance regarding the future of Jerusalem, stated clear as day by Abba Eban, Israel's UN Ambassador, in his response to Senator: "to the best of my judgment, it would be tactically damaging to our general strategy to isolate the Mount Scopus question from our general stance regarding Jerusalem, which I am responsible for formulating at the United Nations."[51]

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46 For example, Ben Gurion rejected the possibility of reconquering the area of Mount Scopus in October 1948 in part because he feared that such an action, if it failed, could spur the Legion itself to capture and destroy the university, "and the destruction of the National and University Library is not merely the destruction of buildings." Quoted in Arenwald, *Siege within a Siege*, 339.

47 David Werner Senator to Dr. W. Eitan, Foreign Office, 29 March 1949, Israel State Archives, Het-Tzadik-2444-14.

48 Ibid., emphasis in the original.

49 For example, equipped with a report prepared for him by Kurt Wormann, director of the National Library, Senator appealed to UNESCO, writing: "It is neither a military feat nor a political asset to deprive a whole country, and a whole people of his spiritual mainspring [. . .] it is a crime against civilization and humanity." See: Memorandum from Dr. Wormann to Dr. Senator, September 1949, Archive of the Hebrew University, Libraries 042, 1949.

50 David Werner Senator to Dr. Haim Weizmann, President of the State of Israel, 21 December 1949, Israel State Archives, Het-Tzadik-2444-17.

51 Abba Eban to Werner Senator on 13 October 1949, Israel State Archives, Het-Tzadik-2444-14. In a similar vein, see: Lieutenant Colonel Moshe Dayan to Walter Yair Neumond, Deputy Administrator of the Hebrew University, 3 July 1949, IDF Archives, Folder 233/3, 87.

Figure 2: The Jewish National and University Library on Mount Scopus in Jerusalem. © Archives of the Hebrew University of Jerusalem/Photographer unknown.

In late 1949 it was still possible to remove specific items from the Scopus enclave through individual, isolated initiatives, but these were exceptions to the general trend of severance of the campus from the town. "We haven't succeeded in bringing a single book down from Mount Scopus in the last several months,"[52] wrote Kurt Wormann, director of the National Library, attaching a memorandum describing the state of the library in autumn 1949, the temporary solutions gradually found for book storage in West Jerusalem, and the reading rooms that would be made available to readers; another memo labelled this the "library in exile."[53] Meanwhile, the gap between the Foreign Ministry and the ivory tower grew. The scholars seem to have misunderstood the Jerusalemite space and certainly failed to recognize the signs of the times. Professor Felix Bergman, responsible for the Medical School Library, wrote to Foreign Minister Moshe Sharett in late 1950 requesting the evacuation of the science collections and especially the periodicals. He proposed, in exchange, that the Jordanians be offered 200,000 or so volumes

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52 Dr. Kurt Wormann, National and University Library, to Dr. Senator, 28 September 1949, Archive of the Hebrew University, Libraries 1949.

53 Library in Exile, Archive of the Hebrew University, Libraries 1949.

from private Arab libraries "of great monetary and cultural value" that had fallen into Israeli hands during the battles of 1948.[54] Walter Eitan rejected the proposal out of hand.

> We have always opposed any step that might derogate in any effective way the value and importance of the institutions of the university and of Hadassah which are on Mount Scopus. Any diminished importance of the buildings and the property located on Mount Scopus can only weaken our diplomatic demands for the realization of our rights on Mount Scopus in full and the return of the institutions there to our hands.[55]

Eitan's response outlined the Israeli diplomatic strategy of the coming years, under which the Foreign Ministry increasingly opposed the university's initiatives, for example its independent attempt to lobby the Jordanian government through UNESCO to allow the removal of the books.[56] It appears that the books and the collections became secondary in their importance to the buildings in which they resided, as only through immobile property could Israel demonstrate its possession in its ambition for sovereignty. Accordingly, Israel could rely only on its formal spokespersons in the national arena – meaning its ambassadors abroad and representatives in the Armistice Committees – and not on the personnel in the institutions of education and culture – as only they were loyal representatives of its aspirations.

In June 1952, the philosopher Professor Shmuel Hugo Bergman, founder of the National Library and the Hebrew University's first Rector, asked to discuss

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54 Professor Felix Bergman, Medical School of the Hebrew University and Hadassah Hospital, to Mr. Moshe Sharett, Foreign Minister, 29 September 1950, Israel State Archives, Het-Tzadik -2444-14. See also: Kurt Wormann to Werner Senator, 6 December 1950, Archive of the Hebrew University, Libraries 1950. Prof. Moshe Schwabe repeated this idea as part of the the Standing Committee in October 1952: Excerpt from the Protocol of the Standing Committee A, 24 October 1952, Archive of the Hebrew University, Libraries 1952. On the deserted Palestinian libraries in general and their place at the National Library in particular see: Gish Amit, *Ex-Libris: Chronicles of Theft, Preservation, and Appropriating at the Jewish National Library*, Jerusalem 2014, 78–126 [Hebrew]; Itamar Radai, 'The collapse of the Palestinian-Arab Middle Class in 1948: The case of Qatamon', in: *Middle Eastern Studies* 43/6 (2007), 961–982, here 977.
55 Walter Eitan, General Director of the Foreign Ministry, to Prof. Bergman, the Hebrew University, 12 October 1950, Israel State Archives, Het-Tzadik-2444-14. See also Dr. Senator's letter to the President of the Hebrew University, Prof. Roth, and to Kurt Wormann, 3 December 1950, Archive of the Hebrew University, Libraries 1950; Walter Eitan to Prof. Z. Brodetski, the Hebrew University, 27 October 1950, and Prof. Z. Brodetski to W. Eitan, 12 November 1950, IDF Archives, Folder 233/3, 68 and 66, respectively.
56 Z. Brodetski, President, to Dr. Walter Eitan, 12 November 1950, Archive of the Hebrew University, Libraries 1950.

"the fate of the library captive on Mount Scopus."[57] He might have been referring either to Israeli or to Jordanian captivity, since the decision not to allow the removal of the books owed as much to Jordanian refusal as it did to Israeli policy, which held that Israel could only establish its sovereignty there by keeping the books and collections on the Mount.

This policy was not baseless, as a report sent by the Israeli government to the Israeli-Jordanian Armistice Committee in September 1951 makes clear. It describes the response of the UN commander of the enclave, Colonel de Ridder, to the Israeli delegation's request that the Jordanians allow the removal of 70,000 books from the Mount.[58] According to General Mordechai Makleff, de Ridder was astonished. He was unimpressed by Makleff's assurances that this entailed only a small portion of the property held on Mount Scopus, and that Israel maintained its demand to possess Mount Scopus independent of any doubt or discussion. The Jordanians, de Ridder noted – and international opinion with them – could only understand such a request as an Israeli withdrawal of its demands to Mount Scopus. The government nonetheless agreed, under pressure from the university, to remove ten per cent of the books that year. In any case it was no longer possible to delay or to conceal the foundation of a new, alternate campus in West Jerusalem, a step indicating that Israel had effectively reconciled itself to the loss of the Mount Scopus campus.[59]

In the following years, with Jordanian approval secured through an agreement negotiated by the UN General-Secretary's representative Urrutia in 1958, Israel continued hastily removing the books and collections from the Mount.[60] The reasons for this shift in Israeli policy are not sufficiently clear, but it may not be coincidental that the demand for a *corpus separatum* was never raised for discussion at the UN after 1952. As Jerusalem gradually settled into its *de facto* reality and its institutions of higher education and medical services – that is, the Hebrew University of Jerusalem, the National Library, and the Hadassah hospital – were established in West Jerusalem, the Israeli decision to adopt a more pragmatic stance with regards to the institutions on Mount Scopus becomes clearer. Israel redirected its efforts to establish claims to sovereignty in the enclave to other channels.[61]

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57 Paz, 'Political and Symbolic Perspectives', 89.

58 Conversation with Col. Bennett L. de Ridder on 22 September 1951, Israel State Archives, Het-Tzadik-2431-9.

59 On the connection between the construction of the campus in West Jerusalem and the removal of books from Mount Scopus from the perspective of Moshe Sharett, see: Golani, 'Longings are Longings and Actions are Actions', 287.

60 Paz, 'Political and Symbolic Perspectives', 92; Meron, 'Demilitarization of Mount Scopus', 512–517. See also: Protocol of Government Meeting 39, 11 May 1958, p. 6, Israel State Archive.

61 In his article, Motti Golani describes an Israeli intention to take over Mount Scopus militarily in October 1956 during the war planned with the support of France and Britain. The plan,

Frozen in Amber

While the State of Israel focused on the separation from and loss of its national institutions, it was of course slower to recognize the potential advantages of Israel's *de facto* control over the British Cemetery that lay within its portion of the demilitarized enclave. Through a slow process of trial and error, the cemetery's international importance began to become apparent in the months after the signing of the Armistice Agreement. Founded in 1927, it is the final military cemetery in a series of six along the route by which Palestine was conquered during the First World War leading from Gaza towards Damascus. 2,539 "British Commonwealth" fallen soldiers rest there, out of the Egyptian Expeditionary Force's 12,797 total war dead.[62] Like more than a million Commonwealth soldiers buried on other battlefields of the First World War, these took shape under the complete prohibition against the repatriation of remains. Much like the insistence upon physical homogeneity of graveyards and headstones, burial near the place of battle alongside fellow fallen soldiers was meant to blur the differences and gaps between soldier and officer, rich and poor. A mandatory and comprehensive policy, this decision ignored the wishes of fallen soldiers' families, their plans, and their economic ability to bury their loved ones at home.[63]

Once the decision to bury the war dead was made, the size of the responsibility taken up by the British and Commonwealth governments is apparent: they had now to care for the ongoing maintenance of cemeteries left behind by the war across the European continent and well beyond it. Though it was not the largest of the war cemeteries founded in Palestine, due to its unique location the Mount Scopus Cemetery was also chosen as the memorial site for the 3,366 soldiers fallen in Palestine and in Egypt whose burial sites remained unknown. These included over 500 Australian soldiers and 200 from New Zealand, mostly from the "light infantry" regiments sent to join the forces in Egypt after being saved from the bitter

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which reached final stages of preparation, was to be carried out while Iraq, which Israel anticipated would enter Jordan once the war with Egypt got under way. Israel shelved the plan when this situation failed to develop. See: Golani, 'Longings are Longings and Actions are Actions', 291–293. It is conceivable that the decision to remove the books reflects a return to the pragmatic line that, Golani argues, Israeli generally adopted with regards to Jerusalem with only rare exceptions.

62 Ron Fuchs, 'The History of the Planning of British Cemeteries in the Land of Israel', in: *Catedra* 79 (1996), 114–139 [Hebrew]; Meron Benvenisti, *Town of Rest: The Cemeteries of Jerusalem*, Jerusalem 1990, 40 [Hebrew].

63 Philip Longworth, *The Unending Vigil: The History of the Commonwealth War Graves Commission,* Barnsley 2010, 46–48.

Figure 3: The British Military Cemetery on Mount Scopus (1959). © Courtesy of the Commonwealth War Graves Commission.

defeat at Gallipoli.[64] While most memorial sites and military cemeteries generally hosted few visitors during the 1920s and 1930s, the Mount Scopus War Cemetery enjoyed a relatively large number: in addition to families of fallen soldiers, it was visited by soldiers of the various forces serving in the area and by Christian pilgrims during their journeys to the Holy Land.[65]

Israeli diplomats and military officials began to understand the potential of their effective possession of the territory of the military cemetery as early as 1949, when the Imperial War Graves Commission (an independent organization founded in 1917 and responsible for the burial of Commonwealth soldiers)

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64 Benvenisti, *Town of Rest*, 38; Henry S. Gullet, *The Australian Imperial Force in Sinai and Palestine, 1914–1918*, Sydney 1923, 489–496, especially 494.

65 David W. Lloyd, *Battlefield Tourism: Pilgrimage and the Commemoration of the Great War in Britain, Australia and Canada, 1919–1939*, Oxford 1998, 98; Louis Katin, 'The Flowering Graves of Palestine', in: *British Legion Journal*, 13 (1933), 210.

demanded Israel provide an account of its mining of the cemetery's territory during the hostilities a year earlier.[66] Initially, Israeli authorities hoped to seize the opportunity presented to it by tying the fate of the War Cemetery to that of its own humanitarian and cultural institutions. Therefore, Israel announced that – once the Jordanians began respecting Article 8 of the Armistice Agreement – the cemetery could once again serve as a site of remembrance, a host of memorial ceremonies for fallen soldiers, and a place to welcome their families.[67] This stride was hopeless, as the Jordanians maintained their refusal to enact this article. Even if Jordan were to recognize Jewish ownership of the national institutions, it would certainly never recognize Israeli possession of the territory of the Mount Scopus enclave, to say nothing of Israeli possession of the cemetery plot.[68]

Though the cemetery itself had suffered relatively little war damage and was in satisfactory shape, the Commonwealth countries could not tolerate it lying desolate, littered with mines, and inaccessible – especially representatives of Australia and New Zealand, whose numerous war dead on Mount Scopus stood for the First World War's status of a foundational national event. To the Imperial War Graves Commission, this represented an "insult to the memory of the many Commonwealth soldiers who died for the liberation of Jerusalem in 1917" and "an affront to their families."[69] They rejected out of hand Israel's 1949 offer to clear the mines. Indeed, the Imperial War Graves Commission did not typically allow foreign powers to look after their military cemeteries, and Israel's ongoing pursuit of sovereignty by this and other channels did not escape the attention of British diplomats.

The refusal initially forced Israel to internalize the limits on its *de facto* control over the cemetery, but it quickly identified the advantages latent in the

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66 Y. Golan, Ministry of Foreign Affairs, to M. Dayan, Commander of Jerusalem, 22 May 1949, IDF Archive, 1338/1979, 302, item 340; Rav Seren Ramati to Sgan Aluf Moshe Dayan and Dr. Biran, 'MAC Meeting Held at Mandelbaum Gate 11:00 hours 11th August 1949', 1338/1979, 302, items 375–377.

67 J.E. Chadwick to the Eastern Department, 19 December 1950, British National Archives, FO 371/82182, EE1017/54; Hugh Dow to the Foreign Office, 1 February 1951, British National Archives, FO 371/9143, EE 1851/9; Knox Helm to G.W. Furlonge, 18 May 1951, British National Archives, FO 371/91431, EE 1851/21; Vagn Bennike, U.N. Truce Supervision Organization, to Vice-Chairman of the Imperial War Graves Commission, 20 November 1953, British National Archives, FO 371/110872, VE 1851/1.

68 British Embassy Tel Aviv to A.D.M Rose, Eastern Department Foregin Office, 8 January 1953, British National Archives, FO 371/104482, EE1851/2.

69 Hugh Dove to Major General W.E. Riley, 17 January 1951, British National Archives, FO 371/91431, EE1851/3.

situation and began to act on them.[70] While removing the mines independently could guarantee the ongoing secrecy of Israel's fortifications of the enclave, it would also have required laying replacement mines, which under the Armistice Agreement it could not transfer there because of Jordanian oversight of its equipment convoys from Israeli territory in West Jerusalem to the Israeli portion of the enclave. With no apparent solution to this quandary, Israel preferred the existing status quo.

As time wore on, Israel slowly identified the fundamental potential power of wielding control and oversight over the crossings. Forced to adapt to the consequences of UN and Jordanian control over entry and exit to its territory in the enclave, Israel internalized the ramifications of the geo-political anomaly. This is translated into as active an approach as possible by enforcing its authority on an international scale: to control entry and exit to the cemetery, located within its portion of the enclave and therefore under its *de facto* oversight. This type of action corresponds with demonstrating what the political scientist Stephen Krasner defined as "Interdependence Sovereignty": "the ability of public authorities to regulate the flow of information, ideas, goods, people, pollutants, or capital across the borders of their state."[71] Initially, Israel denied entry to representatives of the Imperial War Graves Commission seeking to renovate the cemetery, arrange for regular gardening, or organize the yearly memorial ceremonies. Israel claimed it was willing and able to fulfill these functions itself. It also leveraged the presence of 24 graves of fallen Jewish soldiers in the cemetery as cause and justification for holding its own memorial ceremonies of a Jewish religious and Israeli national character.[72]

Representatives of the British Foreign Office responded to these steps with forceful opposition and occasional disgust.[73] Still, their hands were tied. They preferred not to aggravate relations, taking into consideration that, outside the enclave, in areas where Israeli sovereignty was internationally recognized, Israel was careful to cooperate with the Imperial War Graves Commission as mandated under the Geneva Convention ratified in 1949. The explicit preference of the Imperial War Graves Commission and the Commonwealth states it represented

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70 Yfaat Weiss, 'Resting in Peace in No Man's Land: Human Dignity and Political Sovereignty at the British Commonwealth's Jerusalem War Cemetery, Mount Scopus', in: *Jerusalem Quarterly* 72 (2017), 67–85.

71 Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, Princeton 1999, 4.

72 See for example: A. Biran, District Commissioner, to R.G. Monypenny, British Consulate General, 9 December 1951, British National Archives, FO371/91431, EE1851/45.

73 See, for example, the response of Anglican bishop R.G. Monypenny to G.W. Furlonge, 17 November 1951, British National Archives, FO 371/91431, EE1851/42.

to independently develop and care for the cemetery on Mount Scopus and to coordinate the yearly memorials would be exploited by Israel as a means of emphasizing its "interdependence sovereignty" in practice – that is, as proof of its control over the entry and exit from its portion of the enclave.

Tensions would mount every November before the official British "Remembrance Day" ceremony, and somewhat less so in April before Anzac Day commemorating Australia and New Zealand. Israel insisted it allow entry to the delegations and all international entities solely from within its territory in West Jerusalem and only with its permission. In this way, Israel enforced an international process similar to those practiced between sovereign states, ignoring permissions granted by the UN officials who oversaw the enclave under the ceasefire agreements.[74] Identical conflicts arose in the 1960s over upkeep of the cemetery's gardens: while the Commonwealth War Graves Commission for years rejected Israeli initiatives to conduct the gardening of the cemetery, agreement was finally reached in the mid-1960s that Maltese gardeners would enter the cemetery through West Jerusalem: from Israeli territory, that is, and with Israeli permission, rather than walking a few steps from Jordanian territory.[75]

The Principle of non-intervention

With regard to its institutions on Mount Scopus, Israel directed most of its efforts at the enforcement of Article 8 of the Armistice Agreement – in other words, it seized upon the sliver of international recognition provided by the agreement with Jordan and attempted to enact it for years, albeit unsuccessfully. As for the War Cemetery, Israel inverted the rules of the game and oversaw entry and exit – that is, interdependence sovereignty – over its territory within the surrounded enclave. At the same time, Israel displayed sovereignty of another kind, an ostensibly domestic sovereignty over the civilian population of the village of Issawiya that lay within its territory inside the enclave.[76] Some 1,000 Arab villagers residing in Issawiya were thus subject to partial Israeli authority, having returned to the village they abandoned during the war. This rare

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74 P.H. Laurence, 'Mount Scopus Cemetery Armistice Day Celebrations, 1955', 12 September 1955, British National Archives, FO 371/115632, VE1851/42; Jerusalem to Foreign Office, 12 November 1959, British National Archives, O 371/VE1851/16.

75 One example of many: Jerusalem War Cemetery (political), Archive of the Commonwealth War Graves Commission, Box 3, CM 122 February 1961–May 1962.

76 Though the village of Issawiya effectively lay in the Israeli portion, there was no clear consensus that it was indeed part of the Israeli territory. See: Mount Scopus – VI: Issawiya Village, 21 December 1957, UN S-0326-003-12.

move was initially enabled by the support of Israel, though state authorities later complained that they had been misled about the number of returning villagers.[77]

In distinction from the common meaning of domestic sovereignty, exercise of control over the villagers was in no way intended to strengthen the legitimacy of Israeli sovereignty. Instead, it was based on tactical and strategic considerations that were essentially territorial. The primary bone of contention between the State of Israel and the villagers of Issawiya, and cause of the bulk of conflict between them, was the matter of the village's access road.[78] This road connected the village's residents, distant and isolated, to their family members and sources of income, and was a central circuit of their lives in every sense. Through it, residents of Issawiya brought the sick to hospital and expecting mothers to the maternity ward.

Figure 4: The Village Issawiya (1958). © Micha Bar-Am, Magnum Photos.

77 Sgan Aluf K. Keet to E. Riley, Chief of Staff UN Truce Supervision Organization, 28 May 1950, UN Archive, S-0326-003-12, VI.
78 Yfaat Weiss, 'Performing Sovereignty: The Village of Issawiya in the Mount Scopus Demilitarized Zone, 1948–1967', in: Margret Kampmeyer and Cilly Kugelmann (eds.), *Welcome to Jerusalem*, Köln 2017, 172–183, here 172–177.

Two paths connected Issawiya to the main road between Ramallah and Jerusalem: the central one was an actual road and the second, a trail, was more divots and bumps than anything else. Since the state of the trail, which Israel expected the villagers to use, endangered the elderly, sick, and pregnant, burdened children, and prevented passage of vehicles and animals, village residents asked to use and improve the main road, and were willing – in spite of their limited means – to carry out the roadwork themselves and with locally-raised funds. As long as the enclave existed, and especially after 1954, Israel was opposed as a matter of principle to the route of the road as well as the suggestion that the villages do the roadwork themselves and use the road. Israel met such initiatives with violence, demolishing attempts at independent roadwork and occasionally erecting new roadblocks in an attempt to limit motor traffic to UN vehicles alone and to restrict human and animal traffic to certain, limited hours only.

Israel had various motives for limiting the residents' use of the road.[79] The road passed alongside the buildings of the Hadassah hospital, and so its use apparently aroused security concerns. Moreover, much like the renovation of the War Cemetery, the roadwork issue was seen to undermine Israeli sovereignty there. As a result, Israel opposed any activity carried out not under its supervision or by its own officials. On this matter, like that of the War Cemetery, Israel's approach aroused great anger, especially seeing as its actions harmed the very humanitarian principles that Israel cited in favor of numerous rights of its own.

The difficulties of Issawyia residents are indicated by the complaints directed by the villagers to the UN through an interpreter:

> The more we wonder how much pleasure the Jewish soldiers in Hadassah and the Israeli government in Palestine get out of making the life of the Issawiya people miserable, or of seeing an old man slipping and falling in the mud, or a young school boy or girl going to school and coming back half soaked and wet may be they get more pleasure out of a young wife dying at birth because she could not get to a hospital or a doctor cannot get to her to save her life. . .[80]

The international authorities were displeased with Israel's treatment of the village residents in general, especially the regular blocking of the road, and criticized these steps as unnecessarily cruel. The British Foreign Office, a direct stake-holder as the most recent authority to control the area and an ally of the

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79 See for example: Protocol of Government Meeting 44, 22 June 1958, 4–8, Israel State Archive.

80 The People of Issawiya Village to the Chief of Staff Representation, Mt. Scopus, 15 December 1964, UN Archive, S-0375-0134-02.

Hashemite dynasty, identified the basic Israeli tactic of creating effective facts on the ground so as to undermine the existing status quo, in hopes of forging a new status quo more to Israel's liking and advantage.[81] Moreover, representatives of the British Foreign Office suspected that Israel was motivated by broader strategic interests. As the General Consul in Jerusalem, Thomas Wikeley, wrote in 1955: "If, however, they succeed with their present attempt, the way will be open for them to establish military posts much further away from their present wire (but still within the 'Israel' sector) in positions overlooking the main roads to Ramallah and Jericho . . . "[82]

The residents of Issawiya several times complained to the UN that Israel hoped to drive them to despair and cause them to abandon the place and join their refugee countrymen. But they did not intend to do so, they wrote, and were willing to die rather than leave.[83] Was this the State of Israel's intent? It seems unlikely that Israel assigned much importance to the residents of Issawiya beyond the inconvenience they posed as a day-to-day security nuisance. All of Israel's efforts were concentrated on the matter of sovereignty, towards which it directed all its actions in relation to every portion of the enclave, including the village of Issawiya.

Conclusion

In the Israeli collective memory, the Mount Scopus enclave is linked with the fate of the Hebrew University and the National Library. The seclusion in the years 1948–1967 of the "cultural and humanitarian institutions", as they were labeled in Article 8, overshadowed other extensive issues, such as the cemetery, or issues that have lingered until today as a focus of conflict, like Issawiya. To this contributed, of course, the iconic image of a library deprived of its readers, and a university unfrequented by its students. But beyond that, considering that from the mid-1950s a new campus opened in the western part of Jerusalem, and toward the end of the decade a significant portion of the books and collections was transferred to the new campus, it reveals the upper hand of the abstract

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81 Wickely Confidential from Jerusalem to Foreign Office, 17 March 1955, British Archives, FO 371/115891/VR 1082/15

82 Ibid.

83 The Residents of Issawiya to the UN Chief of Staff Representative, Mt. Scopus, 15 December 1964, UN Archives, S-0375-134-01.

cultural argument in demanding and demonstrating territorial sovereignty. The policy of Israel in this context was consistent, persistent, and decisive.

Considering the international status of the enclave, the State of Israel's efforts were not excessive, for no external entity recognized Israeli sovereignty over the territory under its control within the Mount Scopus enclave. The UN repeatedly emphasized that the control granted to Israel within its territory inside the enclave in no way implied recognition of any sort of sovereignty. Britain, in constant conflict with Israel because of the condition and status of the War Cemetery, held the same stance. Jordan certainly did not recognize any Israeli sovereign rights, not even those following from its ownership of the Hebrew University or the buildings of the Hadassah hospital. This non-recognition of Israeli sovereignty served to justify the refusal to adhere to Article 8, despite the fact that Jordan had promised to accept it when it signed the Armistice Agreement in April 1949. In a document it circulated in 1955, Jordan stated:

> The institutions concerned are only Jewish private property – not Israeli territory – the land having been acquired and the buildings erected with dollars subscribed (as the Israeli government itself admitted) by American Jewry: they have no historical or religious character whatsoever, and the Israeli claim thereof is simply based on sentimental grounds. And since the area lies within the Jordan demarcation line, is neither marked on the Armistice maps nor specified in the Agreement itself, it follows that it falls totally under Jordanian sovereignty, interrupted only by the UN protection which had been designed to last merely until the cessation of hostilities, or until conclusion of a new agreement. The existence of Jewish private property inside Jordan territory cannot in international law be held to establish any right of Israel sovereignty, or any diminution of Jordan sovereignty.

Jordan further believed that the incidents instigated by Israel over access to Issawiya were aimed solely at "provoking, if possible, the Jordanian authorities into some act of exasperation which will afford an excuse of sorts for their seizure of the Arab part of the Mount Scopus Area," thus gaining control over "these heights which dominate the Old City."[84] Control over the residents of Issawiya, then, was not aimed at displaying domestic sovereignty. Rather, it was part and parcel of the border wars Israel waged throughout the 1950s and its maintenance of continuous control over its frontier zone – that is, the wielding of frontier nationalism – up until the 1967 War.[85]

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84 UNTSO, Preliminary Study on Certain Aspects of the Mount Scopus Demilitarized Zone, 26 March 1955, Mount Scopus – VI, UN Archives, S-0326-0003-12, November–December 1954.
85 See: Dan Diner, *Israel in Palästina: Über Tausch und Gewalt im Vorderen Orient*, Königstein 1980.

In every portion of the enclave, Israel worked to replace possession with sovereignty, all the while blocking whatever international intervention it could. Israel, to invoke Gross' term, insisted on the actualization of its Westphalian sovereignty. "The norm of nonintervention in internal affairs had virtually nothing to do with the Peace of Westphalia, which was signed in 1648. It was not clearly articulated until the end of the eighteenth century," notes Krasner in his book *Sovereignty: Organized Hypocrisy*. Nevertheless, Krasner chooses to use the phrase, "because the Westphalian model has so much entered into common usage, even if it is historically inaccurate."[86] Another scholar, Robert H. Jackson, whose book focuses on sovereignty in countries that gained independence during expedited processes of de-colonization in the second half of the twentieth century, considers Westphalian sovereignty to be negative sovereignty, in the spirit of Isaiah Berlin's famous distinction between two types of freedom – "freedom to" and "freedom from".[87]

Be the phrase what it is, proper or mistaken, and be the sovereignty negative or positive in nature – one way or the other the history of the Mount Scopus enclave between 1948 and 1967 would seem to confirm Leo Gross' doubts about the ability of either international law or the United Nations to counter the compulsions of sovereign states. In this case, this meant the ability – or rather inability – to actualize the principle of *corpus separatum*, approved by the United Nations Security Council at its famous November 29, 1947 meeting, which was intended, in decision number 181(II), to provide a solution to problems that are still with us more than fifty years after the 1967 War brought an end to the Mount Scopus enclave.

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86 Krasner, *Sovereignty*, 20. See also: idem, 'Compromising Westphalia', in: *International Security,* 20/3 (Winter 1995–1996), 115–151, here 115.
87 Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World*, Cambridge 1990, 11.

Saima Nakuti Ashipala

Sovereignty over diamond resources: (Re)-negotiating colonial contracts in Southern Africa

Abstract: *About a quarter of a century ago, on 24 November 1994, the De Beers Group and the Namibian government formed the Namdeb Diamond Corporation, a 50/50 joint venture. This partnership was only the latest form of cooperation between De Beers and the colonial administration that preceded the Namibian government prior to independence in 1990. It is this practice of exploitation that earned the industry criticism from both the international community and the nationalists who called for Namibian independence. This essay traces the history of diamond mining in Namibia and the interrelationship with the diamond industry in neighbouring South Africa and Botswana and it looks at the diamond regimes that controlled diamond production in the territory from the colonial era into independence in relation to debates in favour of sovereignty over natural resources. The new arrangements are examined with the underlying question of how the principle of permanent sovereignty comes into play at the re-negotiation of 'colonial contracts' and what this phenomenal partnership generated for the newly independent states.*

Introduction

Diamond mining has been going on for a long time, and diamonds do not wear out, fade, or degrade. Diamonds are forever.[1]

Forever, "symbols of wealth and – if you accept the advertising – glamour, loyalty and love"[2] diamonds were first mined in Africa in the nineteenth century and would over time prove to be valuable natural resources and sources of national wealth.[3]

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1 Ian Smillie, *Diamonds*, Cambridge 2014, 21.

2 Id., 'Blood Diamonds, Non-State Actors and Development: The Kimberley Process and Beyond', in: Darryk Reed, Peter Utting and Ananya Mukherjee-Reed (eds.): *Business Regulation and Non-State Actors: Whose standards? Whose development?* London 2012, 213–224, here 214.

3 "Natural wealth refers to those components of nature from which natural resources can be extracted or which can serve as the basis for economic activities." See Nico Schrijver, *Sovereignty Over Natural Resources: Balancing Rights and Duties*, Cambridge 1997, 19.

Definitions for the term 'natural resources' are plenty, and they depend on the perspective from which one approaches the topic. For purposes of this essay, natural resources are defined as "naturally occurring materials that are useful to man or could be useful under conceivable technological, economic or social circumstances."[4] Philippe le Billon stresses that the term 'resource' is "etymologically related to the Latin *resurgere,* meaning 'to rise again'".[5] The term thus "conveys a sense of (re)empowerment and opportunity" which according to le Billon also implies that "without a resource, one may not be able to stand back up after falling."[6] The fall, in the African sense, would denote colonialism and the exploitation of the natural resources of colonial territories by the colonial powers. Processes of decolonisation in Africa were thus linked to debates on who owns these natural resources and who should benefit from their exploitation.

Starting in the 1950s, debates at the United Nations General Assembly became increasingly geared towards the question of permanent sovereignty over natural wealth and resources. In 1958, for example, the U.N. General Assembly established a Commission tasked with conducting a full survey of "the status of permanent sovereignty over natural wealth and resources as a basic constituent of the right to self-determination".[7] Subsequently, the General Assembly, in resolution 1515 (XV) of 15 December 1960, "recommended that the sovereign right of every State to dispose of its wealth and its natural resources should be respected."[8] These initiatives were particularly aimed at underscoring "the importance of encouraging international cooperation in the economic development of developing countries."[9] The resultant outcome of these debates, surveys and resolutions was the Principle of Permanent Sovereignty over Natural Resources (PSNR) adopted in December of 1962.[10] The PSNR declared, among other things, that "the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national

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4 "Natural Ressources", in: The Encyclopedia Americana 19 (1982), 792.

5 Philippe le Billon, *Wars of Plunder: Conflicts, Profits and the Politics of Resources*, New York 2012, 9.

6 Ibid.

7 United Nations General Assembly resolution 1314 (XIII) of 12 December 1958, https://www.ohchr.org/Documents/ProfessionalInterest/resources.pdf (2020-07-26).

8 United Nations General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources" https://www.ohchr.org/Documents/ProfessionalInterest/resources.pdf (2020-07-26).

9 Ibid.

10 Cf. ibid.

development and of the well-being of the people of the State concerned."[11] Such declarations sought to redistribute the benefits accrued through the exploitation of a territory's natural resources from the realm of profits and dividends for commercial entities and their investors, to the national 'economic' development of a given territory and the well-being of its nationals.

