



c e s a a

contemporary european studies association of australia

Review

NUMBER 36

MARCH 2009

ISSN 1441 0052

ARTICLES

- Student Essay: Natalie Latter
EU Citizenship 4
- Student Essay: Michael Dunstan
Was 1968 the last gasp of 19th century revolutionism? 15
- Sebastian Strangio
Political Culture and the Transitions to Democracy: Russia
and Poland in Comparative Perspective 26
- Student Essay: Mona Williams
The Collapse of Communism in the USSR and Poland 45
- Student Essay: Katherine Tucker
The Battle over Geographical Indications: Is it really worth the fight? 52

REGULAR FEATURES

- Letter from the Editor 2
- Book Review 77
-

LETTER FROM THE EDITOR

LISBON OR BUST?

This time last year, the Treaty of Lisbon still looked like the Next Big Thing in EU affairs. Now we know that Irish voters rejected the Treaty last June and while all the other Member States have now ratified it, there seem to be much bigger fish to fry in the form of the Global Financial Crisis.

The GFC has shown the impotence of the EU in the face of such a crisis. The European Central Bank has lowered interest rates in the euro zone but Member States have had to shore up their own trading banks. That is not the ECB's job and there is no other EU agency with the power and pockets to do it.

There may be some small *schadenfreude* in the euro zone that the British economy seems to have fallen harder and faster than most, but that is cold comfort when all are falling. The former East European countries seem to be particularly hard hit and it remains to be seen how much the euro zone states will bail them out. It is to be hoped that European unity, so hard won over sixty years, will not be lightly thrown away, but this is shaping as its biggest test. Now is the time for the rhetoric about solidarity to be turned into action.

EU-Australia Relations

The change of government in Australia at the end of 2007 seemed to bode well for Australia-EU relations. In 2008, a new Partnership Framework Agreement was signed. While it is mainly aspirational, it should lead to closer relations and co-operation across a wide range of activities. Again, the challenge will be to put the rhetoric into action.

If there is any silver lining to the GFC it is that it may help the world to lower its emissions. We may all discover that we can do more with less. Australia and the EU may be able to work together instead of being at loggerheads on trade and environment as they have been.

This Issue

This edition of the *CESAA Review* mainly consists of the winning entries from the 2007 CESAA Essay Competition. The editor can only apologise for the excessive delay in publication. Although considerable time has elapsed since they were written, the issues they canvas remain live.

Natalie Latter explores the nature of EU citizenship. Michael Dunstan ponders the nature of the events of 1968 in France in historical context. Sebastian Strangio backs up from victory in the 2006 CESAA Essay Competition by looking at the transition to

democracy of Russia and Poland. Complementarily, Mona Williams looks at the fall of communism in the USSR and Poland. Finally, Katherine Tucker examines the fight between the EU and Australia over Geographical Indications and asks whether it was worth having. The conclusion of a further agreement on this subject by Australia and the EU in 2008 demonstrates the continuing relevance of this debate.

This is the last issue of the *CESAA Review*. In May, 2009, the first issue of its trans-Tasman successor the *Australian and New Zealand Journal of European Studies* will be released. I would like to pay tribute to former editors and contributors and look forward to taking part in bringing Australian and New Zealand writing on European studies to an even wider audience.

Matt Harvey

STUDENT ESSAY:

Does European Union citizenship depart from the conventional understanding of citizenship, given that the EU is a non-state political entity?

Natalie Latter

Student, Department of Political Science and International Relations
University of Western Australia

(this essay received an Honourable Mention in the Honours section of the 2007 CESAA Essay Competition)

Citizenship of the European Union fundamentally transforms the traditional dichotomy between alien and citizen. The EU reinvents and mediates the relationship between Union citizens and member states through the institutions of EU citizenship. This is a novel form of dual citizenship, whereby the new form of citizenship expands upon and intervenes in the meaning of the original form of national citizenship. An examination of the interaction between national and Union citizenship reveals the differences between this new type of dual citizenship and conventional understandings of citizenship. Union citizenship significantly departs from conventional understandings of citizenship in that it is not a stand-alone status, but one that is crucially related to, and dependent upon, national citizenship and the resources of the member states.

The key difference between national and Union citizenship is the lack of an overarching nationality linked to the latter. The explicit decoupling of citizenship and nationality opens the way for human rights to be further decoupled from citizenship and weakens arguments for the exclusion of foreign nationals from the rights of citizenship. The framework used to analyse contemporary citizenship in Europe is multidimensional and captures more than a mere catalogue of formal legal citizenship rights. By categorising those rights in terms of relations between the EU and citizens on the one hand, and citizens and member states on the other, it becomes possible to examine how Union citizenship extends the institutions of citizenship beyond the national boundaries that confine conventional citizenship. The promise of Union citizenship lies in its very fluidity a product of its dependence on a dynamic interaction between multiple legal orders. This character makes Union citizenship less rigid than national citizenship, with more opportunities to challenge and develop its scope and meaning over time.

Citizenship can be divided into three analytical categories: status, rights and identity (Joppke 2007: 38). Citizenship as status 'denotes the formal state membership and the rules of access to it', while citizenship as rights refers to 'the formal capacities and immunities connected

with such status' (Joppke 2007: 38). Citizenship as identity refers to the self-perception of individuals as members of a collectivity (typically the nation) and the behaviour associated with such a perception (Joppke 2007: 38). Similarly, Weiner (1998: 24) identifies three elements of citizenship that 'influence the historical variability' of the concept: rights, access and belonging. I take these to be equivalent to Joppke's categories, although access and status are subtly different perspectives on membership. Status is determined by access to citizenship, which equalises the status of fellow citizens, whilst simultaneously differentiating between the status of citizens and non-citizens. Belonging and identity are clearly referring to the same psychological identifiers of citizenship. Objective legal citizenship provisions determine the content of rights and access, whereas the development of belonging or identity is largely subjective, although the state can still facilitate or hinder such a development.

There are several difficulties in applying the conventional understanding of citizenship to Union citizenship. Firstly, a given of EU scholarship is that the EU is not a state, and thus does not claim the same territorial jurisdiction as modern nation-states. Secondly, EU citizen rights are limited, particularly in the area of political and social rights, although rights relevant to the citizen-as-consumer or citizen-as-worker are the most highly developed core of Union citizenship. Thirdly, EU citizenship does not entail a sense of belonging to a unified community in the conventional sense associated with nation-state citizenship. Two interpretations of this discrepancy are possible. Either EU citizenship is an empty concept (or a metaphor, cf. Reich 2001) and fails to fulfil the requirements of normative theory. Alternatively, EU citizenship presents a challenge to normative theory, and adjustments to the conception of citizenship are required.

Both interpretations are true to some extent. If citizenship is merely seen as a catalogue of civil, political and social rights (in a Marshallian sense) then Union citizenship likely falls short of conventional understandings of citizenship. Yet a broader analysis of citizenship that examines more than a catalogue of rights enables the transformative potential of Union citizenship to be appreciated (cf. Bauböck 1994: vii). Such an understanding of citizenship includes the status of political membership that citizenship rights are attached to, the conditions of access to that status, and the sense of belonging to a political community that has been intimately linked in both the normative theory and the practice of conventional citizenship. Union citizenship is more usefully seen as one element in the construction of a European polity, and is thus constantly being developed both from above and from below. A crucial part of this development will be the use of normative claims to challenge aspects of rights, access or belonging. However, Union citizenship is not likely to replace national citizenship and thereby become a self-sufficient repository of the full promise of citizenship theory.

The formal citizenship provisions in the Maastricht Treaty outline the following rights (EUROPA 2007):

- (a) the right to move and reside freely within the EU (subject to certain limitations introduced by community law);
- (b) the right to vote for and stand as a candidate at municipal and European Parliament elections in whichever member state that an EU citizen resides;
- (c) access to the diplomatic and consular protection of another member state in a non-EU country if a citizen's member state is not represented in that country;
- (d) the right to petition the European Parliament and to complain to the European Ombudsman.

There are further rights that have developed in the case-law of the European Court of Justice, relating to the European Convention on Human Rights and the constitutional traditions of the member states. In particular, individuals have a right to contact and receive a response from any EU institution in one of the official EU languages, and rights of access to documents of the European Parliament, European Commission and Council.

Prior to the introduction of formal Union citizenship in the 1992 Maastricht Treaty, it was already a part of European discourse that the European Community provided an additional 'circle of rights' to national citizenship rights, exercisable on a different legal plane (Meehan 1997: 72). As early as the 1970s, European discourse envisaged two bases of citizenship policy at the EU level: 'special rights' and 'passport union' (Wiener 1997: 530). A third basis was added in 1979 when direct elections for the European Parliament were instituted (Schönlau 2005: 64-5). Passport policies aimed at creating a European identity through the issuance of a uniform Community passport and the abolition of internal frontier controls (Schönlau 2005: 64). 'Special rights' were intended to benefit people living in a member state other than their own, and those individuals who took advantage of the Community market freedoms. Voting rights for European Parliament elections are generally subsumed under the category of 'special rights' - those additional to national citizenship rights. However, I place them in a separate category of "EU rights" to emphasise the direct relationship between citizens and EU institutions that these rights establish. 'Special rights' primarily concern the relationship between EU citizens and EU member states, and raise the possibility of EU involvement in those relationships.

Given the economic origins of the EC and the EU, it is unsurprising that the most well-developed Union citizenship rights are 'special rights' that concern the citizen as an economic actor. The principles of non-discrimination and free movement are the cornerstones of Union

citizenship. In practice, these foundational rights are exercised (and were exercised prior to formal citizenship) by member state nationals against the member states rather than against the EU as such (Shaw 1997: 1). Indeed, until recently Union citizenship was believed to be insignificant until a citizen exercised rights of free movement to live in another EU country. It was not initially envisaged that the EU would directly impact on the relationship between a member state and its own nationals. Rather, it was presumed 'that Union citizenship becomes relevant only once a person lives in another member state of the Union or in a third country' (Bauböck 1997: 11). Yet recent cases before the ECJ (examined below) have expanded the impact of EU citizenship on national citizenship quite significantly, opening up the possibility for a more dynamic development of both citizenships in the future.

According to Weiler's analysis (1996: 4), the creation of EU citizenship in the 1992 Maastricht Treaty was supposed to reinforce a sense of belonging to the Union and confer rights on citizens that tie them to the Union. He rightly questions that surely it was more important to make clear that the Union belongs to the citizens. Indeed, the paucity of political rights, or rather the lack of impact of those political rights, is a major limitation of Union citizenship. Weiler even suggests that Union citizenship was mainly a cynical public relations exercise, a less damning interpretation than accusing elites of a lack of understanding of the critical meaning and importance of citizenship. He concludes that at 'best it represents a failure of the imagination. An inability to think of citizenship in any terms other than those resulting from the culture of the State and the Nation' (Weiler 1996: 4). Shaw (1997: 1) similarly argues that 'citizenship is not just a formal legal concept, which the EU can buy into when it has reached a particular stage of development – although the importance of citizenship of the EU as a legal status should not be underestimated'.

However, as Prueß (1996: 126) argues, neither hopes nor fears about Union citizenship usurping national citizenship and belonging are warranted. It is unlikely that Union citizenship is ever going to develop along the lines of a federal state, such as US citizenship, which only supplanted that of the states after the civil war (Bauböck 1997: 13). Further, it is likely that Union citizenship will develop along a new path and will in fact have tangible meaning to citizens rather than being a mere empty concept. Weiler's concern over the relative insignificance of 'EU rights' compared to equivalent conventional citizenship rights is misplaced and misses the great innovation of 'special rights'. The significance of EU citizenship is that these 'special rights' are capable of fundamentally transforming the relationship between EU citizens and EU member states. The conventional notion of state sovereignty can be challenged when the member states are no longer able solely to determine the rights that accrue to their citizens and to non-nationals who are also EU citizens. While it is the member

states and not the EU that control access to EU citizenship¹, this does not mean they can control how Union rights are exercised.

A brief comparison with US citizenship is useful in understanding the divergence of Union citizenship from conventional understandings of citizenship, notwithstanding the very different socio-historical contexts. In one sense, Union citizenship has a similar aim to the original understanding of federal US citizenship, although the Union's character fits better with the US Anti-Federalists than the Federalists (Meehan 1996: 100). The US Supreme Court commented in 1869 that US citizenship served to remove 'from the citizens of each state the disabilities of alienage in the other States'.² Unlike the US case, it is unlikely that Union citizenship will replace national citizenship in the foreseeable future. Alienage is likely to continue to be a 'hallmark of Union citizenship' (Prueß 1996: 139). Yet the intention of both the free movement and non-discrimination provisions is to remove 'the disabilities of alienage', at least in a socio-economic, if not a psychological, sense. In these functional senses, Union citizenship is more concerned with the relation between citizen and member state than with the relation between citizen and Union (Wollenschläger 2007: 4). However, attempts to remove the 'disabilities of alienage' experienced at the national level requires a shift to more consistent relations between citizen and state across the EU, which may in turn increase the sense of commonality and "Europeanness" amongst Union citizens.

EU citizenship is automatically acquired alongside member state nationality. Thus, conditions of access to EU citizenship also differ from conventional forms of citizenship acquisition. There are two forms of conventional citizenship acquisition, *ius soli* and *ius sanguinis*, membership via birth on state territory and via descent, respectively. Neither of these applies to Union citizenship, which does not have the same degree of territorial status as a citizenship of a state since the EU itself is not a state. Union citizenship is not derived from a pre-political or extra-political EU identity (especially not a national EU identity), but it is still derived from a *preceding* membership of the member states. Union citizenship is additional to national citizenship of the member states. Carlos Closa (1995: 510) terms it a '[derived] condition of nationality'. This relationship with nationality is unconventional in that the EU itself does not determine the conditions of acquiring or losing nationality. Setting these conditions is a member state prerogative. This means that an individual's status in a different legal order (of a member state) determines whether that individual has the status of citizen in the EU's legal order. As one author has remarked, Union citizenship is not an 'autonomous legal category', remaining instead

¹ Subject to limitations under international law and human rights provisions.

² US Supreme Court Case *Paul v. Virginia*, 75 U.S. 168, 180 (1869).

a category without roots in the political space which it designates, rooted in another space - that of the Member States

(Rousseau 2005: 45).

Union citizenship thus has no firm foundation in an EU political space because the link with nationality does not occur at the level of the Union. This is significant because it opens the possibility for action taken in either political arena to influence the development of Union citizenship.

While not immediately obvious, this derivation of Union citizenship is actually a major departure from the conventional understanding of citizenship in relation to nationality. The reference to 'nationality' obscures the fact that this nationality is only relevant for conferral of citizenship. All Union citizens are to be treated without regard for their nationality. Conventional citizenship has become synonymous with nationality, but there is no European nationality that coincides with EU citizenship. There are now 27 different rules that determine whether one qualifies as a Union citizen, corresponding to the different rules about who is a national of each member state (Meehan 1997: 78). Wiener (1997:531) notes that this decoupling of citizenship and nationality is the 'most striking difference between Union citizenship and modern citizenship'. Only with Union citizenship does this decoupling explicitly and legally take place. It thus holds the promise of transforming citizenship to overcome modern conceptual tensions between nation and state boundaries (i.e. the narrower boundaries of belonging compared to those of subjection to state power) (cf. Bauböck 1994, Benhabib 2004).