Moreover, the recognition of permanent sovereignty over natural wealth and resources as a basic constituent of the right to self-determination also ensured that concerns over the self-determination of colonised peoples and the exploitation of natural resources situated in territories still under colonial rule were addressed under PSNR.[12] Indeed, Nico Schrijver stressed that "the principle of permanent sovereignty over natural resources was introduced [. . .] in order to underscore the claim of colonial peoples and developing countries to the right to enjoy the benefits of resource exploitation".[13] This right would be extended to the legal realm "in order to allow 'inequitable' legal arrangements under which foreign investors had obtained title to exploit resources in the past, to be altered or even to be annulled *ab initio*, because they conflict with the concept of permanent sovereignty."[14] Terms like "nationalization, expropriation or requisitioning" are used in the 1962 resolution on PSNR which further declared that such avenues, if pursued, "shall be based on grounds or reasons of public utility, security or the national interest which are recognized as overriding purely individual or private interests, both domestic and foreign."[15] The rights to nationalize or expropriate, however come with the stated responsibility to appropriately compensate the "owner" or entity that previously exercised "control" over the exploitation of a given resource "in accordance with the rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law".[16] Reclaiming sovereignty and the exercise of sovereignty over the natural wealth and resources of a newly independent state

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11 United Nations General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources" https://www.ohchr.org/Documents/ProfessionalInterest/resources.pdf (2020-07-26).

12 Cf. Nico Schrijver, Self-determination of Peoples and Sovereignty over Natural Wealth and Resources, in: United Nations (ed.), *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development*, New York 2013, https://www.ohchr.org/Documents/Issues/Development/RTDBook/PartIIChapter5.pdf (2020-07-26).

13 Id., *Sovereignty Over Natural Resources: Balancing Rights and Duties*, Cambridge 1997, 1.

14 Schrijver, *Sovereignty*, 1.

15 United Nations General Assembly resolution 1803 (XVII) of 14 December 1962.

16 Ibid.

would thus not be without cost to the new state. It is a result of this that discussions, in the 1960s, on the PSNR were increasingly confined to developing states, primarily because the exploitation of resources, in what became known as the Third World, had continued, unabated, into the post-colonial period.

In the 1970s, however, the emphasis of permanent sovereignty over natural resources was placed on "the right of peoples to regain effective control over their natural resources".[17] Not only had the attempt to regain effective control become the heart of the debate but it was also manifested in the processes of nationalisation that occurred in the developing world. In 1973, the General Assembly passed resolution 3171 (XXVIII) stating that "the General Assembly supports resolutely the efforts of the developing countries and of the peoples of the territories under colonial and racial domination and foreign occupation in their struggle to regain effective control over their natural resources."[18] Nationalisation, with its obvious problems, was only possible for those territories that had gained their independence, hence the added recognition of "peoples of the territories under colonial and racial domination and foreign occupations", a category in which the former colonial territory of South West Africa, now Namibia, belonged.[19] Schrijver points out that Namibia, "its status and the exploitation of its vast mineral and fish resources by South Africa, other States and foreign enterprises" had been the subject of many debates in the U.N. General Assembly.[20] These debates were followed by the proclamation on the illegality of South Africa's administration of the territory, leading to the establishment of a United Nations Council for Namibia (UNCN) that was made responsible over the territory. The UNCN would later pass a decree on the protection of the territory's natural resources.[21] Keeping the aforementioned debates in mind, this essay now turns its attention to the history of diamond mining in Namibia and the events that led to the establishment of a partnership between the Namibian Government and De Beers' Consolidated Diamond Mines (CDM), the diamond mining company which had exercised sole mining rights over Namibia's diamond resources for seventy-five years.

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17 Schrijver, *Sovereignty*, 143.

18 Ibid.

19 The names German South West Africa and South West Africa are used throughout the discussion on diamond mining in the colonial period. The name Namibia, which was adopted in 1968, is used from the onset on the discussion on Sovereignty and the renegotiation of Colonial Contracts in recognition of the change from colonial territory to independent state.

20 Cf. Schrijver, *Sovereignty*, 143.

21 Cf. United Nations Council for Namibia Decree No.1 of 1974.

Diamonds and the making of Empire

> In 1486, Bartholomew Diaz [. . .] made landfall [. . .] on a bay of sand which he called Angra Pequena. [. . .] praising God, [he] rowed ashore and raised an Iron Cross out of the store which he had brought from Portugal, to mark her stubborn way to the Indies. His footfall was over diamonds, which he never felt through his boots. The foundation of his cross was dug in diamonds, which the working spades never turned up.[22]

The "shiny stones" would eventually be discovered, when centuries later Agra Pequena was renamed Lüderitzbucht with the arrival of German merchants on the shores of what would become German South West Africa (SWA). However, unlike in neighbouring South Africa, where diamond mining began in 1870, diamonds in SWA would only be discovered in 1908 when a German railway inspector instructed his labourers to keep an eye out for shiny stones.[23] The territory had been declared a German protectorate in 1884 and a chartered company, the Deutsche Kolonialgesellschaft für Südwestafrika (DKGSWA), was established for the development of the protectorate. Within a year of the diamond discoveries, the area was swarmed with small mining syndicates that had obtained concessions from the DKGSWA, to which the sole right to prospect and mine diamond deposits had been granted by the German colonial administration. The "diamond rush" according to Job Amupanda, "led to the founding of prospecting towns, such as Elizabeth Bay, Pomona, Bogenfels, Mobeb, Conception Bay, and Charlottental", in which the different mining syndicates operated.[24] This followed the decree proclaiming "a desolate, under-populated coastal strip of land extending some 350 km north of the Orange River as a restricted area [. . .] thus, the Sperrgebiet or Forbidden Territory was formed."[25] The decree also gave the DKGSWA prerogative over all minerals found in the territory. In 1909, the DKGSWA assigned its diamond mining rights to the Deutsche Diamantengesellschaft (DDG), a subsidiary company that had been formed for this very purpose. "For its part,

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22 George Lowther Steer, *Judgement on German Africa*, London 1939, 51.

23 The discovery is credited to Zacharias Lewala, who worked under the railway superintendent August Stauch. "In 1907 August Stauch was appointed railway superintendent on the Lüderitz-Auas Railway, and was responsible for keeping the line clear of sand in the dune region. In the course of his duties he realised the possibility of discovering valuable minerals", see Albert F. Calvert, *South-west Africa during the German Occupation, 1884–1914*, London 1916, 68.

24 Cf. Job Amupanda, *The Consolidated Diamond Mines and the Natives in Colonial Namibia: A Critical Analysis of the Role of Illegal Diamonds in the Development of Owamboland (1908–1990)* Unpublished PhD Dissertation, University of Namibia, Windhoek 2020, 28.

25 Stefanie H. Badenhorst, 'The Unique Namdeb Trilogy – Our past, Present and Future Mining Applications in this Unique Deposit', in: *The Journal of the South African Institute of Mining and Metallurgy* 2003, 539–550, 539.

the DKG retained its right to a share of the royalties and taxes which government collected from diamond producers in the Sperrgebiet."[26] To fully appreciate the establishment of the diamond industry in Namibia, however, we will have to look to events in neighbouring South Africa.

Ill-health, migrant-entrepreneurs and mineral fortunes

Tales of physicians advising individuals to migrate to territories with warmer climate due to their ill-health are plenty, but none are as historically remarkable (to the Southern African region) as that of the 17 year old Cecil Rhodes, whose weak heart and a collapsed lung had necessitated the move to South Africa in 1870. His older brother, Herbert Rhodes, was a successful cotton farmer in South Africa, who had purchased diamond prospecting rights in the rush that followed diamond discoveries in South Africa. The Rhodes family were fortunate with their claims, and would expand their operations, marking the beginnings of Cecil Rhodes' place in the diamond industry. Ian Smillie writes that by 1873, "the flood of South African diamonds had seriously deflated European prices, and a global economic depression added to the industry's woes."[27] It is at this point that it became clear to Cecil Rhodes that control mechanisms had to be put in place in order to manage the "physical and economic chaos of the South African diamond industry".[28] Diamond supplies were proving to be endless and they were, as later adverts would state, "forever". Their availability, however, had to be controlled if they were to retain their value. The result of this realisation was the creation of the De Beers Mining Company Limited and the Diamond Syndicate, through which Rhodes intended to take control of worldwide diamond distribution.[29] The De Beers Mining Company was named after the original de Beer brothers on whose farm the first diamonds were discovered. De Beers was created with the simple aim of regulating and marketing diamond production. The general

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26 Corporate Communications Department of Anglo American Corporation, *Diamond Mining in Namibia: yesterday and today*, [s.l.] 1987, 3.

27 Ian Smillie, *Diamonds*, Cambridge 2014, 21.

28 Ibid, 22.

29 Cf. 'De Beers S.A. South African Company' (1998), in: *Encyclopaedia Britannica*, https://www.britanica.com/topic/De-Beers-SA (2020-07-26).

idea, for Rhodes, was to "control everything, get rid of the opposition, restrict the supply, and force prices up"[30] and so his mineral fortunes began.

Of man, it is written in the Bible that "when his spirit leaves him, he returns to the earth; in that very day his thoughts and plans perish." Cecil Rhodes, whose demise came in March of 1902, might have disagreed. Mere weeks after his weak heart seized, and he died, a young Ernest Oppenheimer arrived in Kimberley, South Africa to continue where Rhodes had left off (in so far as diamonds were concerned). At 16 years old, Ernest Oppenheimer had migrated from Germany to England where he would work as a diamond sorter with Anton Dunkelsbuhler, himself a German emigrant with business interests in South Africa's diamond industry. Years later, in 1902, young Ernest was sent to South Africa where he worked on behalf of his London employer. Six years later, in 1908, the discovery of diamonds across the border, in German South West Africa, had created problems for De Beers,[31] as the international market became flooded with diamonds. Ernest Oppenheimer witnessed, first hand, the damage that the flood of SWA diamonds was doing to international diamond prices and in 1910 he was of the opinion that, "the only way to increase the value of diamonds is to make them scarce, that is, to reduce production."[32]

The outbreak of the First World War brought the diamond industry in both South Africa and German South West Africa to a standstill and in so doing it provided the opportunity to reign in the problems caused by the flood of diamonds on the international market. This was an opportunity unlike any other for prior to the outbreak of the war, De Beers is said to have, on several occasions, attempted to acquire majority shares in the DKGSWA to ensure such control. "The company sought the exclusive right to sell the [SWA] diamonds in the early days of their discovery [. . .] it sought to buy as many shares in the German Colonial Company for South West Africa as possible but again without success."[33] By the outbreak of World War I, De Beers had managed to buy 15 percent of the DKG shares, even though the German colonial administration had been determined to keep De Beers out. This was illustrated in a 1909 report produced by the German Secretary for Colonial Affairs, Bernhard Dernburg, who reported that a "large number of shares in the Deutsche Kolonial-Gesellschaft für Südwest-Afrika have been bought up by English interests. Steps are being taken, after discussion with the Chairman of the

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30 Smillie, *Diamonds*, 21.

31 Cf. Smillie, *Diamonds*, 26.

32 Ibid.

33 Albert J. Kawana, *The Political Economy of Mining Laws and Regulations in Namibia from 1884 to 1986*, PhD thesis University of Warwick 1988, 41.

company to see that its control does not pass into foreign hands."[34] Dernburg's fears, and those of the German colonial administration which had granted the mining rights to the DKGSWA, would eventually come to pass as Ernest Oppenheimer, with financial support from the American financier J.P. Morgan, established the Anglo American Corporation of South Africa Ltd, in 1917.[35] Oppenheimer's newly established company constituted the feared "foreign hands" and would succeed where Rhodes, and De Beers, had failed.

Diamond mining concessions in the post-World War period

Ernest Oppenheimer had what Ian Smillie described as "a good eye for opportunity" for indeed the outbreak of the War had brought with it plenty of opportunities in SWA's nascent diamond industry.[36] In 1914, the South African armed forces invaded SWA, on behalf of Britain, resulting in the 1915 surrender of German colonial forces in the territory. This not only marked the end of the First World War in the southern African region but it also saw the transfer of power over the territory to the Union of South Africa. This happened in 1919 when German SWA was declared a 'C' Mandate under the Covenant of the League of Nations and the Union of South Africa was appointed the mandatory power. The transfer of administrative power held legal implications for the territory both in terms of political governance and the management of its natural resources. This "meant that the mining rights held under the German period had to be fundamentally transformed" in recognition of the change in power.[37] The spoils of war had British and South African investors clamouring to lay their hands on enemy assets in the territory, with ramifications for the Deutsche Kolonialgesellschaft (DKG), its subsidiary the Deutsche Diamantengesellschaft (DDG) and the private mining companies that operated in the territory and especially in the Sperrgebiet. It is worth noting that although the Council of the League of Nations granted mandatory power over the territory to South Africa, it did not consider the mandatory power a sovereign over the mandate. This was revealed

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34 As quoted in Israel Goldblatt, *History of South West Africa from the beginning of the nineteenth century*, Cape Town 1971, 178f.

35 Cf. 'Sir Ernest Oppenheimer – South African Industrialist' (1998), in: *Encyclopaedia Britannica*, https://www.britannica.com/biography/Ernest-Oppenheimer (2020-07-27).

36 Cf. Smillie, *Diamonds*, 27.

37 Kawana, *Mining Laws*, 38f.

in debates at the League of Nations on the "Question of 'Sovereignty' of Mandated Territories" where it was "established that a Mandatory Power could, under its mandate, have no 'sovereignty' in the normal sense of the word in a mandated area committed to its charge."[38] It can thus be concluded that the mandatory power, that is the Union of South Africa, did not possess sovereignty "in the normal sense" over the territory's natural resources, which resources it was to exploit for the good of the people, as much as it was entrusted with governing the territory for the betterment of its people.[39]

Nevertheless, the loss of the territory by Germany had meant that the DKG, the DDE and the affected mining companies lacked state support and protection for their erstwhile assets and as such required an avenue through which to offload their mining rights.[40] To start with, in October of 1919, the government of the Union of South Africa entered into an agreement with the diamond mining companies, for the transfer of their "mining properties and undertakings".[41] The beneficiary of this agreement would not be Cecil Rhodes' De Beers Company with its established presence in South Africa's diamond mining industry, but rather Ernest Oppenheimer, who's Anglo American Corporation would acquire the mining concessions in the mandate territory. This resulted in the formation of a subsidiary company, the Consolidated Diamond Mines of South West Africa Ltd (CDM), established in February of 1920.[42] Through CDM, Oppenheimer had "created a company in which German investors could protect or offload their South West African assets."[43] Oppenheimer's German heritage coupled with his adopted South African nationality, notwithstanding his company's registration in South Africa, had undoubtedly combined to secure the trust of both the German investors and the administration of the Union of South Africa.

Moreover, in 1923, representatives of the Union Government and the South West African Administration, held a conference with CDM to establish the terms

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38 Council of the League of Nations (8 September 1927). Sovereignty in a Territory under 'C' Mandate (South West Africa) – Annexe A. Assembly of the League of Nations: Discussions on Question of 'Sovereignty' of Mandated Territories, 1. National Archives of South Africa BTS 2/1/98 LN13/32.

39 "Opinions differed as to where sovereignty lay, but the point which appeared to be quite clear to all the members of the Commission was that it could not rest with the Mandatory Power for, if it did, the Mandatory would not have to render an account to the League of Nations of its administration of the Mandate." Council of the League of Nations, Sovereignty in a Territory, 3.

40 Amupanda, *Diamond Mines*, 35.

41 Kawana, *Mining Laws*, 42.

42 See 'Diamonds', in: Victor Tonchi, William A. Lindeke and John J. Grotpeter (eds.), *Historical Dictionary of Namibia, Second Edition*, Lanham, Plymouth and Toronto 2012, 82–84, 83.

43 Smillie, *Diamonds*, 27.

of agreement concerning the production of diamond deposits in the mandate.[44] The conference led to the conclusion of three main agreements with CDM, namely the Fiskus Territory Agreement, the Consolidated Royalty Agreement and the Halbscheid Agreement.[45] The first two agreements had to do with the payment of taxes and royalties to the colonial administration over the territory. In so doing they set out the responsibilities of the mining company to administer the territory and in so doing ensured that the administration would yield benefits from the mining of diamonds in the territory. The final agreement, namely the Halbscheid Agreement, dealt with two main issues. Firstly the agreement "confirmed that the Administration of South West Africa was to hold the exclusive prospecting and mining rights in the Sperrgebiet", meaning "ownership" over the diamond resources lay with the administration and not the mining company. Secondly, the agreement prohibited "all prospecting and mining for any minerals within the Sperrgebiet [. . .] except by CDM."[46] This last clause, according to George Coakley, recognized CDM "as successor in title to the German companies".[47] The Halbscheid Agreement thus conferred upon CDM the exclusive production rights to the diamond deposits in the Sperrgebiet.

The exclusive access granted to CDM had been made possible by Oppenheimer's establishment of the Anglo American Corporation, which was considered to have been a unique venture in the mining history of South Africa. Unlike De Beers, Oppenheimer had registered his mining company in South Africa and not in London. This gave Oppenheimer the patriotic leverage to secure the SWA diamond mining concessions, "which 'foreign' De Beers were fiercely competing for".[48] Thus, a new diamond syndicate was created to rival De Beers and Ernest

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44 Cf. Amupanda, *Diamond Mines*,30.

45 According to Albert Frederick Calvert, the colonial Government and the Deutsche Diamantengesellschaft entered into an agreement in 1910 "to the effect that prospecting for minerals in the area known as the Sperr Gebiet would, from and after April 1st, 1911, be reserved to a company with a capital of £30,000, to be held in equal shares by the contracting parties. The Government share, £15,000, was provided in supplementary estimates for 1913. The company was to be known as the Halbscheid Gesellschaft, and was to confine itself to prospecting work so as not to complicate the problem of the diamond market", see Albert Frederick Calvert, *South-West Africa during the German Occupation 1884–1914*, London 1915, 86.

46 Mark Smith, 'The Sperrgebiet', http://on-the-rand.co.uk/Diamond%20Grounds/Sperrgebiet.htm (2020-07-27).

47 George J. Coakley, *Mineral Industries – Namibia. Bureau of Mines, U.S. Department of the Interior*, Washington DC 1983, 20.

48 Brian Wood, *International Capital and the Crisis in Namibia's Mining Industry. International Seminar on: The Role of Transnational Corporations in Namibia. United Nations Council for Namibia*, Washington 1982, 3.

Oppenheimer as Chairman and Managing Director soon owned most of the fabulously wealthy diamond operations in South West Africa's Sperrgebiet or "forbidden zone."[49] Ironically the mining industry in SWA had ensured that Oppenheimer "had arrived [. . .] [but] he did not control"[50] for De Beers was still the market leader in the diamond industry and Oppenheimer is said to have "coveted a position on the De Beers Board of Directors, [and] he had more than once been rebuffed".[51] It was however only a matter of time before Oppenheimer was admitted to the Board and in 1929 he was appointed as the chairman of the Board of De Beers. Oppenheimer had used the Consolidated Diamond Mines in SWA to gain control of De Beers and the global diamond trade.[52] Ernest Oppenheimer not only acquired shares in De Beers on behalf of Anglo American but he also merged CDM into De Beers, making CDM a De Beers subsidiary which then in turn brought SWA diamonds under South African control. These shares and merger made Oppenheimer the most powerful man in the diamond industry.[53]

Sovereignty and the Re-negotiation of colonial contracts

There are, admittedly, many elements to the diamond tale in SWA, branches of production and marketing, along with decades of activity under South African rule, which this essay is overlooking in order to jump forward to the post-colonial era, so as to address the question on the re-negotiation of colonial contracts in independent Namibia's diamond mining industry. The process of negotiation, on the part of the newly formed African state, was essentially to gain a foothold in the governance of its own resources, and in this specific regard, access to diamonds. Kempton and Du Preez write that "in these negotiations, states perceive individual firms as potential partners or, in more familiar parlance, allies. However, the nature of any alliance must be negotiated."[54] Negotiating access into a historically rooted industry, long privileged and established to withstand competition,

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49 Smillie, *Diamonds*, 27.

50 Ibid.

51 Ibid.

52 Cf. Daniel R. Kempton and Roni L. Du Preez, 'Namibian-De Beers State-Firm Relations: Cooperation and Conflict', in: *Journal of Southern African Studies* 23 (1997), 585–613, here 592.

53 Cf. Smillie, *Diamonds*, 28.

54 Kempton and Du Preez, 'State-Firm Relations', 588.

was however not an easy task. Cecil Rhodes and, his successor at De Beers, Ernest Oppenheimer had "created a model that would shape the industry for more than a century, surviving a myriad of commercial challenges [. . .] the Depression, two World Wars, the end of colonialism (and) apartheid [. . .]", a model that privileged De Beers and made Rhodes and Oppenheimer lords over the worlds diamonds.[55]

In Namibia, for example, De Beers and its subsidiary CDM, had long been viewed as an essential partner to the South African colonial administration of territory. Throughout the South African colonial period the mining industry and particularly the diamond mining industry had been the leading contributor to the territory's GDP. Kempton and Du Preez argue that "clearly the profitability of the resources being mined by De Beers, then a South African-based corporation, made continued occupation [of Namibia] highly desirable for South Africa".[56] The partnership was essentially a case of guaranteed revenue for the colonial administration in exchange for monopoly over the diamond industry by De Beers. Times were, however, changing even in the face of De Beers' monopolistic activities. After a twenty-six yearlong armed struggle and the concurrent prolonged process of diplomatic negotiations, Namibia gained its independence in March 1990. The newly independent state, armed with the spirit of self-determination and the principle of sovereignty over natural resources, took its place in the international community and subsequently at the negotiating table with the international mining companies, with the aim of reclaiming a stake in what was recognised as rightfully theirs under international law. It is to these negotiations that the essay now turns its attention to trace the process of claiming sovereignty over the country's diamond resources through the (re-)negotiation of colonial contracts, for the purpose of enjoying the benefits of the exploitation of these resources. In recognition of the fact that the negotiations in independent Namibia were not exceptional, the ensuing section first examines events in neighbouring Botswana where, in the late 1960s, De Beers not only began its operations but also negotiated its place in the diamond industry of Botswana. It is hoped that an examination of the events in Botswana will enlighten the discussion on the negotiations, occurring decades later, in Namibia. And in so doing support our understanding of the country, and its government, in the exercise of permanent sovereignty over the natural wealth and resources of Namibia in the interest of national development and the well-being of its people.[57]

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55 Smillie, *Diamonds*, 24.

56 Kempton and Du Preez, 'State-Firm Relations', 594.

57 General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources".

Debswana diamond company: "Mining diamonds, enriching the nation"

Botswana's pre-independence history differs from that of Namibia in that the former Bechuanaland was never officially colonized.[58] The territory was declared a British protectorate in 1885 and it held protectorate status until it gained independence in September of 1966.[59] Botswana also presents an interesting case in as far as diamond mining is concerned, for unlike in South Africa and Namibia, its neighbours to the south and to the west respectively, diamond mining activities only commenced in the post-protectorate period. During the protectorate period, and indeed at independence "Botswana's economy was dependent on cattle exports, and remittances from workers in South African mines."[60] The country thus possessed men with work experience in the mining industry, but it possessed no mines of its own, let alone a thriving mining industry. It is worth noting, however, that prospecting for diamonds in Botswana began in the mid-1950s when De Beers commissioned geologists to prospect for the precious stones in British Bechuanaland. Their search for diamonds only led to the discovery of small alluvial deposits along the Motloutse River in north-eastern Botswana. The trade in these alluvial diamonds is said to have only contributed as little as 1 per cent to the protectorate's economy.[61]

In April of 1967, following a twelve year period of exploration, De Beers' geologists discovered a diamondiferous kimberlite pipe at Orapa, in east-central Botswana.[62] The discovery was especially remarkable because it occurred months after Botswana had gained its independence from Britain in September of 1966. This meant that the mining rights sought by De Beers would be negotiated with and acquired from the newly appointed government of an independent Botswana in whom sovereignty over the country's natural wealth and resources was vested. In June 1969, "the De Beers Botswana Mining Company was formed, with the government's initial shareholding in the mining company [. . .] limited to a 15 per cent."[63] The limited shareholding was a result of two main issues. The first had to do with the perception that the Orapa pipeline, whose exploratory phase

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58 Quotation in section heading from Debswana's company slogan, see http://www.debswana.com/ (2020-07-27).

59 Cf. Jennifer Wilcox, *Mining Regulation and Development in Botswana: The Case Study of the Debswana Mining Joint Venture*. Unpublished MA Thesis Saint Mary's University Halifax 2015, 74.

60 Ibid.

61 Cf. ibid, 75.

62 See 'Our History', in: Debswana: Mining Diamonds, Enriching the Nation, http://www.debswana.com/About-Us/Pages/Our-History.aspx (2020-07-27).

63 Wilcox, *Mining Regulation*, 92.

was still under way, was not considered to be particularly valuable.[64] The extent of the Orapa mines reserves were thus relatively unknown at the time of the signing of the agreement between the government and the mining company. The second issue was linked to the government's recognition of its minimal financial resources and the lack of expertise to embark on a self-directed, self-sustaining, development of its diamond resources. Instead, according to Jennifer Wilcox, the government made the strategic decision to allow international mining companies to "lead the exploration, development, and operations" of mining activities in the country and in so doing allowed the De Beers to take the lead in the exploration of the country's diamond resources.[65]

Jack Parson writes that the mining giant De Beers had considered the 15–85 per cent shareholding arrangement with the government a fair deal because of the capital it would put forward to get the mining venture off the ground.[66] The De Beers Botswana Mining Company had also undertaken the financial responsibility for the prospecting phase, the engineering design and construction of the Orapa mine as well as the security considerations necessitated by this specific natural resource (which Ian Smillie describes as highly susceptible to theft due to the size and concealability of diamonds).[67] Four years later, production commenced at the Orapa mine in 1971 under the 15–85 per cent shareholding agreement between the state and the firm. This arrangement was, however, scrapped when in 1974 further diamond discoveries were made near the Orapa mine, prompting the De Beers Botswana Company to seek a new mining licence which would enable the company to open a second mine. These discoveries afforded the government an opportunity for 'resurgere', to rise again, at a time when it sought to develop its country, both in terms of infrastructure and the social wellbeing of its people in areas of public health and education. The new discoveries, which brought the parties back to the negotiating table in 1974, led to the formation of the Letlhankane mine. In this second round of negotiations the government recognised the value of the diamond resources at its disposal and sought to increase its share in the De Beers Botswana venture from 15 per cent to 50 per cent.[68]

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64 Cf. ibid, 92.

65 Cf. ibid, 81.

66 Cf. Jack Parson, *Botswana: Liberal Democracy and the Labour Reserve in Southern Africa*, Boulder 1984, 78.

67 Cf. Ian Smillie, Blood on the Stone: Greed, Corruption and War in the Global Diamond Trade, London 2010, 190. Harry Frederick Oppenheimer served as Chairman of De Beers following Ernest Oppenheimer's death in 1957. He retired and gave up the chairmanship in 1984. On his biography, see Kalim Rajab (ed.), *A Man of Africa: The Political Thought of Harry Oppenheimer*, Cape Town 2017.

68 Cf. Wilcox, *Mining Regulation*, 84.

The adage "when it rains it pours" could not have been truer for De Beers for whom even further diamond discoveries, at what became known as the Jwaneng mine, saw the government's negotiating powers strengthened in its demand for a 50/50 participation in the mining venture. The value of Jwaneng's diamond deposits surpassed even that of Orapa and Letlhankane and thus strengthened the resolve of the government to leverage these deposits in the interest of the country and its people. The process of renegotiation between De Beers and the government, although not entirely affable, was restarted and the terms of the alliance were redefined. The government insisted on two non-negotiable points, namely, the aforementioned, 50–50 split in shareholding and secondly, a favourable profit-tax arrangement. The result was the creation of the Debswana Diamond Company (Debswana in short), in which the government of Botswana and the De Beers Consolidated Mines Ltd held an equal 50/50 share.[69] The government further opted to contribute a 20 percent equity towards the development of the Jwaneng mine, which equity it afforded from its proceeds in the joint venture. Debswana, whose capital and technical expertise predominantly came from De Beers, was granted the exclusive monopoly to operate the diamond industry in Botswana (in keeping with the original De Beers policy of limiting competition). It is worth highlighting, however, that the renegotiation process was made possible by the regulatory framework introduced by the Botswana government in 1967, in governing its nascent mining industry. The regulatory framework, that is the Mines and Minerals Act, facilitated the adoption of polices by which the government was able to leverage the country's position as a major diamond producer, with three main mines, in exchange for concessions from De Beers. Such leveraging power, as recognised under the 1962 principle of sovereignty over natural wealth and resources, resulted in a favourable revenue sharing formula, which not only supported the economic development plans set out by the government but also ensured the provision of employment, health services and educational opportunities for the citizens of Botswana and in so doing ensured that the diamond resources of the country were being exploited in the interest of its people.

Harry Oppenheimer, the grandson of Ernest Oppenheimer and deputy chairman of De Beers at the time, was in attendance at the ceremony that marked the signing of the agreement to establish Debswana. Expressing himself on the potential of Jwaneng mine, Harry Oppenheimer said that "Jwaneng is probably the most important kimberlite pipe discovered anywhere in the world since the original

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69 Despite the successful negotiations in the 1970s, the De Beers Botswana Mining Company was only renamed Debswana Diamond Company in 1991, see Wilcox, *Mining Regulation*, 92.

discoveries at Kimberley more than a century ago."[70] Comparing Jwaneng with Kimberley, where his grandfather had cut his teeth learning the art of the diamond trade, is such high praise from a man whose company had attempted a great heist through a paltry 15 cent shareholding arrangement with the government of Botswana and almost gotten away with it. The 15 per cent shareholding would, for example, only have granted the government "two seats on the board of De Beers and [would] enable the Government to obtain information and consultation on matters relating to the diamond industry."[71] The 50/50 partnership, on the other hand, translated into an equal representation on Debswana's Board of Directors, consisting of six directors representing the government and six directors representing De Beers.[72] The inclusion of senior government representatives, such as the Permanent Secretary of the Ministry of Finance and Development Planning, on the Board of Directors is also understood as having safeguarded the integration of Debswana into the government's development plans for the country and its people.[73] The renegotiation of the original contract had thus proven to be instrumental in the development of independent Botswana and it has set the standard for the exercise of the principle of sovereignty over the natural wealth and resources of Botswana.

Namdeb diamond corporation: "On diamonds we build"

In the 1990s, the Republic of Namibia (much like Botswana in the 1960s), required state revenues for the development of the country. Unlike Botswana, Namibia's colonial economy had been dependent on a thriving mining industry, with copper, diamonds and uranium being the leading mineral resources in the territory. Although the copper mines were established before the discovery of diamonds, and uranium production constituted the newest investment in the post-Second World War period, the diamond mines contributed the highest tax revenues to the colonial state and remain the leading GDP contributor. Colonial rule, under the apartheid regime had however meant a segregated development of the territory based on racial lines. The infrastructure and especially the road

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70 De Beers Consolidated Mines Limited, "Chairman's Statement," 94th Annual Report to 31st December 1981 Kimberley, South Africa, April 1982, as cited in Parson, *Botswana*, 77.

71 Kawana, *Mining Laws*, 126.

72 Cf. Wilcox, *Mining Regulation*, 95.

73 Cf. ibid.

and rail network in the urban centres of the territory were well developed. The rural areas were however neglected, with social services such as health, the provision of housing, and education for black Namibians lacking far behind. The Namibian government thus required the continued flows of revenues from the mining industry in order to address the aforementioned inequalities and developmental challenges faced by the country.

Now, statements on the future of diamond production in Namibia, and indeed the operations of the mining industry, were made long before De Beers and the Namibian government had sat down to (re)negotiate the agreement entered into by De Beers with the Union of South Africa and the administration of South West Africa. The Namibian nationalist movement, SWAPO, had throughout its revolutionary struggle (which began in the 1960s) hinted at the nationalisation of the Namibian mining industry.[74] This was in light of the view that the international mining companies operating in the territory were colluding with the South African regime in the exploitation of the Namibian people and its resources. To pursue nationalisation would well have been in line with international law as recognised by the principle of sovereignty over natural wealth and resources. The 1962 principle, as was mentioned in the introductory section of this chapter, accorded the sovereign the right to nationalisation and it in turn called on the sovereign to ensure that the affected mining company is compensated.

As the diplomatic negotiations for Namibian independence progressed in the 1980s, the parties at the negotiation table also addressed the question of just compensation for the loss of private property, which right would be included in the fundamental rights under the 1982 Constitutional Principles.[75] It was thus evident to all that the nationalisation of the mining industry and the private property and infrastructure that came with the industry, would not be without cost to an independent Namibia. By the mid-1980s the vehement statements on nationalisation had changed as SWAPO, much like its counterparts in Botswana, recognised that "the Namibian people lacked the technology, skills and capital to undertake the immediate nationalisation of mining."[76] Regarding the diamond industry, SWAPO began to hint at the fact that De Beers, under the

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[74] The South West Africa People's Organisation (SWAPO) was established in April of 1960 to wage the diplomatic, political and armed struggle against the South African occupation of Namibia.

[75] "Principles for a Constitution for an Independent Namibia," 1982, History and Public Policy Program Digital Archive, included in Sue Onslow and Anna-Mart Van Wyk (eds.), *Southern Africa in the Cold War, Post-1974*, http://digitalarchive.wilsoncenter.org/document/118262 (2020-07-27).