One of the central aspects of citizenship status is exclusion (Lehning 1997: 182). Yet in the European Union, many citizen rights are actually not exclusive to citizens at all, but available to third country residents. The significant rights that are exclusive to Union citizens include the right to vote in European Parliament and local elections (although Scandinavian countries have given third country residents the latter right), and the rights of diplomatic and consular protection. The right of free movement that forms the core of Union citizenship applies to all European residents. However, Union citizens enjoy a right to work that is not shared with third country residents, thereby diminishing the significance of freedom of movement across the EU for third country residents.

It could be argued that Union citizenship opens the possibility for 'place' (residence) to become more important than nationality in accessing the privileges of membership (Meehan 1996: 102) since Union citizenship has no internal connection to nationality except that which takes place on a different legal plane.

However, this optimistic interpretation is not shared by Rainer Bauböck, who notes three major negative impacts on third country residents of EU countries (1997: 11-13). Firstly, the connection between national and EU citizenship weakens claims for inclusion by individuals who do not hold the nationality of an EU member state. Long-term third country residents are disadvantaged relative to non-national Union citizens who may merely be passing through an EU member state. Secondly, access to Union citizenship is unequal across the EU due to the different national citizenship laws. Whilst once this was a matter of inequality in different legal spaces, it can now be seen as inequality within a single legal space (Bauböck 1997: 13). Bauböck uses the example of a Turkish brother and sister, who migrate to Germany and Sweden respectively. After 5 years, the sister naturalises and thus becomes a Union citizen. She could now live with her brother in Germany and be in a significantly stronger position, with greater access to employment, as well as the ability to vote in local and European Parliament elections (Bauböck 1997: 13). Thirdly, unequal conditions of employment may result in a diminished capacity for third country residents to find employment. Finally, internal freedom of movement has resulted in strengthened external borders and admission to EU member states is now more difficult for third country aliens.

This does not mean that Union citizenship has already betrayed its promise of transforming citizenship and decoupling nationality and citizenship. The possibility of extending citizenship rights to resident third country nationals has not necessarily become less likely with the institution of Union citizenship (Benhabib 2004: 167). Union citizenship depends on the exclusive properties of national citizenship, but because this exclusion occurs in a different legal space, there are greater opportunities to extend Union citizenship principles and rights to third country residents beyond national barriers. Indeed, the inequality between foreigners with Union citizenship and third country residents is not as great as that between third country residents and national citizens, yet the opportunities to challenge this inequality are greater in the case of Union citizenship than national citizenship, not least of all because the inequalities are all the more visible. As Benhabib notes, the progress of trends towards the 'integration of third country nationals into the EU rights regime is well advanced and...these trends are quite irreversible' (2004: 167).

The status of Union citizenship as a complement to national citizenship does not entail that the former is subordinate to the latter. Indeed, some bizarre legal problems have arisen in the context of the principle of non-discrimination on the grounds of nationality. In some situations, nationals of one state can be disadvantaged relative to nationals of other member states who are resident in first individual's country. It is worth discussing a recent ruling in the European Court of Justice as it relates crucially to the promise inherent in Union citizenship to

broaden the scope of national citizenship. In the *Carpenter* case³, a British national who married a woman illegally resident in the country appealed her deportation using Community directives on the right of family members of citizens to remain with them, irrespective of the nationality of one's family. This was intended to apply to the family of those EU citizens who were resident in an EU member state other than their own, but in this case applied to a national in his *own* member state. To do otherwise would have created a bizarre situation where, for example, Irish nationals resident in Britain could have their family remain with them by virtue of being a non-national, whereas a British national could not exercise the same right. The result of this application is a dramatic intervention in the ability of a member state to regulate the lives of their own nationals.

This case shows the significance of 'special rights' and the dynamic interaction between two legal planes, which can produce unexpected results. Since the Union legal order determines the content of Union citizenship rights whereas the member states independently control access to Union citizenship, this dynamic interaction is necessary for the very existence of Union citizenship. The possibilities for challenging access to, and rights of, Union or national citizenship are thus greatly increased. Citizens and residents can pose such a challenge legally through the ECJ, the European Court of Human Rights, or national courts, as well as politically through a multiplicity of national and transnational organisations, both governmental and non-governmental. The exclusion from certain privileges of membership of third country residents in particular can be challenged in both national and EU legal orders. If the *Carpenter* case is anything to go by, the results of such challenges are far from certain.

Union citizenship is a fundamental aspect of the construction of the European Union polity. The content of citizenship is less important than the ability to contribute to the construction of the EU through the practice of citizenship, particularly through claims for inclusion from third country nationals and the wider applicability of the principle of non-discrimination. The essential decoupling of nationality from citizenship at the EU-level makes the development and extension of Union citizenship rights more likely than the development of national citizenship rights. This can be seen particularly in the *Carpenter* case, where rights accruing to EU citizens can alter the relationship between a state and its nationals.

The introduction of EU citizenship has decentred citizenship rights across multiple levels and represents a fundamental transformation of the conventional association between nationality and citizenship. As a consequence of the EU's lack of state-like powers, the significance of Union citizenship is increasingly apparent in terms of the EU's growing role in mediating the

³ Court of Justice of the European Communities, Case C-60/00 *Carpenter* [2002] ECR I-6279.

LATTER: EUROPEAN UNION CITIZENSHIP

relationship between citizens and member states. This inherent dual nature of European citizenship marks a departure from conventional understandings of citizenship tied to nationality and state sovereignty. The interplay between national and EU legal orders multiplies the available avenues for individuals to challenge access to, and rights of, EU citizenship. EU citizenship represents a challenge to the conventional meaning of citizenship, and the unique institutions of Union citizenship are already developing along a path that promises to continue to transform the meaning of citizenship for contemporary Europe.

REFERENCES

- Bauböck, R. (1994), *Transnational Citizenship: Membership and Rights in International Migration*, (Hants, England: Edward Elgar Publishing Limited).
- *(1997), *Citizenship and National Identities in the European Union*, Jean Monnet Working Paper 04/97, Harvard Law School.
- Benhabib, Seyla (2004), *The Rights of Others: Aliens, Residents and Citizens*, Cambridge: Cambridge University Press).
- Closa, Carlos (1995), 'Citizenship of the Union and Nationality of the Member States', *Common Market Law Review*, v. 32, no. 2, pp. 487-518.
- Court of Justice of the European Communities, Case C-60/00 Carpenter [2002] ECR I-6279.
- Guild, Elspeth (2003), 'Developing European Citizenship or Discarding It? Multicultural Citizenship Theory in Light of the *Carpenter* Judgement of the European Court of Justice', *The Good Society*, v. 12, n. 2, pp. 22-25.
- Joppke, Christian (2007), 'Transformation of Citizenship: Status, Rights, Identity', *Citizenship Studies*, v. 11, n. 1, pp. 37-48.
- Lehning, Percy B. (1997), 'European Citizenship: A Mirage?', in Percy B. Lehning and Albert Weale (eds.), *Citizenship, Democracy and Justice in the New Europe*, (London: Routledge), pp. 175-199.
- Meehan, Elizabeth (1996), 'European Integration and Citizens' Rights: A Comparative Perspective', *Publius*, v. 26, No. 4, pp. 99-121.
- * (1997), 'Political Pluralism and European Citizenship', in Percy B. Lehning and Albert Weale (eds.), *Citizenship, Democracy and Justice in the New Europe*, (London: Routledge), pp. 69-85.
- Prueß, Ulrich (1996), 'Two Challenges to European Citizenship', in Richard Bellamy and Dario Castiglione, *Constitutionalism in Transformation: European and Theoretical Perspectives*, (Oxford: Blackwell Publishers), pp. 122-140.
- Reich, Norbert (2001), 'Union Citizenship - Metaphor or Source of Rights?' *European Law Journal*, v. 7, no. 1, pp. 4-23.
- Rousseau, Dominique (2005), 'Citizenship in Abeyance', *European Constitutional Law Review*, n. 1, pp. 44-46.
- Schönlau, Justus (2005), *Drafting the EU Charter: Rights, Legitimacy and Process*, (Hampshire: Palgrave MacMillan).
- Shaw, Josephine (1997) 'Citizenship of the Union: Towards a Post-National Membership?', Jean Monnet Working Papers 06/97, Harvard Law School.
- US Supreme Court Case *Paul v. Virginia*, 75 U.S. 168, 180 (1869).
- Weiler, J.H.H. (1996), 'The Selling of Europe: The Discourse of European Citizenship in the IGC 1996', Jean Monnet Program Papers, New York University School of Law, Available

LATTER: EUROPEAN UNION CITIZENSHIP

from: <<http://www.jeanmonnetprogram.org/papers/96/9603.html>> [24 October 2006].

Weiner, Antje (1997), *'European' Citizenship Practice: Building Institutions of a Non-State*, (Boulder, Colorado: Westview Press).

Wollenschläger, Ferdinand (2007), *The Europeanization of Citizenship: National and Union citizenships as complementary affiliations in a multi-level polity*. Paper presented at the EUSA Tenth Biennial International Conference Montreal, Canada, May 17-May 19, 2007. Available from: <<<http://www.unc.edu/euce/eusa2007/papers/wollenschlager-f-03h.pdf>>> [28 May 2007].

INTERNET RESOURCES

EUROPA, Justice and Home Affairs (2007), 'European Union Citizenship', Available from: <<http://ec.europa.eu/justice_home/fsj/citizenship/fsj_citizenship_intro_en.htm>> [20 May 2007].

STUDENT ESSAY:

Were the French events of May '68 the last expression of the 19th century revolutionary ideology? To what extent did they in fact address some of the new problems of post-industrial society?

Michael Dunstan

Student, Monash University

(this essay received an Honourable Mention in the Undergraduate section of the CESAA Essay Competition 2007)

But the new radicalisms were as much disorderly symptoms as consciously directed movements. [...] The movements of 1968 provided flashes of a future still being shaped - class structures being recomposed, labor movements losing their distinctive cultures and community ground, service industries dominating the labor market, new technologies and labor processes linked to new discourses of self-management and alienation. But it was only through the explosions of 1968 that social theorists, activists, and citizens began to grasp what that future contained.¹

The French events of May 1968 are a juncture in the socio-political history of France in particular, and the West in general. As it has been suggested, the youthful instigators of the protests and strikes, consciously or otherwise, manifested what the future would be. However, history states that, although uniquely different, the younger generation still shares a commonality with its forebears in history's gradual wax and wane of ideas. In this essay, it is suggested that May 1968 was no different. On the one hand, the events were the last to express what could be labelled as the "symbolism" of the 19th century revolutionary ideology. However, on the other hand, we can also see in them symptoms of, and possibly attempts to address, the problems of the "post-industrial" society. In arguing this, I shall firstly discuss the 19th century revolutionary ideology and its manifestations, with an emphasis on the socialist revolutionary ideology, given its relevance to May 1968. Secondly, I will then suggest that it is possible to express this ideology either in its total "Jacobin" form, or in a "centre-oriented

¹ Geoff Eley, *Forging Democracy: The History of the Left in Europe, 1850-2000*, New York: Oxford University Press, 2002, pp 363-4.

symbolic” form. Thirdly, using this distinction, I will then argue that, although symbolically revolutionary, May 1968 was not revolutionary in the strict definition of the word, and that, fourthly, it was part of the last expression in the West of the symbolic revolutionary ideology, given the West’s subsequent, post-industrial, desegregated stratification of society. Finally, after defining “post-industrial” and its concomitant problems, it is argued that it is unlikely that May 1968 could be seen as consciously addressing these problems, although it could be argued as unconsciously doing so.

* * *

A good place to begin with the idea of the revolutionary ideology is the idea of ideology itself. Although nebulous, and varied in terms of application, time period and location, the idea of “ideology” can be traced to ‘the course and aftermath of the American and French Revolutions [...] that sought to offer projects of total social and political reconstruction’.² Ideology was a truly *modern* idea that human rationality can, and should, transform society for the better: ideology was thus an all-encapsulating idea containing ‘critique, goal and agency’.³ In its very nature, ideology was thus, in the beginning, revolutionary. For the sake of clarity, it is hence sensible to label the original conception of ideology as “revolutionary ideology”, in contrast to the more general idea of ideology today as distinguishing ‘different “styles of thought”’.⁴

According to John Schwarzmantel, (revolutionary) ideology of this period began with the “liberal” ideology of the French and American Revolutions that emphasised ‘the rational individual and the limited state’, but later also further developed into nationalism and socialism.⁵ Given the Marxist overtones usually associated with May 1968,⁶ the later shall be our focus here; socialism (and Marxism), contra liberalism, takes a ‘cybernetic’ view of society in that society needs a guiding mind other than the “invisible hand” of the market.⁷ Through

² John Schwarzmantel, *The Age of Ideology: Political Ideologies from the American Revolution to Postmodern Times*, New York: New York University Press, 1998, p 63.

³ Ibid.

⁴ Allan Bullock and Oliver Stallybrass (eds), *The Fontana Dictionary of Modern Thought*, London: Fontana, 1977, p 298.

⁵ Schwarzmantel, above n 2, p 64.

⁶ See, eg, William I Hitchcock, *The Struggle for Europe: The History of the Continent Since 1945*, London: Profile Books, 2004, p 247.

⁷ Schwarzmantel, above n 2, p 88.

the state, society can hence reach a utopia with ‘communal, organic, and collectivist values’⁸ by pursuing a materially-driven dialectic.⁹ Positively reinforcing the ‘latent radicalism’ of Enlightenment rationality that is the basis of both the socialist and liberal revolutionary ideology (namely, a requirement of human re-configuration),¹⁰ this materialist view of history lends further weight to the need for human action to bring about society’s utopia.

* * *

It is this need for human action that is behind the distinction between the “Jacobin” and “centre-oriented symbolic” applications/interpretations of the revolutionary ideology. In its totality, the revolutionary ideology required radical and complete human action, as ‘social and political institutions’ were required to be ‘measured against rationally formulated standards and brought into conformity with them’.¹¹ When writing that, according to the revolutionary ideology, ‘economic, social and cultural changes are always seen as mutations’ which must make way for ‘the triumph of reason, most often understood as a kind of natural force’,¹² Alain Touraine thus echoes Edmund Burke’s comment that the revolutionaries have “the rights of men”, and that ‘[a]gainst these there can be no prescription’.¹³ Social actors and institutions are thus not capable of achieving this alteration of society within an irrational cultural and social paradigm, so it is up to the state to do so,¹⁴ making the idea of “social revolution” a ‘contradiction in terms, for the essence of revolution is that it imposes total power so that no part of society can be defined outside of its relations’.¹⁵ Revolutionary radicalism is hence

⁸ Trygve R Tholfsen, *Ideology and Revolution in Modern Europe: An Essay on the Role of Ideas in History*, New York: Columbia University Press, 1994, p 77.

⁹ C J Arthur, ‘Editor’s Introduction’ in Karl Marx and Frederick Engels, *The German Ideology Part One*, New York: International Publishers, 1970, p 21.

¹⁰ Tholfsen, above n 8, p 40.

¹¹ Ibid.

¹² Alain Touraine, ‘The Idea of Revolution’ in Mike Featherstone (ed), *Global Culture, Nationalism, Globalisation and Modernity*, London: Sage, 1990, pp 121-41, p 122.

¹³ Edmund Burke, *Reflections on the French Revolution* (1790) available at <<http://www.bartleby.com/24/3/>> at 20 July 2007., ¶ 92.

¹⁴ Touraine, ‘The Idea of Revolution’, above n 12, p 122.

¹⁵ Ibid, p 125.

twofold: firstly, that Enlightenment “rationality” is the only normative yardstick, and secondly, it is only the state that holds this rationality.

The application of this radicalism had a certain inevitability of violence, as illustrated by the Jacobins and Bolsheviks, as well as revolutionary texts of different political persuasions.¹⁶ However, it has been noted that this sense of revolution only truly existed in Western Europe during the French Revolution, as subsequent revolutions, including even the 19th century revolutions such as those in France in 1848 and 1870, exhibited less and less of the same violent radicalism, and became, as time went by, further detached from the original Jacobin ideal.¹⁷ Rather, writers such as S N Eisenstadt argue that what remained was a romantic attraction to ‘revolutionary symbolism’ of the “‘real, classical Great Revolutions’”.¹⁸ After all, even Sartre, a major intellectual influence for the student protestors, admitted that ‘[t]here is mythologization in the world of revolution too’.¹⁹

Although this revolutionary symbolism is certainly less than the traditional revolutionary ideology, it is arguable that it is still more than having no revolutionary ideology at all, and hence should be seen as being at least as a theoretically-based expression of its predecessor, and not just mere window dressing. Even though it is often unclear what is actually meant by symbolic attachment, I would argue that it concerns the phenomenon of social actors who no longer hold an operative belief in the two totalities of radical rationalism and state control, but yet still hold a belief in the value of ‘the attainment of participation in the sociological and cultural centers’, or, in other words, a belief that society can and should change itself for the better through centralised action, and that they can and should play a part in it.²⁰

¹⁶ See especially, Pierre-Joseph Proudhon, *What is Property?* (1840); Vladimir I Lenin, *What is to be done?* (1902); Georges Sorel, *Reflections on Violence* (1908); Filippo Tommaso Marinetti, *Futurist Manifesto* (1909); Joseph Stalin, *The Dictatorship of the Proletariat* (1925).

¹⁷ Shmuel Noah Eisenstadt, *European Civilization in a Comparative Perspective*, Oslo: Norwegian University Press, 1987, p 124.

¹⁸ Ibid, p 109. See also Spencer M Di Scala and Salvo Mastellone, *European Political Thought 1815-1989*, Boulder, USA: Westview Press, 1998, p 194, who make reference to the ‘romantic desire for social renovation’.

¹⁹ Jean-Paul Sartre (translated by JA Underwood and John Calder), *Politics and Literature*, London: Calder and Boyars, 1973, p 32.

²⁰ See Eisenstadt, above n 17, p 125.

* * *

With this distinction between the revolutionary ideology and its quasi-ideological, symbolic manifestation in mind, what, if anything, did the French events of May 1968 express? It may be helpful to firstly describe the events which took place, which began on May the second when the left-wing student union office was attacked at the University of Paris, Nanterre. Maoist students protesting against this were dealt with by police arrests, which in turn sparked violent police-student clashes. The brutality of this police response led to larger street protests and battles between the authorities and increasing numbers of students culminating in May the tenth's "night of the barricades", and, eventually, nation-wide union strikes involving nine million workers.²¹ The student protestors, in part driven by frustrations regarding the increasingly decrepit state of French universities²² and the authoritarian nature of Gaullist rule,²³ were also driven 'by a potent blend of Marxist radicalism, anti-Americanism, antiestablishment rhetoric, alienation from the values of their parents, and a yearning to challenge what they viewed as a static, consumer-centered postwar society'.²⁴ Protestor graffiti of the time emphasised this dissatisfaction with society and a desire to change it²⁵ when stating that 'the barricade blocks the street but opens the way', and 'a single nonrevolutionary weekend is infinitely bloodier than a month of permanent revolution'.²⁶ This belief was self-consciously linked to the revolutionary spirit that had "returned"²⁷ to transform what was, in Sartre's words, a 'bourgeois democracy' that 'denied the existence of classes'.²⁸

²¹ This account can be found in Ronald Fraser, *1968: A Student Generation in Revolt*, London: Chatto and Windus, 1988, pp 177-203.

²² Hitchcock, above n 6, p 247.

²³ See, eg, *ibid*, p 249; Eley, above n 1, p 353; Fraser, above n 21, p 181.

²⁴ Hitchcock, above n 6, p 247.

²⁵ The protestors exhibited 'a desire for radical change, a desire for a different form of society': Fraser, above n 21, p 192.

²⁶ Andrew Feenberg and Jim Freedman, *When Poetry Ruled the Streets: The French May Events of 1968*, Albany USA: State University of New York Press, 2001, p 89.

²⁷ *Ibid*, p 78.

²⁸ Jean-Paul Sartre, 'Is this Democracy?' in Geoffrey Wall (ed), *Modern Times: Selected Non-Fiction*, London: Penguin, 2000, pp 146-51, p 151.

However, as it has already been suggested, although the protests fed on traditional revolutionary symbolism,²⁹ they did not exhibit the “Jacobin” aspect of the ideology, as the desire for centre-driven participation did not involve the desire, other than that of extremist fringe groups, for a revolutionary elitist, centre-driven control and change.³⁰ The protests were instead spontaneous, and not lead by a single leader or leadership group.³¹ This pluralism, being ‘within a schema of social demands and political responses’,³² is hence, within our theoretical framework, not that of the revolutionary ideology *per se*. Rather, it was more a *social movement* embracing principles of the revolutionary ideology,³³ in reaction to the excesses/imperfections of the modern state, itself a product of the revolutionary ideology and the concomitant separation of ‘instrumental rationality from the rest of the social organization’.³⁴ The protests could thus be seen as similar, at least in part, to the Eastern European revolutions of 1989,³⁵ in that they are both responses to corruptions (perceived or otherwise) to the product of the revolutionary ideology, that still, however, remain within the general symbolic/centre-oriented framework of the ideology itself.

* * *

It is also arguable that the protests, being *an* expression of the European revolutionary ideology, were also *the* last major expression of it. This is evinced in the “resolution” of the protests themselves, which were largely dissipated by the government’s large increases in wages and working conditions³⁶ that placated the ultimately opportunistic (ie, not revolutionarily-inspired) union-driven element³⁷ of the protests. Although I have argued that

²⁹ Eisenstadt, *European Civilization in a Comparative Perspective*, above n 17, p 114.

³⁰ See, eg, Fraser, above n 21, p 194; Eley, above n 1, p 364.

³¹ Fraser, above n 21, p 183.

³² Touraine, ‘The Idea of Revolution’, above n 12, p 135.

³³ See above n 18 and accompanying text.

³⁴ *Ibid*, p 126.

³⁵ Shmuel Noah Eisenstadt, ‘The Breakdown of Communist Regimes’ in Vladmir Tismaneanu (ed), *The Revolutions of 1989*, London: Routledge, 1999, pp 89-107, p 91.

³⁶ This involved a 35 per cent increase in the minimum wage: see Fraser, above n 21, p 199.

³⁷ See, eg, Hitchcock, above n 6, p 249.

the student movement itself was informed by the revolutionary ideology, it is apparent that the populist element did not. The protest could be hence seen as a cross-roads: on the one hand, it exhibited elements of a revolutionarily-symbolic, centre-driven movement, and on the other, a group of demands by specific interest groups unconcerned and disillusioned with society's centre. However, according to Hans-George Betz, by the 1980s, even this residual component of the ideology that had been present in 1968 was no longer present within the sphere of citizen-state interaction, meaning that the 'political climate of the 1980s was characterized by disenchantment with the major social and political institutions and deep distrust in their workings'.³⁸ This loss of the symbolism of the revolutionary ideal (as what had previously happened to the ideal itself) has been described by Touraine as 'the crisis of the notion of social movement'.³⁹ One could argue that the 2006 French youth protest is evidence of this trend, given that, in the words Daniel Cohn-Bendit, it did not carry 'a positive vision of the future',⁴⁰ as was expressed for the last time in 1968.

* * *

The gradual decline of revolutionary symbolism is one aspect of what has been described as "post-industrial" society.⁴¹ Broadly speaking, this idea is meant to describe the current, interrelated trends in economic, social and political re-organisation of Western societies today. According to Betz, globalisation and the information revolution are radically altering the economies of these societies from ones based on mass-produced, industrial production with homogenised and stable work forces to ones based on niche-driven products, services and

³⁸ Hans-George Betz, *Radical Right-Wing Populism in Western Europe*, New York: St Martin's Press, 1994, p 2.

³⁹ Alain Touraine, 'Beyond Social Movements?' in Stanford M Lyman (ed), *Social Movements: Critiques, Concepts, Case-Studies*, New York: New York University Press, 1995, pp 371-396, p 373.

⁴⁰ 'A Tale of Two Frances', *The Economist* April 1st 2006, pp 22-4, p 23. See also 'Le Climbdown', *The Economist* April 15th 2006, pp 50-1 for a description of the interest-group driven resolution of the crisis.

⁴¹ As it will be discussed, the term "post-industrial society" will be used in this essay to describe society exhibiting the desegregating and decentralising trends emerging in the socio-politico-economic organisation of industrialised, Western societies since the late 1960s/early 1970s. These trends are used in varying degrees in the descriptions "science society", "information society", "post-industrial society", "postmodern society", "network society" and "technological civilisation": see Nico Stehr, *Knowledge and Economic Conduct: The Social Foundations of the Modern Economy*, Toronto: University of Toronto Press, 2002, p 68. However, given the focus here on "post-industrial", I will be primarily emphasising the economic factors of this change, and the other social and political factors that are a consequence of these. This should not be taken though, as arguing that the events of May 1968 were the result of a base/superstructure model, or that the evolution of social values outside the economic sphere are of no consequence.

information, requiring specific skill sets and high job flexibility, whilst marginalising non-skilled workers.⁴² Economic desegregation in turn accelerates the social desegregation that began with the welfare state's increase in education and standards of living that had already begun to uncouple individuals from their previously-held collective identities.⁴³ This economic and social desegregation, as it is argued, then leads to the desegregation of political identities and a decline in the perceived importance of the political centre, and furthermore, concomitantly, a decline in the "allure" of the revolutionary ideology. Thus, according to Eisenstadt, the revolutionary ideology, which directly lead to the creation of new centres of legitimacy, through these new centres and the programs that emanated from them, actually removed the preconditions for its own survival.⁴⁴

Normatively speaking, one could argue that the overarching problem resulting from these post-industrial trends is part of the wider "postmodern" condition of an increased isolation of individuals from stable identities,⁴⁵ and an "individualisation" of economic and social risks⁴⁶ aggravated by the now questioned role of the welfare state, which was a previous generation's answer to individual risk.⁴⁷ Could it be argued that May 1968 in some way consciously addressed these problems? Given the abovementioned nebulous nature of the movement, this would be unlikely.⁴⁸ Furthermore, it is likely that the France of 1968 was in fact not yet experiencing post-industrialism as we know it today: the problematic view of the Western welfare state only developed in the 1970s;⁴⁹ the welfare and interventionist state still has

⁴² Betz, above n 38, p 27-8. See also *ibid*, pp 84, 164. It should be noted that the economic component of the idea of the "post-industrial" society should not be interpreted as a decline of the importance of industrial production within Western societies *per se*: Stehr, above n 41, p 84. As suggested above, it is better seen as a reorganisation of industrial production, and of the economy generally, that creates conditions consistent with citizen atomisation.

⁴³ Betz, above n 38, p 28-9.

⁴⁴ Eisenstadt, *European Civilization in a Comparative Perspective*, above n 17, pp 122-3.

⁴⁵ Touraine, 'Beyond Social Movements?', above n 39, p 377.

⁴⁶ Betz, above n 38, p 29.

⁴⁷ Claus Offe, 'Some Contradictions of the Modern Welfare State' in Christopher Pierson and Francis G Castles (eds), *The Welfare State Reader*, Cambridge: Polity Press, 2000, pp 67-76, p 67.

⁴⁸ See above n 31 and accompanying text.

⁴⁹ *Ibid*, 67.

greater currency in France compared to other Western states;⁵⁰ and it is not apparent from data that the French economy *of the time* was exhibiting strong evidence of post-industrial economic desegregation.⁵¹

* * *

However, I would argue that, in hindsight, the French events of May 1968 did address the problem of post-industrial society in some way, albeit unconsciously. The revolutionary ideology was an idea that humans had it in their hands, and theirs only, the ability to shape their society for the better. However, it finds expression in total and symbolic forms. Although I have argued that May 1968 was more an expression of revolutionary symbolism rather than of the 19th century ideology itself, it is not to say that this was in itself unfortunate. This expression of revolutionary symbolism was an attempt to express a truly emotive and momentous idea without the violence which it had wrought in the past. At the same time, being possibly the last expression of the symbolic ideology, May 1968 also hinted at a post-industrial future of the atomised and isolated individual. But despite disappointment with society's eventual resolution to the crisis, the young inheritors of a revolutionary past and of a present moving away from it did genuinely believe that they could, *collectively*, change their society for the better. Hence, although they provided flashes of a lonely and disenchanting future still being shaped, they also gave us a collective historical lesson of solving it.

⁵⁰ See above n 40 and accompanying text.

⁵¹ Statistics in François Caron, (translated by Barbara Bray), *An Economic History of Modern France*, New York: Columbia University Press, 1979 support this inference: annual growth rates industrial production during 1976-73 were higher than 1949-69 (p 178); distribution of the working population by size of place of work was around that of 1906 (p 279); and number of those employed in industry had, when compared to 1949, grown in absolute terms (p 230). However, the state of the French economy after this period is another issue.

REFERENCES

Arthur, C J, 'Editor's Introduction' in Karl Marx and Frederick Engels, *The German Ideology Part One*, New York: International Publishers, 1970.

'A Tale of Two Frances', *The Economist* April 1st 2006, pp 22-4.

Betz, Hans-George, *Radical Right-Wing Populism in Western Europe*, New York: St Martin's Press, 1994.

Bullock, Allan and Stallybrass, Oliver (eds), *The Fontana Dictionary of Modern Thought*, London: Fontana, 1977.

Burke, Edmund, *Reflections on the French Revolution* (1790) available at <http://www.bartleby.com/24/3/> at 20 July 2007.

Caron, François (translated by Barbara Bray), *An Economic History of Modern France*, New York: Colombia University Press, 1979.

Di Scala, Spencer M and Mastellone, Salvo, *European Political Thought 1815-1989*, Boulder, USA: Westview Press, 1998.

Eisenstadt, Shmuel Noah, *European Civilization in a Comparative Perspective*, Oslo: Norwegian University Press, 1987.

_____, 'The Breakdown of Communist Regimes' in Vladimir Tismaneanu (ed), *The Revolutions of 1989*, London: Routledge, 1999, pp 89-107.

Eley, Geoff, *Forging Democracy: The History of the Left in Europe, 1850-2000*, New York: Oxford University Press, 2002.

Feenberg, Andrew and Freedman, Jim, *When Poetry Ruled the Streets: The French May Events of 1968*, Albany USA: State University of New York Press, 2001.

Fraser, Ronald, *1968: A Student Generation in Revolt*, London: Chatto and Windus, 1988.

Hitchcock, William I, *The Struggle for Europe: The History of the Continent Since 1945*, London: Profile Books, 2004.

'Le Climbdown', *The Economist* April 15th 2006, pp 50-1.

Offe, Claus, 'Some Contradictions of the Modern Welfare State' in Christopher Pierson and Francis G Castles (eds), *The Welfare State Reader*, Cambridge: Polity Press, 2000, pp 67-76.

Sartre, Jean-Paul, 'Is this Democracy?' in Geoffrey Wall (ed), *Modern Times: Selected Non-Fiction*, London: Penguin, 2000, pp 146-51.

_____ (translated by JA Underwood and John Calder), *Politics and Literature*, London: Calder and Boyars, 1973.

Schwarzmantel, John, *The Age of Ideology: Political Ideologies from the American Revolution to Postmodern Times*, New York: New York University Press, 1998.