[76] Kempton and Du Preez, 'State-Firm Relations', 596.

chairmanship of Harry Oppenheimer's successor Julian Ogilvie Thompson, might be allowed to continue its ventures in an independent Namibia, through its subsidiary CDM.[77] De Beers would, however, be expected to do so on terms which were much more favourable to the new state. De Beers, for its part, recognised that the new government of independent Namibia would likely want to renegotiate some sort of a new arrangement with regards to shareholding rather than outright nationalisation. Abel Gower, the director of CDM in 1989, explained that De Beers had "negotiated with governments all over Africa and we are confident we will be able to talk to the new government here."[78] The example from Botswana is proof that De Beers had prior experience in the art of renegotiating the terms of a partnership with newly independent governments.

In 1990, after decades of diplomatic negotiations, the territory of Namibia gained its independence from South African rule and the nationalist movement SWAPO was transformed into an independently elected government. The Namibian government, much like in Botswana, first went about establishing the law of the country and also amended the laws that the territory had inherited from the colonial period. This governance exercise included the restructuring of the legal framework governing the mining industry and particularly the leading diamond industry. The South African administration had, for example, passed the Diamond Industry Protection Proclamation no.17 of 1939 in order to regulate the diamond industry. The proclamation provided for the "regulation, control, development and protection of the diamond industry of South West Africa [and] these functions [were to be] carried out by the Diamond Board, set up by the Diamond Board Establishment Proclamation no.4 of 1921."[79] The Diamond Board had, according to Job Amupanda, been established and operated with financial support from the Consolidated Diamond Mines.[80] This evident conflict of interest between the company and the Board thus motivated the new government to dissolve the Board and introduce in its stead a legal regulatory framework to govern the diamond industry. The formulation of this regulatory framework, and indeed the governing of the mining industry, was entrusted to the newly established Ministry of Mines and Energy, which replaced the former, colonial office of the inspector of mines. Once the legal framework was formulated and gazetted by the new

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77 Julian Ogilvie Thompson began his carrier with De Beers as the personal assistant to Harry Oppenheimer. Ogilvie Thompson succeeded Harry Oppenheimer as chairman in 1985. Alan Cowell, 'At De Beers, the Dynasty Continues – Under a New Name', in: *The New York Times*, March 3, 1985, Section 3, 6.

78 Kempton and Du Preez, 'State-Firm Relations', 599.

79 Kawana, *Mining Laws*, 94.

80 Cf. Amupanda, *Diamond Mines*, 44.

government, an approach was made to De Beers for the renegotiation of the contract that governed its diamond mining operations in southern Namibia.

Kempton and Du Preez write that the Namibia-De Beers negotiations were hinged on four key issues. The first of these issues was the ownership of Namibia's diamond mining operations. Now under international law sovereignty over the diamond resources was vested in the government, who were to ensure their exploitation in the interest of the Namibian people. The change in regime, however, meant that the parties with whom De Beer's had negotiated its original contract, seventy-five years earlier, no longer held legal tender over the resources and as such the new "sovereign" had to be engaged. The second issue, and one that speaks to the heart of De Beers' business values, was the question of the marketing of Namibian diamonds. De Beers, whose emphasis on "control production and distribution to maintain the profitability of the industry", was obviously going to insist on retaining the role of marketing Namibian diamonds through the Central Selling Organization (CSO, now known as the Diamond Trading Company). The third issue, and one that speaks to the focus of the government in the exercise of its mandate to the nation, was the level and form of diamond taxes and other revenues to be paid by and obtained from the diamond mining company, as well as the employment and labour practices of the mining company (which had been rooted in the discriminatory practices, along racial lines, propagated by the ousted regime). The fourth and final issue, and probably the one that speaks to the government's responsibilities under the principle of sovereignty over natural wealth and resources, was the level of (re) investment and production by the mining company in the country, in the interest of its citizens.[81] Apart from constructing and managing the company town of Oranjemund, De Beers had made very little contribution to the infrastructural development of the rest of the territory, during the colonial period. Job Amupanda, for example, points to the construction of a bridge connecting Oranjemund to South Africa (facilitating the flow of diamonds from the territory) and yet no road network existed (up until well into the independence period) connecting Oranjemund to the rest of the country.[82]

The culmination of the negotiation process, between the government and De Beers, was the establishment of the Namdeb Diamond Corporation (Pty)

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81 Cf. Kempton and Du Preez, 'State-Firm Relations', 587.

82 Cf. Amupanda, *Diamond Mines*, 47: "In 1951, CDM built a bridge over the Orange River linking Namibia, through road infrastructures, to South Africa. CDM did not, however, see a need to construct a road linking its site in Oranjemund to the national road network in Namibia during more than 70 years of its existence. The road from Oranjemund connecting to the national road network was only completed in 2017, i.e., 80 years after CDM opened."

Limited in November 1994. "All of the De Beers group's existing Namibian mining licences and related rights were replaced by a consolidated and rationalised mineral agreement, drawn up under Namibia's post-independence mineral legislation."[83] Once the ink had dried, De Beers was granted "the right to mine and market Namibia's diamonds for the ensuing twenty-five years [and] in exchange Namibia received 50 per cent ownership of CDM and all its subsidiaries inside Namibia."[84] The 50–50 shareholding partnership was first presented as a possible route by Julian Ogilvie Thompson, who in 1990 hinted at the possibility of "transferring partial ownership [of CDM to the Namibian government] [. . .] in recognition of the president's [Sam Nujoma] policy of national reconciliation, but also cognizant of the huge percentage of the Namibian economy constituted by CDM."[85] The split shareholding arrangement, which resulted from a renegotiation exercise similar to that in Botswana, was thus being repeated in Windhoek, Namibia. The new terms of the partnership between the government and De Beers saw major changes in how De Beers previously operated in the country, through CDM, even if factors like operational control and marketing remained the prerogative of the mining giant, De Beers.[86]

The Namdeb partnership yielded benefits for the Namibian government, more broadly through revenue streams towards the planning of its developmental projects. Kempton and Du Preez, however, identify specific ways in which the government benefited from its partnership with De Beers. Firstly the country received 50 per cent ownership of the most profitable mining enterprise in the country. Secondly, this 50 per cent ownership was acquired without a significant outlay of capital by the newly established government. Thirdly, the 50/50 joint venture meant that like in Botswana the government held equal representation on the Board of Directors of Namdeb. This not only enabled the government to participate in the decision making process of the company but also to regulate the country's diamond resource industry for the benefit of its economy and in the interest of its people.[87] The sum of these benefits is the realisation of sovereignty by a newly independent state over the disposal of its natural resources, albeit through negotiations with the historic "gate keepers" of the diamond industry.

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83 Namdeb, 100 Years of Diamond Production. Annual Review of 2007, 2.

84 Kempton and Du Preez, 'State-Firm Relations', 586.

85 Ibid, 600. This included shares in the Tsumeb Corporation and De Beers' ownership of Namibia's primary gold mine – the state's fourth largest export earner.

86 Cf. Kempton and Du Preez, 'State-Firm Relations', 600.

87 Cf. ibid, 601.

What is interesting to note is that the precise details of the agreement between the two parties have remained a confidential matter, at the request of De Beers (one can only speculate that a request like this would be informed by De Beers' anticipation of similar negotiations in a different country). Reverting back to the Debswana, for example, one could say that for De Beers the engagement with the newly established diamond regime in independent Namibia was a rerun of the negotiation process in Botswana; a replication in terms of the 50/50 shareholding split, the profit-tax arrangement and ironically the equal-split name of the new ventures. Similarly, one must note that it had also taken the formulation of a legal framework by both governments to create an avenue for the exercise of their sovereign right over the diamond resources of their respective countries.

Conclusions

Re-negotiations were thus the bedrock on which the new partnerships between state and firm were formed, both in recognition of the limitations faced by the respective governments in the exploitation or nationalisation of their natural resources as well as the recognition under international law of their principled right to exploit these resources in the interest of their country and its people. Now the historical links with De Beers of course differed in that Botswana, for example, did not inherit a colonial mining concession agreement while Namibia inherited a colonial concession, not once but twice. Namibia also already celebrated a century of diamond mining, while Botswana's diamond mining activities only came into production in the 1970s. The governments on the other side of the negotiation table with De Beers were, however, not as different as both were recently independent countries at the receiving end of mining industry expertise and capital from the mining giant. The agenda and the incentives for both governments, however, remained the same, namely the exercise of effective control over the natural resources of their countries for the purpose of generating national wealth and improving the wellbeing of the inhabitants of their respective countries. This was, and continues to be, made possible through the governments representation on the boards of Debswana and Namdeb, as effective contributors in the decision making process, for purposes of not only ensuring the protection of national interests but also of reinforcing sovereignty over natural resources.[88]

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88 Cf. Kawana, *Mining Laws*.

In closing, one reimagines the scenes of Edward Zwicks's 2006 production called Blood Diamonds, wherein we are taken into a conference room of the negotiations of what would become the Kimberley Process (a process which could only be achieved through negotiations between states and industry).[89] The speaker, in the opening scene, says the following: "the natural resources of a country are the sovereign property of its people. They are not ours to steal or exploit in the name of our comfort, our corporations or for our consumerism".[90] The Kimberley Process might have been addressing the flow of illicit diamonds, but it did so using the language of the PSNR developed decades prior to the talks. At the heart of it all was the question of sovereignty and sovereignty particularly over the diamond resources of states. The basic principle of PSNR is that "host States have the right to decide the manner and form of natural resource exploitation in the public interest."[91] It was thus the right of the governments, discussed in the foregoing sections, to initiate the negotiation process with De Beers over the exploitation of the diamond resources of their countries.

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89 "The Kimberley Process (KP) is a multilateral trade regime established in 2003 with the goal of preventing the flow of conflict diamonds." https://www.kimberleyprocess.com/en/what-kp (2020-07-27).

90 Edward Zwick, *Blood Diamond (Film)*. Lonely Film Productions, 2006.

91 Kawana, *Mining Laws*, 295–296.

Sebastian Lambertz

The people's own media: Workers representation in Czechoslovak Socialist Television

Abstract: *Even though on first sight socialist rule might appear as monolithic and totalitarian with no room for individual agency, people living in socialist societies nevertheless experienced substantial possibilities of self-determination. Especially workers as the socialist vanguard and most privileged societal group had certain spaces to negotiate the conditions of their everyday life with the regime. This paper seeks to identify such spaces of negotiation by analysing the exchanges between Czechoslovak Television (ČST – Československá televize) and its viewers with regard to the role of entertainment in the daily programme throughout the 1960s. Here, the audience's agency contrasts the new media's significance for the Communist Party as a crucial part of ideological education. The paper demonstrates that it was actually the Party's efforts to build a socialist consciousness, which empowered workers to claim self-determination about their leisure time. Letters to the makers of TV programmes thus became an avenue to stake claims for the cultural sovereignty of the people. This reveals a perhaps surprising space of this contest: television programmes and entertainment. In the context of limited parliamentary and public channels for participation, these became an important arena as alternative channels for claiming participation were not available.*

Introduction

In socialist states, television was in a difficult position. As "an institution that lived in the intersection of the public and domestic spheres, between top-down attempts at influencing viewers and bottom-up demands for entertainment,"[1] it constantly had to manoeuvre between party guidelines and the viewer's "thirst for cheap entertainment."[2] To meet these conflicting demands, programme designers made use of the fact that the medium was able to suggest an authenticity

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1 Anikó Imre, *TV Socialism*, Durham 2016, 4.
2 Sabina Mihelj and Simon Huxtable, *From Media Systems to Media Cultures: Understanding Socialist Television*, Cambridge 2018, 9.

of the social reality on screen. They combined sound and image offering an incentive for people to inscribe themselves into the society they saw on screen. Thereby, a communicative space emerged, in which social issues and relations were frequently discussed.[3] This space allows for a deeper analysis of the Party's efforts "to educate people in the spirit of Communism [. . .]" and to develop "the worldview, character, morality and culture of a future person of communist society"[4] and how television viewers received and appropriated such efforts.

In this paper, I will take a closer look at this communicative space by analysing how workers who identified themselves as socialist workers communicated with Czechoslovak Television (ČST – *Československá televize*) in the 1960s and brought forward claims for entertainment within the daily programme. I will argue that their self-perception as a part of the ideological core group of socialism was the starting point for this claim and that the socialist regime – by trying to foster "New Socialist Men"[5] – encouraged this mentality of entitlement. Empowered by the regime itself, workers tried to make television actually one of their "own media", by basing their claims on the ideological construction of the New Man and by relating this to their everyday life, i.e. the hardship of their actual labour and the restraints of factory shifts. In the course of the 1960s, an argumentative shift can be observed towards an emphasis of the workers' role as television consumers. Letters to the makers of TV programmes thus became an avenue to stake claims for the cultural sovereignty of the people. This reveals a perhaps surprising space of this contest: television programmes and entertainment. In the context of limited parliamentary and public channels for participation, these became an important arena as alternative channels for claiming participation were not available.

Accordingly, this paper is also a contribution to one of the most frequent debates in connection with socialist societies of the 20th century, namely the debate about individual agency. In light of the encompassing claim of Communist Parties to control the life of their citizens down to the last detail, socialist rule was widely perceived as totalitarian, i.e. denying people any scope of action

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3 See: Kirsten Bönker, 'Fernsehkonsum, Zuschauerbeteiligung und politische Kommunikation der späten Sowjetunion', in: Uwe Breitenborn, Gerlinde Frey-Vor and Christian Schurig (eds.), *Medienumbrüche im Rundfunk seit 1950*, Cologne 2013, 199–217, here 200.

4 Martin Štoll, *1.5.1953. Zahájení televizního vysílání: Zrození televizního národa*, Prague 2011, 183–184.

5 While the Czech form 'nový člověk' and the Russian 'novyj chevolek' are gender-free, the English-language literature on state socialism generally refers to the 'New Man'. In the following, the concept is used without a specific focus on gender.

apart from retreating into private life or resistance.[6] But as recent studies about the everyday reality in Czechoslovakia and other Communist states demonstrate, individual experiences were multifaceted and clearly reached beyond the easy classifications of "resistance", "retreat" or "opportunism." Rather, people had quite some space, within which they could influence their everyday life to a great extent.[7]

The communicative space television offered can provide insights into how these negotiations proceeded and what the viewer's demands were based upon. An important role in this context played the idea of the socialist "New Man", an ideal of a person fully dedicated to the construction of a socialist society and thereby benefiting from its achievements. With this discursive figure, the Communist Party of Czechoslovakia (KSČ – *Komunistická strana Československa*) provided an opportunity to inscribe oneself into society and to develop the self-conception of an individual capable of acting with an awareness of both rights and duties. This self-conception, I will argue, could empower, among others, television viewers to demand an entertaining programme.

Studying non-democratic contexts, such as the Czechoslovak society in the 1960s, it is widely held that television or radio audience functions only as a passive receiver of the top-down messages of propaganda.[8] In contrast, state television also aimed to "model socialist citizenship"[9] and "encourage popular participation in political affairs",[10] which confronted the editors with an active, participative audience reacting to the various offers, television made, e.g. by asking for suggestions for future topics.[11] Accordingly, they had to constantly

6 See e.g.: Pavel Kolář, 'Langsamer Abschied vom Totalitarismus-Paradigma: Neue tschechische Forschungen zur Geschichte der KPTsch-Diktatur', in: *Zeitschrift für Ostmitteleuropaforschung* 55 (2006), 253–275, here 255–256.

7 See e.g.: Stephen Kotkin, *Magnetic Mountain: Stalinism as a Civilization*, Berkeley 1995; Katherine Lebow, *Unfinished Utopia: Nowa Huta, Stalinism, and Polish Society, 1949–56*, Ithaca 2013; Mary Fulbrook, *The People's State: East German Society from Hitler to Honecker*, New Haven 2005; Muriel Blaive (ed.), *Perceptions of Society in Communist Europe: Regime Archives and Popular Opinion*, London 2019.

8 See: Darina Volf, *Über Riesen und Zwerge: Tschechoslowakische Amerika- und Sowjetunionbilder 1948–1989*, Göttingen 2016, 25–32.

9 Imre, *TV Socialism*, 33.

10 Mihelj and Huxtable, *From Media Systems to Media Cultures*, 26.

11 See: Irena Reifová, 'A Study in the History of Meaning-Making: Watching Socialist Television Serials in the Former Czechoslovakia', in: *European Journal of Communication* 30 (2015), 79–94, here 80 and Sabina Mihelj, Audience History as a History of Ideas: Towards a Transnational History, in: *European Journal of Communication* 30 (2015), 22–35, here 23 and 28.

balance "the need to impose authority and the need to elicit involvement",[12] in order to avoid any uncontrolled mobilisation of the audience.[13] At the same time, this created a certain agency for the viewers, which even went beyond the "hermeneutical agency" Irena Reifová states for Czechoslovak viewers after 1968, who were capable to "generate interpretations [. . .] which significantly deviated from the intended propagandist meanings."[14]

The individual agency of TV viewers will be analysed on the basis of the letters, the "Department for Audience Relations" (*Oddělení pro styk s diváky*) of Czechoslovak Television received. Founded in 1954, the Department was responsible for responding to such letters and for organising group discussion in factory clubs or culture centres, where mainly workers partook. From the very beginning of television broadcasting in Czechoslovakia in 1953, the editors in charge – and the Communist Party behind – enforced television viewers to state their opinion especially in written form, because they considered these letters also as an important source of information about the viewers themselves and about their everyday life.[15] Additionally, regular telephone surveys were conducted from 1961, but on a daily basis not before 1971.[16]

Letters to the television station were highly popular, in fact Czechoslovak Television became one of the most popular institutions to address a petition. In 1960, when the KSČ defined the „new tasks of Czechoslovak television",[17] the "Department for Audience Relations" counted 19.689 letters, from which 10.621 (54 %) related to prize competitions. One year later – the number of TV licenses had just reached one million – 43.977 incoming letters were recorded, in 1966 51.962 (46 % concerned competitions).[18] Many of these letters have been archived but in most cases only generally summarized in unsorted boxes, which makes it almost impossible to make explicit statements about the amount of archived

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12 Stephen Lovell, 'Broadcasting Bolshevik: The Radio Voice of Soviet Culture, 1920s-1950s', in: *Journal of Contemporary History* 48 (2013), 78–97, here 94.

13 See: Imre, *TV Socialism*, 34.

14 Reifová, 'A Study in the History of Meaning-Making', 79–94, here 81.

15 See: Stefan Lehr, 'Pište nám! Dopisy diváků a posluchačů Československé televizi a rozhlasu', in: *Marginalia Historica: Časopis pro dějiny vzdělanosti a kultury* 3 (2012), 71–82, here 72.

16 This was done by the „Department for Audience Research" in Prague (Pražský odbor výzkumu programu ČST a diváka v ČSR), see: Lehr, 'Pište nám!', 71–82, here 72 and Martin Franc and Jiří Knapík, *Volný čas v českých zemích, 1957–1967*, Prague 2013, 406.

17 Quoted after: Štoll, *1.5.1953. Zahájení televizního vysílání*, 183–184.

18 Lehr, 'Pište nám!', 71–82, here 74.

letters. For comparison only: In 1963, the Central Committee of the KSČ received 21.259 letters, its main newspaper, the „Rudé právo" (*The Red Justice*), 32.866.[19]

Taken together, letters and reports about group discussions provided a clear picture of the audience's expectations: Entertainment.[20] This was in sharp contrast to the ideas of the Communist Party, which tried to foster a "cultural-educational component"[21] on television and promoted "'higher forms' of recreation"[22] in order to prepare people to build socialism and become "New Men."[23] So the discussion about the television programme – which was also one about the general question of how "New Men" should spend their leisure time – circulated around the dichotomy of (fictional) entertainment vs. (ideological) education and information.

Against this background, this chapter enquiries into the argumentative strategies workers writing to Czechoslovak television used when demanding what they considered an appropriate programme. These strategies can tell us more about how the educational efforts of the regime were interpreted and adopted as well as about the agency socialist workers claimed for themselves as part of their ideologically privileged position within socialist society.

Socialist rule and the question of agency

Studying agency under Socialism cannot omit terror, fear and repression a subject of discussion.[24] However, "no political system, not even the communist dictatorship could work only by oppressing large parts of its population,"[25] which means that all regimes had to try to secure people's favour by taking into account their wishes and needs.[26] Hence, citizens living under socialist rule had a

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19 National Archive of the Czech Republic (NA – Národní archiv), fund 02/4: KSČ – Ústřední výbor 1945–1989, Praha – sekretariát 1962–1966, volume 37, archive unit 71/3: *Usnesení 71. schůze sekretariátu ÚV KSČ ze dne 12. května 1965.*

20 See: Imre, *TV Socialism*, 8 and Mihelj and Huxtable, *From Media Systems to Media Cultures*, 12.

21 Martin Franc and Jiří Knapík, 'Getting Around to the Human Being in the Next Quarter: Leisure Time in the Czech Lands 1948–1956', in: *Czech Journal of Contemporary History* 1 (2031), 77–101, here 87.

22 ibid., 82.

23 See: Franc and Knapík, *Volný čas v českých zemích,* 110 and 119.

24 Muriel Blaive, 'Introduction', in: Muriel Blaive (ed.), *Perceptions of Society in Communist Europe: Regime Archives and Popular Opinion*, London 2019, 1–12, here 2.

25 Matěj Spurný, *Nejsou jako my: Česká společnost a menšiny v pohraničí (1945–1960)*, Prag 2011, 13.

26 See: Lehr, 'Pište nám!', 72.

certain space for negotiation to improve their everyday life and to assert their entitlements. For Communist Czechoslovakia, such "a permanent negotiation process [. . .] between the regime and society"[27] was located on various levels, as studies of Jaromír Mrňka and Matěj Spurný have already indicated. These studies illustrate "tensions and contradictory social and group interests"[28] and an arena of competing and conflicting, interrelated claims and practices, which were also an integral part of everyday life under Socialism.

Clearly any such negotiation is in sharp contrast to the theoretical principles of Socialism and Communism, which state that especially the final transition of society towards Communism had inevitably to be undemocratic. However, the negotiating power of individuals and social groups did not question socialist rule as such but rather contributed to its stability. The gap between ideological promise and lived reality opened up new possibilities for workers and other citizens to put forward popular claims towards the regime, "to make the best from this unequal and uneasy relationship"[29] and to establish a "tacit minimal consensus."[30]

An important part of the negotiations between the socialist state and its citizens was the idea of the "New Socialist Men"[31] and the regime's attempts to educate people to become one of them. The "New Man" was a largely ill-defined idea of how exemplary socialist citizens should behave and think. It came in different forms such as the "worker", the "communist" or the "socialist woman." Higher-order characteristics, which applied to all these categories, included a positive attitude towards the socialist system per se, towards the Soviet Union, the rejection of all that was "old" and "bourgeois" and the subordination of individual needs and interests to the common case of socialist construction.[32] Building Socialism – and at some point Communism – was imagined to be the tasks

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27 Blaive, 'Introduction', 4; Jaromír Mrňka, *Svéhlavá periferie: Každodennost diktatury KSČ na příkladu Šumperska a Žábřežska v letech 1945–1960*, Prague 2015; Spurný, *Nejsou jako my*.

28 Blaive, 'Introduction', 4.

29 ibid.

30 See: Thomas Lindenberger, 'Tacit Minimal Consensus. The Always Precarious East German Dictatorship', in: Paul Corner (ed.), *Popular Opinion in Totalitarian Regimes. Fascism, Nazism, Communism*, Oxford 2009.

31 See: Denisa Nečasová, *Nový socialistický člověk: Československo 1948–1956*, Brno 2018; Peter Fritzsche and Jochen Hellbeck, 'The New Man in Stalinist Russia and Nazi Germany', in: Michael Geyer and Sheila Fitzpatrick (eds.), *Beyond Totalitarianism: Stalinism and Nazism Compared*, New York 2009, 302–341.

32 See: Nečasová, *Nový socialistický člověk*, 11–14; Fritzsche and Hellbeck, 'The New Man in Stalinist Russia and Nazi Germany', 302–303.

of socialist workers (men and women),[33] who should distinguish themselves by constant, hard and diligent work. According to socialist ideology, this made the working class the vanguard of socialist construction and put them into an ideologically privileged position.[34]

From that position, workers – and other members of socialist society – were able to demand what they considered their rights and entitlements as "New Men." In this context, television played an important role. It offered new opportunities to educate and influence the audience, but also gave rise to the danger of an "uncontrolled, diffuse emotional mobilization."[35] So the implication of the medium preceded mainly "by trial and error,"[36] and many Party officials struggled to value television and degraded it to a "light" medium of mass culture. All this provided for a lively discussion about the social order, power structures and social coexistence[37] and which gave viewers certain "leverage in defining the medium's development."[38]

Workers demanding entertainment

One of the issues viewers most frequently addressed was the relation between their expectation of an entertaining and relaxing programme and the amount of political and ideological education and information on screen. From the first broadcast on, this was a constant dispute, not only between the public broadcasters but also between the Party and the editors in charge who had recognized the audience's desire for light entertainment. Editors had to navigate between the viewer's demands and the Party's wish for a more cultural and educating programme.[39]

Lacking any sound experience with the medium, programme designers had to vastly experiment in the early days of Czechoslovak Television. According to

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33 On women's role as builders of Socialism see: Denisa Nečasová, *Buduj Vlast – Posílíš mír! Ženské hnutí v českých zemích 1945–1955*, Brno 2011.

34 Kevin McDermott: 'Popular Resistance in Communist Czechoslovakia: The Plzeň Uprising, June 1953', in: *Contemporary History* 20 (2010), 287–307, here 290–291.

35 Imre, *TV Socialism*, 34.

36 Kristin Roth-Ey, *Moscow Prime time: How the Soviet Union Built the Media Empire That Lost the Cultural Cold War*, Ithaca 2011, 179 and Miloš Smetana, *Televizní seriál a jeho paradoxy*, Prague 2000, 23.

37 See: Bönker, 'Fernsehkonsum, Zuschauerbeteiligung und politische Kommunikation', 200.

38 Imre, *TV Socialism,* 10.

39 See: Franc and Knapík, *Volný čas v českých zemích,* 408.

Martin Štoll early programme consisted of televised theatre shows, feature films, film novellas, puppetry, animation, political films, sports news, children's programmes, concerts, ballets, singing or dance performances, popular scientific and educational programmes, great music-hall and satirical evenings and a lot of other minor programmes. In general, the programme was structured along the many socialist and non-socialist anniversaries and viewers could expect an attractive programme at Christmas or New Year's Eve.[40]

Educational programmes gained significance only by the mid-1950s. In 1956, a regular news programme and the "Television University" (*Televizni univerzita*) were launched, a programme, which should introduce its viewers to Marxist-Leninist philosophy as well as science and other subjects. But although the KSČ-officials aimed at an "educational and cultural programme",[41] the popularity of television depended greatly on the entertainment programme, now consisting also of quiz and music shows or full-length estrades.[42]

Viewer's expectations were particularly high when it came to holiday programmes, e.g. Christmas or New Year's Eve. On these days, the usual programme was abandoned in favour of special programmes, mainly "to create a sense of extraordinary occasion [. . .] and celebrate the ongoing movement towards the communist future."[43] Such programmes – especially on non-communist, i.e. traditional, holidays – openly aimed at entertaining the audience which was why it was extraordinarily popular. On the other hand, the disappointment was even higher, when television failed this task.

One example of this is the debate about the New Year's Eve programme of 1962/1963. Several viewers bemoaned that what had been promised as a "sensational New Year's Eve"[44] turned out to be "rubbish."[45] If one can believe the viewer's descriptions, the programme was a combination of dancing performances,

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40 See: Franc and Knapík, *Volný čas v českých zemích*, 404; Martin Štoll, *Television and Totalitarianism in Czechoslovakia. From the First Democratic Republic to the Fall of Communism*, New York 2019, 145; Mihelj and Huxtable, *From Media Systems to Media Cultures*, 261–263.

41 Franc and Knapík, *Volný čas v českých zemích*, 404 and 424; Štoll, *1.5.1953. Zahájení televizního vysílání*, 156.

42 See: Štoll, ibid.

43 Mihelj and Huxtable, *From Media Systems to Media Cultures*, 261.

44 Archive and Programme Funds of Czech Television (APF ČT – Archiv a programové fondy České Televize), box 134, Inf 869, *Dopisy diváku*: Letter from Helena F., Humpolec, January 23rd 1963.

45 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Dr. Vladimír M., Prague, January 23rd 1963.

musical numbers[46] and comedy shows[47] with the negative highlight of "girls [dancing] on a graveyard."[48] After a first wave of criticism shortly after New Year's Eve, the editors themselves broadcasted a short statement, in which they apologized for having disappointed the audience and asked for suggestions for improvement. With the didactic play of socialist "self-criticism" – the admission of a mistake followed by constructive ideas and suggestions[49] – the editors themselves triggered a second wave of criticism, this time more constructive. This demonstrates the viewer's desire to participate and to actively interact and signifies the ideological importance of such letters to television.

In their letters responding to the programme the authors made quite clear that their expectations had been disappointed. For example, a viewer from a small Moravian village wrote: "After a long day of work, in the evening we are looking forward to nice entertainment when lying in bed. *Yes, entertainment!* Unfortunately, there was none [. . .]."[50] In a similar way, a viewer from Mláda Boleslav voiced his criticism about the, in his view, "historical New Year's Eve in the year of the Lord 1962 a.C.!!!": "[. . .] if anyone stayed home, and that was the *absolute* majority – then he or she simply expected to be entertained the whole evening!!! and (sic!) not only for a while."[51]

Such demands ran through the majority of the letters to the ČST, not only with regard to holiday programmes.[52] When writing to the different editorial departments, the authors did not present themselves as humble supplicants but as citizens or rather television viewers with a clear sense of entitlement and expectations. Obviously the narrative of letters to be found in the archives of Czechoslovak Television differed from those addressed to institutions such as the

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46 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Pavel Š., Vrbno, January 26th 1963 and letter from an anonymous author, Prague, January 2nd 1963.

47 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Jiří H., Prague, January 2nd 1963.

48 ibid.

49 In detail see: Jonathan L. Larsson, 'Deviant Dialectics: Intertextuality, Voice and Emotion in Czechoslovak Socialist Kritika', in: Petr Petrov and Lara Ryazanova-Clarke (eds.), *The Vernaculars of Communism: Language, Ideology and Power in the Soviet Union and Eastern Europe*, New York 2015, 130–146 and Oleg Kharkhordin, *The Collective and the Individual in Russia: A Study of Practices*, Berkley 1999.

50 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Ferdinand N., Zvole u Zábřeha, undated (emphasis in original).

51 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Joseph D., Mláda Boleslav, January 28th, 1963 (emphasis in original).

52 For this section I analysed one box with letters explicitly answering to the New Year's Eve programme. Letters archived in other boxes show similar patterns. See eg.: APF ČT, box 119, Inf 583, *Ohlas diváků na nedokončenou estrádu „Sejdeme se na Štvanici"* or box 120, Inf 587, *Zamítnuté náměty pro „Sedmero přání."*

Central Committee of the KSČ or the office of President that would often receive requests of helpless victims demanding justice.[53] However, the extent to which viewers expressed pointed demands demonstrates the importance of television as a means of communication.

In order to justify their demands for entertainment and relaxation, viewers writing to Czechoslovak Television inter alia referred to their self-understanding as "socialist workers", which – from their point of view – included the opportunity to relax as a compensation for the hardship of everyday work:

> I would like to ask the programme designers to take into account those who mostly watch TV on Saturday evening. Mainly, these are workers, who cannot sit in front of a TV on working days, not because they are not interested, but who because of their occupation primarily watch TV on Saturday evening.[54]

In the same or a similar way, many authors argued. They presented an account of their work and their achievement to stress their entitlement to an entertaining programme, which should help to forget the troubles of the working day: "We understand that people have different tastes and you want to meet everyone's taste, but do not try to convince us that people do not want to be entertained after work."[55] Or, as a viewer from the industrial city of Gottwaldov put it:

> I think that television is there for entertainment, that is why I, on behalf of the majority of the audience, ask to include more entertainment (and less work) on television, more such programmes as on Saturday and our satisfaction will be greater.[56]

Connecting everyday labour with a claim for entertainment, these examples show how the self-perception of being part of the working class, socialism's vanguard, could empower people to word claims towards the regime and its representatives. Their authors did not consider being a worker only as a form of self-realisation, as the socialist ideology saw it. Rather, industrial workers saw their identity as a way to facilitate a reward, i.e. entertainment and relaxation.

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53 See: Sheila Fitzpatrick, 'Supplicants and Citizens: Public Letter-Writing in Soviet Russia in the 1930s', in: *Slavic Review* 55 (1996), 78–105, here 81–83.
54 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Stanislav N., Šumperk, January 26th, 1963.
55 APF ČT, box 119, Inf 583, *Ohlas diváků na nedokončenou estrádu „Sejdeme se na Štvanici"*: Letter from the employees of the national enterprise „Transporta", Chrudim. September 3rd, 1959.
56 APF ČT, box 120, Inf 584, *Dopisy diváků k pořadu „Loď splněných přání"*: Letter from Olina F., Gottwaldov, July 19th, 1959.

So Television viewers reinterpreted the privileged position they had been assigned by the regime[57] and took it as a starting point for their demands.

In conjunction with the influence of television – the number of licences reached the number of one million in 1961[58] – the demands of the audiences grew and the viewer's criticism became sharper: "As you know, workers want to be entertained on television, to have a rest after a long day of work and live at least a bit of a cultural life, however, the television programme is below grade [. . .]."[59] In addition, it was taken for granted that the programme directors had the same intention: "Please consider my few remarks and suggestions only as the opinion of one of those who [. . .] are interested that our television still fulfils our expectations better: in the case of New Year's Eve this is to bring joyful comfort to our homes."[60]

In all of these cases it was especially workers,[61] who claimed sovereignty in and over their free time and succeeded in influencing the making of TV programmes. Their argument centred on the presumed privileged position within society, which had been assigned to them directly by the Communist Party and which they affirmed by referring to their work performance as the criterion of a true socialist worker.[62] As socialist workers, in turn, they raised a claim for entertainment and relaxation. This illustrates that the authors had developed a very own interpretation of the rights and obligations of the working class and that they took their self-perception as socialist workers as a basis of empowerment.

Beyond that, some authors compared their actual job to the work of television employees and in this way stressed the salience of socialist categories for individuals trying to describe their social reality:

> For you, though, for whom the creation of cultural programmes, humorous and satirical films etc. is an essential occupation, in production would be no excuse for similar rejects. Quite the contrary – in such a case you would be subject to the strictest criticism and just as every shop floor worker, according to socialist principles would have the right to remuneration corresponding to the quality and the amount of the work you are presenting soci-

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57 See: Nečasová, *Nový socialistický člověk*, 77–79.

58 See: Štoll, *1.5.1953. Zahájení televizního vysílání,* 178.

59 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from the employees of ČSAO, Prague, January 7th, 1963.

60 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from Oldřich B., Prague, January 25th, 1963.

61 Of course not only workers were writing. The authors of letters to Czechoslovak Television formed a heterogeneous, diverse group from all sections of society, e.g. academics, officials or pensioners.

62 See: Nečasová, *Nový socialistický člověk*, 75–124

ety. For the above-mentioned reasons it is clear that for you such principles do not hold true, because in such a case your delight about a great New Year's Eve would be at least like ours.[63]

In this example it is obvious that the authors – a worker's collective from Prague – not only transmitted the demands of their own profession to the work carried out by television employees but also determined a hierarchy in which television was nothing but a service for those building socialism. This underlines that under socialism, large strata of the workforce felt their daily work valued and conceived an inherent awareness for its high importance within the greater context of socialist construction.[64] It was an opportunity to actively contribute to the construction of a better society and thus could ascribe meaning to people's lives. On the downside, however, a feeling of devaluation regarding work could evoke a great deal of outrage and disappointment, which television viewers expressed for example after the New Year's Eve of 1962/63.

Consequently, the work television viewers had done themselves served as the main criterion for evaluating the television programme. This was the benchmark all other work had to correspond to, especially the programme on television, which should act in accordance only with the audience's demands for entertainment. Again and again, viewers demanded that the programme should be controlled just as the "products of every worker"[65] and that the "culprit is punished according to the resulting damage."[66]

As these examples show, the overall orientation (too much education, too little entertainment) of the television programme and especially the highly anticipated New Year's Eve show were more than a constant source of frustration for the audience. Many television viewers considered its poor quality as a blatant injustice, because they had the impression that the employees of Czechoslovak Television could permit themselves mistakes, ordinary workers would have been punished for. This resulted in the feeling that their own work was

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63 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from the employees of AZL Letnany, Prague, January 7th, 1963.

64 See: Peter Heumos, 'State Socialism, Egalitarianism, Collectivism: On the Social Context of Socialist Work Movements in Czechoslovak Industrial and Mining Enterprises, 1945–1965', in: *International Labor and Working-Class* History 68 (2005), 47–74.

65 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from the employees of AZL Letnany, Prague, January 7th, 1963.

66 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from the factory committee of the unified trade union (ROH) ČZG, Prague, January 2nd, 1963.

depreciated, when television presented "scrap material"[67] to its viewers. In this manner, those who wrote to Czechoslovak Television or expressed their opinion in surveys among viewers – that also produced a high degree of criticism–, demonstrated that their everyday work was crucial for their self-perception, which in turn built upon the appreciation of that work by the socialist regime. So in the end, the regime itself had empowered its citizens to demand appreciation, equality and privileges they had been promised.

In the wake of this, some television viewers even began to argue that also the programme structure should be aligned according to their requirements, which meant that the programme designers should take into consideration the working hours of the shift workers. In the planned economy of Socialism, the working day was structured according to macroeconomic aspects, so that in every factory the employees worked in the same three shifts. According to the reports of the "Department for Audience Relations", such claims about the adjustment of broadcasting times to that scheme were formulated regularly. In December 1961, for example, the programme "Conscience in revolt" (*Vzpoura svědomí*) – a serial about a German soldier of the Second World War, who after the war first becomes a Soviet prisoners of war and is later confronted with the good life of some Nazi war criminals in the American Zone of Occupation – was described as the most popular programme. However, the third episode was criticized, because some of the viewers could not watch it due to its transmission time, which intersected with the second and third shift.[68] Furthermore, surveys about audience habits revealed recurrent demands for a review of broadcasting times colliding with shift work. These demands were articulated especially in connection with series, as workers were often unable to follow all episodes. Apparently, the viewers conceived of this practice as a certain "indifference of television towards the needs and claims of the second shift."[69]

These examples display a process of negotiation between the working class audience and the editors in charge, who in turn were under surveillance of the Party.[70] The monthly reports on audience reaction reflected not only the major criticism the viewers voiced. The reports also provided detailed internal discussions about how to meet that kind of criticism. Unfortunately, the existing archival

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67 APF ČT, box 134, Inf 869, *Dopisy diváku*: Letter from the factory committee of the unified trade union (ROH) ČZG, Prague, January 2nd, 1963.

68 APF ČT, box 128, Inf 763, *Report „Pořady měsíce prosince 1961 v ohlase diváků"*, 3.

69 ibid.

70 See: Irena Reifová, 'Kleine Geschichte der Fernsehserie in der Tschechoslowakei und Tschechien', in: Forschungsstelle Osteuropa an der Universität Bremen (ed.), *Kommerz, Kunst, Unterhaltung: Die neue Populärkultur in Zentral- und Osteuropa*, Bremen 2002, 161–184, here 165.

documentation does not contain any material about whether or to what extent measures have been taken, but the reports clearly show that remarks of the audience have been analysed and taken seriously. For instance, the report for October 1961 draws the following conclusion from discussions with viewers in different companies:

> Broadcasting times are unsuitable for those viewers, who are working in an operation with three shifts. They [the viewers, S.L.] propose that programmes, which are intended to be the main programme of an evening, normally start at 7.30 pm or even before. [. . .] [F] rom Saturday programmes they expect more entertainment and distractions than television offers so far.[71]

All these examples show very clearly that remarks and complaints from television viewers had a real impact on the considerations of the editors in charge, especially when workers mobilised their working conditions. In accordance with the special significance the working class had within socialist ideology, workers obviously had a great deal of influence when it came to the programme design of Czechoslovak Television. At this point, workers were able to use an ideological shaped language to gain an active agency.

The working class between the Kafka conference and the Prague spring

Besides the conviction to be part of society's vanguard, the worker's agency within the field of television and leisure time depended to a great extent on the communicative space television offered. This space in turn correlated with the country's political climate, which over the course of the 1960s was subject to change. Especially the year of 1963 can be seen as a turning point for workers' agency.

1963 was not only the year, when literary scholars met in the small Slovak town of Liblice to discuss the writings of Franz Kafka. It was also the year when the economic crisis the country had been facing for several years went public, which called into question the core of the ideological promises of a better future for the working class.[72] With its discussion if "alienation" could at all exist in a

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71 APF ČT, box 128, Inf. 763, *Pořady měsíce října 1961 v ohlase diváků: Besedy s televizními diváky*, 1.

72 See: Kevin McDermott, *Communist Czechoslovakia, 1945–89: A Political and Social History*, New York 2015, 107.

socialist society, the Kafka conference addressed popular concerns and needs in this context and thus deconstructed a common set of basic ideological values.[73] Even devoted communists struggled to believe in all the Party's promises and assurances of a better society. The Kafka conference in this way impacted greatly on the communication between the regime and its citizens, which to a great extent was performed via television. As the conference addressed subjects and thus corresponded to people's everyday experiences letter writers anticipated that Party and State finally took their concerns seriously. As a result, they made even higher demands on what was offered to them seeing a chance to enforce their own idea of Socialism.

But in spite of the persistent economic crisis, these letters did not centre on economic or social hardship, but displayed a higher educational level and rising expectations regarding quality of life and consumption. All this resulted from the politics of "socialist consumerism," established after the disastrous consequences of the currency reform of 1953.[74] Along this line, the growing demands that had already come to the fore in earlier letters to Czechoslovak television and other institutions such as the radio became even more demanding. They extended beyond the supply of daily goods, and concerned luxury goods such as motorcycles.[75]

As the already high demands of the TV audience increased further, most viewers had no doubts that television had to serve first and foremost their interests and to bring "relaxation and entertainment."[76] What is striking about their letters is that they did no longer include only general demands for more entertainment, but more references to specific content that would meet these expectations. A worker's collective from Slovakia, for example, specified a list of entertaining programmes such as "old Czech films"[77] that would fulfil their needs when they would "sit down in front of it [the TV-set, S.L.] after a long day of work in order to [. . .] relax."[78]

It was also popular to relate the television programme to the country's economic situation. In 1965, for instance, a viewer working in metallurgy criticized

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73 See: Martin Schulze Wessel, *Der Prager Frühling: Aufbruch in eine neue Welt*, Stuttgart 2018, 57–67.

74 McDermott, *Communist Czechoslovakia, 1945–89,* 107.

75 See for example: Archival and programme funds of Czech Radio (AČRo – Archivní a programové fondy Českého rozhlasu), *Svodka z dopisů posluchačů Čs. rozhlasu za července, srpen a listopad 1961.*

76 APF ČT, box 113, Inf 490, *Bulletin z dopisů diváků, 31. července-28. srpna 1965*, 7.

77 APF ČT, box 156, Inf 926, *Dopisy diváků*: Letter from a worker's collective, Myjava, April 22nd 1965.

78 ibid.

a recital which should take care of "entertaining television viewers", but failed to do so. He referred to a campaign developing "[n]ew forms of control in [. . .] national economy" and wondered that "in such times one has to watch such a programme."[79] Just as the viewers criticizing the New Year's Eve programme a few years before, he was disappointed about the fact that television did not take the worker's problems seriously and considered this as a devaluation of his own work.

However, comparisons between these letters and earlier examples reveals that fewer authors formulated their claims as members of the working class or with referring to their contribution to socialist construction. Rather, they appeared primarily as television viewers – and basing their claims on a new pattern of argumentation, i.e. being consumers and owners ("A TV-set is a big investment for all of us").[80] In this role they were convinced of their right to demand a good programme, as such a programme signified a higher standard of living. Some showed a certain astonishment about the "indigestible" programme, despite of "so many theatres, cabarets etc."[81] Others took the view that Czechoslovak Television had "a lot of money" to take into account "also the interests of the audience."[82]

This changing sense of entitlement of television viewers can also be related to a changing role of the institution itself within the power structure of the Czechoslovak socialist regime. With the appointment of Jiří Pelikan as the new head of Czechoslovak Television in 1962 the programme was adjusted to the demands of the Communist Party – which meant further educational programmes, above all.[83] However, television began to develop the self-image of a partially independent institution, which was bound by the obligation to criticize grievances within socialist construction, even though it was in fact obliged to the Party.[84]

It was especially younger screenplay writers, whose ideas of creative work came into conflict with the Party's guidelines. While Party officials preferred a programme, which depicted an idealised socialist reality with model individuals in an ideal socialist society, many authors committed to the idea of authenticity and aimed to present life as it really was. This self-image resulted in increasing

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79 APF ČT, box 156, Inf 926, *Dopisy diváků*: Letter from M. Č. and M. H., Vilémov, March 29th, 1965.

80 APF ČT, box 156, Inf 926, *Dopisy diváků*: Letter from a worker's collective, Myjava, April 22nd, 1965.

81 APF ČT, box 113, Inf 490, *Bulletin z dopisů diváků, 31. července-28. srpna 1965*, 3.

82 APF ČT, box 113, Inf 490, *Bulletin z dopisů diváků, 31. července-28. srpna 1965*, 17.

83 See: Franc and Knapík, *Volný čas v českých zemích*, 405.

84 See: Štoll, *1.5.1953. Zahájení televizního vysílán*, 184.

criticism towards state and party institutions and representatives, especially when television viewers applied to editorial staff with their everyday problems.

Moreover, a generally decreasing importance of the working class in Communist Czechoslovakia can be stated. While initial debates on political, economic and scientific reforms after 1963 had allowed for criticism and improvement proposals and the general perception of being part of a privileged group had empowered workers to comment on societal development, the role of the working class within the Czechoslovak version of socialism began to change. Although many reformers still emphasised that "in the end, the workers decide the fate of the country,"[85] and thus stressed popular sovereignty, this ideological leadership was put increasingly into question. In the view of the "scientific and technical revolution", which had been declared for the first time at the 22nd conference of the Communist Party of the Soviet Union (CPSU) in 1961, it was rather engineers and scientists, who should ensure progress. With the Prague Spring being mainly a project of intellectuals,[86] the privileged position of the working class at least suffered certain cracks. In consequence, this ideological shift weakened the agency that could be obtained by referring to a self-conception as socialist workers.

At the latest, the Soviet invasion in August 1968 put an end to all efforts of the working class to gain agency in one way or another. The tightened regime of the so-called "normalisation" (*normalizace*) took back most of the reforms established during the Prague Spring and tried to "normalise" society, which meant to take back control and to narrow down most of the existing space for negotiation reaching well beyond the reforms of 1968. Television provided a central tool in consolidating the country's socialist order by reflecting popular ideas of a "good life" and depicting a vision of how to achieve it.[87] To enforce such visions of the "calm life"[88] the regime had promised its citizens, television came under the full control of the regime, a step by which most of the viewer's opportunities to make an impact were restricted.

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85 Oldřich Švestka, 'Otázky dělnické politiky', in: *Rudé právo*, July 14th (1968), 1–2.

86 See: Schulze Wessel, *Der Prager Frühling*, 67–68 and 188.

87 See: Paulina Bren, *The Greengrocer and His TV: The Culture of Communism after the 1968 Prague Spring*, Ithaca 2010, Reifová, 'A Study in the History of Meaning-Making', 79–94, here 81.

88 See: Michal Pullmann, *Konec experimentu: Přestavba a pád komunismu v Československu*, Prague 2011.

Conclusion

Although the reform movement of the 1960s first and foremost signified a loss of importance for socialist workers within Czechoslovak society, this demonstrates at the same time, how much agency they had had before. Empowered by the regime, which devoted a lot of energy to the education of "New Socialist Men", workers disposed of agency in three different forms. First, making use of socialist ideology they claimed sovereignty as workers being the driving force of society. Second, referring to their daily hardship in manual labour they demanded entertainment. Third, towards the 1960s television viewers developed a sense of consumerism having made a significant investment for their TV-sets.

In this context, television was a field, which offered ideal conditions for this agency coming to light. Stuck between the requirements of the Party and the claims of the audience, programme designers had to constantly make compromises, which gave the viewers a lot of leverage to push their wishes through. They acted as an active audience, which obviously existed also under non-democratic regime, and actively engaged with the different offers, television made by complying with the request "to (self-)educate in ways that were community-orientated."[89] For obvious reasons, wishes expressed in such viewers' letters did not relate directly to the political or social order, but touched upon ideological coordinates in their own way, as television and leisure time in itself were key aspects of political education. As a consequence, the Party could definitely not ignore these demands.

It is most remarkable that the worker's agency or bargaining power was derived from exactly the regime's educational efforts television was part of. As the argumentative patterns in letters to Czechoslovak Television show, the authors gratefully accepted the idea of the "New Man", but often interpreted it in their very own way. Being a socialist worker – one of the central manifestations of the "New Man" – not only meant to see one's work adequately appreciated, but also to have the opportunity or even the right to make certain demands, quasi as a form of remuneration. By arguing in this fashion, workers performed a great deal of interpretative power regarding a key aspect of socialist ideology.

This is reflected in many ways. While some authors just stated that they expected to be entertained after a long working day or week, some went even further and requested that the television programme should be subjected to the same criteria as their work. With this comparison, they demonstrated a strong awareness of their own – ideological attributed – position within society. This

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89 Imre, *TV Socialism*, 39.

awareness became apparent also in the self-confident manner, many workers demanded that broadcasting times should be modified according to the work hours of shift work. Convinced to be the most important part of socialist society they did not ask humbly if the editors in charge could take their wishes into consideration, but openly demanded a programme, which should serve only their needs and wishes.

With these wishes referring to an entertaining and amusing and not, as intended by the Party, cultural and educational valuable programme, they demonstrated once again the potential influence television viewers and especially workers had towards a regime which claimed for itself to control its citizens in all aspects of life and to act against their will, if necessary. Here it becomes clear that the regime's sovereignty was far from being absolute but could be challenged in a number of ways. Demanding self-determination about one's own leisure time as members of the working class was a feasible and successful way.

Jonas Brendebach

Contested sovereignties: The case of the "New World Information and Communication Order" at UNESCO in the 1970s

Abstract: *Intense debate on the reform of international relations and greater global justice marked the 1970s. Global economic reform was hotly discussed at the UN and elsewhere under the label of a "New International Economic Order". A similar initiative emerged at the UN's cultural organisation UNESCO, proposing a "New World Information and Communication Order". This article argues that, early in the 1970s, representatives of the Non-Aligned Movement and the leadership of UNESCO promoted the inclusion of culture into the pursuit of a new international order, focusing above all on global media practices. The debate about a 'New World Information and Communication Order' (NWICO) produced far reaching claims about the impact of media on (national) culture(s), their role in national development and international politics. Notions of sovereignty stood at the heart of this debate. While UNESCO claimed a central role in defining culture's place in international relations and offered newly independent states an arena for sovereign performances in international politics, the debate itself was essentially about probing the limits of state sovereignty with a view to media and communication.*

1 Introduction

A UNESCO report in 1976 stated that the 1970s will be remembered as the "communication decade". Optical fibers, satellite communication, colour TV, and many more recent technological advances had led to an "explosion" of communication possibilities, the report stated. Simultaneously, a "rethinking" took place around the world that understood communication less in functional terms than as a pervasive factor within the socio-economic fabric of society.[1] Communication scientists

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1 John Lee, *Towards Realistic Communication Policies. Recent Trends and Ideas Compiled and Analysed*, Paris 1976, available at: UNESCO Digital Library (UNESDOC), URL: https://unesdoc.unesco.org/ (2020-01-31).

saw a new communication revolution rising, sociologists debated concepts like knowledge industries and the information society.

For some time, proponents of international history have grappled with the transformations of the 1970s. Earlier forays emphasised the crisis character of this era and the perceived loss of control of the United States and its Western allies over the post-war international order.[2] More recent literature has turned towards the reform efforts hotly discussed throughout the international system at the time. Especially non-aligned and developing countries, many of which had only recently attained independence and statehood, used the United Nations and other international fora to criticize structural imbalances in global political and economic relations. The Cold War purview came to share with decolonization and a North-South divide as determining contexts for international politics.[3]

More specifically, historians have reappraised the significance of the "New International Economic Order" (NIEO), a project to reform the global economy promoted by countries of the Global South at the meetings of the Non-aligned Movement, at the UN, UNCTAD and elsewhere.[4] Yet, this reappraisal remains incomplete if we do not take into account a parallel project pursued by a similar set of actors and discussed predominantly at the UN's cultural organization, UNESCO: The "New World Information and Communication Order" (NWICO).[5]

While the "C" in UNESCO stands for culture, communication was on the organisation's agenda from the beginning. By its constitution it was tasked to advance international understanding "through all means of mass communication" and to promote "the free flow of ideas by word and image".[6] People who knew about each other, the basic idea went, were developing ties and were less likely to go to war. During the 1960s, UNESCO drew on the collaboration with North

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2 Niall Ferguson et al. (eds.), *The Shock of the Global: The 1970s in Perspective*, Cambridge/MA. 2010.

3 Glenda Sluga, *Internationalism in the Age of Nationalism*, Philadelphia 2013, 118–149.

4 Nils Gilman, 'Toward a History of the New International Economic Order', in: *Humanity* 6/1 (2015), 1–16; Samuel Moyn, *Not Enough. Human Rights in an Unequal World*, Cambridge 2018, 113–118.

5 The NWICO still presents a gap in international histories, as an exception see Vanessa Freije, 'The "emancipation of media": Latin American advocacy for a New International Information Order in the 1970s', in: *Journal of Global History* 14/2 (2019), 301–320. The broader genesis of the NWICO and UNESCO's approach in organizing this debate were subjects of my dissertation: *A New Global Media Order? Debates and Policies on the Media and Mass Communication at UNESCO – 1960 to 1980*, PhD Manuscript, Florence 2019. For a concise overview see Ulla Carlsson, 'The Rise and Fall of NWICO. From a Vision of International Regulation to a Reality of Multilevel Governance', in: *Nordicom Review* 24/2 (2003), 31–67.

6 'Constitution', in: UNESCO, *Basic Texts*, Paris 2010, UNESDOC.

American social scientists to define ways in which mass communication could enhance national development in the Third World.[7] But at the latest with the advent of satellites and the prospect of limitless flows of media and information across borders, it dawned upon cultural and development planners at UNESCO that the new media could starkly increase the already existing asymmetries in global information flows and have antagonizing effects.

The following essay argues that both representatives of the Non-Aligned Movement and the leadership of UNESCO early on in the 1970s promoted the inclusion of media and mass communication, often packaged as cultural component, into the pursuit of a new international order. While contemporaries, including UNESCO experts, avoided defining culture and instead applied the notion in the broadest sense, they did formulate a concrete policy agenda addressing what we may call global media practices. It made far reaching claims about the impact of media on (national) culture(s), their role in national development and in the (un)making of international order.

At the core of a new media order stood notions of "sovereignty" and "self-reliance" in the communication field and the "decolonization of information". "Cultural self-determination" and the protection of "cultural identity" were linked with "national sovereignty". The phrase "cultural sovereignty" gained currency in the contemporary debate. All these terms shared a strong emphasis on the national and the nation state as basic category for policy formulation. They also made a strong claim about the importance of culture in the process of becoming, establishing and protecting a nation state. The NWICO label lumped together a host of notions and claims related to culture and mass media and sought to make them debatable and governable.

Moreover, advocates of a new media order held that global reform in international cultural relations was just as necessary as in international economic relations to achieve greater social justice among nations. The second main argument of this essay then poses that if economic sovereignty stood at the center of the NIEO debate, enabling and protecting sovereignty in the cultural field formed the core of the NWICO. It even came to be seen as necessary pre-condition for the realization of international economic reform. Yet claims to informational sovereignty made at the international level often encountered challenges and tensions, as will be seen, at the level of international horizontal cooperation and of national practice.

UNESCO's leadership early on aligned its own institutional interests with the political agenda advanced by the non-aligned countries. UNESCO's Mass

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7 Wilbur L. Schramm, *Mass Media and National Development: The Role of Information in the Developing Countries*, Stanford 1964.

Communication Department played a central role in promoting research into the intricacies of international communication. The resulting body of literature provided argumentative fodder for the policy debates. Non-aligned countries, in turn, sought UNESCO support in practically expanding their communication capacities and promoted regulatory and normative measures at UNESCO meetings and conferences. UNESCO became a nodal point of the debate and its single most important international forum.

2 The NIEO-moment and the momentum of culture

The initiative for a "New International Economic Order" arrived at a moment of discontent as much as of opportunity. The discontent on part of the Third World grew mostly from the realization that the attainment of independence and subsequent international efforts in development, notably the First United Nations Development Decade in the 1960s, had raised expectations but not delivered economic growth and social progress. Instead, a sense of economic exploitation – often branded as neo-colonialism – spread across the Global South. Opportunity arose when Cold War tensions receded under the sign of Great Power *détente* in the early 1970s. Attention shifted to a new polarization – that between North and South. By 1973, the United Nations counted 135 sovereign member states, a vast majority called itself self-consciously "Third World" or "developing countries". The same year the oil embargo of the Organisation of Petroleum Exporting Countries (OPEC), beginning in October 1973, and the following shock to mainly, if not only, Western economies, served as sign of inspiration. If the non-industrialised countries joined forces and controlled their raw materials, they could wield considerable power over the North.

The NIEO initiative took shape when the Non-Aligned Movement gathered for its Fourth Summit in Algiers in September 1973. Algerian President Houari Boumédiène led the group to draw up a programme for international reform. Only a few months later, the UN General Assembly adopted the *Declaration on the Establishment of a New International Economic Order* and a *Programme of Action* at its Sixth Special Session. Both were supported by the majority of non-aligned and developing countries.

Rather than presenting a single coherent project, historian Nils Gilman has argued, the NIEO represented a "political brand" encompassing economic, legal, and political measures aiming at "reforming global economic and political power

arrangements".[8] Politically, the NIEO *Declaration* spoke a language of national sovereignty, self-determination and development. It claimed "the right of every country to adopt the economic and social system that it deems the most appropriate for its own development". In economic terms, the *Declaration* spoke a language of nationalization and redistribution. It insisted on the "full permanent sovereignty of every State over its natural resources and all economic activities" and urged stronger regulation of transnational corporations.[9] It described the NIEO process as a concerted effort of the entire international community and requested all UN members as much as other UN branches to contribute.

Reference to culture did neither occur in the *Declaration* nor in the *Programme for Action*, a fact that was quickly picked up at UNESCO in Paris. Its French Director-General, René Maheu, warned the UN Economic and Social Council in July 1974 that the "expression 'new international economic order' should not be taken literally, otherwise we might be seriously misled as to the scope and nature of what is being undertaken." From UNESCO's point of view, he argued that the "main omission in the Declaration pertains to the socio-cultural dimension of development." He contextualised the "socio-cultural dimension" in contemporary development thinking and advocated adding a cultural component as indispensable corollary to the economic dimensions of a new international order and an important element for greater international justice.[10]

Since his election in 1962, Maheu had spent much effort on having social and cultural aspects recognised as inherent elements of development policies.[11] He counted among the gains of the First Development Decade the realization that development measured by GDP growth alone was not enough to bring about social progress. To him the "social aspect" pertained to a wide array of political conditions ranging from social services and health care to education and cultural activities. Remaining vague on the concept of culture, Maheu pointed to

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8 Nils Gilman, 'The New International Economic Order. A Reintroduction', in: *Humanity* 6/1 (2015), 1–16, here 2.

9 3201 (S-VI) Declaration on the Establishment of a New International Economic Order and 3202 (S-VI) Programme of Action on the Establishment of a New International Economic Order, available on: United Nations Official Document System (UN ODS), URL: https://documents.un.org/prod/ods.nsf/home.xsp (2020-01-31).

10 UNESCO, Records of the General Conference, 18th Session, Paris 1974, 18 C/103, Ways and Means Whereby UNESCO Could Contribute to the Establishment of a New International Economic Order, and Annex I, Extracts from the Address given by the Director-General to the Fifty-Seventh Session of the United Nations Economic and Social Council (Geneva, 5 July 1974), Paris, 01.10.1974.

11 On this period: Chloé Maurel, *Histoire de l'UNESCO. Les trente premières années 1945–1974*, Paris 2010, 269–276.

categories like "dignity", "happiness" and "values which make life worth living" and of which "culture is both the custodian and critic".[12] Turning to the present task of reforming the international order, Maheu declared that greater international justice, as intended by the NIEO proponents, meant that not only the powerful and rich states were able to speak up and protect their conditions of living but *all* states: "National economic independence, following on from political independence, must go hand in hand with a corresponding emancipation of the people." That would be the "definition of social progress".[13]

Some groundwork had already been laid at UNESCO. In 1966, member states had adopted a *Declaration on the Principles of International Cultural Cooperation* stating that "each culture has a dignity and value which must be respected and preserved" and "every people has the right and duty to develop its culture". Only a few months later the UN General Assembly adopted the *International Covenant on Economic, Social and Cultural Rights* declaring that by virtue of the right of self-determination, all peoples had the right "to freely pursue their economic, social and cultural development".[14]

By inscribing UNESCO's fields of competence in the international reform effort, Maheu effectively aligned its institutional interests with the momentum surrounding the non-aligned countries and the NIEO. UNESCO was ideally situated to offer guidance in how to spell out the "socio-cultural factors" in the broader reform plans. At a moment at which the UN system itself was subject to intense reform debate,[15] Maheu made the case for the relevance of UNESCO's work as much as for its claims to be funded accordingly. When Maheu, by the end of 1974, passed the baton to a new Director-General he left a policy agenda ready to pick up by the new leadership.

Despite the omission in the NIEO *Declaration* and *Programme*, the non-aligned countries were deeply aware of the role cultural relations played in the (un-)making of international order. At the Algiers Summit in 1973, the heads of state and government had openly attacked what they described as "imperialism" in the cultural field. Their diagnosis held that "the activities of imperialism are not confined solely to political and economic fields but also cover the cultural and social fields, thus imposing an alien ideological domination over the

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12 18 C/103, Annex I.

13 Ibid.

14 UNESCO, Records of the General Conference, 14th Session, Paris 1966, 14 C/Resolutions, Declaration of Principles for International Cultural Co-operation [Resolution 8.1], UNESDOC, 86–89.

15 The decade had begun with a much-discussed critical review of the UN system: A Study of the Capacity of the United Nations Development System [Jackson-Report], DP/5, 2 vols., Geneva 1969, UN ODS.

peoples of the developing world." They criticised the "cultural alienation and the imported civilization imposed by imperialism" and stressed the need to "re-assert indigenous cultural identity" and to preserve "national culture and traditions".[16] "Cultural imperialism" – a term mainly used in academic contexts before – became henceforth a contested concept in international politics.[17]

Going beyond the abstract level of a cultural critique, non-aligned countries called for collective action in the communication field and greater exchange on the horizontal level. Concrete proposals included the "collective ownership of [a] communication satellite", a review of multilateral cable rates and exchange programmes to ensure that people, knowledge and ideas could travel within the developing world. Newspapers, radio and television were supposed to disseminate "information concerning [the non-aligned countries'] mutual achievements in all fields".[18] In the following years, the non-aligned countries intensified their cooperation on information and communication and established a permanent coordinating committee. A major Symposium on Information was held in Tunis in March 1976 to address conceptual and political questions in this field. It was there that the phrase "new international information order" first appeared.[19] Meanwhile, to address the practical side of the problem, the Yugoslav national news agency *Tanjug* started a network of cooperations among news agencies across the Non-Aligned Movement which led to the constitution of the Non-Aligned News Agencies Pool (NANAP) in 1976.

UNESCO not only closely watched the activities of the non-aligned countries but actively participated and steered its own programme in a corresponding direction. For the non-aligned, the resources, communication channels, and arguments provided by UNESCO facilitated the formulation of a political agenda and amplified their calls for reform. UNESCO also offered a specific repertoire

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16 UN General Assembly, Documents of the Fourth Conference of Heads of State or Government of Non-Aligned Countries, held at Algiers, from 5 to 9 September 1973, A/9330, 22.11.1973, 73–74, UN ODS. On the Algiers Summit see Jürgen Dinkel, *Die Bewegung Bündnisfreier Staaten: Genese, Organisation und Politik (1927–1992)*, Berlin 2015, 149ff.

17 An early articulation: Herbert I. Schiller, *Mass Communications and American Empire*, New York 1969.

18 UN GA, Documents of the Fourth Conference [of Non-Aligned Countries], UN ODS, 88–89.

19 First Symposium of Non-Aligned Countries on Information, a. Final Report, b. Report of the First Committee: The Emancipation of Mass Media in the Non-Aligned Countries, c. Report of the Second Committee: The Role of Information in the Development of Economic and Social Co-operation Among Non-Aligned Countries, d. Report of the Third Committee: The Role of Information in the Development of Cultural Interaction Among Non-Aligned Countries, in: Odette Jankowitsch and Karl P. Sauvant (eds.), *The Third World Without Superpowers: The Collected Documents of the Non-Aligned Countries,* vol. IV, Dobbs Ferry 1978, 1931–1963, here 1953.

for action, ranging from expert advice, supply of scientific knowledge and coordination to normative action as far as member states at its General Conference could agree on.

3 Towards a new global media order

The diagnosis

The close alignment between UNESCO and the Non-Aligned Movement was not coincidental. It was a logical consequence of UNESCO's recent turn in its engagement with communication and information. Around 1970, the research commissioned by UNESCO's Mass Communication Department took a critical distance from the US-dominated approaches followed in the 1950s and 1960s. A new cohort of mainly European communication researchers, notably from Western *and* Eastern Europe, questioned the assumption that the mere growth of mass media and the "free flow of information" in developing societies would shepherd them along a projected path to modernization. They pointed to the ideological underpinnings of such a model and stressed the tensions arising when foreign socio-cultural products encountered societies in the Global South without due consideration of their own socio-cultural characteristics and exigencies, including political ambitions.[20] An important element of this new research was the analysis of global disparities in the production of media content. A landmark study conducted by the Finnish media scholars Kaarle Nordenstreng and Tapio Varis analysed TV programmes in 50 countries. Their data showed the overwhelming dominance of the United States, the United Kingdom, France and West Germany in the global export of TV programmes. Surveys in Latin America and the Asian-Pacific evidenced that developing countries remained on the receiving end.[21]

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20 James D. Halloran, *Mass Media in Society: The Need of Research*, Paris 1970, UNESDOC. For an iconic cultural critique outside UNESCO see Ariel Dorfman and Armand Mattelart, *How to Read Donald Duck: Imperialist Ideology in the Disney Comic*, New York 1975 [Orig. in Spanish in 1971].
21 Kaarle Nordenstreng and Tapio Varis, *Television Traffic – A One-Way Street? A Survey and Analysis of the International Flow of Television Programme Material*, Paris 1974, UNESDOC. See also the Report of the International Commission for the Study of Communication Problems (ICCP), *Many Voices, One World: Communication and Society Today and Tomorrow. Towards a New More Just and More Efficient World information and Communication Order* (also known as MacBride-Report), London 1980, UNESDOC, esp. chapters Disparities, 123–134, and Flaws in Communication Flows, 137–155.