Stehr, Nico, *Knowledge and Economic Conduct: The Social Foundations of the Modern Economy*, Toronto: University of Toronto Press, 2002.

Tholfsen, Trygve R, *Ideology and Revolution in Modern Europe: An Essay on the Role of Ideas in History*, New York: Columbia University Press, 1994.

Touraine, Alain, 'The Idea of Revolution' in Mike Featherstone (ed), *Global Culture, Nationalism, Globalisation and Modernity*, London: Sage, 1990, pp 121-41.

_____, 'Beyond Social Movements?' in Stanford M Lyman (ed), *Social Movements: Critiques, Concepts, Case-Studies*, New York: New York University Press, 1995, pp 371-396.

POLITICAL CULTURE AND THE TRANSITION TO DEMOCRACY: RUSSIA AND POLAND IN COMPARATIVE PERSPECTIVE

Sebastian Strangio
University of Melbourne

(This essay won the postgraduate section of the CESAA Essay Competition 2007)

One of the most puzzling aspects of the history of the postcommunist world has been the wide degree of variation in the success of the democratic transitions that swept the region in the early 1990s. While the disintegration of the Soviet Union in 1991 prompted some to speak of an ‘end of history’ and the final victory of free markets and liberal democracy,⁴ the latter objective has proven especially elusive for many countries of the postcommunist world. Some (Poland, Hungary and the Czech Republic) have developed relatively consolidated democratic systems, while others (Belarus, Kazakhstan) have regressed into outright dictatorship.⁵ Others still, such as the Russian Federation, languish in a semi-democratic ‘grey zone’ somewhere between the two extremes, fulfilling the electoral preconditions of democratic governance (‘free and fair elections’) but flunking more rigorous tests.⁶ Indeed, the erratic course of the postcommunist transitions has prompted Michael McFaul to conceptualise them as a ‘fourth wave’ of transitions leading both *towards* and *away* from liberal democracy.⁷ Explaining the divergent paths of this new wave of transitions from authoritarianism has thus emerged as a key challenge to the emerging field of transitology.

For the Russian Federation, the collapse of the Soviet dictatorship was in many respects a mixed blessing. While Russians gained a considerable degree of personal autonomy under president Boris Yeltsin, his successor Vladimir Putin has eroded the formal underpinnings of Russia’s democratic system, recentralizing the Russian state, forestalling electoral opposition and eroding civil liberties. By the time of Putin’s reelection in 2004, according to one analyst, Russia’s ‘experiment with open politics was over’.⁸ However, as the principal entity of the

⁴ Francis Fukuyama, *The End of History and the Last Man*, (London: Penguin, 1992).

⁵ According to Freedom House, less than half of the postcommunist states (Poland, Hungary, Lithuania, Latvia, Estonia, Ukraine, Romania, Bulgaria, Slovenia, Serbia & Montenegro, Croatia and the Czech Republic) could be classified as ‘free’ in 2006. Available [Online]: <http://www.freedomhouse.org> [Accessed May 15, 2007].

⁶ Thomas Carothers, “The End of the Transition Paradigm”, *Journal of Democracy*, Vol. 13, No. 1 (2002): 5-21, *passim*.

⁷ Michael McFaul, “The Fourth Wave of Democracy and Dictatorship: Noncooperative Transitions in the Postcommunist World”, in: Michael McFaul & Kathryn Stoner-Weiss (eds.), *After the Collapse of Communism: Comparative Lessons of Transition*, (Cambridge: Cambridge University Press, 2004), *passim*.

⁸ M. Steven Fish, *Democracy Derailed in Russia: The Failure of Open Politics*, (Cambridge: Cambridge University Press, 2005), 1.

Soviet Union - and, before it, the Tsarist Empire - Russia has been in a good position to dictate the terms of its transition from authoritarianism: unlike many of its neighbours, Russia has had the 'economic, bureaucratic, military and cultural resources to make its own choices' about its post-Soviet future.⁹ Why this future looms increasingly as a repetition of Russia's authoritarian past is a question with far-reaching theoretical and practical consequences. Russia's state structure and economic performance since the early 1990s arguably mark it out as the 'modal postcommunist case', providing an ideal opportunity to test arguments about democratic consolidation and sustainability in the region.¹⁰ A comparison with its more successful Western neighbours might yield some answers as to what has prompted the nations of the postcommunist world to follow such drastically divergent paths. Indeed, the 'fourth wave' provides a unique opportunity for political scientists: as McFaul has observed, 'simultaneous change in two dozen [post-Soviet] countries - all beginning from roughly similar places, but moving along very different trajectories - provides the perfect parameters to test extant theories and develop new hypotheses about regime change'.¹¹

Given the widely divergent paths of the postcommunist states, one might be tempted to conclude that the outcomes of their transitions have been driven by cultural factors. Casting an eye over the historic trajectory of Russia within the pre-1917 Empire and the Soviet Union, it would be easy to claim that some trait in the Russian national character - some deeply-rooted predilection for authoritarianism - has made it resistant to norms of democratic government. Tim McDaniel has argued that a 'widespread sense of moral decay... [has] impeded attempts to reconstruct society along more humane lines' since the fall of the Soviet Union. During this period, 'there [has been] no sense of lost historical opportunities for positive social change... but a crushing sensation of the *absence* of possibilities' (italics mine).¹² During the Soviet era, similar arguments were made that linked the despotic characteristics of the Soviet Union to those of Tsarist Russia¹³ - and it would not require much imagination to stretch the comparison to the 'superpresidency' of the Putin era. Such views interpret the failure of Russian democracy as a given, as the unavoidable manifestation of deeply-rooted social and cultural traits. Poland, a successful postcommunist democracy 'by any measure',¹⁴ suggests itself as an obvious counterpoint to the Russian example. Just as the latter's democratic deficit has been

⁹ Fish, *Democracy Derailed in Russia*, 1.

¹⁰ Valerie Bunce, "Rethinking Recent Democratization: Lessons from the Postcommunist Experience", *World Politics*, Vol. 55, No. 1 (2003): 180.

¹¹ McFaul, "The Fourth Wave of Democracy and Dictatorship", 58.

¹² Tim McDaniel, *The Agony of the Russian Idea*, (Princeton N.J.: Princeton University Press, 1996), 5 & 15.

¹³ See, for instance, Stephen White, *Political Culture and Soviet Politics*, (New York: St. Martin's Press, 1979).

¹⁴ Fish, *Democracy Derailed in Russia*, 207.

interpreted in cultural terms, so too has Poland's democratic resurgence been analysed in terms of that country's cultural and historical predilections, allegedly originating in the promulgation of the proto-democratic May 3 Constitution of 1791 - just the world's second after the United States'. One analyst has commented on the 'the fundamental democratic ethos in Polish political culture', rooted in the tradition of struggle born of Poland's gradual absorption by the Russian, German/Prussian and Austro-Hungarian Empires in the eighteenth century.¹⁵

Such analyses have their partial analogue in the voluminous theoretical literature on the interrelation between political culture and democratisation. In 1963, Gabriel Almond and Sidney Verba argued that successful democratic polities are characterized by what they termed 'civic culture', a 'pluralistic culture based on communication and persuasion, a culture of consensus and diversity, a culture that permit[s] change but moderate[s] it',¹⁶ something that Russia today presumably lacks. When and how this political culture develops - whether it is capable of rapid change or whether it is largely static - is a crucial question, as is its exact causal relationship with the institutional and structural aspects of democracy. Put differently, we might ask: is political culture determinative in the formation of post-transition regime types, as McDaniel might argue? Or is it a mere by-product of other variables, such as levels of economic development, institutionalization and/or elite attitudes? For the purposes of this essay, political culture will take the definition of Archie Brown and Jack Gray, which views political culture in terms of 'subjective orientation to history and politics, of fundamental beliefs and values, of foci of identification and loyalty, and of political knowledge and expectations'.¹⁷

Scrutinizing the nature of the Russian and Polish transitions, this essay will argue that, while political culture as defined above is undoubtedly an important factor warranting scholarly attention, claims that it has determined the course of Russia and Poland's postcommunist democratic transitions are overblown and simplistic. In its place, it will be suggested that a number of more concrete factors had a greater impact on the course of the respective transitions. Political actors - at both the mass and elite level - were central to the outcomes in both countries, crafting their constitutions, drafting their laws and putting grassroots pressure on the authorities for democratic change. Put differently, the specific nature of the democratic transition largely determined the level and depth of democratisation in each

¹⁵ George Kolankiewicz & Ray Taras, "Poland: Socialism for Everyman?" in: Archie Brown & Jack Gray (eds.), *Political Culture and Political Change in Communist Societies*, (New York: Holmes & Meier, 1977), 101-30.

¹⁶ Gabriel A. Almond, & Sidney Verba, *The Civic Culture: Political Attitudes and Democracy in Five Nations*, (Princeton: Princeton University Press, 1963), 8.

¹⁷ Archie Brown & Jack Gray (eds.), *Political Culture and Political Change in Communist Societies*, (New York: Holmes & Meier, 1977), 10.

country. This is not to deny the relevance of political culture per se; however, by problematizing the idea of a singular *national* political culture, I will seek to arrive at a more nuanced understanding of the interrelationship between culture and the formal structures of government. An underlying assumption is that political culture analyses must proceed hand in hand with studies of political behaviour, ‘without subsuming the latter in the former’, if they are to enjoy any explanatory legitimacy.¹⁸

II

What do we mean when we talk of a ‘consolidated’ democracy or a ‘successful’ democratic transition? Many analysts have stressed the centrality of competitive multi-party elections to the workings of consolidated democratic states, arguing that it is the only ‘analytically precise’ definition available.¹⁹ However, for the purposes of this study, such a minimalist definition lacks precision: by such criteria, the Russian and Polish cases would be virtually indistinguishable. Better is the definition offered by Linz and Stepan, which conceives of a consolidated democracy as an mutually reinforcing system of five interconnected arenas: a ‘free and lively’ civil society; a ‘relatively autonomous’ political society; the rule of law; an efficient and usable state bureaucracy; and an institutionalized economic society. The process of consolidating these five arenas involves what they describe as the attitudinal, behavioural and constitutional habituation of democratic norms, creating a political situation in which democracy becomes the ‘only game in town’.²⁰ Beyond this, Larry Diamond has suggested three generic tasks of democratic consolidation. Firstly, the state must undergo a process of ‘democratic deepening’, making its formal structures ‘more liberal...[and] accountable’. Secondly, democratic norms must be politically institutionalized, defining clear rules and boundaries that political actors are likely to respect. The final task is that of regime performance: if democracy yields significant economic and political gains, it is more likely to endure and deepen.²¹

¹⁸ Brown & Gray (eds.), *Political Culture and Political Change in Communist Societies*, 10.

¹⁹ Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, (Norman & London: University of Oklahoma Press, 1991), 7.

²⁰ Juan J. Linz & Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*, (Baltimore & London: John Hopkins University Press, 1996), 5-7.

²¹ Larry Diamond, *Developing Democracy: Toward Consolidation*, (Baltimore & London: The Johns Hopkins University Press, 1999), 73-112 *passim*.

In much of the theoretical literature, there is an emphasis on the ‘habituation’ of norms and the ‘internalization’ of democratic rules and values.²² Do these arguments therefore point to the centrality of political culture in the consolidation of democratic systems? Some scholars think so. Diamond has argued that ‘democratic consolidation can... only be fully understood as encompassing a shift in political culture’.²³ This is not an insensible proposition: the idea that the ‘fundamental beliefs and values’ and ‘political knowledge and expectations’ of political actors - to again borrow Brown and Gray’s definition - will have an impact on the success of democracy would seem to be a truism. But if we accept this idea, the question of causality - whether culture shapes the structures of democracy, or vice versa - becomes highly pertinent. Frank Parkin has argued that ‘the extent to which values are legitimized in society is largely a function of institutional power’ and that values are ‘much more likely to flow in a downward direction than an upward direction’.²⁴ Others, such as Samuel Huntington, have argued for the primacy of culture in shaping political and economic outcomes.²⁵ In reality, the two factors most likely interrelate, with varying degrees of complexity in different political and social contexts.

In the cases of Russia and Poland, it will be demonstrated that the outcomes of the democratic transitions were guided primarily by the particular constellations of elites that had a hand in the design of the institutions of the nascent democracies, which in turn were legitimated by the performance of the regimes in the years following the transition. To some degree, they have also stemmed from certain particularities of the Russian and Polish national situations, such as ethnic distribution, geographic position and historic trajectory. This is not to dismiss the idea of political culture altogether; indeed, democratic consolidation does seem to be correlated with a shift in mass attitudes and behaviour towards democratic norms. However, this paper will argue against the idea that monolithic political cultures act as an ‘invisible hand’, determining the success (or otherwise) of democratic governments in certain countries. As Brown and Gray have argued, to speak of one national culture is ‘almost always an oversimplification’.²⁶ To conceive of it as having a determinative effect on the outcome of the democratic transitions of Poland and Russia would be wholly erroneous.

²² Both these terms are used in Dankwart Rustow, “Transitions to Democracy: Toward a Comparative Model”, *Comparative Politics*, Vol. 2, No. 3, (April 1970): 337-63 *passim*.

²³ Diamond, *Developing Democracy*, 65.

²⁴ Frank Parkin, *Class Inequality and Political Order: Social Stratification in Capitalist and Communist Societies*, (London: MacGibbon & Kee, 1971), 80.

²⁵ See Lawrence E. Harrison, *Who Prospers? How Cultural Values Shape Economic and Political Success*, (New York: Basic Books, 1992) & Lawrence E. Harrison & Samuel P. Huntington (eds.), *Culture Matters: How Values Shape Human Progress*, (New York: Basic Books, 2000).

²⁶ Brown & Gray (eds.), *Political Culture and Political Change in Communist Societies*, 8.

Diamond's three tasks of consolidation, outlined above, suggest themselves as a good framework of analysis. His first two tasks - democratic deepening and political institutionalization - are largely contingent upon one another and refer essentially to the same process: that of making formal structures more liberal and elite actors more 'accountable' to the public through the strengthening of those institutions of governance - political parties, legislatures, judiciaries and electoral systems - that are seen as 'fundamental' for building a democratic political culture. Where the first two factors concern a regime's design and maintenance, Diamond's final emphasis - on regime performance - is a measure of its effectiveness.²⁷ These two dimensions will be considered in turn.

The Polish and Russian transitions from Soviet rule have been largely guided by one key factor: the processes of institutional design that were part and parcel of the reform process. Institutional factors, like cultural ones, cannot be seen as wholly determinative. However, as outcomes of protracted negotiation and expressions of elite preferences, they point towards an actor-oriented conception of democratic consolidation. As has been recognised, institutions are crucially important in 'organiz[ing] patterns of socially constructed norms and roles, and... defin[ing] the prescribed behaviours that those who occupy [elite positions] are expected to pursue'.²⁸ Since elites are involved in designing the institutions that will constrain them in the future, constitutional design is a useful gauge of elite attitudes.

The Russian system that emerged in the early 1990s was notable for its strong presidency and weak legislature. Since the election of Vladimir Putin in 2000, the rights of the presidency have been further strengthened vis-à-vis the Duma (lower house) and Federation Council (upper house). Today, the balance between the legislature and the 'superpresidency' is weighted grossly in favour of the latter, prompting McFaul to observe that Russia's flawed democracy is largely a result of its flawed institutions.²⁹ Poland, on the other hand, has emerged with a 'semi-presidential' system wherein the legislature is successfully able to constrain and blunt the power of the executive. The nation's often 'chaotic' political life is nonetheless underpinned by a wholesale acceptance of democratic values as the primary 'rules' of the game.³⁰

²⁷ Diamond, *Developing Democracy*, 73-112 passim.

²⁸ Wojciech Sadurski, "Conclusions: On the Relevance of Institutions and the Centrality of Constitutions in Post-Communist Transitions", in: Jan Zielonka (ed.), *Democratic Consolidation in Eastern Europe*, (Oxford: Oxford University Press, 2001), 455.

²⁹ Michael McFaul, "Political Parties", in: McFaul, Nikolai Petrov & Andrei Rubayov (eds.), *Between Dictatorship and Democracy: Russian Postcommunist Political Reform*, (Washington D.C.: Carnegie Endowment for International Peace, 2004), 128.

³⁰ Norman Davies, *Heart of Europe: The Past in Poland's Present*, (Oxford: Oxford University Press, 2001), 427.

Some analysts have argued that these outcomes are a result of cultural factors. To explain the failure of Russia's democratisation, Tim McDaniel points to the historical persistence of three factors: a 'despotic state'; a commitment to 'rapid modernization'; and the persistence of 'the Russian idea', a concept, drawn from the work of the Russian philosopher Nikolai Berdyaev, that Russia has 'unique' cultural and historic tradition that 'sets it apart from the West'. The persistence of these factors has engendered a widespread sense of 'cynicism and apathy' amongst the populace, contributing greatly to the fall of the Russian Empire in 1917, the collapse of the Soviet Union in 1991 and, McDaniel argues, to the failure of the democratic project under Boris Yeltsin.³¹ Similarly, Zbigniew Brzezinski has argued that the Russian push towards democratic reform of the Gorbachev era was bound to fail since 'Russian history and Soviet reality both conspire against restructuring'.³² However, the degree to which the failure of Russian democratisation can be put down to the persistence of 'Soviet reality' or a historically-determined public apathy are questionable.

The notion of a Russian public 'paralyzed' by cynicism about the prospects for democratic reform, as suggested by McDaniel, oversimplifies the changes that have occurred in Russia since the Gorbachev era. Surveys of public opinion conducted during the early 1990s indicated that Russians' perceptions of democratic politics resembled those of the Western liberal democracies and demonstrated little yearning for the autocracy of the past.³³ Indeed, some analyses of Russian political culture have pointed out exactly the opposite: that aspirations for democracy have deep historical roots in Russia, offering the possible basis for a 'spiritual revival' along democratic lines. The dramatic democratic resurgence of Germany and Japan in the postwar period may be proof that a similar breakthrough is possible for postcommunist Russia.³⁴ Secondly, arguments that a 'Soviet hangover' has impeded the progress of Russian democracy run up against the fact that many other former Soviet bloc countries (including Poland) have diverged from authoritarian forms of government and embraced liberal democracy. We should not discount the effect that the Soviet past may have on contemporary Russian politics, but a cross-national analysis of postcommunist countries 'leaves little room for regarding a communist past as an insurmountable obstacle' to successful democratisation.³⁵ Clearly, the stagnation of Russia's transition to democracy cannot be chalked up to political culture alone. A more nuanced interpretation can be made by examining the exact

³¹ McDaniel, *The Agony of the Russian Idea*, 11 & 14-5.

³² Zbigniew Brzezinski, *The Grand Failure*, (New York: Scribner's, 1989), 99-100.

³³ See Jeffrey W. Hahn, "Continuity and Change in Russian Political Culture", *British Journal of Political Science*, Vol. 21, No. 4 (Oct. 1991): 393-421.

³⁴ This is the view taken in Nikolai Petro, *The Rebirth of Russian Democracy: An Interpretation of Political Culture*, (Cambridge, Mass.: Harvard University Press, 1995), viii & 149-50.

³⁵ Fish, *Democracy Derailed in Russia*, 95.

circumstances of the Polish and Russian transitions and the orientations of the elites that helped to guide them. The institutional arrangements that emerged in the wake of the Soviet collapse were the result of concrete political situations that, tempered by mass public opinion, had a significant impact on the course of democratization.

Michael McFaul has suggested that the outcome of Eastern Europe's transitions from Soviet rule can be traced back to the nature of transitions and the elites that helped to shape the nascent institutions of democracy. Where scholars of the 'third wave' argued that pacts and arrangements between incoming and outgoing elites were the surest means of ensuring a smooth democratic transition (Spain being the prototypical example), McFaul argues that such a model of 'cooperative' transitions does not readily apply to the post-Soviet context. For the 'fourth wave', he argues that democratisation was more contingent upon 'noncooperative' transitions, situations in which strong reforming elites were able to openly challenge the members of the *ancien régime* and, in essence, dictate the terms of a transition to democracy.³⁶ Mass demonstrations and other expressions of public support were also of central importance: they performed the valuable function of buttressing the position of the reforming elites against those of the *ancien régime*, rendering the old order redundant and, as Valerie Bunce puts it, creating 'a mandate for radical change' that led to pervasive political and economic reforms.³⁷

Poland is a textbook example of the latter. The trade union movement Solidarity, which spearheaded the transition to democracy, could draw on a long history of opposition to the communist regime of General Wojciech Jaruzelski and enjoyed - at least through to the early 1990s - strong public support. Jaruzelski, meanwhile, adopted a conciliatory strategy that, in a tacit knowledge of the regime's bankruptcy, encouraged '*glasnost*-like openings' that led to a 'massive onslaught' against communist ideology in the underground press.³⁸ Armed with popular support and equipped with overwhelming moral legitimacy, Solidarity, and its charismatic leader, 1984 Noble Laureate Lech Wałęsa, greatly impacted the outcome of Poland's transition to democracy. By February 1989, the Jaruzelski regime was forced to hold roundtable talks with Solidarity representatives and limited elections were held in June, returning a staggering level of support for Solidarity against the candidates fielded by the communist regime, who won just 4% of the vote.³⁹

By the time of the presidential elections of November 1990, which Wałęsa won comfortably, the democratic opposition was in a position of prime influence. Following the June 1989 elections, in which the 'balance of power' between Solidarity and the incumbent regime had

³⁶ McFaul, 'The Fourth Wave of Democracy and Dictatorship', *passim*.

³⁷ Bunce, 'Rethinking Recent Democratization', 172.

³⁸ Davies, *Heart of Europe*, 408-11.

³⁹ *Ibid.*, 415-8.

become obvious, ‘the democratic winners began to dictate the new rules’ of Poland’s postcommunist order.⁴⁰ The overwhelming support enjoyed by Solidarity countered any sense of uncertainty amongst the old regime’s elites, forcing would-be rent-seekers and ex-communists into cooperation with the new regime. As Bunce describes it, ‘Polish leaders had a rare opportunity... to combine considerable power and public support with a radical reform agenda’.⁴¹ On the other hand, Russia provided an example of a transition in which there was little consensus amongst either the elite or the mass public about the course of reform. Unlike the Polish situation, Russia’s democratic transition has been described as a process of ‘partial reform’ that made the new order particularly vulnerable to rent-seeking and exploitation by *ancien régime* elites.⁴² During 1990 and 1991, representatives from the Soviet government and moderate reformers engaged in an inconclusive and protracted process of negotiation. The outcomes of these talks - which included the so-called “500-Day Plan” of economic reforms - were forestalled by the coup of August 1991, which, despite its failure, indicated that Soviet hard-liners still fancied their chances of forcing a return to the status quo. Unlike the case of Poland, the relatively balanced power differential between the reformers and the old elites produced a ‘protracted and violent’ transition that culminated in the formation of a semi-democratic constitution in 1993.⁴³

These two models of transition - ‘noncooperative’ in Poland’s case and ‘cooperative’ (or at least balanced) in Russia’s - also impacted on the design of the constitutions of the new democratic states. Russia’s constitution, designed under Boris Yeltsin and approved by referendum in 1993, laid the basis for the ‘superpresidential’ system that has since undermined the development of Russian democracy. Under this system, there is no serious check on the power of the executive.⁴⁴ Conversely, Poland’s ‘large constitution’ of 1997, a product of protracted political struggle, established a clear division of powers between the executive and the legislature and, arguably, ‘set the stage for the next stage of democratic consolidation in Poland’.⁴⁵

Far from being manifestations of deep-seated culture proclivities, the constitutional regimes that emerged in the early 1990s were largely a result of the political contexts from which they emerged. The history of Russia’s ‘superpresidency’, as established by the 1993 constitution,

⁴⁰ McFaul, ‘The Fourth Wave of Democracy and Dictatorship’, 76.

⁴¹ Bunce, ‘Rethinking Recent Democratization’, 185.

⁴² See Joel S. Hellman, “Winners Take All: The Politics of Partial Reform in Postcommunist Transitions”, *World Politics*, Vol. 50, No. 1 (Jan. 1998): 203-34.

⁴³ McFaul, ‘The Fourth Wave of Democracy and Dictatorship’, 82-3.

⁴⁴ Gadis Gadzhiev, “Power Imbalance and Institutional Interests in Russian Constitutional Engineering”, in: Zielonka (ed.), *Democratic Consolidation in Eastern Europe*, 290.

⁴⁵ Andrew A. Michta, “The Presidential-Parliamentary System”, in: Richard F. Staar, (ed.), *Transition to Democracy in Poland*, (New York: St. Martin’s Press, 1998), 109-10.

marks it out as a product of discreet constitutional choices made by the elites present during the period of transition. As some have observed, Russia's democratic movement based many of its initial appeals on the reassertion of Russian (as opposed to Soviet) national identity. Long dominated by the All-Union bureaucracy in Moscow, the former Russian Soviet Federated Socialist Republic (RSFSR) emerged in the early 1990s as an institutional counterpoint to the remaining hard-liners within the old regime. With the former RSFSR Supreme Soviet under the control of conservative elements opposed to radical change, the only hope lay in strengthening the presidency of the RSFSR. According to M. Steven Fish, 'the formation of an entirely new centre of power - necessarily, under prevailing conditions, a presidency - was the route to revolution',⁴⁶ a position that Yeltsin's popularity ensured for him in the elections of June 1991. The design of Russia's constitution therefore took place in an environment in which the presidency was closely associated with the democratic reform movement, while the legislature - still the holdover Supreme Soviet of the RSFSR - was associated with the communist regime. Since the constitution reflected Yeltsin's priorities and was largely approved by 'brute force',⁴⁷ it has had negative long-term effects on Russia's democratization. However, the public referendum approving the 1993 constitution did not necessarily represent a vote for authoritarianism; in many ways, it was a vote for democratic government.⁴⁸ The overwhelming dominance of the presidency under Putin is best seen as an intended - though perhaps unsurprising - consequence of Yeltsin-era politics.

Poland again differs from the Russian case - although the political situation during 1992-93 may have suggested otherwise. With the election of Wałęsa to the presidency in 1990, Poland embarked upon a long process of negotiation over the shape of the future constitution. The so-called 'small constitution' of 1992 laid the basis for a 'rationalized' parliamentary system, but one under which the presidency was given considerably more powers than the Sejm.⁴⁹ The early 1990s were characterized by heated clashes between Wałęsa and a rotating cast of Polish governments, often over issues of presidential power. During his time in power, Wałęsa made repeated attempts to prevent the institutionalization of a parliamentary system, leading his opponents in the Sejm to claim that he was trying to entrench an 'imperial presidency'.⁵⁰ In the 1995 presidential election, former communist and candidate Aleksander Kwasniewski came out in strong support of parliamentarism and scored a significant defeat over Wałęsa. It has

⁴⁶ Fish, *Democracy Derailed in Russia*, 216.

⁴⁷ Gadzhiev, "Power Imbalance and Institutional Interests in Russian Constitutional Engineering", 269.

⁴⁸ Fish, *Democracy Derailed in Russia*, 217.

⁴⁹ Mirosław Wyrzykowski, "Legitimacy: The Price of a Delayed Constitution in Poland", in: Zielonka (ed.), *Democratic Consolidation in Eastern Europe*, 445.

⁵⁰ Michta, "The Presidential-Parliamentary System", 95.

been argued that Wałęsa's rejection in 1995 was an indirect expression of opposition to presidentialism.⁵¹ The 'large constitution' of 1997 approved under Kwasniewski significantly curbed the powers of the presidency, establishing an order 'based on the separation and balance of legislative authority, executive authority and judicial authority'.⁵²

Due to the consensus that reigned during the early stages of the transition to democracy, partisan political conflicts - even before the promulgation of the 1997 constitution - were never allowed to undermine the democratic underpinnings of the new system. In fact, the commitment of Poland's pluralist elites to democratic norms contributed greatly to its consolidation in the years ahead. Throughout the period of economic stagnation and rising unemployment, disgruntled voters focused their anger on either the president or the Sejm - but did so 'without impugning the political system itself'.⁵³ On the other hand, Russian 'superpresidentialism', by closely aligning the democratic system's legitimacy with that of the president, ensured that, throughout the 1990s, 'public skepticism about democracy climbed as Yeltsin's effectiveness waned'. The same has also been true of the Putin era.⁵⁴ Although Wałęsa and Yeltsin both initially desired to see the establishment of a strong presidency, the Polish elite of the early 1990s was playing to a set of democratic rules that were yet to be firmly established in Russia, due to the protracted and inconclusive process of its transition. To cite culture as the key factor in the institutional choices of transition is to ignore that these institutions were shaped by the interests of powerful political actors.

Once the new Polish and Russian regimes were institutionalized, they had additional effects on the consolidation - or otherwise - of democratic norms and practices. Two factors identified as key 'arenas' of democracy by Linz & Stepan - political society and civil society - were stymied by the new institutional arrangements that took root in Russia, but were able to flourish under the new Polish system. In Russia, a lasting legacy of presidentialism has been the stunted development of political parties and the poverty of credible political alternatives, which have long been recognised as a vital element of a healthy democracy.⁵⁵ Most obvious is the fact that neither Yeltsin nor Putin have belonged to a major political party. While certain parties have declared their *ex post facto* support of the president, neither man has relied upon a party apparatus as such. Their appeal is instead based on a judicious combination of personal charisma and control of state resources, which, along with support from Russia's powerful

⁵¹ Raymond Taras, "Voters, Parties and Leaders", in: Richard F. Staar, (ed.), *Transition to Democracy in Poland*, (New York: St. Martin's Press, 1998), 66.

⁵² Cited in: Taras, "Voters, Parties and Leaders", 65-6.

⁵³ Fish, *Democracy Derailed in Russia*, 225.

⁵⁴ See *Ibid.*, 224 & Stephen White & Ian McAllister, "Putin and His Supporters", *Europe-Asia Studies*, Vol. 55, No. 3 (May 2003): 383-99, *passim*.

⁵⁵ Axel Hadenius, *The Development of Political Parties: Russia in Perspective*, (Melbourne: Contemporary Europe Research Centre, 2002), 1.