Another issue pertained to the availability of news and was intrinsically linked to the historical origins of the existing infrastructure for international communication. The latter had developed in form of telegraph and telephone lines to no small degree in the era of colonialism.[22] The result was a communication grid that favored a "vertical" flow of communication from Europe to the colonies, rather than a "horizontal" exchange of information among neighbouring societies outside of Europe. Since the middle of the nineteenth century, the British news agency *Reuters* and the French *Agence France Press* acquired dominance on the global news market. By the early twentieth century, they were rivaled by the American *Associated Press*, *United Press International* and, after the Second World War, also by the Soviet *TASS*.[23] The result was that African countries, for example, experienced a dearth of information on developments in their own regions since they depended on news dispatches from the "Big Four/Five" who geared their news production towards the needs of societies in the Northern hemisphere. A vertically organised communication grid and the market dominance of the big agencies hindered the establishment of alternative news agencies that could cater to the needs of developing regions.

A third concern related to the image of the developing countries that was transmitted internationally. Studies held that international press reporting on these countries was dominated by a focus on all forms of crisis, political, economic or natural. In the absence of adequate means to influence the representation of their country in foreign media, governments found it difficult to attract foreign investment or public interest. This also reflected on the self-perception of the countries, both politically and culturally, and on the public perception of their respective national governments.[24] The empirical evidence provided by

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22 Daniel T. Headrick, *The Invisible Weapon: Telecommunications and International Politics 1851–1945*, Oxford 1991; Roland Wenzlhuemer (ed.), 'Global Communication: Telecommunication and Global Flows of Information in the late 19th and early 20th century', Special Issue of *Historical Social Research* 31 (2010). For a contemporary critique see esp. the papers of two main NWICO proponents Bogdan Osolnik, *Aims and Approaches to a New International Communication Order*, Paris 1978; Mustapha Masmoudi, *The New World Information Order*, Paris 1978, UNESDOC.
23 Volker Barth, *Wa(h)re Fakten. Wissensproduktionen globaler Nachrichtenagenturen 1835–1939*, Göttingen 2019.
24 Most comprehensively: Annabelle Sreberny-Mohammadi et al., *Foreign News in the Media: International Reporting in 29 Countries*, Paris 1985, UNESDOC. Already in the late 1970s several studies in the context of the so-called MacBride-Commission were concerned with image projection through the media. It is more than a coincidence that around the same time the seminal work *Orientalism* of literary scholar Edward Said appeared, tackling a similar questions on

the numerous UNESCO studies was used to challenge the present state of global communications. In turn, the growing number of international conferences, expert meetings and working groups at UNESCO as well as within the Non-aligned Movement provided arenas where these arguments could be rehearsed and exchanged. Together, they provided indispensable momentum for the claim to establish a new media order.

The debate received a recognizable label, when in 1976 the already mentioned symposium on information took place in Tunis. A report of this ministerial meeting spoke of "a new international order in information", coining a phrase that immediately went into common use. Actors who wanted to stress the analogy to the NIEO preferred the acronym NIIO. At UNESCO, the phrase "New World Information and Communication Order" (NWICO) became established and later on the more frequently used term. The NIIO/NWICO-label turned into a shorthand for a series of cultural grievances concerning the identity, representation and voice of Third World countries on the global stage and, most importantly, rendered them operable in a concrete policy field – that of mass media and communication.

How to "decolonize information"

The most immediate measure of the non-aligned countries was to set-up a cooperative mechanism among national news agencies across the Non-Aligned Movement. Following the Algiers summit of 1973, the Yugoslav *TANJUG* had prepared cooperation among 16 non-aligned news agencies. In July 1976 in New Delhi, non-aligned information ministers institutionalized this cooperation by setting up a "Non-Aligned News Agencies Pool".[25] Indian Prime Minister Indira Gandhi herself greeted the ministers from some sixty countries:

> In spite of our political sovereignty, most of us who have emerged from a colonial and semi-colonial past continue to have a rather unequal cultural and economic relationship with our respective former overlords. Even our image of ourselves, not to speak of the

how the West's perception of the other, especially of the developing world, turned into a relationship of unequal power distribution. See Edward W. Said, *Orientalism*, London 1978.

25 A contemporary account of the NANAP: Pero Ivacic, 'The Flow of News. Tanjug, the Pool, and the National Agencies', in: *Journal of Communication* 28/4 (1978), 157–162. For a historical perspective on the agency see Jürgen Dinkel, 'Dekolonisierung und Weltnachrichtenordnung. Der Nachrichtenpool bündnisfreier Staaten (1976–1992)', in: Frank Bösch and Peter Hoeres (eds.), *Außenpolitik im Medienzeitalter: Vom späten 19. Jahrhundert bis zur Gegenwart*, Göttingen 2013, 211–231.

view of other countries, tends to conform to theirs. [. . .] We want to hear Africans on Africa. You should similarly be able to get an Indian explanation of events in India.[26]

The Conference spelled out Gandhi's implicit criticism by noting "serious inadequacy and imbalance" in global information flows and stating that a "great majority of countries are reduced to being passive recipients of information". "Cultural dependence" ultimately delayed "the achievement of political and economic growth". The conference called for a "decolonization of information".[27]

The establishment of the NANAP was meant to solve several problems. Its goal was the provision of "objective information" with an "emphasis on progressive, economic, socio-cultural and cultural developments as well as mutual cooperation and action". It aimed at facilitating the dissemination of such information "among non-aligned countries as well as the international community in general" thus filling an alleged gap in international news. The Pool was explicitly not designed as "supra-national news agency" but as cooperation among national news agencies based on "full respect for equality and democratic principles". The participating countries maintained full control of the information they wished to distribute within their national borders.[28]

UNESCO had long promoted regional news cooperation. As early as 1961 and 1963, two expert meetings held in Bangkok and in Tunis addressed the question of setting up national and regional news exchanges in Asia and Africa respectively.[29] Despite concrete proposals and tentative projects, however, it was not until the late 1970s that regional news agencies in the Caribbean (CANA 1976), Latin America (ALASEI 1979), and Africa (PANA 1979) proliferated.[30] For the time being, the NANAP remained the most ambitious and concrete project that addressed the NIIO/NWICO-concerns. UNESCO's nineteenth General Conference, held in Nairobi in autumn 1976, decided to make UNESCO resources directly available to the project.[31]

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26 After Roger Tatarian, 'News Flow in the Third World. An Overview', in: Philip Horton (ed.), *The Third World and Press Freedom*, New York 1978, 1–54, here 26.

27 Specialised Ministerial Conference of Non-Aligned Countries: Ministerial Conference on the Press Agencies Pool, New Delhi, July 8–13, 1976, in: Jankowitsch/ Sauvant (eds.), *Third World Without Superpowers*, vol. III, 1553–1580, here 1554–1557.

28 See Draft Constitution in: ibid, 1562–1570.

29 UNESCO, *Report of the Meeting of Experts on Development of News Agencies in Asia and the Far East*, Bangkok, December 19–23, 1961, UNESCO/MC/44, and: UNESCO, *Report of the Meeting of Experts on the Development of News Agencies in Africa*, Tunis, April 1–6, 1963, UNESCO/MC/48, both UNESDOC.

30 'UNESCO and News Agency Development', in: *UNESCO Courier* 30/4 (1977), UNESDOC, 6.

31 UNESCO, Records of the General Conference, 19th Session, Nairobi 1976, *19 C/5 Programme and Budget*, Project Promotion of free and balanced flow of information and of international exchange, UNESDOC, para. 4158.

UNESCO observers were regular participants in the Coordinating Committee of NANAP and in internal memos they drew up further options of support.[32]

Indeed, the first ten years of the Pool have been described as a success story. From the beginning in January 1975, the number of participating news agencies had grown to 30 until summer 1976.[33] Ministers from around 60 non-aligned countries travelled to the conference in New Delhi the same year. By 1977, 14 countries volunteered to serve as regional distribution centers. The news output of the Pool reached some 40.000 words per day in 1979, which was, however, still marginal compared to *AP* or *Reuters* who turned over one million words per day. In the early 1980s, the NANAP also secured an agreement with the United Nations Office for Public Information to have its dispatches distributed alongside the news items from the major Western and Soviet news agencies.

However, as historian Jürgen Dinkel demonstrated, despite the broad agreement about the need for such a Pool – even Western media commented favorably – its actual public impact was little and declined rapidly.[34] The reasons ranged from poor equipment, the lack of consistency in journalistic standards, to questions of credibility as well as usefulness, when information was delayed or contradictory. The expectation of a distinct political function of the news coming from NANAP and the insistence of governments to maintain control prevented effective reform and led the NANAP into increasing irrelevance as "alternative" news agency by the 1980s.[35] At the heart of this troubled history of regional cooperation stood, among other things, a problem of national sovereignty. Esmond Wickremasinghe, chairman of the Sri Lanka Newspaper Association, unpacked the conundrum at a UNESCO expert meeting in 1977. As governments remained the ultimate decision makers about what news was distributed, multilateral news exchange should focus on areas where common interest and widespread agreement existed. For example, in the case of the Third World's fight against poverty news agencies should report the "experiences of different states, their policies,

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32 Hifzi Topuz, Les relations de l'UNESCO avec les organismes de communication du mouvement des pays non-alignes, 16.3.1978, in: AG 8, Central Registry Collection (CRC) 1967–1989, Folder: COM DCS 049 29 I NANAP, UNESCO Archives, Paris (UAP).

33 The following numbers are based on Dinkel, 'Dekolonisierung und Weltnachrichtenordnung', 217–219.

34 Ibid., 223–228.

35 The creation of alternative news agencies was not the only strategy to tackle the problem of news supply: James Brennan has shown how East African states sought to place international agencies under some control through means of negotiation and diplomacy. *Reuters*, in order to maintain its market position, adapted its product to respond better to regional needs. See James R. Brennan, 'The Cold War Battle over Global News in East Africa: Decolonization, the Free Flow of Information, and the Media Business, 1960–1980', in: *Journal of Global History* 10/2 (2015), 333–356.

their failures and their successes".[36] But this was missing the political reality. Despite shared challenges, Third World countries were also competing for authority, influence and prestige among each other as well as, often enough, for public acceptance domestically. As a consequence, reporting on national failures was unlikely and the texts were fraught with officialdom.

Worse still, as Wickremasinghe pointed out, many agencies and media outlets in the developing world depended on public funding. Under politically volatile circumstances, this could not but affect editorial decisions which further undermined the news value of the disseminated texts. Clearly, greater independence from foreign markets and national sovereignty in the field mass media resulted in a scramble for control by national governments. The decolonization of information in many cases led to the substitution of foreign control by domestic governmental control that equally did not help an independent media to grow in the developing world.

The technological challenge

In the meantime, the arrival of satellite broadcasting had lent additional immediacy to the problem of national sovereignty in the communication field. Initially interested in its potential for educational uses in remote developing areas, experts at UNESCO soon began work on international legal guidance in order to address the inherent transnational quality of satellites. In 1972, UNESCO's General Conference adopted a *Declaration of Guiding Principles on the Use of Satellite Broadcasting*. The *Declaration* attempted to reconcile the potential expansion of cultural exchange with the protection of cultural identities. It stated that satellite communication had to "respect the sovereignty and equality of all States". Cultural programs had to "respect the distinctive character [. . .] of each, and the right of all countries and peoples to preserve their cultures as part of the common heritage of mankind". It called upon states to reach "prior agreements" before broadcasting via satellite into foreign countries.[37]

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36 Esmod Wickremasinghe, *The Quest for Third World News Agencies, Asian, African or Latin American*, UNESCO Meeting of Experts on the Development of News Agencies in Asia, Colombo, 5–9 December 1977, UNESDOC.
37 UNESCO, Records of the General Conference, 17th Session, Paris, 1972, 17 C/Resolutions: Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchange, 15 November 1972, UNESDOC.

This so-called "prior-consent clause" was intended to safeguard cultural diversity in the sense of UNESCO's 1966 *Declaration on Cultural Co-Operation*. But the United States, the technological leader in the field, along with the Western Europeans rejected the governmental prerogative to decide which media content could cross national borders that the *Declaration* implied. This would hamper press freedom and run against a core idea of Western liberal democracy. While the Western states voted against the *Declaration* or abstained, a majority of developing and socialist countries secured its adoption. The text had no binding legal power, and in the absence of an actual consensus it also lacked normative authority.

The controversy had shed light on the conflictual relation between technological progress in communication media, the ambition to preserve distinct cultures and the claim to national sovereignty. Soon another declaration project, already under way at UNESCO, would further spell out this conflict. It had its origins in a proposal advanced by socialist countries in 1970 and was born out of the desire to extend such normative instruments to address international communications generally. UNESCO embarked on a journey to draft a declaration on guiding principles for the mass media.[38]

4 Contested sovereignty over culture

This declaration project started clearly before the non-aligned initiative for an NIEO took shape. Yet, when the NIEO debate arrived, it afforded UNESCO with the opportunity to frame its concern with the global flow of information within a framework of global reform. By packaging its own "brand" of a reformed world order centering around communication practices and notions of cultural sovereignty, UNESCO took the chance of claiming center stage itself within the controversial North-South-debates that marked international politics during the 1970s and early 1980s.

From the first calls in 1970 to its final adoption in 1978, a broad array of topics was up for discussion and possible inclusion into the Mass Media Declaration. They

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38 For the sake of simplicity, I will speak of the Mass Media Declaration. Its full title was subject to continued controversy and revision. Its final version read: UNESCO, Records of the General Conference, 20th Session, Paris 1978, 20 C/20 Rev., Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War, 21.11.1978, UNESDOC.

ranged from diagnostic statements on the under-representation of the Third World to normative claims on the role of the media in fighting racism, discrimination and neo-colonialism, from cultural functions like the protection of cultural diversity to the role of the state in building national media and exercising oversight over content, from the media's role in international relations to preferential treatment of the Third World on the international communication systems.[39] The lines of conflict were multiple and ran between East and West, market-oriented press freedom advocates and critical left-leaning communication scholars, socialist journalists and North American media associations, defenders of state action and promoters of a self-regulatory approach, etc. Conflicts ran across states, political camps and geographies and made for a truly global debate.

Within this broad debate, representatives from the non-aligned countries formed arguably the most dynamic, if heterogeneous, group of actors, whose emerging position is traced here. I will focus on claims for sovereignty in the communication field in the three distinct, yet interconnected, dimensions of the economic, the cultural and the political.

This has to start though with a look at a prominent individual who had taken over the leadership of UNESCO from René Maheu: The Senegalese Amadou Mahtar M'Bow, elected Director-General in 1974. The 53-year former school teacher, education minister and international civil servant had received the votes from all ideological camps and geographic regions represented at UNESCO. Being the first person of color to head a UN organization, he considered his mandate as nothing less than to contribute to "set[ting] international co-operation on an increasingly equitable footing".[40]

Once in office, he quickly showed himself an ardent supporter of the New International Economic Order. Picking up from Maheu's critical appraisal of the NIEO, M'Bow was quick to embed the economic program into a broad campaign for a "new and more equitable world order" in which communication and information were to play an integral part.[41] When in 1976, UNESCO's General Conference convened for the first time on African soil, in Nairobi, Kenya, M'Bow's speeches were replete with references

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39 On the Mass Media Declaration: UNESCO, *Historical Background of the Mass Media Declaration*, Paris 1982, UNESDOC, and Kaarle Nordenstreng and Lauri Hannikainen, *The Mass Media Declaration of UNESCO*, Norwood 1984.

40 After Fernando Valderrama, *A History of UNESCO*, UNESCO 1995, UNESDOC, 223. As one of the most important representatives of the Third World on the international stage after 1945, M'Bow has not yet received broader attention. For a profile see Pierre Kalfon, 'Amadou Mahtar M'Bow', in: *UNESCO Courier* 28/2 (1975), UNESDOC, 14–18.

41 Amadou-Mahtar M'Bow, *Moving Towards Change: Some Thoughts on the New International Economic Order*, Paris 1976, UNESDOC, 9.

to the NIEO and a "new international/world order". He directly linked this to a "new order in communication" and a "new cultural order", terms that other delegates had used before him.[42] M'Bow was evidently encouraging those who wished UNESCO to declare the equivalent of an NIEO in the media and communications field. Even more than Maheu, M'Bow was set to make UNESCO a focal point for global reform.

Meanwhile the non-aligned countries further spelled out their concept of a new media order at the Symposium in Tunis. The economic dimension of the non-aligned claims departed from the assumption that information was not a commodity but a social good in the service of the development of the people.[43] In practical terms it referred to both the ownership of the major media operating in a state and the international market conditions which seemed to impede the development of national media in developing countries. The Tunis deliberations stressed the "negative role" played by the "big press transnationals" (to read *AP, UPI, Reuters, AFP, TASS*) and called for a "decolonization of information". In similar terms, M'Bow had criticised the de-facto monopoly of the dominant, mostly Western news agencies ("a few transnational companies"). The international community would need to "endeavour to restructure the international telecommunication system".[44] To remedy the situation, non-aligned actors floated at UNESCO meetings in 1975 and 1976 ideas such as "the transfer of the ownership of the mass media to the social sectors and for international governmental control of the privately-owned major information agencies"[45] and emphasised their countries' "sovereign right of providing themselves with the most adequate [communication] instruments".[46]

Such statements aroused powerful opposition in Western oriented press quarters. The Inter American Press Association (IAPA), a Miami-based association of newspaper owners across the Americas, orchestrated public protest against what they saw as governmental attack on press freedom and the free market.[47] At an "emergency meeting" held parallel to a UNESCO conference in 1976, they declared

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42 Amadou-Mahtar M'Bow, *Unesco and the Solidarity of Nations. The spirit of Nairobi*, Paris 1977, UNESDOC.

43 First Symposium of Non-Aligned Countries on Information, b. Report of the First Committee, in: Jankowitsch/–Sauvant (eds.), *Third World Without Superpowers*, vol. VI.

44 M'Bow, *Moving Towards Change*, 91–92.

45 UNESCO, Review of the Texts Prepared to Date of A Draft Declaration on the Use of the Mass Media, Paris, June 1977, in: CRC: 1967–1989, Folder: 307 A 102 Declaration on the Use of the Mass Media, Part IV, UAP, 55.

46 Intergovernmental Conference on Communication Policies in Latin America and the Caribbean, San José (Costa Rica), 12–21 July 1976, Final Report, COM/MD/38, UNESDOC, 38.

47 Picasso to Zaher, 25.11.1975, AG 8, Series: DDG 2, Folder: 149 (DDG 2/46), UAP.

that UNESCO's approach was not only "threatening to the free press of the Americas, but carries potential danger to the press of the entire world".[48] The big news agencies took up the challenge, too. While representatives of *Associated Press* lobbied the US administration directly to defend their interests at UNESCO, *Reuter's* Gerald Long engaged in a debate with the so called "MacBride-Commission" for the Study of Communication Problems set up in 1977.[49]

On the cultural level, the Mass Media Declaration was expected to carry further the basic impetus of the earlier Satellite-Declaration, i.e. a regulation of the influx of media content from abroad. At an early expert meeting on the Mass Media Declaration, representatives from developing countries warned of the risk that their country's culture was being "submerged or dominated by foreign sources". The free-flow-principle would not work if "certain countries lacked the production capacity to participate" in it. This criticism targeted not only the technical disparities, but also the qualitative side of reporting. Media organisations from the industrialised North were felt not "to make even an attempt to understand the legitimate cultures and aspirations of certain countries".[50] The Tunis Symposium consequently assigned the news media in non-aligned countries the task to affirm the "cultural personality" of these countries and support the struggle for emancipation and preservation of their identity where people found themselves under (neo-)colonial dominance. Exemplary reference was made to the Palestinians, the Rhodesians and the South Africans who were combating "Zionism, racism, neo-colonialism and fascism".[51]

This content-oriented, qualitative criticism of the "free flow"-doctrine went beyond the economic and structural arguments. If an early draft of the Declaration included the "right of States and information media in each country to diffuse reports of national events to others beyond their border", such right was thought to address global imbalances in the representation of the Third World.[52] The issue of representation, however, was much more difficult to address as it could not be

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48 George Beebe, Remarks at the San José, Costa Rica Emergency Session of the IAPA Executive Committee – July 12, 1976, Box: 20, Folder: 24, World Press Freedom Committee Records, World Press Freedom Committee Records 1921–2009 [WPFCR], Department of Rare Books and Special Collections, Princeton University.

49 Michael Palmer, 'NWICO: Reuters' Gerald Long versus UNESCO's Seán MacBride', in: Divina Frau-Meigs et al. (eds.), *From NWICO to WSIS: 30 Years of Communication Geopolitics Actors and Flows, Structures and Divides*, Bristol 2012, 41–54. For *Reuters'* strategy of partial accommodation see Brennan, 'Cold War Battle'.

50 UNESCO, Meeting of Experts on a Draft Declaration concerning the Rôle of the Mass Media, Paris, March 11–15, 1974, Report of the Meeting, UNESDOC, 2.

51 First Symposium of Non-Aligned Countries on Information, a Final Report.

52 UNESCO, Meeting of Experts on a Draft Declaration, 1974, Annex I, 2.

mitigated through technical assistance, transmission rates or regional new exchanges. Western adherents to a free press tradition pointed to the ambivalence of such "cultural" arguments. A liberal journalist association warned that governments "could use the pretext of preserving their own national integrity to encroach on the necessary independence of the mass media profession, and suppress dissenting voices".[53] Furthermore, there was a problem of defining what "national culture" could even be, given that in any state a lesser or stronger degree of pluralism and heterogeneity in the society made the assumption of a unifying cultural band rather artificial. A typical Western response was that the "diversity of sources of news and opinion" was the best guarantee of the free cultural development in any given country.[54]

Related to the issue of representation was an ultimately political argument, the third dimension of the claim to sovereignty in the communication field. In a moment of surprising harmony, socialist and Western negotiators proposed the inclusion of a paragraph praising the achievements of *détente* and of the Conference on Security and Co-operation in Europe in the Mass Media Declaration. Third World delegates wondered why a conference which related to only one world region would merit special mention. Instead, attention should be drawn "to the constructive contribution towards greater justice in international affairs made by conferences held by the countries of the Third World, and in particular by the non-aligned nations, in the context of efforts to establish a new world order".[55]

At Tunis, non-aligned actors had accused the dominant foreign media of being hostile towards the political ambitions of the NIEO agenda. In the context of the Mass Media Declaration, they urged that an article be included stating "the mass media have a duty to make widely known among the peoples of the world the objectives of equity, sovereign equality, interdependence, common interest and co-operation among all States, on which [. . .] the foundations of a new international economic order are based".[56] The underlying argument was that if the media could be tasked to celebrate *détente* it needed to be equally enlisted to promote non-aligned reform efforts for a more just international order. If not in such imperative modality, the final version of the Declaration did state that by disseminating the non-aligned initiatives and related UN decisions, mass

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53 UNESCO, Meeting of Experts on a Draft Declaration, 1974, Annex I, 2.
54 Ibid.
55 See the report of an intergovernmental meeting in Paris in December 1975, in: UNESCO, Records of the General Conference, 19th Session, Nairobi 1976, 19 C/91, Draft Declaration on Fundamental Principles Governing the Use of the Mass Media, 01.07.1976, Annex II, UNESDOC, 3.
56 19 C/91, Annex I, 3.

media would "contribute effectively [. . .] to the establishment of a more just and equitable international economic order".[57] The importance of public opinion in the process of bringing about a new order and the part the media could play in it thus emerged clearly from the Declaration.

Inconclusive compromise

On 23 November 1978, the *New York Times* printed the entire text of the Mass Media Declaration that had been adopted one day earlier in Paris at UNESCO's ongoing twentieth General Conference.[58] This rare instance of a world leading newspaper printing a full declaration of a UN organ, couched in lofty, abstract language indicated the importance some media organisations accorded to the UNESCO debates. An editorial comment reflected on the nature of the outcome: "Western diplomats are congratulating themselves on having turned a dangerous international declaration on the obligations of the press into an incomprehensible hodgepodge of slogans and prescriptions".[59] In fact, UNESCO's Director-General himself declared that nobody "can expect to find in it, word by word, the exact draft he would like to. On the other hand, nobody can say that it runs counter, in any profound sense, to the principles to which he is deeply attached".[60]

Many of the issues raised by the non-aligned actors could somehow be read into the text but did not emerge directly from it. Reference to the NIEO was maintained, yet the role of the media in promoting it was not specified. The aspects of economic support and the state's role in the establishment of national media as well as of the developing countries' ability to project a different image abroad were mentioned implicitly. One article gestured towards the need for the international community to provide the necessary conditions and resources to developing countries without stating how.[61] Notions of state control or of social and cultural responsibilities of the media were purged from the text.

But even though the final text was bland and abstract, the real meaning of the Mass Media Declaration derived from the amount of analysis it had produced and from its quality as a forum to discuss a broad set of ideas. It would go on to do so since the Declaration called UNESCO to further support the "aspiration

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57 20 C/20 Rev.

58 Text of the UNESCO Compromise Declaration, *New York Times,* 23.11.1978, A12.

59 The Media and the Goats, *New York Times*, 27.11.1978, A18.

60 UNESCO, *Records of the General Conference*, 20th Session, Paris 1978, 20 C/2 Reports, UNESDOC,153.

61 20 C/ 20 Rev.

of the developing countries for the establishment of a new, more just and more effective world information and communication order".[62]

5 Conclusion

The debate on the NWICO thus continued. In 1977, UNESCO installed the "International Commission for the Study of Communication Problems", also known as "MacBride-Commission" after its chairman, Seán MacBride. Public attention peaked in 1980 when the Commission presented its final report "Many Voices – One World". The political fallout of the decade long controversy troubled UNESCO well into the 1980s.

In the meantime, the arguments of the non-aligned in support of a new global media order had made yet another turn. The Tunisian member of the MacBride-Commission blamed the failure of the NIEO partly on the media in developed countries who had rendered public opinion "allergic to all claims and demands from the Third World".[63] Mohammed Bedjaoui, an Algerian jurist and important intellectual in the NIEO movement, concluded "world public opinion must be educated" towards the achievement of greater economic justice, but "the path is virtually blocked by the five big news agencies". The NIEO could only emerge if this situation changed. For this to change, a new economic order was required – "a vicious circle".[64] In 1980, member states at UNESCO's General Conference agreed that "the new international economic order *necessarily presupposes* a new world information and communication order based on a free flow and wider and better-balanced dissemination of information [emphasis added]".[65] The NIEO-discourse was turned on its head. Even so, a declaration spelling out a New World Information and Communication Order never materialized.

One set of conclusions pertains to UNESCO's claim to sovereignty over culture: When UNESCO's leadership seized the NIEO-moment to promote a "socio-cultural dimension" in the global reform efforts, it defined culture's place in international relations. It did so through the lens of international communication and mass media. UNESCO did not define culture, media or information directly, but the NWICO debate produced important claims about the constitutive role of mass

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62 Ibid., Preamble.

63 Masmoudi, *New International Information Order*, 2.

64 Mohammed Bedjaoui, *Towards a New International Economic Order*, Paris 1979, 120.

65 UNESCO, *Records of the General Conference*, 21st Session, Belgrade 1980, 21 C/Resolutions, Resolution 9: New International Economic Order, UNESDOC, 102.

media in development and international politics, the relevance of cultural relations for global power balances and the predominance of a Western perspective on global affairs. The NWICO-label sought to make culture an object of governance and opened a field for policy debate and operative measures. When UNESCO declared the 1970s the "communication decade", it hence performed an act of self-empowerment. As the responsible UN organ, it had to gain in visibility and resources from leading reform efforts in this field.

The language in which the NWICO-claims were articulated emphasised the nation state as main frame of understanding. This was natural since UNESCO was constituted as intergovernmental body. At the same time, for non-aligned countries confirmation of their statehood was a prime concern and they identified in the NWICO a set of instruments that could assist their fight against "neo-colonialism" and for a new global order.

The congruence of UNESCO and non-aligned interests, however, should not be overstated. Precisely in the meaning of "cultural identity" important differences persisted. At UNESCO, it was imbedded in a humanistic universalism. This universalism granted that there was cultural pluralism – among nations, but also among peoples and within states. The tension between the strictly national frame and the inherent pluralism at UNESCO was never resolved, and certainly also within UNESCO different persuasions competed on this delicate interplay.[66] To NWICO-critics, UNESCO had become a forum for an assertive nationalism of Third World governments. UNESCO's claim of sovereignty over culture ultimately undermined its credibility as an unbiased broker of international agreements.

Another set of conclusions addresses the intricacies involved for Third World countries in claiming "cultural sovereignty" at the international level. Staking out such claims at UNESCO was itself a performance of sovereignty. Not only was their statehood confirmed through the membership in the UN, their active participation proved their capacity to act on an equal footing within the international community. The rules of this game, though, were more complicated as they involved engaging in an uncontrollable public debate, compromising and a certain degree of public scrutiny.

The push-back against "cultural imperialism" was a legitimate concern even for many Western observers. Calls for control over information flows and national media sectors, in turn, were criticized as a maneuver of governments to protect their own positions in contested national politics. The case of the Indian Emergency in 1975–1977, in which Prime Minister Indira Gandhi limited the movement

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66 See also Tomlinson, *Cultural Imperialism*, 71ff.

of journalists and was accused of human rights violations and extrajudicial persecution of opposition members was one of many instances, when NWICO-critics pointed to the tensions between the international claims and national practices.[67] None of the UNESCO declarations actually sanctioned government control. Instead, later efforts in democratising the media at the national and regional level partially drew on the legacy of the NWICO, as Vanessa Freije has shown in her study of Latin American Advocacy for a New International Information Order.[68]

Beyond such inherent contradictions, the NWICO campaign lost momentum also due to competing sovereignties at the horizontal level. The case of the NANAP and other regional news exchange schemes demonstrated that competition among developing countries complicated collaboration and limited their capacity to project a more positive image to publics around the world.

A third set of conclusions would have to take account of the multiplicity of parties involved in the NWICO-debate – this was treated only tacitly in this essay. One of the most important features of UNESCO as a forum was that despite its intergovernmental character it allowed for the interplay of many actors and interests, including state but also non-state actors like academics, business and the media itself. Together they produced a wealth of research, concepts and policy ideas. This inclusiveness contributed to the demise of the strongest calls for state control and limits to media flows. Somewhat ironically then, a final observation might suggest that UNESCO's claim to sovereignty over culture and the non-aligned countries claim to "cultural sovereignty" did not strengthen their positions but actually prepared a diffusion of sovereignty.

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67 George Verghese, 'Press Censorship Under Indira Gandhi', in: Horton (ed.), *The Third World*, 220–230.

68 Freije, 'The "emancipation of media"'.

Ingrid Volkmer
Digital sovereignty and approaches to governing globalized data spaces

Abstract: *The dimension of digital sovereignty is currently evolving as a key focus of transnational digital policy debates. The term 'sovereignty' relates back to the early days of International Relations as a territorial space of sovereign power. However, in today's transnational 'fluid' data spaces, the concept of sovereignty requires a conceptual revision. This article provides first an overview of current digital sovereignty debates, in the second part a critical review of the current 'toolbox' of digital policy approaches in an international spectrum. The third part suggests an entirely new approach to revise debates of sovereignty in new contexts of the 'data citizen' and a global public sphere of deliberation.*

Over the past years, digital sovereignty has become a key term in international scholarship, in public policy and civil society debates. The original meaning of sovereignty as defined in the legendary Treaty of Westphalia in 1648 relates to the sovereign rights of a "polity" over "territory" and has laid the foundation of the international order of the modern sovereign state system of territorial rule. Sovereignty is practiced internally within a state where the legitimate government exercises "polity" over state territory but also externally by representing the state's sovereign interests in International Relations, Foreign Policy and in intergovernmental multi-stakeholder organisations.[1] However, a debate of sovereignty in digital contexts emerged about two decades ago and began to challenge these original concepts of modern statehood, polity and sovereign territory.