'oligarchs', have provided something of an alternative route to the presidency in postcommunist Russia.⁵⁶ This tendency is even more accentuated at a regional level, where 'the very existence of political parties... remains questionable'.⁵⁷ The impact of parties on the central state therefore remains limited, although groups within the Duma can exercise a degree of leverage over the executive and are able to translate their electoral gains into actual political influence. Still, Russian political life since 1991 has clearly been hampered by its superpresidential constitution, which has had a 'chilling' effect on political party development.⁵⁸ In 2002, a law was passed establishing proportional representation in regional parliaments, which could open the door for further political party development. However, the alleged motive of the Kremlin and its parliamentary allies - to weaken executive power in the regions - hardly represents a firm commitment to the values of liberal democracy. As McFaul puts it, Russian institutional design has been one of the 'mo[st] salient causes of poor party development', an expression of elites' lack of concern for the entrenchment of a robust party system.⁵⁹

Recently, Russian civil society has faced similar obstacles to its development. Although civil society organisations were encouraged under Yeltsin, the Putin era has seen an increase in state surveillance and harassment of NGOs, especially those dedicated to human rights and environmental issues. Although other groups, particularly in the outlying regions of the country, have more opportunities for political influence, civil society groups are often exploited for gain by local politicians, an association for which they tend to suffer, given the general lack of trust in politicians and political parties.⁶⁰ Again, this seems to be a direct result of government policies regarding the development of civil society, which have often been 'obstructive' to its activity.⁶¹ Such policies have been reinforced by decreasing levels of trust in Russian society. World Values surveys undertaken in the 1990s showed a marked increase in mistrust over the decade, rising from 47.9% of respondents in 1992 to 59% of respondents in 1998.⁶² However, despite Russia's ragged civil and political society and low level of

⁵⁶ Michael McFaul, "Political Parties", 128.

⁵⁷ Grigorii V. Glosov, *Politics Parties in the Regions of Russia*, (Boulder & London: Lynne Rienner Publishers, 2004), 1.

⁵⁸ Fish, *Democracy Derailed in Russia*, 226.

⁵⁹ McFaul, "Political Parties", 134 & 106.

⁶⁰ Anders Uhlin, *Post-Soviet Civil Society: Democratization in Russia and the Baltic States*, (London & New York: Routledge, 2006), 94-5 & 125-7.

⁶¹ Uhlin, *Post-Soviet Civil Society*, 90-1.

⁶² The survey measured responses to the statement that 'one cannot be too cautious in dealing with people'. See James L. Gibson, "Social Networks, Civil Society, and the Prospects for Consolidating Russia's Democratic Tradition", *American Journal of Political Science*, Vol. 45, No. 1 (January 2001): 62.

interpersonal trust, other surveys continue to show popular support for democratic ideals,⁶³ suggesting that the parlous state of Russian political and civil society is not the result of an intangible cultural or historical legacy, but has deteriorated as Russia's 'partial' democratic transition - and concurrent period of severe economic recession - have unfolded. Russian political analyst Lilia Shevtsova was largely correct when she stated that 'Russian society is more prepared than its ruling class for deep transformations'.⁶⁴

On the other hand, Poland's political party system, despite the confusing kaleidoscope of parties and coalitions that predominated in the early 1990s, has been described as one of the 'most notable' successes of the postcommunist period. The firm entrenchment of a parliamentary system in 1997, as described above, has had positive flow-on effects for the development of a party system that increasingly represents the political differences of the electorate.⁶⁵ Interestingly, Polish civil society emerged from the transition in a comparatively weak state, despite its strong role in the fall of the communist regime. But rather than being a result of repression or elite disinterest (as in Russia), Polish civil society underwent what Michael Bernhard has described as 'decapitation through success', a process whereby its most able leaders were drawn immediately into state politics and were never properly replaced.⁶⁶ This alone demonstrates that a robust civil society does not emerge fully-formed from a nation's cultural heritage, but that it requires ready leaders and an encouraging institutional framework.

The institutionalization of democracy, a central task of consolidation in postcommunist states, has also been reinforced by the performance of the new regimes. To some degree we have already looked at political performance: the development of civil society and robust political party systems would seem to be vital ingredients for the deepening and long-term consolidation of new democratic systems. Just as important, however, is economic development. For all its high-minded rhetoric, democracy must deliver tangible benefits to its citizens if it is to endure. Although debate has raged over the exact relationship between economic performance and democratisation, the Russian and Polish cases seem to confirm the argument of Adam Przeworski and Fernando Limongi that democracies, once established, are more likely to

⁶³ For surveys of Russian political attitudes, see Bjorkman, *Russia's Road to Deeper Democracy*, 15-35 *passim*.

⁶⁴ Shevtsova, cited in: *Ibid.*, 15.

⁶⁵ Taras, "Voters, Parties and Leaders", 47-9.

⁶⁶ Michael Bernhard, "Civil Society After the First Transition: Dilemmas of Postcommunist Democratization in Poland and Beyond", *Communist and Postcommunist Studies*, Vol. 29, No. 3 (1996): 313.

endure in states with high levels of economic development.⁶⁷ This has been borne out by the performance of the Russian and Polish economies since the collapse of the Soviet bloc.

Economically, Russia's progress has been catastrophic. The 1998 currency crisis, coming after a half a decade of more or less constant recession, paralyzed the Russian economy, triggering off galloping inflation and economic stagnation. By the end of the year, Russia's GDP was languishing at almost half its 1990 level.⁶⁸ Although market economies are less easy to craft than democratic institutions - and are influenced by unavoidable fluctuations in the global economy - in Russia's case they too can be partially traced to elite actions (and inactions) over the period of economic reform. Although many have criticized the course of capitalist 'shock therapy' in Russia, it would appear that, just as political reform was 'partial', so too was the progress towards a market economy. Firstly, Russia lacked the legal and institutional underpinnings to make a market economy effective. A weak state, absence of the rule of law and lack of well-defined property rights contributed to the rise of a new class of economic *nomenklatura* and rent-seekers in the early 1990s and the emergence of the so-called 'oligarchs' from the middle of the decade. By this point, widespread perception of the 'failures' of liberalization acted as a brake on further reform.⁶⁹ Under Putin, economic growth has been solid, with *The Economist* reporting a GDP growth rate of 6.7% in 2006 and predicting similar rates over the next five years.⁷⁰ However, such growth rates mask the fact that Russia's GDP still languished at 85% of its 1989 level.⁷¹

Poland, despite an initial recession, experienced fairly sustained economic growth in the early years of the new regime. During the early 1990s, it achieved GDP growth rates of 4-6%, and, by 1996, 'clearly led the field' of the postcommunist world in terms of per capita GDP growth. Inflation also decreased steadily throughout the decade.⁷² Some have argued that Poland's proximity to Western Europe has in itself been a catalyst for democratic consolidation and

⁶⁷ See Adam Przeworski & Fernando Limongi, "Modernization: Theories and Facts", *World Politics*, Vol. 49, No. 1 (Jan. 1997): 155-83.

⁶⁸ Anders Åslund & Mikhail Dmitriev, "Economic Reform Versus Rent Seeking", in: Anders Åslund & Martha Brill Olcott (eds.), *Russia After Communism*, (Washington D.C.: Carnegie Endowment for International Peace, 1999), 91.

⁶⁹ Åslund & Dmitriev, "Economic Reform Versus Rent Seeking", 92 & 101.

⁷⁰ Data available [Online]: <http://www.economist.com/countries/Russia> [Accessed 12 May 2007].

⁷¹ Vladimir Popov, "Russia Redux?", *New Left Review*, Vol. 44, No. 2 (Mar.-Apr. 2007). Available [Online]: <http://www.newleftreview.org/?page=article&view=2658> [Accessed 15 May 2007].

⁷² See Davies, *Heart of Europe*, 424-5 & John E. Jackson, Jacek Klich & Krystyna Poznanska, *The Political Economy of Poland's Transition*, (Cambridge: Cambridge University Press, 2005), 27.

growth.⁷³ Its accession to the European Union in May 2004, a transition that involved the introduction of 80,000 pages of EU standards into Polish law, has clearly enhanced both its economic performance and its political stability.⁷⁴ The trajectories of both Russia and Poland conform to the theory of Przeworski and Limongi that democratic regimes tend to last in climates of strong economic performance. To what extent these outcomes are a result of elite design or a by-product of global economic fluctuations may be difficult to determine; in any case, the economic history of the two nations further militates against the perception that culture has played a determinative role in their democratic successes.

III

This paper has argued that the outcome of democratic transitions in Poland and Russia has been determined in large part by the attitudes and decisions of the elites that helped to craft their transitions, reinforced by their political and economic performance in the years since. But one could still pose the question: are all these factors ultimately the product of culture? Indeed, one of the temptations of political culture analyses is that they are so all-encompassing. One problem, however, is the difficulty in marshalling enough empirical evidence to prove that culture is causally linked to political outcomes. The evidence presented above, concerning the nature of the Polish and Russian transitions and the political actors that guided them, may not be able to fully disprove the existence of political culture *per se*. But it demonstrates that the relationship is far from clear-cut, and that certain factors were undoubtedly more prominent in the two states' transitions to democracy. It remains for political culture theorists to prove that a firm link exists between political culture and political and economic outcomes.

This is not to say that political culture is wholly irrelevant. Indeed, insofar as it represents the 'subjective orientations' of individuals, rooted in history and past practice, it should be the subject of serious attention. Polish and Russian history certainly helped set the stage for the democratic transitions: we could compare Poland's extraordinary ethnic homogeneity after the forced deportations of the immediate post-war period with the latter's confused status as a contiguous nation-state within the Russian Empire and the Soviet Union.⁷⁵ However, to talk of a single national political 'character' - and its link to a corresponding form of political

⁷³ See Jeffrey Kopstein & David Reilly, "Geographic Diffusion and the Transformation of the Post-Communist World", *World Politics*, Vol. 53, No. 5 (Oct. 2000): 1-37.

⁷⁴ Neill Nugent, *European Union Enlargement*, (Basingstoke & New York: Palgrave Macmillan, 2004), 47.

⁷⁵ Robert Service, *Russia: Experiment With a People*, (Cambridge: Harvard University Press, 2002), 44.

organisation - is a gross exaggeration that provides no basis for analyses of the postcommunist transitions. As pointed out earlier, Russian political culture arguably contains a long genealogy of democratic yearning and strong contemporary support for democracy, just as Poland experienced a period of military domination under the *Sanjca* regime established following the 1926 coup of Marshal Józef Piłsudski.⁷⁶ Both of these examples demonstrate that political culture, insofar as it can be said to exist, is far from monolithic.

Even if such a singular political culture existed - and if it is identifiable in Russia it can be found in most states of the postcommunist world - institutions that 'countervail' such perceived cultural traits could provide the basis for 'new' political traditions.⁷⁷ In both cases, it has been shown that political culture was not a central factor in determining the course of democratization. Poland's transition had the luxury of being guided by a robust pluralist opposition that had seemingly internalized democratic norms before the period of transition, despite Wałęsa's goal of crafting a strong presidency for himself. The 'defeat' of Wałęsa and the promulgation of the 1997 constitution were concrete manifestations of this democratic habituation. Russia, on the other hand, has lacked a strong stratum of elites dedicated to democratic norms, and its institutional arrangements reflect this. But even though pessimism about Russian democracy is now 'close to conventional wisdom',⁷⁸ it has been argued that a Russian democratic breakthrough is not proscribed by any specifically 'cultural' traits, but has been largely blocked by an elite preference for a strong presidency and monopolization of the electoral process. We should not underestimate the challenges facing the consolidation of a robust Russian democracy. But for all its failings, Russia may be lacking just a single crucial factor: committed democrats in positions of power. Putin's superpresidency now has an anti-democratic inertia of its own, and it remains to be seen whether it will suffer a democratic opening.

⁷⁶ Davies, *Heart of Europe*, 108-9.

⁷⁷ Fish, *Democracy Derailed in Russia*, 244.

⁷⁸ Bjorkman, *Russia's Road to Deeper Democracy*, 2.

REFERENCES

- Almond, Gabriel A. & Sidney Verba. *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton: Princeton University Press, 1963.
- Åslund, Anders & Martha Brill Olcott (eds). *Russia After Communism*. Washington D.C.: Carnegie Endowment for International Peace, 1999.
- Bernhard, Michael. "Civil Society After the First Transition: Dilemmas of Postcommunist Democratization in Poland and Beyond", *Communist and Postcommunist Studies*, Vol. 29, No. 3 (1996): 309-330.
- Bjorkman, Tom. *Russia's Road to Deeper Democracy*. Washington D.C.: Brookings Institution Press, 2003.
- Brown, Archie & Jack Gray (eds). *Political Culture and Political Change in Communist Societies*. New York: Holmes & Meier, 1977.
- Brzezinski, Zbigniew. *The Grand Failure*. New York: Scribner's, 1989.
- Bunce, Valerie. "Rethinking Recent Democratization: Lessons from the Postcommunist Experience", *World Politics*, Vol. 55, No. 1 (2003): 167-92.
- Carothers, Thomas. "The End of the Transition Paradigm", *Journal of Democracy*, Vol. 13, No. 1 (2002): 5-21.
- Davies, Norman. *Heart of Europe: The Past in Poland's Present*. Oxford: Oxford University Press, 2001.
- Diamond, Larry. *Developing Democracy: Toward Consolidation*. Baltimore & London: The Johns Hopkins University Press, 1999.
- Fish, M. Steven. *Democracy Derailed in Russia: The Failure of Open Politics*. Cambridge: Cambridge University Press, 2005.
- Fukuyama, Francis. *The End of History and the Last Man*. London: Penguin, 1992.
- Gadzhiev, Gadis. "Power Imbalance and Institutional Interests in Russian Constitutional Engineering", in: Zielonka, Jan (ed). *Democratic Consolidation in Eastern Europe*. Oxford: Oxford University Press, 2001, 269-91.
- Gibson, James L. "Social Networks, Civil Society, and the Prospects for Consolidating Russia's Democratic Tradition", *American Journal of Political Science*, Vol. 45, No. 1 (January 2001): 51-68.
- Glovov, Grigorii V. *Politics Parties in the Regions of Russia*. Boulder & London: Lynne Rienner Publishers, 2004.
- Hadenius, Axel. *The Development of Political Parties: Russia in Perspective*. Melbourne: Contemporary Europe Research Centre, 2002.

- Hahn, Jeffrey W. "Continuity and Change in Russian Political Culture", *British Journal of Political Science*, Vol. 21, No. 4 (Oct. 1991): 393-421.
- Harrison, Lawrence E. *Who Prospers? How Cultural Values Shape Economic and Political Success*. New York: Basic Books, 1992.
- Harrison, Lawrence E. & Samuel P. Huntington (eds). *Culture Matters: How Values Shape Human Progress*. New York: Basic Books, 2000.
- Hellman, Joel S. "Winners Take All: The Politics of Partial Reform in Postcommunist Transitions", *World Politics*, Vol. 50, No. 1 (Jan. 1998): 203-34
- Huntington, Samuel P. *The Third Wave: Democratization in the Late Twentieth Century*. Norman & London: University of Oklahoma Press, 1991.
- Jackson, John E., Jacek Klich & Krystyna Poznanska. *The Political Economy of Poland's Transition*. Cambridge: Cambridge University Press, 2005.
- Kolankiewicz, George & Ray Taras. "Poland: Socialism for Everyman?" in: Brown, Archie & Jack Gray (eds). *Political Culture and Political Change in Communist Societies*. New York: Holmes & Meier, 1977, 101-30.
- Kopstein, Jeffrey & David Reilly. "Geographic Diffusion and the Transformation of the Post-Communist World", *World Politics*, Vol. 53, No. 5 (Oct. 2000): 1-37.
- Linz, Juan J. & Alfred Stepan. *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*. Baltimore & London: John Hopkins University Press, 1996.
- McDaniel, Tim. *The Agony of the Russian Idea*. Princeton N.J.: Princeton University Press, 1996.
- McFaul, Michael & Kathryn Stoner-Weiss (eds). *After the Collapse of Communism: Comparative Lessons of Transition*. Cambridge: Cambridge University Press, 2004.
- McFaul, Michael, Nikolai Petrov & Andrei Rubayov (eds). *Between Dictatorship and Democracy: Russian Postcommunist Political Reform*. Washington D.C.: Carnegie Endowment for International Peace, 2004.
- McFaul, Michael. "The Fourth Wave of Democracy and Dictatorship: Noncooperative Transitions in the Postcommunist World", in: McFaul, Michael & Kathryn Stoner-Weiss (eds). *After the Collapse of Communism: Comparative Lessons of Transition*. Cambridge: Cambridge University Press, 2004, 58-95.
- Michta, Andrew A. "The Presidential-Parliamentary System", in: Staar, Richard F. (ed). *Transition to Democracy in Poland*. New York: St. Martin's Press, 1998, 93-110.
- Nugent, Neill (ed). *European Union Enlargement*. Basingstoke & New York: Palgrave Macmillan, 2004.
- Parkin, Frank. *Class Inequality and Political Order: Social Stratification in Capitalist and Communist Societies*. London: MacGibbon & Kee, 1971.