Already in the early days of the Internet in the 1980s, not only the internationalization but the deterritorialization of national public sovereign civic space was seen as one of the characteristics of the new sphere of digitally hyperlinked communication. Internet users, mainly from Western democratic world regions, were astounded by the opportunity to deliberate with citizens elsewhere without geographical boundaries and soon envisioned the potential of a new potential for democratic deliberation through decentralization of communication. The transnational "stretching" and the disembedding of national "polity" over civic space inspired a sense of freedom of civic interaction with the potential of strengthening an international civil society. Cyberspace – as the Internet was

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1 E.g. Ian Clark, *Legitimacy in International Society*, Oxford 2005; David Held, 'The Decline of the Nation State', in: Geoff Eley and Suny Rigor (eds.), *Becoming National*, New York 1996, 407–417.

called at the time – was seen as a liberal self-regulated sovereign sphere, detached from national boundedness – a borderless public space – for citizens. However, as soon became clear, this public space was mainly accessible for tech-savvy citizens across Western countries who engaged in this emerging international communicative dimension open to all kinds of political debate, side-by-side to the nationally bounded public territories and beyond the agenda of nationally oriented broadcast and print media. In the early 1990s, with advanced technological infrastructures and the broadening of connectivity, the commercialisation of this "liberal" democratic space was driven by private corporate interests, and a platformization through commercial standards. Sociologist Saskia Sassen was deeply concerned and warned that "powerful corporate actors" were "strengthening the role of private digital space" and – overall – were "altering the structure of public digital space".[2] Building on Ruggie's problematization of modern territoriality,[3] she foresaw that these processes would potentially go hand-in-hand with power dynamics of a new type, emerging transnational regimes and digital corporations who – over time have the "potential for producing fundamental changes to the systems of states".[4] Other critical debates at the time cautioned against too optimistic visions of international digital space due to neoliberal commercialization and the fact that the remaining civic sovereign side of cyberspace began to produce its own "borders". The term of "borders" did not relate back to the traditional understanding of sovereign – geographical – territory but to new digitally raised boundaries to demarcate the international digital "territory". The "digital divide" was seen as one of the boundaries excluding populations in developing regions due to the lack of technological access. Another boundary was seen in the dominance of the English language and the linguistic exclusion of large non-English speaking world regions. These debates cautioned against overly optimistic assessments of digital space and assumed that, overall, the vision of deliberation among citizens across countries and free speech were a myth and more nuanced approaches were required.[5] Other critical voices, such as the US-American legal scholar Lawrence Lessig, shifted the focus towards the digital architecture – towards programming – and the power dynamics of "code" determining the

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2 Cf. Saskia Sassen, 'On the Internet and Sovereignty', in: *Indiana Journal of Global Legal Studies* 5 (1998), 545–559, 547.

3 John G. Ruggie, 'Territoriality and Beyond: Problematizing Modernity in International Relations', in: *International Organization* 47 (1993), 139–174.

4 Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization*, New York 1996, 26.

5 See Brian Kahin and Charles Nesson (eds.), *Borders in Cyberspace: Information Policy and the Global Information Infrastructure*, Cambridge/MA 1997.

architecture of international cyber territories. Lessig suggested to understand "code" as law and digital architectures as diminishing the powers of national sovereign structures enabling a communicative space that is no longer shaped by national polity but by software logic.[6]

Whereas these first decades relate to an emerging transnational digital territory of civic but also – increasingly – corporate sovereign space, a few years later and in the already more advanced transnational digital sphere, cyberterrorism and cyberwar posed "real" challenges to territorial sovereign power and resulted in the tightening of national security responses by the U.S., Russia and the Middle East.[7] While the Internet was widely seen as a *corporate* space by governments – and not a *civic* sphere! – digital national security threats were perceived as actual assault on sovereign territory, followed by national responses. In the aftermath of the Snowden revelations in 2013, we see a new awareness among citizens concerning states not so much as a legitimate "polity" attempting to regulate national digital space but rather as a "vague" state, implementing new polity tools such as surveillance practices to monitor civic interaction across countries in now transnational digital spheres.[8] The Cambridge Analytica scandal in 2018 illuminated not only the massive data breaches of corporate digital platforms but also the power of microtargeting strategies to influence public opinion in election campaigns. Especially the influence on elections has alerted governments of democratic societies to the fact that sovereign communicative space has become "fluid" and "polity" of communicative space has dissolved into a rogue assemblage of power of transnational corporate interests.

Over the past years, debates about digital sovereignty seemed to accept the dominance of big tech corporate power providing the infrastructure of civic communication (from Facebook, Microsoft, Amazon to the Chinese social media platform TikTok) and the – to use a Habermasian term – "colonialization" of civic space by all kinds of data monopolies, their values and interests. While the debates outlined above related – even in broad terms – still somehow to the traditional concept of national sovereign spaces, recent debates divert into very specific types of power dynamics of technologies and digital communication. For example, some scholars address how globally operating big tech companies,

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6 Cf. Lawrence Lessig, *Code: And Other Laws in Cyberspace*, New York 1999.
7 E.g. Ralf Bendrath et al, 'From Cyberterrorism to Cyberwar Back and Forth: How the United States Securitized Cyberspace', in: Johan Eriksson and Giampiero Giacomello (eds), *International Relations and Security in the Digital Age*, London 2007, 57–82; Hamoud Salhi, 'Assessing theories of information technology and security in the Middle East', in: ibid., 106–131.
8 E.g. Arne Hintz and Ian Brown, 'Enabling Digital Citizenship? The Reshaping of Surveillance Policy After Snowden', in: *International Journal of Communication* 11 (2017), 782–801.

such as *Facebook,* claim global platform sovereignty and assume the de facto right to practice their own approach to governance of interaction of their three billion users worldwide, deeply undermining state sovereignty across continents regarding the protection of civic rights in public spaces.[9] However, in addition to these quasi corporate formations of governance, debates also address new concepts of civic "territory" and a territorial "logic" arguing that the dimension of "platforms" is now the "new grammar for territories".[10] The dimension of polity is also completely revised through a focus on data sovereignty, spectrum sovereignty and even computer sovereignty.[11] Each nuanced terminology reflects the increasing diversity and – overall – plethora of power interests of new polity interfaces governing digital civic territory, ranging from platform power to algorithm design by the individual controller. However, debates address the ways how civil society groups also claim technological sovereignty when demanding noncorporate and encryption-based software for enacting citizenship across transnational digital spheres.

When taking these debates back into a conceptual context, it seems that this conceptual plethora of digital sovereign spaces does not address new "layers" of national sovereignty but rather overlay national sovereignty through a global governing logic through which national sovereignty of all types of societies is reconfigured, loosened up and is being made porous.[12] Already in 2008, Manuel Castells captured these processes by arguing that all states are transitioning to "Network States" and are facing "contradictions between the historically constructed nature of institutions" and "the new functions and mechanisms they have to perform" while "still relating to their nation-bound societies".[13] Today, more than a decade later, "network states" are the norm as citizens are densely connected, no longer only in the Western world but also in developing countries. Yet, the relations between traditional state structures, globalized big tech power and the accelerating digital dynamics constitute, as has recently been argued, "acute challenges for

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9 E. g. Jose van Dijck, Thomas Poell and Martjn de Waal, *The Platform Society. Public Values in a Connected World*, New York 2018.

10 Stephane Grumbach, 'Digital Platforms: A New Grammar for Territories', in: *Ethics in Progress* 8 (2017), 101–116.

11 E.g. Stephane Couture and Sophie Toupin, 'What Does the Notion of 'Sovereignty' Mean when Referring to the Digital?', in: *New Media & Society* 21 (2019), 2305–2322.

12 Cf. Benjamin Bratton, *The Stack: on Software and Sovereignty*. Cambridge/MA 2016.

13 Manuel Castells, 'The New Public Sphere: Global Civil Society, Communication Networks, and Global Governance', in: *Annals of the American Academy of Political and Social Science* 616/1 (2008), 78–93, 88.

law- and policy-makers" when addressing "the interplay of 'code' and 'law', the cost of sovereignty, and the nonneutrality of technology".[14]

These acute challenges are at least somehow recognized today but they were not recognized two decades ago. All states, authoritarian as well as democratic ones, have turned a blind eye on digital developments at the time when today's global monopolies were beginning to establish themselves two decades ago – Google was launched in 1998 and Facebook in 2004. These platforms were not considered as "relevant" to national sovereign space and – in consequence – national regulation fully focused on national broadcasting and other national media outlets. Most governments practiced such a regulatory "side-by-side" approach because digital spheres were not associated with national sovereign communicative territory. For example, while election campaign ads were heavily regulated on national broadcasting, no policy existed to address election campaign issues related to social media and search platforms. The Cambridge Analytica scandal illuminated the disruptive influence on voter behaviour and was a turning point for departing from the "side-by-side" approach as governments of democratic countries began to realize the influence of social media on societal political debate, on the dimension of political deliberation and, hence, the influence on legitimizing national polity.

We are now facing a new phase where all types of states are transitioning into "Network States". It seems that across society types, governments are just now beginning to reconfigure sovereignty, i.e. they start reclaiming digital space as national space. Authoritarian states (e.g. Russia, China, Saudi-Arabia, Brazil) have developed nationally specific strategies for nationalizing digital space. China is scaling up digital citizenship scoring, "dataveillance",[15] the datafication of society, embracing cutting edge approaches of Artificial Intelligence to establish polity through a new type of data-driven authoritarianism. The Russian government is building an entirely Russian internet, completely disconnected from the global Internet routes with all Internet traffic domestically using a national domain name system. Developing countries, for example in the African region, also transition into "Network States" with a dedicated focus on building digital economy capacity. Various developing countries embrace the neoliberal corporatization of digital space and practice a new type of "side-by-side" approach: they invest in the national digital economy but, at the same time,

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14 Paul Timmers, 'Challenged by "Digital Sovereignty"', in: Journal of Internet Law 23/6 (2019), 11–20, 11.
15 Claire Seunegeun Lee, 'Datafication, dataveillance, and the social credit system as China's new normal', in: *Online Information Review* 43/6 (2019), 952–970.

practice "rogue" and ad hoc control of civic digital space. This control is exercised specifically in times of political crisis and protests through the complete shut-down of Internet servers and, hence, social media.

However, while these two types of transitioning processes operate with a clear vision to undermine civic spaces, the third type of societies, democratic countries, struggle. They struggle as digital civic space is not *yet* seen as a sovereign public territory in the same way as traditional linear media are. In European countries, where public territory is still today related to established traditions of national media, "public service" broadcasting is heavily regulated in the greatest detail to ensure the safeguarding of the public sphere while regulatory approaches to digital space are not related to new types of public interaction. The established system of regulatory procedures is well developed regarding national broadcasting. But when it comes to the regulation of digital spaces a paradigmatic shift towards a new perception of sovereign civic space has not yet been adopted. Ad hoc interventions are not enough as the dimension of national sovereignty in a globalized data world requires a new conceptual approach to respond to the challenge of the global governing logic by digital infrastructures. The aim should not be the regulation of ad hoc issues but rather a paradigmatic shift towards a *holistic* approach to digital sovereignty within globalized data spaces, not to overregulate but to safeguard the parameter of civic space within a globalized interdependent digital territory of deliberation. Such an approach is crucial for democratic countries in order to fully address the protection of civic space – which is the traditional sovereign model of polity of communicative territory – in today's fluid data spheres of Artificial Intelligence and the Internet of Things (IoT). As the OECD notes in a recent report, the "majority of national institutions, rules, regulatory frameworks are currently not designed to adequately deal with any of the emerging challenges related to digital technologies and civic space" as "countries and regions are starting to develop their own response to the global discourse, adopting disparate approaches toward oversight and regulation"[16] which are often ad hoc policy interventions.

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16 OECD Development Policy Papers 'Digital Transformation and the Future of Civic Space to 2030, Paris, No 29, Paris 2020, 36.

The "toolbox" of traditional national sovereignty regulation – and the reality of globalized data dynamics reaching into civic sovereign space

On the one hand, civic deliberation is embedded in fluid transnational digital "ecosystems", while, on the other, a nationally bounded concept of sovereignty over communication spaces is still informing national digital policy approaches. Already in the early twentieth century, countries began to adopt national policies to address the nationally specific sovereign understanding of "public interest" in the regulation of the first mass medium – radio. For example, spectrum rights of national and international radio transmission were regulated in the U.S. as early as 1927 and, soon afterwards, the Federal Communication Commission was established in 1934 as a national entity to regulate the national broadcasting spectrum.[17] As Hazlett notes, even in these early days "the legal thinking" came to "permit government control over the airwaves" and this included "the regulation of content, with officials selecting to license some communications over others."[18]

This perception of national sovereign communicative space laid the foundation for nationally regulated television broadcasting also along "public service" models in European countries. This public service model included the safeguarding of the role of journalism as a "fourth estate", the balancing of advertising, and the elimination of "hate" speech from public spheres, especially in Germany. It also ensured the reflection of national cultural practice, the protection of minors, fair election campaign advertising and limited "foreign" ownership of media.[19] This understanding of national sovereign communicative space established the regulatory paradigm, the narratives, the vocabulary, motives and frameworks for content regulation which is still in use today. These nationally specific themes of sovereign regulation of national broadcast media are extended to establish nationally specific policy motives to govern digital space. Singapore has a focus on Virtual Reality, AI and cybersecurity; Germany's digital policy priorities are connectivity, a Masterplan for AI and the regulation of "hate speech"; Australia has a focus on government, health and medicine. Kenya's key themes are the development of digital government, digital business, digital entrepreneurship, digital skills and values. Malaysia's main perspective

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17 Thomas W. Hazlett, 'The 1927 Radio Act as Pre-emption of Common Law Property Rights', in: *Review of Industrial Organization* 56 (2020), 17–35.

18 Ibid., 19.

19 See, for example, Eva Potonska and Charlie Beckett (eds.), *Public Service Broadcasting and Media Systems in Troubled European Democracies*, Cham/CH 2019.

on sovereign digital capacity building is the development of the national digital economy through AI and the Internet of Things while at the same time monitoring political content through an Anti-Fake News act, passed in 2019. Overall, national regulatory motives are technology-centered (e.g. addressing national access, standards), economy-centered, specifically with a focus on AI and Internet of Things, and social policy-centered (digital divide, health, literacy, privacy).

However, when viewed from a global perspective, these highly specific regulatory approaches are diverse and often conflicting. They are based primarily on digital economy motives whereas the transnational "horizontal" civic data spheres embedded today in all societies are rarely addressed. Questions have also to be raised why even the definition of social media platforms are today, at a time where data monopolies have gained such a dominant role for national communication, still understood in national terms and perceived as being embedded in national sovereign communicative space: In some countries social media platforms are seen as "content provider" (UK), to be held accountable for content dissemination, in others they are seen as "intermediaries" (such as in the US), involving almost no responsibility as they only serve as publisher of "third" party content. In developing countries, social media platforms are seen as a core backbone for the development of a digital economy which are – except for ad hoc shutdowns and in contexts of disseminating "fake news" – not included in regulation and which citizens use for all kinds of political debate.[20]

European nation-states have a tradition of safeguarding national public spheres. However, the core components of national sovereign communicative space, in European countries, (1) "public service" media and the role of journalism as a "fourth estate", (2) communication infrastructure to safeguard interaction and (3) jurisdiction to enable legal civic rights, are currently in flux and transitioning away from sovereign space towards spheres of influence of global data monopolies.

(1) "De facto" public service by big tech to public service content embeddedness in proprietary platformization

While public service is a core component of European media publics, the reality is that data monopolies are providing de facto "public service" for a digital society while at the same time, gathering "deep" microdata from citizens. Yet,

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20 E.g. Tanja Bosch, Admire Mare and Meli Ncube, 'Facebook and Politics in Africa', in: *Media, Culture and Society*, 42 (2020), 349–364.

a fundamental discussion of public service structures and remit – and, in fact, ecosystems – in digital times is missing. Platforms and search sites are used across European nation-states for political engagement and community building, for critical health information, political activism, and for crisis communication. More needs to be done to address public service in European dataified societies. Some debates emerged about a decade ago, suggesting to envision new types of public service by developing national social media and search engines that could be funded nationally, yet, made available internationally through new types of international partnerships.[21] Others suggest to adopt a "network approach" as a regulatory mechanism of public service media in Europe which would allow to envision public service "transcending states".[22]

Data monopolies are situated almost in a parallel universe and are driven by unrestricted globalized growth through interlinked corporate monopolized "ecosystems" of data processing "stacks", such as *Google, Google cloud, YouTube, Android, Chrome* plus numerous related applications, such as google maps – without *any* public service obligations. Even the European Union does not engage in a debate about a European public service approach and, instead, falls back to the approach to regard digital monopolies as communication spaces under national sovereignty. While some scholars understand this process as "data colonialism",[23] others are concerned how traditional national news organizations are losing control.[24] Others again feel that the term public service needs to be adjusted.[25]

Concerns are also raised regarding the transformation of public service national news organizations as digital intermediaries influence – through algorithms – public service media content "from inside".[26] In such a scenario, "the implications for actors and organizations, occupying a less privileged position in the media environment – such as political campaigns [or] social movements"

21 Mark Andrejevic, 'Public Service Media Utilities: Rethinking Search Engines and Social Media as Public Goods', in: *Media International Australia* 146 (2013), 123–132.
22 Bissera Zankova, 'Public service media regulation in the new media environment: the role of networks for accelerating reforms', in: Michał Głowacki and Alicja Jaskiernia (eds.), *Public Service Media Renewal: Adaptation to Digital Network Challenges*, Frankfurt am Main 2018, 17–38, 32.
23 Nick Couldry and Ulises Mejas, 'Data Colonialism: Rethinking Big Data's Relation to the Contemporary Subject', in: *Television & New Media* 20/4 (2018), 336–349; dies:.*The Costs of Connection. How Data Is Colonizing Human Life and Appropriating It for Capitalism* Stanford 2019.
24 E.g. Jose van Dijck, *The Culture of Connectivity, A Critical History of Social Media,* Oxford 2013.
25 For an overview see Głowacki and Jaskiernia (eds.), *Public Service.*
26 Jonathon Hutchinson, 'Intermediaries exercising Influence inside Public Service Media', in: ibid., 117–134.

are likely to be profound.[27] The transformation of societies and the disruption of democratic civic space through new processes of microtargeting, mobilization in election campaigns and the fracturing of the public is observed across developed and developing countries such as in Myanmar where the polarization of debates on *Facebook* contributes to the heightening of tensions between Buddhists and Muslims. While, for example in European countries, election campaign ads by national broadcasters are meticulously regulated, election campaigns on social media are on the periphery of policy approaches. The "Facebook Manifesto" released by Mark Zuckerberg in 2017 reveals the naive but concerning self-confidence of a global tech monopoly to implement a global governing logic and to enable a "new process for citizens worldwide to participate in collective decision-making" and to explore "how community governance might work at scale".[28] The fact that a protest in Tanzania in 2019 was initiated and coordinated daily by an expatriate living in New York City via social media reveals these scalable dimensions, in addition to the transnational scopes of transnational activism from "Occupy Wall Street" to "me too", to "Fridays for future" magnify these civic relations.

(2) Data ecologies enabling civic interaction: from cloud to 5G

Decades ago, communication infrastructures were seen as national sovereign space. Telecommunication providers, for example, were traditionally state-owned before the WTO promoted the liberalization – the "open sky" policy – of the telecommunication sector in the early 1980s. European nation-states carefully drafted policy guidelines to ensure a balance between private and public interests in providing telecommunication as a backbone of societal interaction in the 1980s. While communication infrastructures, for example television cable systems at the time, were seen as a core sovereign space, in contrast, today, cloud computing as a core distribution and storage capacity for data communication was first very broadly regulated in the EU about a decade ago, providing very basic guidelines, mainly targeting the use of the cloud by industry. This is now updated by a recent draft of the European Cloud Initiative with the aim to build a "knowledge economy" in Europe for the public sector (i.e. government communication)

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27 Rasmus Kleis Nielsen and Sarah Anne Ganter, 'Dealing with Digital Intermediaries: A Case Study of the Relation between Publishers and Platforms', in: *New media & Society* 20/4 (2018), 1600–1617, here 1602.
28 Mark Zuckerberg, 'Building Global Community' (2017), URL: https://www.facebook.com/ notes/mark-zuckerberg/building-global-community/10154544292806634/ (26-07-2020).

and industry as a new European sovereign cloud space. However, the regulatory approach of this sovereign cloud space does not include the notion of cloud computing as "public service", the safeguarding of civil society interaction which constitutes an important dimension of European digital societies.

The traditions of regulating infrastructures on territorial sovereign space reach limits when addressing so called "OTT" – over-the-top-technologies. OTT's relate to content services, such as *Netflix*, to voice interaction, such as *Skype* and to messaging services, such as *WhatsApp*. These are services which were, decades ago, safeguarded by sovereign telecommunication infrastructures (see above). OTT cloud-based services operate beyond – i.e. "over the top" – of traditional distribution networks (satellite, cable, telecommunication) and beyond national territories. However, citizens across continents interact – and deliberate – through these services and while, for example, *Netflix* is regulated regarding its content library (to include sufficient work of French origin, such as in France and Canada) but not regarding its practice of all sort of individual data point collection of its subscribers, like the choice of films, the stopping and continuing of streaming, geographical mobility of the user, for example, when travelling internationally and resuming the streaming of *Netflix* content in a hotel room. These are interactions no longer related to territorial place but, instead, cloud computing makes it difficult or even impossible to ascertain in real time "where specific data is located"[29] which means that the territorial principle of sovereignty is already outdated. The controversial discussion by governments of various European countries regarding the Chinese company Huawei to establish the crucial 5 G infrastructure reveals how controversial governments in Europe perceive their sovereign space. Most arguments regarding a potential surveillance address, however, the safeguarding of industry. Debates rarely relate to the safeguarding of civic space which is also fully incorporated into 5 G infrastructures.

(3) The issue of jurisdiction – in fluid data spaces

The third example relates to jurisdiction, a concept which so clearly emphasizes "territoriality" as the contextual legal regime. However, digital interaction operates in a globalized data world where it is no longer clear which domestic law applies to which aspect of the interaction. For example, relating to cloud computing, Svantesson argues that "whether intentionally or not, cloud computing typically creates connecting points to foreign jurisdictions in situations that

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29 Dan Svantesson, *Internet & Jurisdiction – Global Status Report*, Paris 2019, 48.

may have previously been entirely domestic."[30] Data are split over server geographies across countries and, as Svantesson notes, "even where the location of data may be ascertained, the mobility of data makes it possible to manipulate its location in order to hinder law enforcement."[31] The territoriality principle of sovereign jurisdiction requires a substantial revision in contexts of the globalized fluid data flows in which citizenship is embedded today. The European Unions' data policy, the General Data Protection Regulation (GDPR) also reaches its limits when aiming to target Google's layered – in Bratton's diction "stacked"[32] – data structures. It also reaches its limits in terms of defining jurisdiction in sovereign territory as the GDPR relates to data stored on European servers. Although data of European citizens stored outside of the European Union is also subject to the GDPR, globalized micro data within a new world of artificial intelligence are difficult to track. Artificial Intelligence and blockchain data interaction are not territorially bounded. Furthermore, European citizens engage in civic debate with citizens outside of the EU which is a dimension not addressed at all. Big tech companies, from global data monopolies to smart television sets, gather not only civic data (which is addressed by numerous scholars) but threads of civic interaction. On smart home devices, for example, they have the potential to configure data profiles of European citizens' deliberation and reach deep into national sovereign space, leaving the issue of jurisdiction in these digital ecosystems unresolved.

These three examples reveal that motives, vocabulary and narratives of national sovereign dimensions of civic interaction that were so carefully defined in times of the national public sphere, exist side-by-side to globalized digital dimensions and cannot be extended or just adopted to address today's digital landscape. As van Dijck argues, the "ideal platform society does not exist, and it will be hard to recalibrate the Western-European Rhineland model (this is the Westphalian model, I.V.) to make it fit with the American ecosystem's infrastructural architecture that privileges commercial values over public ones."[33] She notes that "public values and the common good" are at stakes "in the struggle over platformization around the globe."[34]

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30 Ibid., 47.
31 Ibid., 104.
32 Bratton, *The Stack*.
33 Jose van Dijck, 'Governing Digital Societies: Private Platforms, Public Values', in: *Computer Law & Security Review* 36 (2020) 1–4, 3.
34 Ibid, 4.

The data citizen, deliberating in globalized public spheres

New paradigmatic approaches to sovereignty are required to address especially the safeguarding of civic interaction in transnational data spaces to ensure that citizens can interact without concerns of data exploitation in safe data ecologies with a clear understanding of digital governance and jurisdiction.

This can only be achieved through a holistic focus of democratic countries on the new formations of public spheres and new practices of deliberation *within* the new parameter of non-national, non-territorial publics. Public spheres are dense, multi-directional thematic discourses *between* place and space, where the individual citizen is no longer deliberating with fellow national citizens but with fellow citizens across all types of societies to critically assess national governance and reflecting new civic practices of achieving accountability and legitimacy measures. A first term to describe these practices is "digital citizenship"[35] to signify how citizens adopting technology fulfil their civic duties. More recent debates have a focus on the parallel civic worlds of online/offline; others suggest more democratic control of the overall public sphere in light of platformization.[36] However, what is overlooked is the reality of new types, modes and formats of concrete practices of deliberation in an unfolding *postterritorial* data space. It is a postterritorial civic sphere, enhanced not only by social media platforms but by "deep" digitalization, the data links produced by citizens through interaction using individual digital interfaces, carefully selected interactive microsystems which include political interaction through apps, blogs, clips, and influencers across societies.[37]

Such a postterritorial civic data interaction can no longer be regulated through national "polity" with a focus on a national territorial geography as the exclusive national communicative space. As Kuner noted, in contexts of data privacy regulation, the focus on data geographies, hence an emphasis on national regulation, has reached its limits.[38] Even the initiatives drafted by intergovernmental conventions (e.g. the OECD), binding under international law, however – and this is often overlooked – require "in most countries' conventions"

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35 Karen Mossberger et al, *Digital Citizenship. The Internet, Society and Participation*, Cambridge 2008.

36 Sonja Vivienne, Anthony McCosker and Amelia Johns, 'Digital Citizenship as 'Fluid Interface;' Between Control, Contest and Culture', in: idem (eds.), *Negotiating Digital Citizenship: Control, Contest and Culture*, New York 2016, 1–18; van Dijck, *Privat Platforms*.

37 See further Ingrid Volkmer, *The Global Public Sphere*, Cambridge 2014.

38 Cf. Christopher Kuner, *Transborder Data Flows and Data Privacy Law*, Oxford 2013.

to be "implemented in national law" and "may be measured against the standards of constitutional law."[39] In other words, dimensions of "polity" even in the aim to produce some international harmonized standards still relate back to national sovereign space. In consequence, governments negotiate directly with globalized big tech companies as if they were public actors – although they operate in national public policy debates without any civic legitimacy.

It has been argued that new policy motives of digital governance require foremost a definition of democratic public values to tackle the still ambiguous dimension of platform governance. This is needed, especially in a European perspective, as content platforms are "firmly cemented in an American based neoliberal set of principles".[40] However, new policy motives are not only required for platform governance but a paradigm shift is needed away from a focus on often ad hoc approaches of digital and data governance towards a *holistic* focus on the reality of civic deliberation in globalized public spheres. Such a holistic conception is required to overcome the traditional notion of national communicative sovereign space – for example, reflected in the variety of national regulatory approaches to platform governance – and to overcome the often fractured attempts to regulate fluid global data spaces in a national or intergovernmental perspective. A new understanding of civic deliberation in postterritorial digital and data spheres enables, in a second step, to map out communicative sovereign space and to safeguard democratic civic deliberation which is no longer territorially bounded.

It is surprising that in democratic countries the perception of sovereign civic space is still somewhat associated to the Habermasian concept of national public spheres as a sphere for national citizens to deliberate (as reflected in national media regulation). National deliberation among the national citizens who are able to vote, produce in modern nation-states the rationale to assess accountability and legitimacy of democratic governance. The main linking component of the conceptualization of the public, of deliberation and legitimacy is the assumed territorial boundedness defining the "voting publics" of territorial *polis* and *demos* which are the core component of modern national normative legitimacy of polity over sovereign space. However, there are breaking points of this paradigmatic model and – strictly speaking – debates in political theory "mapped" the shift towards conceptions of transnational polities and governance structures *beyond* conventional modern state-centric model already some time ago. These assess the emerging post-territorialized space of civic interaction through a number of

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39 Ibid., 162.
40 van Dijck, *Private Platforms*, 3.

different paradigmatic lenses: through the lens of civil society,[41] through the lens of a post-international world or in a German term, "Weltstaatlichkeit", as "world statehood" which understands the national or the territorial state *itself* as a sphere of globalization.[42] Ferguson and Mansbach argue that, overall, "state-centric theories and models [. . .] account for only a small part of what happens in the world, and, at worst, are edifices built on sand" as the "interstate epoch is drawing to a close".[43] In their view, the boundaries "that separate territorial states from one another" no longer "demarcate political spaces based on economic, social, or cultural interests" as each of these "has its own boundaries that in the face of localization and globalization are less and less compatible with the border of states." Consequently, the "conception of political space as largely synonymous with territory poses a barrier to theory-building in global politics."[44]

When addressing these new dimensions of deliberation in democratic countries, it is important to realize that the global spheres of public deliberation across digital data spaces not only include the traditional "Westphalian" state. The Habermasian understanding of deliberation among like-minded (national) citizens no longer applies as citizens of all types of societies engage in discourse "threads" via, for example, smart mobile devices that emerge as core communication platforms even in "failed" states. It is important to realize that citizens of *all* types of societies, from democratic "Western" to authoritarian and "failed" states, are – in regionally specific ways – drawn into such a globalized digital ecology. Citizens, for example in contexts of globalized risks, deliberate across societies in new dimensions of "reflective interdependence".[45] It is a dimension of communicative globalization enabling transnational spatial relations where not only nations, "localities" but subjective interaction is entangled in globalized "deep" digital data formations. In other words, public communication rotates around what Luhmann might have described as "autopoietic",[46] self-directed discourse "absorbing" public engagement across national borders into a differentiated "viral" public "system" – in today's jargon – "echo chambers" or "filter bubbles". This dynamic formation has

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41 Mary Kaldor, *Global Civil Society: An Answer to War*. Basingstoke 2003.
42 See e.g. Rudolf Stichweh, ‚Dimensionen des Weltstaats im System der Weltpolitik', in: Matthias Albert, idem, (eds.), Weltstaat und Weltstaatlichkeit, Beobachtungen globaler politischer Strukturbildung, Wiesbaden 2007, 25–36.
43 Yale H Ferguson and Richard W Mansbach, *Remapping Global Politics. History's Revenge and Future Shock*, Cambridge 2004, 4.
44 Ibid., 74.
45 See Volkmer, *Public Sphere*.
46 Niklas Luhmann, *Soziale Systeme*, Frankfurt/M. 1984.

implications for civic identity relating to floating loyalties, detached from sovereign territorial boundedness. Civic identity, depending on deliberative practices might relate to the state but at other times to a social movement operating across territorial frontiers, at other times to a "family", we might add, a tribe, a generation, fellow-members of an occupation or profession. As early as 1996, the late Susan Strange has contended that we are faced with a "new absence of absolutes" and that "in a world of multiple, diffused authority" our "individual consciences are our only guide".[47] An example is the Fridays for Future movement where civic identity is embedded in climate activism. In this sense, we could argue, referring to Ulrich Beck's notion of "self reflexivity"[48] that citizenship constitutes "reflexive citizenship" – embedded in reflexive transnational public discourse. This is a process which is enhanced by deliberation across globalized digital data spaces and has implications on the perception of legitimacy of polity – and national sovereign space.

These emerging dimensions of postterritorial digital interaction relate not only to new types of civic interaction but also transform already the democratic state which is also "dataified". From the datafication of the public sector, i.e. e-government, to digital elections (via Blockchain) to automated online communication with citizens, the structures of the democratic state are embedded in digital space. To understand the democratic state as a digital data space has to be addressed in a new dimension of sovereign communicative space. "As Saskia Sassen argues when addressing the deterritorialization of states, critical components of authority deployed in the making of the territorial state are shifting toward becoming strong capabilities for detaching that authority from its exclusive territory and onto multiple bordering systems. Insofar as many of these systems are operating inside the nation-state, they may be obscuring the fact that a significant shift has happened. It may take a while to become legible in its aggregate impact."[49] To tackle these processes, the "postterritoriality" of civic spheres requires new regulatory paradigms and – in consequence – new sets of policy motives and values in democratic and increasingly dataified societies. I use the term "postterritoriality" to underline the "non-placeness" and "fluid" modes of data flows of civic interaction which transcends across layers of globalized data geographies with constantly shifting centres and peripheries.

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47 Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy*, Cambridge 1996, 263–264.

48 Ulrich Beck, *Cosmopolitan Vision*, Cambridge 2006.

49 Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages*, Princeton 2006, 419–420.

Transnational regulatory regimes – towards a model of 'shared' sovereignty

Based on the need to identify policy approaches to address civic interaction in globalized public discourse territories, it is useful to review the traditions of policy approaches regarding transnational communication and to assess how these reflected communicative sovereignty in transborder spaces.

Transborder regulation of national sovereign communicative spheres emerged already at the time of the telegraph, in the 19th Century. International telegraph transmission across continents was possible through underwater cables across the oceans and telegraph lines along railroads. In 1865, the International Telegraph Union (ITU) was established by twenty European states as an intergovernmental organization with the aim to draft the first international telegraph convention. This convention set first principles of transborder communication and defined the Morse code as the international alphabet, protected secrecy of correspondence and the right of everyone to use telegraphy. We could argue that these standards constituted first model to establish extraterritorial sovereignty of telegraph communication through an international regulatory body, yet, setting standards for national sovereign communication. In the following decades one of the ITU's main focus was the harmonization of the international radio frequency spectrum, again adopting standards that required alignment of national sovereign regulation. Even shortwave radio with its international reach, was seen as a national medium which, however, required technological standardization in a global context.