- Petro, Nikolai. *The Rebirth of Russian Democracy: An Interpretation of Political Culture*. Cambridge, Mass.: Harvard University Press, 1995.
- Popov, Vladimir. "Russia Redux?", *New Left Review*, Vol. 44, No. 2 (Mar.-Apr. 2007). Available [Online]: <http://www.newleftreview.org/?page=article&view=2658> [Accessed 15 May 2007].
- Przeworski, Adam & Fernando Limongi. "Modernization: Theories and Facts", *World Politics*, Vol. 49, No. 1 (Jan. 1997): 155-83.
- Rustow, Dankwart. "Transitions to Democracy: Toward a Comparative Model", *Comparative Politics*, Vol. 2, No. 3, (April 1970): 337-63.
- Sadurski, Wojciech. "Conclusions: On the Relevance of Institutions and the Centrality of Constitutions in Post-Communist Transitions", in: Zielonka, Jan (ed). *Democratic Consolidation in Eastern Europe*. Oxford: Oxford University Press, 2001, 455-74.
- Service, Robert. *Russia: Experiment With a People*. Cambridge: Harvard University Press, 2002.
- Staar, Richard F. (ed). *Transition to Democracy in Poland*. New York: St. Martin's Press, 1998.
- Taras, Raymond. "Voters, Parties and Leaders", in: Staar, Richard F. (ed). *Transition to Democracy in Poland*. New York: St. Martin's Press, 1998, 47-73.
- Uhlen, Anders. *Post-Soviet Civil Society: Democratization in Russia and the Baltic States*. London & New York: Routledge, 2006.
- White, Stephen. *Political Culture and Soviet Politics*. New York: St. Martin's Press, 1979.
- White, Stephen & Ian McAllister. "Putin and His Supporters". *Europe-Asia Studies*, Vol. 55, No. 3 (May 2003): 383-99.
- Wyrzykowski, Mirosław. "Legitimacy: The Price of a Delayed Constitution in Poland", in: Zielonka, Jan (ed). *Democratic Consolidation in Eastern Europe*. Oxford: Oxford University Press, 2001, 431-54.
- Zielonka, Jan (ed). *Democratic Consolidation in Eastern Europe*. Oxford: Oxford University Press, 2001.
-

STUDENT ESSAY:

THE COLLAPSE OF COMMUNISM IN THE USSR AND POLAND

Mona Williams, Monash University

(this essay won the undergraduate section of the CESAA Essay Competition 2007)

Communism's collapse - that is, the geopolitical, socioeconomic and cognitive transformation from the totalitarianism of the Communist Party and its hermetically-sealed nomenclature of Soviet and Central and Eastern European societies to state sovereignties, market economies and a democratic mentalité - remains contentious in political discourse: was it economic mismanagement and deterioration, or technological and innovative inaptitude in comparison with the West, or the cosmopolitan worldview and liberal reforms of Mikhail Gorbachev which led to the dissolution of communist systems in the former Soviet Union and its satellite states in the Eastern bloc?

These theories conflict with one another, and each possess categorical symbolisms which can clearly be attributed to the collapse of communism. But whilst the first two deal with external conditions, the politics of Gorbachev emerge as most convincing because he targeted and sought to expand the mindsets of the people of the Soviet Union, when for so long they had been warped with the compressed nature of communist values and ethos, and in turn expose them to the modern-day realities of their time. More importantly, he discounted belligerent classifications of the United States of America and Europe and created an alliance with the West which were both brave disconnections with long-standing, official communist practice. This paper critically evaluates the three approaches to the collapse of communism in the former Soviet Union and Poland, and argues that the politics and policies of Gorbachev remain the most compelling rationale.

The Soviet and Polish economies, which had reached an impasse in the early 1980s, evidenced to Soviets and Poles the ineffectiveness of their respective Communist leaderships in securing the economic livelihoods of both nation and individual. The command economic system did not meet the needs of *all* factions of the population, and whilst it maintained commendable welfare and employment policies, the Communist elite's hitherto monopoly of financial cartels had jammed the growth of businesses, development projects, agricultural and cognate regional trades, and altogether dwindled the standards of living of Soviets and Poles to near-nothing

levels.⁷⁹ By 1989, the Soviet and Polish Communist Parties' abilities to meet the socioeconomic demands of their people were deemed ineffectual - "only Jesus Christ could take a few loaves of bread and feed the thousands...only Jesus Christ could solve this problem," lamented a disenchanted Mikhail Gorbachev - and the best alternative was to switch to a capitalist, mixed economic system.

Gorbachev lobbied the Communist elite and the public for this. Even with significant military might and advances in aerospace sciences, economic retardation threatened to stagnate the entire region for many more years to come. The Poles, thanks to their affinities with the Catholic Church, had long been receiving financial aid from the International Monetary Fund, but this 'borrowed money' was misdirected in the domestic sphere, i.e. confiscated and concentrated in "the hands" of the Communist leaders.⁸⁰ This caused inflated prices of meat and other such goods as well as severe shortages in imported commodities and wages.⁸¹ Economic deterioration equaled social destitution, and Soviets and Poles were left with little or nothing to secure for themselves and their familial dependents even the most basic necessities. Clearly, the communist systems could not provide Soviets and Poles with the much-promised financial and material securities, and neither could they improve the economic conditions of their societies. Economic failure thus loomed large as an incentive for the collapse of communism.

But the flailing states of the Soviet and Polish economies were not potent motivations for change *per se*. There was a mantra, so to speak, which ran through Communist consciousness throughout the Cold War: "overtake and surpass the West."⁸² The Communists' mistake, however, was that this psychological competition was restricted to military and aerospace technology. In terms of social policies, civil liberties, notably freedoms of speech and of the press, education and culture, the Soviet Union and Poland resembled, in accessibility and informational quality, the underdeveloped nations of the Third World, and this as a result of ingrained political and cultural norms of collectivization and censorship.⁸³

⁷⁹ Robert Weiner, *Change in Eastern Europe*, London, Praeger, 1994, pp. 34; 77.

⁸⁰ Walter D Connor, Piotr Ploszajski, Alex Inkeles and Włodzimierz Wesolowski, *The Polish Road from Socialism: The Economics, Sociology and Politics of Transition*, New York, M. E. Sharpe, 1992, p. 16.

⁸¹ *Ibid*, p. 19.

⁸² Mikhail Gorbachev, *On My Country and the World*, New York, Columbia University Press, 2000, p. 26.

⁸³ Vladimir Shlapentokh and Neil F O' Donnell, *The Last Years of the Soviet Empire: Snapshots from 1985-1991*, p. 91.

Likewise, basic communications, office and entertainment technologies such as cellular phones, fax machines, answering machines, Xerox machines, cable television and FM radio stations were not available to Soviets and Poles when these were well-worn parts of everyday life in the rest of the world. Thus, in reality, the Communists' fêted 'competition with the West' was really a protracted process of catching up with the United States and Western Europe rather than competing on an equal and parallel platform. By the mid-1980s, it was clear to both Communists and civilians alike, that the Soviet Empire was languishing at a lowly and pedantic position in comparison with the West. It then became conspicuous that Western financial aid and investment, scientific know-how and technological acumen, and even democratic mores, were necessary for the survival of the former Soviet Union.

As some factions of the Communist leadership in the former Soviet Union and Poland bent over backwards to attract foreign investors and businesses for joint enterprises in their regions, it became increasingly clear that the communist systems were inadequate in the international power complex of the 1980s. If there ever was a time when Western auspices were imperative, it was then. However, although these slight openings to Western influences undermined the long-standing control of the Communist Parties on Soviet and Polish lives, to attribute economic failure and competition with the West in their entirety to communism's collapse would be inaccurate.

The politics and policies of Mikhail Gorbachev come to mind. In 1989, he was the most powerful man in the Eastern bloc - he was General Secretary of the Communist Party of the Soviet Union (1985-91) and President of the Soviet Union (1988-91). He was not, however, the conventional Soviet/Communist leader who parroted official Party rhetoric and steered clear of altering the political, economic and social status quo in the Soviet Empire (as did his predecessors). Instead, he challenged the social cultures of the region, and openly questioned their Communist Parties' capacities to benefit the masses. He brought to attention the old Communist motive - "We Will Drive Mankind to Happiness with an Iron Hand!" - and critiqued the Communist leadership and its supporters for accepting "totalitarian terror for the sake of a hypothetical future."⁸⁴ He attacked the Communist-infiltrated Soviet way of life wherein it

⁸⁴ Czeslaw Milosz, *The Captive Mind*, London, Martin Secker & Warburg, 1953, p. 1.

happens everyday that “an individual is told one thing but in life sees another”⁸⁵ when, he asserted, the “theory, policy and practice should be operating on a congruent plane.”⁸⁶

As Gorbachev saw it, these were the main impediments to the progress of the people of the former Soviet Union and Central and Eastern Europe. He thus sought a ‘new thinking’, one that was universal and liberal rather than introverted and single-minded. His belief centered on the intertwined nature of international diplomatic relations, and that in keeping to the isolationist policies of the Communist Party, the Soviet Empire was only at the losing end. It was this strategic conviction which turned the political and socioeconomic tables within the Soviet Union, and ultimately threw off balance the communists’ reigns of absolute power and influence.

In Poland, Gorbachev’s reformist thinking and policies were predated by the political, economic and social stances of Solidarity and the Catholic Church. Solidarity, for the most part an unofficial labor movement, had campaigned for Polish freedom from Soviet/Communist rule for as long as any Pole could remember: it began as a trade union, which festered a parallel underground society, and which eventually emerged on the Polish political scene in the early 1980s through radical strikes and boycotts, challenging the legitimacies of the Communist Party and its control on Polish culture.⁸⁷ The Catholic Church also maintained its institutional autonomy, at least in the Poles’ consciousness if not in legislative matters, and this in itself signified a strong means of protest against the Communist leadership. Pope John Paul II, on his visit to Poland in 1983, urged Polish youth to resist the perpetuation of a communist mindset and regime in their nation, and to align their interests with those of Solidarity.⁸⁸ Much to the frustration of the Communist elites, the majority of Poles found a reliable global patron in the Pontiff and the religious institution he represented.

Both Solidarity and the Catholic Church shed light on the discrepancies between socialist ideologies and practices, and Polish social realities, which in turn prepared the Polish people

⁸⁵ Mikhail Gorbachev, quoted on radio, available from www.gorby.ru/en/rubrs.asp?art_id=24901&rubr_jd

⁸⁶ Mikhail Gorbachev, “Freedom of Choice is a Universal Principle to Which There Should Be No Exceptions”, Address to the United Nations General Assembly, New York, 7 December 1988, in Simon Sebag Montefiore (ed.), *Speeches that Changed the World*, London, Quercus, 2006, pp. 202-5.

⁸⁷ Lawrence S Graham and Maria K Ciechoncinska, *The Polish Dilemma: Views from Within*, London, Westview Press, 1987, p. 1.

⁸⁸ Pope John Paul II, “Our Polish Freedom Costs So Much”, Speech at Jasna Gora Monastery, Poland, 18 June 1983.

for Gorbachev's reforms. By the time of his ascension to the leadership of the Communist Party, a proximate 80% of Poles favored polycentric bureaucracies, unrestricted liberties in the national media, marketplace and public institutions, curtailment of 'supercentralization' and censorship, and closer ties with the West.⁸⁹ "Those in Britain sing of 'no future'," a Polish punk vocalist famously and tellingly sang, "but I'd like to be on welfare payments there."⁹⁰ Gorbachev's 'loosening' of the media exposed Soviets and Poles to the realities of Western life, and as a result, previous disinterest with the West began to disintegrate. His 'new thinking' clearly emboldened Poles to accept and appreciate the democratic cultures, capitalist economies and egalitarian systems of their hitherto ideological 'enemy.'

But did Gorbachev directly cause the collapse of communism in the former Soviet Union and Poland? Yes! For one, his economic reforms, which placed the market as the main regulator of economic life, symbolized his denial of the economic functions and controls of the Communist Party. Even as the head of the Party, he instituted economic freedom as law and endorsed and encouraged the spirit of free enterprise amongst the people. This signified "acquiescence with Western practice and an important strand of Western thought."⁹¹ Also, instead of continuing the competitive tradition with the West, he openly and honestly admitted the Eastern bloc's need of the West in the socioeconomic and cultural spheres. He withdrew Soviet troops from Afghanistan and then from its 'external empire' in Poland, even whilst staunch Communists were calling for the use of force and suppression (traditional communist tactics), to show an end to the Soviet Empire's expansionist ambitions of military conquest.⁹²

Furthermore, Gorbachev's cultivation of *glasnost* dug up aspects of the past for so long hidden or fabricated, and exposed to the public the harsh realities of the communist system. Being in possession of all the facts, for once, the Soviet people were given the freedom to determine for themselves the credibility of the Communist Party as a state authority and the course they wanted their nation to be on.⁹³ Needless to say, Gorbachev's 'new thinking' signified a "conceptual break with the Soviet/Communist past"⁹⁴; he paved the way for the Soviets' exposure to the changed global climate of the time and to the benefits of a democratic

⁸⁹ Jadwiga Koralewicz, Ireneusz Biatecki and Margaret Wilson, *Crisis and Transition: Polish Society in the 1980s*, New York, BERG, 1987, pp. 3 ; 30 ; 46.

⁹⁰ Quoted from the Christian Science Monitor, 20 September 1983, p. 7.

⁹¹ Leslie Holmes, *The End of Communist Power*, Melbourne, Melbourne University Press, 1993, p. 138.

⁹² *Ibid.*

⁹³ Mikhail Gorbachev, *On My Country and the World*, p. 79.

⁹⁴ Leslie Holmes, *The End of Communist Power*, p. 151.

political and civic culture, a capitalist mixed economy and previously unconventional international allies. He sought to recreate a national system which would make the former Soviet Union a “normal member of the world community.”⁹⁵ All these factors merge to form a potent force for change in the former Soviet Union and Central and Eastern Europe. When Gorbachev resigned as General Secretary of the Communist Party of the Soviet Union, communism was officially exterminated in the region.

In essence, Gorbachev’s reforms in both the domestic and regional realms brought an end to the communist systems in the former Soviet Union and Poland. Although countless theories exist which dissect and explicate communism’s collapse, notably the failure of the Communist leadership to meet the economic, technological and material needs of the people, the role of the anti-communist movement Solidarity and the support of the Catholic Church, the changes in thinking and in policy initiated by Gorbachev placed the Eastern bloc in a revolutionary position, and emboldened its people to turn away from the totalitarianism of the communist systems to a more democratic and free national culture. Of course, the cataclysmic economic conditions and the persistent competition with the West did challenge the stability and legitimacy of the communist systems in the former Soviet Union and Poland. Nonetheless, it took an almost omnipotent Communist head of state to break with tradition and facilitate political, socioeconomic and cultural changes, and ultimately the collapse of communism.