About a hundred years later, the regulation of satellites used for telecommunication – and, later, for television distribution – emerged as a new focus of the ITU's intergovernmental debates. Despite the fact that satellites were placed in non-national territory, in orbit, ITU's intergovernmental regulation identified a way to renationalize orbital slots. The ITU assigned specific orbital satellite slots to national telecom operators and this policy procedure established a second model of extraterritorial sovereignty of communication space. However, satellite television commenced in the late 1980s and enabled a new type of trans-border communication which made borders fuzzy as satellite "footprints", i.e. the area that is targeted by a satellite beam, cannot target specific countries. Based on the size, angle and power of the satellite beam, they can only target regions – sometimes only small geographical parts of countries. This posed an issue for satellite television regulation as the territorial principle so engrained in the understanding of communicative sovereignty had no longer relevance. In order to regulate satellite content, the EU passed the "Television without Borders" Directive in 1989 as a regulatory instrument which, on the one hand, maintained the free flow

of content but, on the other, defined content jurisdiction by making the country where the satellite beam is uploaded (the national location of the relais station) accountable for content. This is called the "Country of Origin" principle which has guided the EU's transborder television policy for decades. Under the EU's "country of origin principle", it is understood that broadcasters are only subject to the jurisdiction of the originating state. The "Country of Origin" principle can be seen as a turning point where international content dissemination, despite reaching citizens in the country directly via rooftop antennas and providing political information, are no longer seen as part of polity of sovereign communication territory of that country but the communicative connection enabled by the national position of the relais station determines the jurisdiction of the "country of origin". Although, various United Nations' Agencies addressed globalized issues regarding building communication capacity for decades, a new initiative, launched in 2009, aimed to adopt a "holistic" perspective and to focus on capacity building of the global information society "as such". This initiative, called the World Summit on the Information Society (WSIS), drafted guiding principles for developing and developed regions to build communication capacity. The Declaration includes guidelines from technology development to close the "digital divide" to raising literacy, support of traditional media and enabling equal access to information. The WSIS declaration is one of the most coherent policy guidelines addressing the importance of public interaction across all types of societies. The WSIS framework sets the agenda for national digital capacity building and in this sense, reaches into sovereign space through intergovernmental approaches. Countries are required to develop their own national e-strategies to enable ICT capacity building which includes technological infrastructures but also digital literacy. However, the WSIS declarations are guidelines and constitute another type of extraterritorial sovereign approaches which, however, leave the actual execution of these guidelines to national governments.

Today the density of digital interaction has reached a point where a fundamental debate about the sovereignty of civic space is necessary. Given the rapid transformation of digital civic space and the transitioning of the digital citizen to a "data citizen", digital policy can no longer just target "ad hoc" issues but requires a reconception of the dimension of sovereignty to safeguard the new dimensions and the "logic" of civic interaction in a postterritorial sphere. It seems that the Westphalian concept of "polity" over sovereign territory is – in terms of digital policy – dissolving and tech companies assume polity power while the state is left to react and negotiate, for example with Mark Zuckerberg regarding the violent and populist content of Facebook, or regarding crypto currencies. Democratic states are entangled with a global civic tech universe in a way that requires a rethinking of traditional conceptions of sovereignty to protect civic

space in democratic countries. Current policy debates suggest to assign ethical responsibility to data exporters and controllers who design algorithms and establish the modality of AI sensors and accentutors. However, the term of "ethical" responsibility is rarely defined and remains ambiguous. I agree with Kuner who suggests that there is a "need to build bridges between different systems of transborder data flow regulation, which can be referred to as the concept of legal interoperability" as a term to refer "to measures taken to facilitate the interaction between regulatory systems across national borders."[50]

Such a "legal interoperability" cannot be achieved by applying the traditional extraterritorial approach implemented in the time of the telegraph and extended to other transborder communication where intergovernmental frameworks set the regulatory agenda which is – subsequently – adopted in very specific national terms, retaining national sovereignty over communication spheres and – ultimately, reaching controversial responses to address the unity of globalized big tech.

Given the postterritorial digital data space and the fact that citizens interact and deliberate in such a postterritorial public landscape, new approaches to communicative sovereignty are needed! As functioning communicative sovereignty – the public sphere – is a crucial component of democratic societies, it might be time to suggest a model of "shared" communicative sovereignty among democratic countries. This would enable to counterbalance the otherwise unlimited power of tech monopolies on an international scale through a clearly defined, shared sovereign digital policy framework which homogenizes the digital policy approaches across democratic countries and avoid different national adoptions as we currently see (such as in terms of the definition of social media platforms). A model of shared sovereignty will be able to fully address the postterritorial reality of civic data interaction. The shared sovereignty model is also relevant for the transitioning of democratic societies and conceptions of citizenship into the AI sphere where territoriality is no longer an issue.

While the Westphalian model laid the foundation for a functioning international state order in the time of modernity, the model of shared sovereignty will establish and sustain the core component of democratic countries, a functioning and balanced public sphere, and to safeguard the future of democratic citizenship.

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50 Kuner, *Data Flows*, 174.

Gregor Feindt, Bernhard Gissibl, Johannes Paulmann
Cultural sovereignty – A conclusion in four theses

1 "Cultural sovereignty": Staking claims in the twentieth century

Cultural Sovereignty is not a fashionable term invented recently by academics, although our utilization may be regarded as part of what some scholars have labelled the "sovereign turn".[1] It is a concept that originated in the political practice of twentieth century contestations, used by a variety of actors in different contexts, often deployed in order to make "culture" a platform to articulate broader claims of participation, recognition, and representation. The papers in this theme issue have presented some instances of such articulations: Newly independent, former colonial states who found themselves merely at the receiving end of global communication networks in the 1960s began to use UNESCO to articulate and to claim cultural sovereignty over the infrastructure and content of communication: in 1977, UNESCO experts even stated that "international co-operation depended on the assertion of the cultural sovereignty of peoples; world peace and the peaceful coexistence of peoples were directly related to the principle of cultural and political sovereignty of peoples".[2] In the very decades of decolonization, Congolese President Mobutu Sese Seko sought to restore cultural sovereignty after the end of colonial rule by promoting a politics of *authenticité* and the return of cultural artefacts looted or displaced by representatives of the colonial state to Belgium.[3] Starting in the 1970s, spokesmen of North American First Nations deployed the concepts of tribal, respectively cultural sovereignty to root their identity in tribal culture and confront US-American authorities with claims for the recognition of land rights, sacred places, oral traditions, wisdom teachings, and languages, all of which – they

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1 Ronald C. Jennings, 'Sovereignty and Political Modernity: A Geneaology of Agamben's critique of sovereignty', in: *Anthropological Theory* 11 (2011), 23–61, 24; Yarimar Bonilla, 'Unsettling Sovereignty', in: *Cultural Anthropology* 32/3 (2017), 330–339, 330.
2 UNESCO's contribution to peace and its tasks with respect to the promotion of human rights and the elimination of colonialism and racism, 28th September 1978, UNESDOC 20 C/14 + ADD. & CORR.
3 Sarah van Beurden, 'The Art of (Re)Possession: Heritage and the Cultural Politics of Congo's Decolonization', in: *Journal of African History* 56 (2015), 143–164.

believed – would serve the indigenous peoples in their path to rediscovering themselves.[4] Recently, much of the contemporary rhetoric concerning the restitution of cultural artefacts looted and displaced during colonial times follows a logic of cultural sovereignty, although those staking these claims are often not directly using the term. In many of these situations, the implicit or explicit opponent of cultural sovereignty was "cultural imperialism" exerted by national, imperial or international actors, structures, or institutions. The very notion and practice of sovereignty, especially cultural sovereignty, thus reflects the long heritage of European, respectively Western imperialism and calls for a postcolonial critique.

2 Defining culture, claiming sovereignty

Defining just what "culture" is, what it is not, who has it and who does not was a central field of contestation throughout the twentieth century, in academia and the sciences of culture as well as beyond. At the same time, and increasingly from the 1960s onwards, defining and asserting "culture" became a central tool to argue for self-determination and determine who could belong and who was to be excluded. Arguably, it was the very malleability, if not impossibility to define what constitutes culture and who was to govern it that contributed to its expedience and popularity as a tool for political claims-making.

As the examples above show, staking claims in the terminology of or with reference to cultural sovereignty was employed first and foremost (although not exclusively) by actors or groups without recourse to the means of political power, by those excluded from decision-making processes or those acting and arguing from marginal positions. Equally, such claims were articulated by those who situated themselves strategically at the margins. Although in recent decades cultural sovereignty has been appropriated by hegemonic actors, such as White Supremacists or Identitarians in Western democracies, it originated in contexts of "Third World" or subaltern resistance and in situations of oppression and marginalization. The term derives its critical edge and destabilizing force through raising the question of participation, recognition, and representation in decision-making processes. In doing so, it can be used and understood as a critical complement,

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4 Wallace Coffey and Rebecca A. Tsosie, 'Rethinking the Tribal Sovereignty Doctrine. Cultural Sovereignty and the Collective Future of Indian Nations', in: *Stanford Law & Policy Review* 12 (2001), 191–221; Amanda J. Cobb, 'The National Museum of the American Indian as Cultural Sovereignty', in: *American Quarterly* 57 (2005), 485–506

if not contrast to the concept of governance that has been used so widely since the 1990s to refer to allegedly non-hierarchical, networked, entangled, and often fuzzy forms of political decision-making that involved a multiplicity of stake-holders.[5] In contrast to governance, the usage of the term cultural sovereignty by contemporary agents and as an analytical tool draws attention to the power of decision-making, rather than obscuring the problem of decision and participation behind a governance rhetoric of regulating the exercise of authority for the common good.

3 Sovereignties in the Plural

This theme issue has presented essays on competing claims and relational practices of sovereignty in a multiplicity of contexts and on different hierarchical levels. This suggests that sovereignties are best understood in the plural, just as its various actors and claimants must be understood in the plural. The modern state is a particularly powerful proponent of sovereignty, yet in the twentieth century he is but one.[6] In order to shed new light on the contested sovereignties surrounding the modern state we need to study the constellations of competing, contiguous, and cooperating agents of sovereignty. Even in clearly oppressive political systems a bundle of sovereign actors emerged alongside the centres of power, e.g. in the form of semi-official or cultural institutions, such as television. For individual or societal claimants in such oppressive political systems, it was often crucial to avoid open conflict and instead rely on the regime's own imaginary to disguise the subversive quality of cultural sovereignty.

In imperial contexts or international conflicts presented a more open struggle over the sharing of sovereignty. For example in the case of the French *mission civilisatrice*, actors in the metropole provided cultural and educational efforts in the colonies to strengthen their respective position within French domestic conflicts. At the same time, intellectuals and nationalists in the colonies took up the lessons and languages of colonial rule basing their protest on Western liberal ideas and formulating it in French, English or other European languages. In international

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5 Thomas Risse and Ursula Lehmkuhl, *Governance in Räumen begrenzter Staatlichkeit: Neue Formen des Regierens?*, Berlin 2006; Mark Bevir, *Governance: A very short introduction*, Oxford 2012.
6 This multiplicity of claimants was discussed for instance with regard to economic globalisation and the mobility of people, capital, goods, and information. See, Shalini Randeria, 'Cunning States and Unaccountable International Institutions. Legal Plurality, Social Movements and Rights of Local Communities to Common Property Resources', in: *European Journal of Sociology* 44 (2003), 27–60.

conflicts, the variety of claims and claimants across various levels not only saw opposing sovereign actions but also witnessed contestations around mobilities, agencies, material culture, and infrastructures. As the conflict over Jerusalem after 1948 demonstrated, one outcome, if not strategy was to restrict all action in disputed territories. This served as a means to locate sovereignty with one single claimant and to freeze actions of opposing claims. Different constellations across the twentieth century exemplify the procedural nature of sovereignties between different actors and claims, which can be best described as "floating".[7] At the same time, they raise fundamental questions about the relation and the tension between sovereignties as the practice and exertion of decision-making, and the forms of participation and inclusion of those to be governed, or imagined as "popular sovereigns".[8]

4 Cultural sovereignty: A continued, yet inconclusive process

The frequent claims for cultural sovereignty as a concept, its contested definition of culture, and the multiplicity of claimants point to the fact that sovereignty is a continuous, yet inconclusive process. It is especially in moments of crisis that this procedural nature of sovereignty comes to the fore, for instance, when new and innovative media such as television in the 1950s or the internet in the 1990s sparked debates about sovereignties and provided an arena for its *re*distribution.[9] However, allegedly uncontested or stable constellations of sovereignties are far from static or conclusive. For instance, the analysis of the exploitation of natural resources in formerly colonized territories revealed that established international companies maintained their factual monopoly under different regimes and beyond decolonisation by intentionally blurring the stakes and ultimate responsibilities.[10] Acting as shadow sovereigns, the companies repeatedly managed to decontest conflicts over the exploitation of natural resources or access

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7 Mariella Pandolfi, 'L'industrie humanitaire: Une souveraineté mouvante et supracoloniale. Réflexion sur l'expiriénce des Balkans', in: *Multitudes* 3 (2000), 97–105.
8 Richard Bourke and Quentin Skinner (eds.), *Popular Sovereignty in Historical Perspective*, Cambridge 2016.
9 Liane Tanguay, 'Sovereign Is He, Who Knocks: The Neoliberal State of Exception in American Television', in: *Key Words: A Journal of Cultural Materialism* 12 (2014), 93–107.
10 Susan George, *Shadow Sovereigns: How Global Corporations are Seizing Power*, Cambridge, MA 2015.

to land to mention only two examples. Against these findings, alleged crises of sovereignty signify first and foremost constitute moments of intensified public debate and open struggle about the distribution of sovereignty. They do not necessarily point to an actual redistribution or restructuring of decision-making power.

Moreover, in the twentieth century claims and claimants themselves underwent a continuous, yet inconclusive process of change. While claims for sovereignty covered an ever expanding array of participation and democracy, the actors themselves developed new approaches towards decision making. Most significantly the modern state faced lasting transformations that affected the execution of its sovereignty both in a traditional and cultural understanding.[11] This was most tangible in the field of economy where Western states withdrew from decision spaces and enabled corporate actors, such as multinationals or the Silicon Valley, to create a transnational arena of decision making. In return, civil society actors have critically monitored and opposed such developments in the "storm over the multinationals" mentioned in the introduction.

The inconclusive nature of cultural sovereignty also pertains to territoriality as a critical feature of sovereignty. All essays demonstrate that actors attempted, in order to make sovereignty work and applicable, to draw boundaries and territorialize sovereign space. Indeed, the territorial delimitation of sovereign rule was an almost universal feature of twentieth century sovereign rhetoric and thinking. However, the analysis of sovereign claims in practice has revealed that territorialized sovereignty was first and foremost that – rhetoric. Transnational media flows in particular demonstrate how difficult it was to exert control over national media space already before the advent of the internet and corporate platforms that reorganize communication flows in forms that fundamentally contradict the logic and the political tools of nation-states as well as supranational organizations. Deterritorialization seems to be an equally fertile ground to produce contesting claims over sovereignties. Consequently, future studies into the procedural nature of sovereignty should not only inquire into the growing gap between the imaginary of sovereignty and the factual decision making power of those parties involved – both in crises and stability. They need to query the forms and constellations of post-territorial claims- and decision-making – as problems of sovereignty rather than governance.

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11 Stephan Leibfried et al. (eds.), *The Oxford Handbook of Transformations of the State*, Oxford 2015, see especially Jonah D. Levy, 'State Transformations in Comparative Perspective', in: ibid., 169–190.

Forum

Fabian Cremer, Silvia Daniel, Marina Lemaire, Katrin Moeller,
Matthias Razum, Arnošt Štanzel

Data meets history: A research data management strategy for the historically oriented humanities

Abstract: *The growing relevance of research data to practices, methodology and policies poses challenges for the historically oriented humanities in developing their own concept of research data management. A broader definition of research data is derived from recent discussions and an examination of the historical research workflow reveals its ongoing digital transformation. Based on current developments in Germany, this article provides an outline for a strategic approach towards a domain-specific research data management strategy including applicable metadata concepts, cultural conditions for data sharing and initial suggestions regarding the specification of the FAIR principles for the historically oriented humanities.*

Introduction

The ubiquitous digital turn is affecting all relevant aspects of society, including research. It is also shaping the future of the historically oriented humanities on many fronts: 1) its methodology, processes and practices, which are being transformed and extended through digital technologies; 2) its research objects, which are more and more either digitised or born-digital and therefore dependent on digital technologies; 3) its organisations and policies, which demand an examination of – and more often an adaption to – digital technologies. The ever-growing amount of digital data being gathered and produced in the historically oriented humanities raises questions of how this data can be collected, analysed, stored, archived, catalogued and made available for reuse – in short: how data can be effectively managed and its quality assured. Thus far, the development of research data management (RDM) has been fuelled primarily by funders and research organisations through the definition of policies and by libraries and computing centres through investments in information infrastructures. However, the process of data collection has become a highly subject-specific, competence-based process and, as a consequence, research communities have recently been called upon to actively participate in these developments and to formulate their

own principles in cooperation with the information infrastructures mentioned above and with memory institutions.[1]

In Germany, which serves as the use case for our considerations in this article, the Council for Scientific Information Infrastructures (RfII) formulated recommendations for how research data should be managed in the future within the national research landscape.[2] Subsequently, the Federal Government initiated a National Research Data Infrastructure (NFDI). It is to be implemented by thirty consortia, each representing a research community with specific requirements, including a consortium for the historically oriented humanities (4Memory).[3] The consortia assess the needs deriving from the digital research methods, practices and data within their domain with the goal of developing research-driven and domain-oriented standards and services.

The internationally accepted primary guidelines for scientific data management and stewardship are the "FAIR principles",[4] which aim to improve the Findability, Accessibility, Interoperability, and Reuse of research data. However, as FAIR addresses all disciplines, the principles are by nature generic. Their implementation into practice and the development of complementary quality standards for research data require a disciplinary approach. In the following sections, we will discuss an approach for the historically oriented humanities.

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1 The German Research Foundation (DFG) is appealing to the scientific communities to establish discipline-specific regulations for the handling of research data and to establish procedures for the recognition of achievements in the publication of research data. A few disciplines have already drawn up discipline-specific guidelines. https://web.archive.org/web/20201022005933/https://www.dfg.de/en/research_funding/proposal_review_decision/applicants/research_data/index.html (2020-20-11).
2 German Council for Scientific Information Infrastructures, *Enhancing Research Data Management: Performance through Diversity. Recommendations regarding structures, processes, and financing for research data management in Germany*, Göttingen 2016: urn:nbn:de:101:1–20161214992.
3 For the aims and task areas of the 4Memory application within the NFDI see: 4memory.de. This article is based on discussions within the NFDI4Memory consortium. As a consequence, this articles gives an overview and references several papers published from the German research community. We thank our 4Memory colleagues for their input and comments and especially John C. Wood for his critical review and editing.
4 Mark D. Wilkinson et al., 'The FAIR Guiding Principles for Scientific Data Management and Stewardship', in: *Scientific Data*, 3/1 (2016), https://doi.org/10.1038/sdata.2016.18. A closer look at the requirements and some examples for the different tasks for researchers and providers are given in: Angelina Kraft, 'The FAIR Data Principles for Research Data', in: *TIB-Blog*, 2017, https://blogs.tib.eu/wp/tib/2017/09/12/the-fair-data-principles-for-research-data/ (2020-11-20).

The definitions of research data

Historians have always been data reusers, creators and curators. Their research data consist of historical records that are sought out, gathered, validated, annotated, compared and represented in contextualised formats in order to reconstruct the history of mankind. They use their research data to answer specific research questions and to support statements, methods, arguments, hypotheses or theories. Research-driven data aggregation thus creates data collections reflecting particular interests and methods. These collections contain research data of various provenance – from memory institutions, government agencies, private persons and companies, citizen-science organisations, and many others, because everything left by people in the past can help to answer a research question. For this reason, the range of primary research data (historical sources) ranges from all types of textual and numerical documents to material objects from art, culture, science and everyday life to oral tradition and memories, only a few of which have been digitised professionally or in standardised ways.

Thus far, historians have yet to reach a consensus on the definition of "research data" in historical research. Nonetheless, they have traditionally distinguished between the sources from which they extract historical knowledge and the information they create through research that is guided by particular questions, methodological assumptions, processes and perspectives. With the emergence of debates on research data in the last two decades, many within the historically oriented humanities have started to describe the historical record itself – i.e. the sources of historical research – as "research data".[5] While the definition of historical sources as "research data" is not without controversy, it has been tentatively established that it includes digital representations of historical records as fitting subjects for data management. In essence, the concept "data" now encompasses all forms of representation, from the analogue object to the reused data produced during research. During this process historians traditionally create source excerpts, transcriptions, bibliographical and biographical records, finding aids, inventories, interviews, statistical data (e.g. time series), and/or structured information on events, facts, places or persons, including the provenance and context of any of this information in order to correlate the different elements of these data.

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5 See surveys in Germany: Peter Andorfer, 'Forschungsdaten in den (digitalen) Geisteswissenschaften. Versuch einer Konkretisierung', DARIAH-DE Working Papers 14 (2015), urn:nbn:de: gbv:7-dariah-2015-7-2, here 13–14; Boris Queckbörner, 'Forschungsdaten und Forschungsdatenmanagement in der Geschichtswissenschaft', 2019, https://doi.org/10.18452/20460, here 31.

The RfII states that research data is "any data that is generated in the course of scientific work, for example through observations, experiments, simulations, surveys, questioning, source analysis, records, digitalisation, evaluations" and includes "such data which are not acquired by science itself, but which science accesses for research purposes in order to use them as a methodologically necessary basis for the concrete research process".[6] Adapting this concept to historical scholarship adds new types of data to the accepted categories of historical sources and published results, leading to a broader definition of research data, as the position paper of the German Historical Association (VHD) on the NFDI elaborates:[7]

- direct digital representation of cultural objects (digital copies)
- measurement, survey and survey data (e.g. from empirical research)
- enriched, expanded, annotated, commentated, pre-processed forms of representation
- critical editions of sources and texts
- question-directed data collections and databases
- specialised knowledge bases, bibliographies, taxonomies, ontologies, controlled vocabularies, authority data
- algorithms and specialised software tools
- specialist applications such as simulations
- dynamic or static visualisations
- traditional as well as new forms of presenting results (e.g. blog series, complex narratives with multimedia and hypertext elements)
- digital research environments
- specialised material collections, portals
- subject-specific research tools

This wider understanding leads to a general definition of research data in the historically oriented disciplines: any information, regardless of its provenance, is considered "research data" as soon as it is collected, described, annotated, evaluated and/or created and stored in machine-readable form for the purpose of maintaining the traceability of research results or for archiving, citation and further processing. Hence, research data include all media formats and digital

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6 RfII, *The Data Quality Challenge. Recommendations for Sustainable Research in the Digital Turn*, RfII – German Council for Scientific Information Infrastructures, Göttingen, 2020, http://www.rfii.de/?wpdmdl=4203 (2020-11-20), here 106.

7 VHD, 'Positionspapier des Verbandes der Historiker und Historikerinnen Deutschlands (VHD) zur Schaffung nationaler Forschungsdateninfrastrukturen (NFDI)', 2017, https://web.archive.org/web/20200807014629/https://www.historikerverband.de/verband/stellungnahmen/positionspapier-zur-schaffung-nationaler-forschungsdateninfrastrukturen-nfdi.html, here 3–4.

representations of analogue sources as well as any information that can be used to answer research questions.[8]

The considerations and processes mentioned above are common to other fields in the humanities, which share generic research data management needs.[9] Research data in the humanities is not "generated" in a specific setting but rather gathered and captured – in a process guided by specific aims – as an act of creation and construction.[10] Potential sources are endless, since, for a humanities scholar, any legacy of human activity or experience is potentially a data source.[11] However, historical data pose specific challenges to the historical method in digital scholarship, which have to be addressed collaboratively in the research communities.

First, the incompleteness of the historical record and its separation from its original context makes establishing the authenticity of sources challenging. Digitisation often adds another layer of abstraction and complexity, as digital representations lack the physical attributes normally used to prove authenticity or, even more importantly, to question it.

Second, data collections combine layers of complexity: their sources vary in format and structure, with multimedia collections and unstructured items being the norm: their human-created contents are ambiguous and often contradictory.

Third, establishing data as a legitimate research output requires contextualising information regarding its historical origin, its provenance through data processing and its form and intention of representation. Larger collections and digitised formats have often instead encouraged decontextualisation. Finally, analysing born-digital data as historical sources requires an extension of source

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8 Jenny Oltersdorf and Stefan Schmunk, 'Von Forschungsdaten und wissenschaftlichen Sammlungen', in: *Bibliothek Forschung und Praxis*, 40/2 (2016), 179–185, https://doi.org/10.1515/bfp-2016-0036.

9 The characteristics of humanities data are explored in: Christof Schöch, 'Big? Smart? Clean? Messy? Data in the Humanities', in: *Journal of Digital Humanities*, 2/3 (2013), 2–13, http://journalofdigitalhumanities.org/2-3/big-smart-clean-messy-data-in-the-humanities/ (2020-11-20); A formal data lifecycle is suggested in: Johanna Puhl et al., 'Diskussion und Definition eines Research Data LifeCycle für die digitalen Geisteswissenschaften', DARIAH-DE Working Papers, 11 (2015), urn:nbn:de:gbv:7-dariah-2015-4-4; The tensions between conception and implementation of research data in the humanities are discussed in: Fabian Cremer, Lisa Klaffki and Timo Steyer, 'Der Chimäre auf der Spur: Forschungsdaten in den Geisteswissenschaften', in: *o-bib*, 5.2 (2018), 142–62, https://doi.org/10.5282/o-bib/2018H2S142-162.
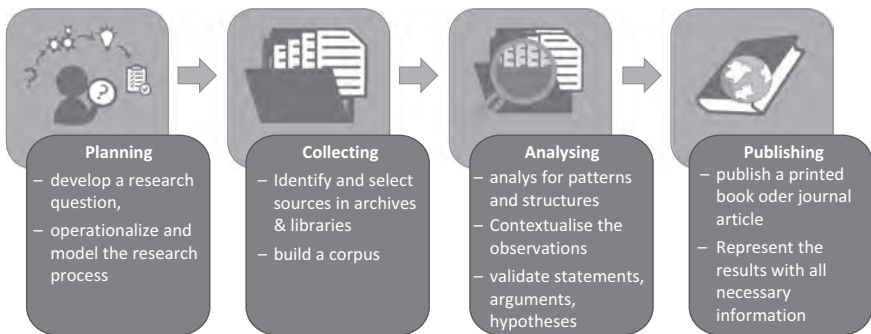
10 Johanna Drucker is elaborating on the concept of data as capta, taken and constructed: Johanna Drucker, 'Humanities Approaches to Graphical Display', in: *Digital Humanities Quarterly*, 005/1 (2011), http://www.digitalhumanities.org/dhq/vol/5/1/000091/000091.html (2020-11-20).

11 Christine L. Borgman, *Scholarship in the Digital Age: Information, Infrastructure, and the Internet*, Cambridge 2007, here 216.

criticism – from production, provenance and context to the different representations of data – reflecting the "dual nature of digital data as both content *and* form".[12] The development of historical methods on data and their critical reflection will significantly change the historical-scientific culture of the discipline, enable different research questions, expand the canon of methods, and can possibly change or even reshape previous knowledge orders.[13]

The workflows of historical research

Historical research ranges from individual research – still its most common setting – or research groups in smaller projects or institutions to large, collaborative and interdisciplinary projects. In the traditional workflow, researchers collect their sources (often only available in analogue form) in archives and libraries; analyse the selected corpus and answer their research questions through long-established historical methods. The resulting publication, usually a printed book or peer-reviewed journal article, explains the selection criteria, interprets the sources and cites their (physical) location, while an attached list of sources provides an overview of the collections used (figure 1).

Planning
– develop a research question,
– operationalize and model the research process

Collecting
– Identify and select sources in archives & libraries
– build a corpus

Analysing
– analys for patterns and structures
– Contextualise the observations
– validate statements, arguments, hypotheses

Publishing
– publish a printed book oder journal article
– Represent the results with all necessary information

Figure 1: Example of an analogue historical research workflow.

12 Christine Barats, Valérie Schafer, and Andreas Fickers, 'Fading Away . . . The Challenge of Sustainability in Digital Studies', in: *Digital Humanities Quarterly*, 14/3 (2020), http://www.digitalhumanities.org/dhq/vol/14/3/000484/000484.html (2020-11-20), here 18.
13 See Andreas Fickers, 'Update für die Hermeneutik. Geschichtswissenschaft auf dem Weg zur digitalen Forensik?', in: *Zeithistorische Forschungen*, 17/1 (2020), 157–68, https://doi.org/10.14765/ZZF.DOK-1765.

While this standardised approach guarantees transparency and intellectual comprehensibility, it limits the reuse of data to the interpretations and references made therein; moreover, the documentation, contextualisation, and enrichment of the sources is not transferred to the memory institutions that possess the original sources. Since the individual project is still the norm in the humanities, a research data management strategy must include measures to a) enrich analogue workflows with digital methods, services and tools; b) advance existing community practices towards standardised data management practices; and c) develop channels and opportunities to integrate such essential practices into the whole community.

Another notable scenario would be a traditionally oriented but completely digital project that could be described as follows. First, historically oriented researchers work together with an archive to digitise the original sources, enrich them with basic metadata, make them available as FAIR data and guarantee the long-term preservation of the digitised material, ensuring the quality of the digital objects according to the funder's guidelines. Next, the researchers go through the digitised material, augment it, correct the metadata, transcribe the sources and annotate the text with keywords representing the persons, institutions, places and events referred to therein with software tools provided by the digital research support centre. Based on this data, digital methods and tools for analysis will be applied to answer the research questions. Further, the project team designs data representation layers (which include an API and data dumps) in addition to a website and browser-based search and discovery functionalities. Finally, the research results (data and services) are hosted and maintained by an IT-infrastructure service institution, with data discovery being managed by information professionals from the memory institution. An institutional research data management service centre accompanies the project, serving as stewards for proper research data management, as described in the project's data management plan (figure 2).

Over the last decade an increasing number of projects have digitised or digitally transformed parts of their workflows. The scenario described above is still largely a vision of the future: such projects are extremely rare, as they provide multiple challenges for traditionally trained and skilled researchers, which additionally face the problem that collaborations among researchers, memory institutions and infrastructure partners are mostly insufficient.[14] To advance the

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14 See the different discussions in: *Historische Grundwissenschaften und die digitale Herausforderung*, ed. by Rüdiger Hohls, Claudia Prinz and Eva Schlotheuber, Historisches Forum (Berlin, 2016), XVIII, https://doi.org/10.18452/18771; and the introduction in: Marina Lemaire et al., *Das DIAMANT-Modell 2.0. Modellierung des FDM-Referenzprozesses und Empfehlungen für die*
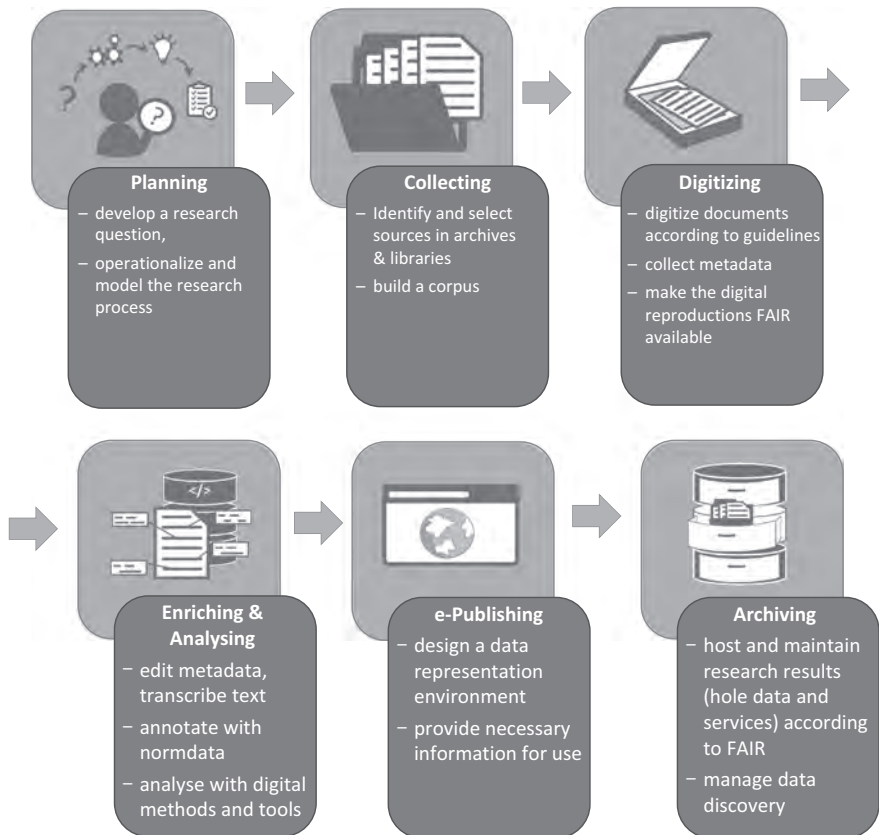
Figure 2: Example of a digital historical research workflow.

digital transformation of research, a research data management strategy must aim to: a) promote the implementation of digital workflows which enhance quality and sustainability of the research data; b) foster data management skills as a core competence in the historical sciences and the research supporting facilities such as data centers, libraries and RDM service units; and c) increase interoperability of the software tools and information systems used in order to create a consistent framework on project level and a functional ecosystem within the research domain.

While improving traditional research workflows, the field of "digital history" seeks to enhance and expand historical methodologies by integrating quantitative or computational methods such as text mining or network analysis.[15] These methods also add simulations, visualisations and research software to the research data types in the historical research domain. Understood as a transitional term, "digital history" emphasises a shift in research practices toward addressing born-digital data as a new type of source, developing digital methods for analysis and establishing new forms of academic publishing.[16] Using digital data, tools and methods causes dependencies on information technology and vice versa, which has to be incorporated into the principles of historical knowledge production as "digital hermeneutics".[17] Thus, it is crucial that a research data management strategy promotes a continuous dialogue in the historically oriented humanities on a) digital methods and their application in the different fields; b) on bringing data literacy into historical methodology and information science methodologies; and c) on the conditions of digital knowledge production, including its ethical and legal implications.

Historical research, regardless of its degree of digital transformation, is defined by its techniques. The historically oriented humanities share scholarly principles with the humanities overall, but domain-specific aspects are pointed out in the white paper "Digital History and Argument" of the Roy Rosenzweig Center for History and New Media:[18]

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15 An introduction in methods in digital history is given in: C. Annemieke Romein et al., 'State of the Field: Digital History', in: History, 105/365 (2020), 291–312 https://doi.org/10.1111/1468-229X.12969. Piotrowski and Fafinski argue that quantative methods have been integrated in history for a long time: Michael Piotrowski and Mateusz Fafinski, 'Nothing New Under the Sun? Computational Humanities and the Methodology of History', Proceedings of the Workshop on Computational Humanities Research, Amsterdam 2020, https://serval.unil.ch/notice/serval:BIB_907D09C8F5DF (2020-11-20).

16 Gerben Zaagsma, 'On Digital History', in: *BMGN - Low Countries Historical Review*, 128/4 (2013), 3–29.

17 For the concept of "digital hermeneutics" see: Marijn Koolen, Jasmijn van Gorp and Jacco van Ossenbruggen, 'Toward a Model for Digital Tool Criticism: Reflection as Integrative Practice', in: *Digital Scholarship in the Humanities*, 34/2 (2019), 368–85, https://doi.org/10.1093/llc/fqy048. Alberto Romele, Marta Severo and Paolo Furia, 'Digital Hermeneutics: From Interpreting with Machines to Interpretational Machines', in: *AI & SOCIETY*, 35/1 (2020), 73–86, https://doi.org/10.1007/s00146-018-0856-2. See also Fickers, ,Update für die Hermeneutik'.

18 Arguing with Digital History working group, *Digital History & Argument* (Roy Rosenzweig Center for History and New Media, 13 November 2017), https://rrchnm.org/argument-white-paper/ (2020-11-20). John Unsworth originally noted the Scholarly Primitives for the humanities: John Unsworth, 'Scholarly Primitives: What Methods Do Humanities Researchers Have in Common, and How Might Our Tools Reflect This?' presented at the Humanities Computing:

- *Selection*: In addition to the processes of capturing and creating data, researchers identify the sources that provide relevant evidence and select them as their data. This selection is based on "the truthfulness of a source, its aesthetic qualities, its representativeness, or its uniqueness."
- *Synthesis*: In order to validate statements, methods, arguments, hypotheses or theories, the selected sources and any additionally created data are analysed for patterns and structures through different modes of composition and comparison, arranged according to time, place, topic or other ordering principles.
- *Contextualisation*: The creation of an accurate, reliable and persuasive account of the past requires a complex picture of an event, including its environment. The scale of this context may vary widely: from biographical to global history or from a microhistorical focus to perspectives spanning centuries.
- *Communication*: The representation of the results conveys all necessary information about the past and the argument, including a description of the processes of selection, synthesis and contextualisation that were undertaken.

A strategic and comprehensive approach to research data management includes measures to support these principles, such as enhancing selection possibilities by extended access to sources and to detailed descriptions of their features; building these principles into the research workflow with its data lifecycle.

A significant portion of historical source material will remain analogue research data.[19] As Zaagsma notes, "The real challenge is to be consciously hybrid and to integrate 'traditional' and 'digital' approaches in a new practice of doing history".[20] There is a danger, though, "that our narratives of history and identity might thin out to become based on only the most visible sources, places

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formal methods, experimental practice, King's College, London 2000, http://www.people. virginia.edu/~jmu2m/Kings.5-00/primitives.html (2020-11-20).

19 According to the ENUMERATE 4 Survey, about 50 per cent of analogue heritage collections still need to be digitally reproduced, while only about 10 per cent are already digitised. Gerhard Jan Nauta, Wietske van den Heuvel, and Stephanie Teunisse, *Report on ENUMERATE Core Survey 4*, Europeana DSI 2– Access to Digital Resources of European Heritage, 31 August 2017, https://pro.europeana.eu/files/Europeana_Professional/Projects/Project_list/ ENUMERATE/deliverables/DSI-2_Deliverable%20D4.4_Europeana_Report%20on%20ENUMERATE %20Core%20Survey%204.pdf (2020-11-20), here 06.

20 Zaagsma, 'On Digital History', 17.

and narratives".[21] For this reason, a research data management strategy needs reflect hybrid approaches in mixed research data collections and analogue / digital combined methods. Also, the linkage between digital data and analogue sources has to be improved. The digitisation of heritage must be promoted through a systematic-programmatic strategy on the part of memory institutions and a research-driven effort.

In research data management, the data management plan (DMP) has become an established concept, and over the last decade funding bodies have increasingly advocated their use.[22] DMPs may also become mandatory elements of research proposals in the humanities, even if at present few DMPs are created outside of larger collaborative project proposals.[23] As a key instrument for research data management, the formal design has been already elaborated and adapted to the humanities domain.[24]

The meaning of metadata

Metadata describing analogue collections and sources – the catalogue of bibliographic records or inventory items, the oldest standard used by archives, libraries and museums to ensure the findability and accessibility of documents – has long been essential to the historical method as a way of referencing sources.

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21 Jennifer Edmond, 'Will Historians Ever Have Big Data?', in: *Computational History and Data-Driven Humanities*, ed. by Bojan Bozic et al., Cham 2016, CDLXXXII, 91–105, here 11, https://doi.org/10.1007/978-3-319-46224-0_9.

22 Nicholas Smale et al., 'The History, Advocacy and Efficacy of Data Management Plans', in: *BioRxiv*, 2018, https://doi.org/10.1101/443499.

23 At present, in Germany there is rarely an obligation to submit a data management plan as part of the procedure for acquiring third-party funding. Nevertheless, a development in this direction is visible. For example, the German Research Foundation (DFG) explicitly requires an explanation in applications of how the research data used and generated in the project will be handled and demands that it be made available to the greatest extent possible. The application forms ask whether the project has prepared a data management plan. Due to this rapid development in the last five years, the obligatory submission of a DMP, as it has been common in EU-HORIZON funding for a long time, is not far away. https://web.archive.org/web/20201022005933/https://www.dfg.de/en/research_funding/proposal_review_decision/applicants/research_data/index.html

24 Gisela Minn and Marina Lemaire, *Forschungsdatenmanagement in den Geisteswissenschaften. Eine Planungshilfe für die Erarbeitung eines digitalen Forschungskonzepts und die Erstellung eines Datenmanagementplans*, eSciences Working Papers 03, Trier 2017, http://nbn-resolving.de/urn:nbn:de:hbz:385-10715.

Beyond transparent referencing, researchers add significant meta information to their sources by describing documents or objects on an item level that were previously only indexed on a collection level (or as an archival box). In addition to noting an item's specific attributes, an index of the content is created by assigning headwords, subject terms and categories; identifying entities; or providing abstracts. The scholarly principle of *selection* also draws relationships to other items within a collection and beyond it. The principle of *contextualisation* enables positioning items within topic-oriented, temporal or spatial scales. The relevance of these metadata is best expressed by Drucker, who notes that few other kinds of information have a "greater impact on the way we read, receive, search, access, use, and engage with the primary materials of humanities studies than the metadata structures that organise and present that knowledge in digital form".[25] In sum, the scholarly principles of historical method, selection, synthesis and contextualisation, create rich metadata, which turns into research data in other contexts. Within the historically oriented humanities, a strict distinction between metadata and data would thus inevitably dissolve over time.

The diversity of research questions and approaches in the historically oriented humanities means there is no single metadata standard capable of describing all research data that is potentially relevant for historical research without forfeiting domain-specific information: thus, aiming for one common schema would be a mistake. Instead, a more decentralised approach promises to be more realistic and practicable. As long as metadata align with the standards of memory institutions, they can function as a knowledge organisation system about data, define minimum requirements for metainformation, enable automated exchange, foster international linking and allow for modular extension.[26] In this framework, formal harmonisation to remove diversity is counterproductive but advancing the interoperability of existing resources and the different organisational principles adds significant value to institutional missions and research needs. A research data management strategy should pursue achieving interoperability at a higher level of abstraction by identifying and mapping common concepts and

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25 Johanna Drucker, *SpecLab: Digital Aesthetics and Projects in Speculative Computing*, Chicago 2009, here 9.

26 This includes the metadata standards EAD (Encoded Archival Description) for archives, https://www.loc.gov/ead; LIDO (Lightweight Information Describing Objects), http://www.lido-schema.org/ and CIDOC-CRM (CIDOC Conceptual Reference Model), http://www.cidoc-crm.org/ for museums, MARC: MAchine-Readable Cataloging (LoC), https://www.loc.gov/marc/ for libraries, and METS/MODS: Metadata Encoding and Transmission Format / Metadata Object Description Schema, https://www.loc.gov/standards/mods/.

entities in data and metadata. The use of a suitable existing standard as a starting point in a research project makes this mapping much easier. If necessary, scholars will extend them with regard to specific requirements of their historical methods and for describing and documenting particular kinds of research data, whether to account for historical perspectives that require defined temporal or spatial scales or, more complexly, to integrate models of uncertainty and change.[27]

As noted, historical metadata is often created to support an argument but also provides a high-quality indexing of the research data that is potentially useful for discovery. For the free access and reuse of research data, rich metadata that serves both intellectual reuse as well as improved retrievability is crucial. A research data management strategy for a community of practice in the historical sciences, that jointly develops concepts, the following concepts are especially important.

Authority data

Despite the widespread adoption of uniform principles of spelling and writing in the last century, the sources used by historical disciplines contain named entities rich in variants and dialects and, of course, extend across countless languages. Preserving these original variations is a fundamental prerequisite for historical understanding and source criticism; at the same time, their heterogeneity poses challenges to identify those variants that refer to the same concept. To work with them as research data, therefore, such variants must be additionally provided with identifiers to enable entity referencing and allow links through ontologies, multilingualism and Linked (Open) Data.[28] In Germany, the Integrated Authority File (GND), as a standard for German-language authority data, mainly offers generalised concepts that are too broadly defined for scholarly applications in historically oriented fields.[29] This is part of a wider issue: whereas specific

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27 Andreas Kuczera, Thorsten Wübbena and Thomas Kollatz, *Die Modellierung des Zweifels: Schlüsselideen und -konzepte zur graphbasierten Modellierung von Unsicherheiten*, Sonderbände der ZfdG, Wolfenbüttel 2019, https://doi.org/10.17175/sb004.

28 Beat Estermann et al., *Basisregister und kontrollierte Vokabulare als Wegbereiter für Linked Open Data in der Schweiz* (Berner Fachhochschule, Institut Public Sector Transformation, 27 January 2020) https://arbor.bfh.ch/10249/ (2020-11-20).

29 Katrin Moeller, 'Standards für die Geschichtswissenschaft! Zu differenzierten Funktionen von Normdaten, Standards und Klassifikationen für die Geisteswissenschaften am Beispiel von Berufsklassifikationen', in: *Aufklärungsforschung Digital. Konzepte, Methoden, Perspektiven*, ed. by Jana Kittelmann and Anne Purschwitz, Halle 2019, 17–43, here 26–29. In the GND4C project, the German National Library is working with museums and archives to open the GND to cultural

classifications or categories are required in the research process, indexing tools for memory institutions rely upon generic forms of description and mapping. Authority data therefore bridge dynamic linguistic variations and analytic vocabularies and ontologies. One can distinguish among universally accepted authority-data standards (e.g. GND), subject-specific authority data used by larger communities and vocabularies and categories created by research projects to answer their research questions.

Historical bibliographies

Specialised or subject bibliographies continue to play a central role in the historically oriented humanities for referencing and researching literature. In digital form, these bibliographies are no longer closed but can potentially become open systems. Digital bibliographies often contain not only bibliographic records but also offer direct access to research literature. The bibliographically enhanced and high-quality metadata are also available as open data to other reference systems, such as union catalogues.[30] The conception of research data as a qualified research output and as independent publications demands their integration in relevant specialised bibliographies and to link them to published research syntheses (i.e. monographs and articles). Combining traditional publications and research data in bibliographies will increase the recognition of data publications as respected scholarly achievements. Research syntheses will gain added value by being linked to the data on which they are based.

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data from all sectors. See Detlev Balzer et al., 'Das Projekt "GND für Kulturdaten" (GND4C)', in: *o-bib. Das offene Bibliotheksjournal / Herausgeber VDB*, 6/4 (2019), 59–97, https://doi.org/10.5282/o-bib/2019H4S59-97.

30 Eva Kraus and Matti Stöhr, 'On the Way to a "German Historical Bibliography": Current State and Perspectives – The DFG Project "Continued Cooperative Development of Historical Subject Bibliographies"', in *Historical Bibliography as an Essential Source for Historiography*, ed. by Kristina Rexová et al. (Newcastle upon Tyre: Cambridge Scholars Publishing, 2015), 161–80. See also Wiebke Herr, Andreas C. Hofmann and Katrin Getschmann, 'Deutsche Historische Bibliografie. Präsentation, Partner und Perspektiven. Bericht über die Tagung am 25. Und 26. Oktober 2017 in München', in: *Zeitschrift für Bibliothekswesen und Bibliographie*, 65/2–3 (2018), 130–34, https://doi.org/10.3196/18642950186523168.

Ontologies

In information science, an ontology is a shared, formalised, explicit and machine-interpretable representation of concepts (or terms) and their relationships to each other.[31] Ontologies represent knowledge and enable the embedding of new insights into a knowledge system. Domain ontologies usually cover specific domains of knowledge and evolve independently of each other. The representation of ontologies is based on mathematical logic (description logics) and thereby language independent. By mapping the applied concepts to controlled vocabularies (authority data), they can be addressed via authority data identifiers. Identifiers not only help to distinguish ambiguous concepts from one another, but also allow concepts (and thus ontologies) to be maintained in several languages via labels. This is of great importance for the historically oriented disciplines, such as area studies or ancient history. At the same time, identifiers help to identify common concepts in different ontologies and thereby interconnect them. Linked ontologies form an important basis for knowledge graphs and Linked (Open) Data. They allow for a distributed development and maintenance of knowledge domains, while at the same time ensuring interconnectedness and interoperability.

Knowledge graphs

Knowledge graphs are based on ontologies.[32] They supplement the concepts modelled in an ontology with references to concrete instances that represent these concepts, e.g. object records in archives, museums and research data repositories.[33] Ontologies and knowledge graphs are thus suitable means for bringing together heterogeneous data sets and knowledge domains to make them interoperable. These characteristics meet the goal of linking research data across disciplines. Among the most relevant entities for the historically oriented humanities are: the representation of historical events; fuzzy/non-validated/contradictory facts; hypotheses; networks of people; and temporal, cultural and/or spatial variations in the meanings or labels of concepts.

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31 Steffen Staab and Rudi Studer, *Handbook on Ontologies*, 2nd edn, Berlin 2009.

32 Amit Singhal, 'Introducing the Knowledge Graph: Things, Not Strings', in: *Google Official Blog*, 2012, https://blog.google/products/search/introducing-knowledge-graph-things-not/ (2020-11-20).

33 Sören Auer et al., 'Towards a Knowledge Graph for Science', in: *Proceedings of the 8th International Conference on Web Intelligence, Mining and Semantics*, 1–6, https://doi.org/10.1145/3227609.3227689.

However, standardisation initiatives, and in particular ontological approaches and their technical implementation require significant efforts and pose several challenges:

– Formalising community-specific and research-driven description practices into quality-assured metadata standards, leading to discipline-specific extensions of established, proven standards by memory institutions;

– Enhancing the connectivity of research data through knowledge organisation systems with semantically clear and syntactically interoperable, machine-readable standards, enabling their integration in discovery systems;

– Developing technological solutions to enable the retrieval of data across information systems and metadata schemes, such as concrete implementations of ontological concepts and/or indexing layers;

– Integrating the use of metadata standards, quality assessment and data modelling into the basic skill sets of researchers and their methodology;

Furthermore, linked historical data presupposes a cultural change towards open data among researchers, their organisations and memory institutions through awareness raising, capacity building and innovation. But if common standards can be achieved, the reuse of data would also thrive across disciplinary boundaries.

The challenges of open and FAIR data

One of the motivations behind the FAIR principles is to enable the provision and reuse of data, a central aim of research data management. In the community of historically oriented humanities, we still see barriers to making data findable, accessible, interoperable and reusable. A commonly noted obstacle to the sharing of research data across all disciplines is the additional effort and resources necessary to prepare them.[34] In the historically oriented humanities, however, the time-consuming preparation and analysis of the sources and research data is a given. In fact, the data types created during historical research and through the application of historical methods – e.g. validation, provenance, transcriptions, editions, entity extraction, contextualisation, registries, etc. – could directly improve the reuse potential of the sources in other research contexts.

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34 Christine L. Borgman, 'The Conundrum of Sharing Research Data', in: *Journal of the American Society for Information Science and Technology*, 63/6 (2012), 1059–1078, https://doi.org/10.1002/asi.22634.

Thus, we are convinced that scholars do not shy away from data enrichment itself but rather from its publication and final revision. Why is this so? First, we think that a data publication culture has to be further established in our community. Second, we call for the specification of FAIR principles for the historically oriented humanities.

Enabling a data sharing culture in the historically oriented humanities

History remains one of the few humanities disciplines without domain-specific recommendations on research data management. This immediately suggests that a data sharing culture within the community has yet to be firmly established. Although we perceive a general awareness of the need for research data standards in the community,[35] there still is a lack of common recommendations and guidelines on how to find and adhere to appropriate standards, workflows and services. We see a particular need for the community of researches, infrastructure services and memory institutions to work together on the improvement and establishment of a data sharing culture in the following five areas:

1) Systematic training in digital literacy provides researchers with the basic skills in information technology and research data management that enable them to enhance their workflows digitally, to gain skills in and perspectives on the analysis of digital data, and enrich their source criticism with digital methods.

2) A lack of knowledge about the use and application of metadata standards, taxonomies, controlled vocabularies and authority data results in a situation in which the enrichment and annotation of data and sources falls short of their potential. Those who provide the above mentioned knowledge organisation systems, such as archives and libraries, have to continue the process of opening these tools to researchers, who in turn have to become aware of their advantages.

3) A lack of institutional support leaves researchers detached from necessary research data management services. As temporary third-party funded projects are not able to compensate for the lack of institutionalised research data management support, different approaches towards capacity building, such

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35 A general theme from the 4Memory Problem Stories, https://4memory.de/problem-stories-overview/.

as organised knowledge exchange, consulting services, recommendations for workflows and adaptable guidelines should be provided to the community.

4) Currently, publishing research data offers little professional reputation (e.g. in the context of granting tenure) and is not integrated into scholarly communication and quality management processes. A reputation economy for the historically oriented humanities requires continuous discussions towards a new data culture in our disciplines.

5) A lack of advice on legal and security issues hinder scholars in collecting research data and in subsequently publishing and reusing it. In addition to consultative support for researchers from their organisations, the community as a whole has to get involved in political discussions about copyright laws to achieve a regulatory framework that supports research.

Discipline-specific FAIRness: The case for the historically oriented humanities

Establishment of FAIR research data management will have to complement the efforts for changing the data sharing culture in the historically oriented humanities. The FAIR data principles themselves provide necessary guidelines for advancing data sharing and data-driven research. But as general recommendations, they have to be both adapted to specific issues and critically reflected upon within individual disciplines. Before making proposals for adapting each of the four principles to the historically oriented humanities, we would like to draw attention to two aspects that can reduce the FAIRness of research data in our community, especially in terms of accessibility and reusability.

First, copyright-related issues regarding humanities data arise quite often, as intellectual property rights are much more widespread than in the natural sciences, where machine-generated observational data are normally uncopyrighted. In our community, this poses a problem for the accessibility of research data and has to be dealt with by licensing of data in a meaningful way, e.g. through the family of Creative Commons licences. Still, uncertainty among researchers and a lack of advice remain common, and due to strict German and EU legislation, publication of research data remains difficult.

Second, considerations regarding privacy and research ethics have to influence our ideas about the FAIRness of research data in our community. For example, publishing interviews with people living in authoritarian or dictatorial regimes raises serious problems, since such publication could lead to negative consequences for them. Another example relates to research in small communities, in which

despite anonymisation, people can be identified relatively easily. And even if anonymisation can be achieved, it might hinder reuse, as the full information of an interview will remain unavailable to other researchers. Thus, in the case of research involving people, data should be as open as possible but as closed as necessary, with the consequences that entails for their FAIRness.

The Global Indigenous Data Alliance has raised similar questions about the (re-)use of indigenous data by presenting the CARE principles for Indigenous Data Governance.[36] These call for Indigenous data sovereignty, pledges for collective benefits from data ecosystems for Indigenous peoples and their authority to control data. They assert that researchers have special responsibilities when working with these data and should take the ethics of data collection into account in order to respect Indigenous peoples' rights and wellbeing. Although the development of the CARE principles was mainly supported by anthropologists, many aspects are relevant to historians as well and show how fruitful discipline-specific discussion of the FAIR principles can be. It is to this issue that we turn in the following section.

Findability

In historical research, the process of *selection* begins with finding primary sources. Therefore, reliable identification and registration of analogue artifacts is a longstanding practice in memory institutions. The use of archive, accession or inventory numbers as references is, similarly, a prevailing standard in historical research. However, many institutions and even established repositories still fail to provide persistent identifiers (PID) for their digital resources. Providers of relevant digital repositories and data collections should integrate PIDs where necessary and provide services to assign and resolve these.[37] Persistent addressing should be performed not only on the level of data collections and research data sets, but also within, to be able to identify and find granular data as well.

In addition to ensuring the findability of data through identifiers and rich metadata, the discovery channels and search methods are also of major importance. Library catalogues and bibliographies play an important role in the historically oriented humanities. Thus, research data should be indexed in these

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36 The Global Indigenous Data Alliance GIDA, 'CARE Principles of Indigenous Data Governance', 2019, https://www.gida-global.org/care (2020-11-20); for an example see Tahu Kukutai and John Taylor (eds.), *Indigenous Data Sovereignty: Toward an agenda*, Acton 2016.
37 Such as DOIs (Digital Object Identifiers) provided by DataCite and URNs (Uniform Resource Name) provided by German National Library.

traditional and domain-specific discovery tools alongside services such as Google Dataset Search or DataCite Search.

In the medium term, we see potential for creating a data space in which historians will be able to find multiple sources and linked data: material from archives, information on objects from museums, (scholarly) literature from libraries and research data from specialised repositories. This would increase the connectivity among the main scholarly infrastructures, overcoming a fragmentation of scholarly records that leaves a digitised source at the archive, its transcription in a repository and its reference in a monograph at the library by enabling the contextualisation of the data that is essential to the historical method. Technologies like authority data identifiers, ontologies and knowledge graphs are a promising way towards this path.

While cataloguing builds upon established heuristic search practices, concepts like the knowledge graph introduce new retrieval methods and differ from traditional browsing and searching for sources in memory institutions' information systems. As a consequence, and to ensure findability, the heuristics for datasets (and their different logics) have to be integrated into historical methodology and become integral parts of the professional training for historians and other scholars.

Accessibility

The FAIR principles define accessibility primarily through technical protocols relevant for service providers but provide no recommendations to researchers about how to improve accessibility beyond physical access to files. Filling this gap is left to the disciplines, which need a broad and open debate about the specific implications that data accessibility has for them. Transparency and reproducibility are essential quality requirements that are shared by the FAIR principles and the historical method.[38] Assessing and assuring these requirements, though, differs significantly between quantitative and qualitative research methods. Even if the scholarly principles of evidence selection, synthesis and contextualisation are described, comprehending, modelling and understanding hermeneutic processes is challenging. If guidelines for such documentation, models of scholarly

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38 Klaus E. Müller and Jörn Rüsen, *Historische Sinnbildung. Problemstellungen, Zeitkonzepte, Wahrnehmungshorizonte, Darstellungsstrategien*, Reinbek 1997. See also Fickers, ‚Update für die Hermeneutik', 2020.

practice and rule-based procedures are available, it becomes easier to make the interpretive steps of a research project comprehensible, even replicable.

Explaining the selection of sources and methods is already an established practice in historical research. Documentation within data publication will provide more than a general understanding of the research process.[39] It is an important instrument for understanding the composition, creation and archiving of data in the humanities, even enabling reproducible workflows.[40] In addition to data curation, accompanying processes in the sense of "data publishers" are essential for the development of institutional support services for the humanities.

Ensuring accessibility also includes technical access through standardised, open and processable file formats. It is not sustainable to store texts or data in containers that are difficult to reuse, as would be the case with text modules in image files or PDFs. Prioritising accessibility, to the contrary, encourages selecting and using formats that can be archived over the long term and still remain accessible and reusable.[41] Accessibility does not require the data to be *openly* available. Even if the data itself must be blocked or deleted due to data protection or to ethical or licensing restrictions, metadata and documentation can provide accessible information about it.

Interoperability

Establishing technical interoperability is a complex, but also an already well-defined task. It is more difficult to ensure the interoperability of the content: here, workflows and standards are still lacking, especially in historical research. Memory institutions, though, excel at the prerequisites of interoperability: precise

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39 Methods from the social sciences, for example, provide orientation here: Jan-Ocko Heuer et al., 'Kontextualisierung qualitativer Forschungsdaten für die Nachnutzung: eine Handreichung für Forschende zur Erstellung eines Studienreports', Bremen 2020, https://doi.org/10.26092/elib/166.

40 Jonathan Blumtritt and Patrick Sahle, Forschungsdatenmanagement als Puzzlespiel: Institutionelle Aufgaben und Rollen bei der Versorgung der Geistes- und Kulturwissenschaften, in: *Archivar,* 73/1 (2020), 19–24, here 21. See also DHd AG Datenzentren, *Geisteswissenschaftliche Datenzentren im deutschsprachigen Raum - Grundsatzpapier zur Sicherung der langfristigen Verfügbarkeit von Forschungsdaten* (Zenodo, 3 January 2018), https://doi.org/10.5281/zenodo.1134760.

41 This not only has advantages for searchability and retrievability but also facilitates processes of interoperability and reuse. Kyle Rimkus et al., 'Digital Preservation File Format Policies of ARL Member Libraries: An Analysis', in: *D-Lib Magazine*, 20/3-4 (2014), https://doi.org/10.1045/march2014-rimkus.

descriptions, persistence and authority data. Historical research, on the other hand, thrives on dynamic rearrangements, differentiated knowledge systems and accounting for multiple perspectives. To unleash its creative potential and reach significant conclusions, humanities research addresses the variety of contrasting perspectives that critical reconsiderations of knowledge production have stressed, particularly in the wake of long-running historiographical debates and methodological disputes. Making information interoperable means interlinking systems that require stable persistence (and metadata) with the dynamic multiperspectivity of research data.

The key problem relates to the comparability of terms, objects and scope. For the historical disciplines, similarities and differences across time are central issues, which require description through the categories, characteristics and properties of entities in a time-related, contextualised and conceptualised manner. Spatial, object and personal data – as well as entities of social stratification and relationship – also play central roles. For this purpose, controlled vocabularies, authority data, the GND and the setting of standards are important prerequisites: interoperable metadata, taxonomies or ontologies can be built on them. But the temporal and cultural binding of terms is often related to specific entities, and therefore, the historical and cultural perspectives have to be integrated in authority data or added as their extension. This may also encourage a broader use of vocabularies and reference systems.[42]

Historical disciplines have yet to have a comprehensive discussion about which common authority data and standards should be developed or established. Moreover, multilingualism has to be taken into account and is addressed through bridging national and international standards, e.g. the Virtual International Authority File (VIAF) or the Historical International Classification of Occupations (HISCO), which interlinks existing national authorities. In the end, the implementation of interoperability through authority data and standards will require creating data curation tools which either enhance or automate the data enrichment, in order to ease the process for the researchers.

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42 Torsten Hiltmann, 'Forschungsdaten in der (digitalen) Geschichtswissenschaft. Warum sie wichtig sind und wir gemeinsame Standards brauchen', in: *Digitale Geschichtswissenschaft (Blog)*, https://digigw.hypotheses.org/2622 (2020-11-20). See also Moeller, ,Standards für die Geschichtswissenschaft!', 17–22.

Reusability

The documentation of data quality is essential for other researchers to assess its value for further research. It has to go beyond minimal metadata like title or author, as these are not sufficient to document the historical principles of selection, synthesis and contextualisation. For the historically oriented humanities the concept of provenance is crucial, be it an ancient document from an archive or a born digital data set resulting from prosopographic research. A digital source criticism asks for information on the origin of data objects, their genesis and the modifications to which they were subjected during the research process.

While not all data necessarily requires rich annotation, extensive documentation or flawlessness in order to be reused, it is vital that the quality levels of data are made transparent to others. Defining different quality requirements and levels could provide a basic, but immediate and structured assessment of the data quality. These requirements and levels of data quality could be described and referenced externally, in a similar way to the Creative Commons licences. Scalable quality criteria could be implemented, allowing different degrees of data quality as sufficient according to the research settings. Otherwise, we are afraid that emphasis on data quality and documentation alone could prevent scholars from publishing data at all.[43]

Reusability as a scholarly practice means not only that the relevant information is stored in metadata but also that the community knows, how to cite data sets and whom to attribute, issues that are more complicated in huge projects where the people involved fulfill different roles and functions. Historians are used to working with sources that are centuries or even millennia old. So what does reuse mean in the long term preservation of born-digital research data? In contrast to the ten years that are proposed by the DFG and that may be sufficient in some disciplines, we are convinced that a much longer perspective is needed, one closer to the practices of archives and libraries which span centuries, even if we are aware of the huge and partly unsolved technical and technological challenges that accompany such an approach. And for scholarship in the humanities, we might even question whether reuse is the proper term at all. But can we speak of a hermeneutic reuse? Should we not rather call for spelling the R in FAIR as reinterpretable? Could research data serve as a source of the reasoning and hermeneutics of humanities scholars? Finally, within the technological concepts of

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43 Eva Schlotheuber and Johannes Paulmann, 'Digitale Wissensordnung und Datenqualität: Herausforderungen, Anforderungen und Beitrag historisch arbeitender Wissenschaften', in: *Archivar*, 73/1 (2020), 9–12, here 11.

harmonisation and interoperability relevant for FAIRness, humanities based concepts and priorities such as diversity, multilinguality, historical context, and complexity have to be preserved and introduced into computational and algorithm based approaches in order to avoid the "risk of losing thick description"[44] and a "future of record scarcity".[45]

A call to action

The historically oriented humanities are at a moment of transition of their research practices, their research objects and the organisational, economic and societal conditions of historical research. Even if the digital transformation has been overwhelming, it remains the case that the answer from the research communities cannot be passivity, as Gehring notes in a call for engagement from the historically oriented humanities to participate in the debates and developments in science policies, information infrastructures and research methods.[46] Data is meeting history (and the historically oriented humanities), and this will be more than a fleeting acquaintance: In many ways, digital data will be at the core of historiography. For this to become an equal and enduringly stable relationship, a discipline-specific research data management strategy and the adaptation of the FAIR principles to the scholarly principles of historical research appear to be reliable building blocks. A promising mode of participation has also emerged: a self-organised and collaborative coalition of research, memory and information infrastructure institutions.

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44 Erzsébet Tóth-Czifra, 'The Risk of Losing Thick Description: Data Management Challenges Arts and Humanities Face in the Evolving FAIR Data Ecosystem', in: *Digital Technology and the Practices of Humanities Research*, Cambridge 2019, 235–266, https://doi.org/10.11647/OBP.0192.
45 Roy Rosenzweig, 'Scarcity or Abundance? Preserving the Past in a Digital Era', in: *The American Historical Review*, 108/3 (2003), 735–62, https://doi.org/10.1086/ahr/108.3.735.
46 Petra Gehring, 'Digitalität als Sache von fachlichem Unterscheidungs- und Entscheidungsbedarf. Hype oder Chance? Experiment oder Falle?', in: *Die Geschichtswissenschaft im Digitalen Zeitalter*, VHD Journal, 9 (2020), 22–25, here 24.

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