⁹⁵ Mikhail Gorbachev, *On My Country and the World*, p. 34.

REFERENCES

Christian Science Monitor, 20 September 1983

Connor, Walter, Poitr Ploszajski, Alex Inkeles and Włodzimierz Wesolowski, *The Polish Road from Socialism: The Economics, Sociology and Politics of Transition*, New York, M. E. Sharpe, 1992.

Gorbachev, M *On My Country and the World*, New York, Columbia University Press, 2000.

Gorbachev, M quoted on radio, available from www.gorby.ru/en/rubrs.asp?art_id=24901&rubr_jd

Gorbachev, M “Freedom of Choice is a Universal Principle to Which There Should Be No Exceptions”, Address to the United Nations General Assembly, New York, 7 December 1988, in Simon Sebag Montefiore (ed.), *Speeches that Changed the World*, London, Quercus, 2006.

Graham, Lawrence S and Maria K Ciechoncinska, *The Polish Dilemma: Views from Within*, London, Westview Press, 1987.

Holmes, L *The End of Communist Power*, Melbourne, Melbourne University Press, 1993.

Pope John Paul II, “Our Polish Freedom Costs So Much”, Speech at Jasna Gora Monastery, Poland, 18 June 1983.

Koralewicz, Jadwiga, Ireneusz Biatecki and Margaret Wilson, *Crisis and Transition: Polish Society in the 1980s*, New York, Berg, 1987, pp. 3 ; 30 ; 46.

Milosz, C. *The Captive Mind*, London, Martin Secker & Warburg, 1953.

Shlapentokh, Vladimir and Neil F O’ Donnell, *The Last Years of the Soviet Empire: Snapshots from 1985-1991* Westport, Praeger, 1993.

Robert Weiner, *Change in Eastern Europe*, London, Praeger, 1994.

TUCKER: GEOGRAPHICAL INDICATIONS

STUDENT ESSAY

THE BATTLE OVER GEOGRAPHICAL INDICATIONS: IS IT REALLY WORTH THE FIGHT?

Katherine Tucker
Monash University

(This essay won the Honours section of the CESAA Essay Competition 2007)

The EU and the New World⁹⁶ have traditionally taken vastly different approaches to the protection of geographical indications (GIs), with the former opting for a high level of *sui generis* protection and the latter preferring to protect GIs indirectly, primarily through a combination of consumer protection legislation and trademark law.

These different approaches have become problematic in recent years with the delocalisation of trade and commerce and the consequential push by various countries to extend those legal rights and obligations conferred at a domestic level onto the international arena. European producers, who have become accustomed to receiving a high level of protection for their GIs at home, are unhappy about the lack of protection they are afforded in many of their key New World export markets. They argue that this situation should be amended. Conversely, New World producers have operated for many years without formal laws protecting GIs as a form of intellectual property. As such, they have grown accustomed to lawfully using many European GIs as generic terms for their products or have legally registered trademarks containing GIs.

While the simultaneous operation of two incompatible approaches to GIs is clearly undesirable, finding a solution that is agreeable to all parties has proved to be an extraordinarily difficult task and the laborious discussions over the last few years on the issue have “generated considerably more heat than light, confusion than consensus, and passion than persuasion”.⁹⁷ Thus far, the EU has only managed to achieve the higher level of international protection it desires for GIs for wines and spirits, through a combination of both multilateral and bilateral agreements.⁹⁸ Achieving the same level of protection for GIs for other products, such as cheeses and hams, has been more contentious.

⁹⁶ The New World includes countries such as the US, Australia, Canada, South Africa, Chile, Argentina. It can be contrasted with the Old World, which comprises of Europe and its constituent nations.

⁹⁷ The representative of Australia, *Minutes of Meeting held in the Centre William Rappard on 5-7 March 2002*, WTO Documents IP/C/M/35 (22 March 2002) at [2].

⁹⁸ The most significant step towards establishing a unified approach to the regulation of GIs at an international level has been the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS), which establishes a two-tiered system of protection that confers a

This essay evaluates whether or not the New World is justified in its refusal to accede to the EU's demands on this matter. Using the wine industry as a case study, it will be shown that there is little evidence that the EU gains any economic benefit because of the higher protection of GIs for wines and spirits and, as such, only short-term gains can be expected if the protection is extended to other products. I argue that although the debate about GI is really about the terms of trade, both sides are failing to take the EU's declining market share in wine and spirit sales into account. As my analysis of this phenomenon shows, the extension of GI protection to other products is unlikely to produce a different result. Products that are competitive on cost and or quality will be able to gain market share in competing against European producers even if GIs are protected. Ironically, then, the conflict over GI is really a lot of fuss about proposed changes that are unlikely to have much impact.

Europe's protectionist agenda

While the EU primarily cites motives such as prevention of "free-riding" and consumer protection as underpinning its GI agenda, it continually skirts around the clear element of commercial protectionism that underpins the entire GI debate. The EU argues that extending the protection of GIs is in the best interests of *all* producers, and not just those fortunate enough to reside in those European countries that benefit from the highest concentration of GIs. It is argued that "every country - whether developed, developing or in transition - has products which are the fruits of its culture and know-how, and its unique blend of soil, water or climate, and which, therefore, deserve effective protection".⁹⁹

This rose-coloured view of the situation is devoid of any real substance. The disproportionate concentration of GIs in continental Europe or, more specifically, in a few key Western-European countries, cannot be ignored. It is all very convenient, from a European perspective, to make optimistic statements about recognising that "it is not the number of GIs per country that should be taken into consideration when assessing the merits of a better GI protection,

higher standard of *sui generis* protection on GIs for wines and spirits under Article 23, and a lower standard based on consumer protection for all other GIs under Article 22. Since TRIPS, the EU has negotiated numerous individual bilateral agreements with various New World countries, including Australia, Canada, Chile, Mexico, South Africa and the US, in an attempt to appease their concerns regarding what they see as the inadequacies of the TRIPS provisions and the continued international abuse of many of their GIs for wines and spirits. As the EU has thus far been unsuccessful in negotiating any comparable extension of the general unfair competition standard of protection applicable to all GIs under Article 22 of TRIPS, these bilateral agreements further exacerbate the hierarchy set up under TRIPS between GIs for wines and spirits on the one hand, and all other GIs on the other.

⁹⁹ WTO Documents IP/C/W/247/Rev.1 (17 May 2001) at [20].

but rather the economic potential of each well-protected GI”¹⁰⁰, but this type of high-handed statement denies the clear element of self-interest that fuels the EU’s global crusade to achieve greater protection for its GIs. It also fails to adequately address the question of why it is in the interests of the New World to finance the implementation of a system of GI protection that would seem to predominantly serve the economic interests of European producers. Whether there is actually any substance to the perceived economic advantages of GIs as a marketing tool is another important consideration that forces us to consider questions of trade and of economics.

In order to better understand the protectionist nature of the EU’s GI agenda, we need to consider Europe’s strong tradition of State intervention in agriculture. This tradition is epitomised by its Common Agricultural Policy (CAP), which currently represents 44% of the EU’s budget (€55 billion scheduled spending for 2007)¹⁰¹ and comprises of a system of subsidies granted to Europe’s agricultural sector, guaranteeing a minimum price for their produce and resultant economic security. France has traditionally been the main protagonist behind Europe’s protectionist approach in agriculture. It is widely understood that implementation of the CAP was initially designed as a political compromise to appease French concerns about the implementation of a European Common Market, a goal that could not be realised without French accord.¹⁰² Small-scale business and farms have always been an integral part of French lifestyle and its economy. Supported by the government, French farmers have persistently resisted the push towards large-scale industrial farming, an objective that is only possible with strong state intervention and protectionist policies, such as the CAP.¹⁰³

It is of no surprise, therefore, that France is one of the main protagonists behind Europe’s GI agenda and that France and Italy account for more than 45% of the GIs currently registered in the EU.¹⁰⁴ Protection of GIs is, by its very nature, in keeping with Europe’s policy of economic protection of small-scale agricultural producers who are struggling to compete in the ever

¹⁰⁰ Addor, F, and Grazioli, A, ‘Geographical indications beyond wines and spirits: a roadmap for a better protection for geographical indications in the WTO/TROPS Agreement’ (2002) 5(6) *The Journal of World Intellectual Property* 865-897, 889.

¹⁰¹ Author Unknown, ‘New EU budget: a historic missed opportunity’ (20 December 2005) Open Europe <<http://www.openeurope.org.uk/media-centre/bulletin.aspx?bulletinid=27>>

¹⁰² Bitsch, M, *Histoire de la construction européenne de 1945 à nos jours* (Editions Complexe, Brussels, 2004) 133-134.

¹⁰³ Appleton, A, and Mazur, A, ‘France at the crossroads: an end to French exceptionalism’, in H.J. Wiarda (ed.), *European Politics in the Age of Globalisation* (New York: Harcourt, 2001), 101.

¹⁰⁴ Vincent, M, ‘Extending protection at the WTO to products other than wines and spirits: who will benefit?’ (2007) 8(1) *The Estey Centre Journal of International Law and Trade Policy* 57-68.

increasing global economy. Indeed, GIs in Europe initially evolved not as an intellectual property right but as a form of 19th century French rural policy designed to subsidise farmers and increase regulation of agricultural and viticultural practices, as well as production levels.¹⁰⁵

GIs in the context of economic theory

Assessed in light of various economic theories, GIs may arguably be able to benefit those producers entitled to use them on a number of levels.

First, GIs may arguably be used to overcome the detrimental effects of information asymmetries, which occur if one party to a transaction has more information than the other party regarding the transaction.¹⁰⁶ If consumers are inadequately informed, producers of high quality products will be unable to differentiate their products from inferior products being sold at the same price. Consumers may avoid such trappings through research and experience but it is thought that GIs can also go some way to help overcome information asymmetries, as they are a method for developing product reputation. Reputation operates to bridge the gap between what producers and consumers know about a product. In the case of GIs, it is presumed that consumers associate them with a certain level of quality. Thus, their inclusion on a product label helps reduce the need for consumers to research or experiment with various products in order to determine their quality, as they can be assured by the GI that they are purchasing a high quality, genuine product.¹⁰⁷

Secondly, GIs can conceivably be used to increase market access by facilitating the creation of a sustainable niche market through their ability to limit production. Increased global competition combined with decreasing prices for commodity goods have given rise to a need for producers to find new ways of differentiating their goods from competitors', either through marketing strategies or production methods etc. One such method is for producers to leave commodity markets for more lucrative niche markets. In a commodity market, consumer choice is price driven and producers are forced to accept the market price regardless of profitability. This can be contrasted with niche markets, in which a producer has total control over supply and can therefore afford to charge a premium.

¹⁰⁵ Handler, above n4, 176.

¹⁰⁶ Bramley, C, and Kirsten, J F, 'Exploring the economic rationale for protecting geographical indications in agriculture' (2007) 46(1) *Agrekon* 69-93, 75.

¹⁰⁷ *Ibid* 75-6.

In order to successfully market goods in a niche market, producers must first be able to identify an appropriate market with sufficient economic potential and consumer appeal. Producers must also be able to maintain their competitive advantage by preventing competitors from also entering the market and seeking to capture the higher premiums. If more producers are able to enter the niche market, its status gradually shifts from niche to commodity, thereby undermining the competitive advantage originally obtained.¹⁰⁸ In terms of GIs, the legal entitlement of certain producers to use a particular GI is necessarily to the exclusion of all other producers that do not comply with the requirements for use of that particular GI. By limiting production to a discrete category of producers and by restricting yields within the demarcated geographic region, the risk of losing the competitive advantage through increased production and the entry of new competitors into the niche market is averted.¹⁰⁹

GIs can also conceivably increase market access by giving rise to a ‘collective monopoly’ through their ability to exclude competition. This is achieved by limiting entitlement to use a particular GI to producers that (a) fall within a designated geographic region and (b) comply with specific production requirements of the region.¹¹⁰ By restricting competition in this way, collective monopolies give rise to a unique competitive situation involving producers within the collective being forced to compete with each other at an individual level, while at the same time working together to exclude competitors that fall outside the GI region. While GIs facilitate differentiation between products originating in one geographical region from those produced elsewhere, at the same time they also render competing products within the GI region less distinctive.¹¹¹ For this reason it is common for producers to seek to limit competition within the collective by defining the geographical indication with which they are associated as narrowly as possible¹¹² and by finding additional ways of differentiating their products within the GI collective, often through the development of individual brand names in conjunction with the GI.¹¹³ As a result of the internal competition within the GI region, GIs do not operate to limit competition in the way that a pure monopoly would.¹¹⁴

¹⁰⁸ Ibid 77.

¹⁰⁹ Ibid 78.

¹¹⁰ Ibid 82.

¹¹¹ Agarwal, S, and Barone, M J, ‘Emerging issues for geographical indication branding strategies’ (Research Paper No 05-MRP 9, Midwest Agribusiness Trade Research and Information Centre, Iowa State University, January 2005) 4.

¹¹² Ibid.

¹¹³ Bramley, above n27, 82.

¹¹⁴ Agarwal, above n32, 4.

Finally, GIs may also facilitate collective marketing and production to achieve economies of scale. Small-scale producers often struggle to compete individually against large-scale competitors. Nevertheless, it is thought that through adopting a common market strategy, such as use of a GI, such small-scale producers can achieve a scale of production that makes investment in product image economically justifiable.¹¹⁵

Case Study: The Global Wine Industry

Despite the numerous theories that support the EU's perception that increased GI protection will economically benefit GI-users, it remains questionable whether any concrete economic benefits can actually be identified. In assessing whether there are any such benefits, the international wine industry is a useful case study, as we have seen earlier in this essay that the higher level of protection sought by the EU for all GIs is already applied to GIs for wines and spirits. By analysing whether this higher level of GI protection has economically benefited European wine producers, we can gain a useful insight into the potential economic impact of increased protection of GIs for other products, such as cheeses and hams. As such, we can assess whether or not, from an economic standpoint, the EU and the New World are justified in the respective positions on this issue.

The international wine trade has changed dramatically over the course of the last 15 years due to increased globalisation and competition. Before this time, wine consumption was localised and consumers were predominantly exposed to domestic wines or wines from close neighbouring countries. Reduced trade barriers, tariffs and logistical costs have opened the wine industry to increased global competition and the emergence of New World competitors from countries such as Australia, the United States, Chile, Argentina and South Africa.¹¹⁶ In recent times, world consumption of wine¹¹⁷ and wine exports as a share of global production¹¹⁸ have increased. However, European wine exports have levelled out and exports from the New World have been steadily increasing.¹¹⁹

¹¹⁵ Bramley, above n27, 80.

¹¹⁶ Castaldi, R, Cholette, S, and Hussain, M, 'A country-level analysis of competitive advantage in the wine industry' (Working Paper No DEIAgraWP-06-002, Department of Economics and Agricultural Engineering, University of Bologna, May, 2006) 17.

¹¹⁷ Yue, C, Marette, S, and Beghin, J C, 'How to promote quality perception in wine markets: brand advertising or geographical indication?' (Working Paper No 06-WP 426, Center for Agricultural and Rural Development, Iowa State University, August, 2006) 3.

¹¹⁸ Castaldi, above n37, 17. Over the 1990's global wine exports as a share of global production have increased from 15% to 25% and in 2004 reached 26%.

¹¹⁹ Yue, above n38, 3.

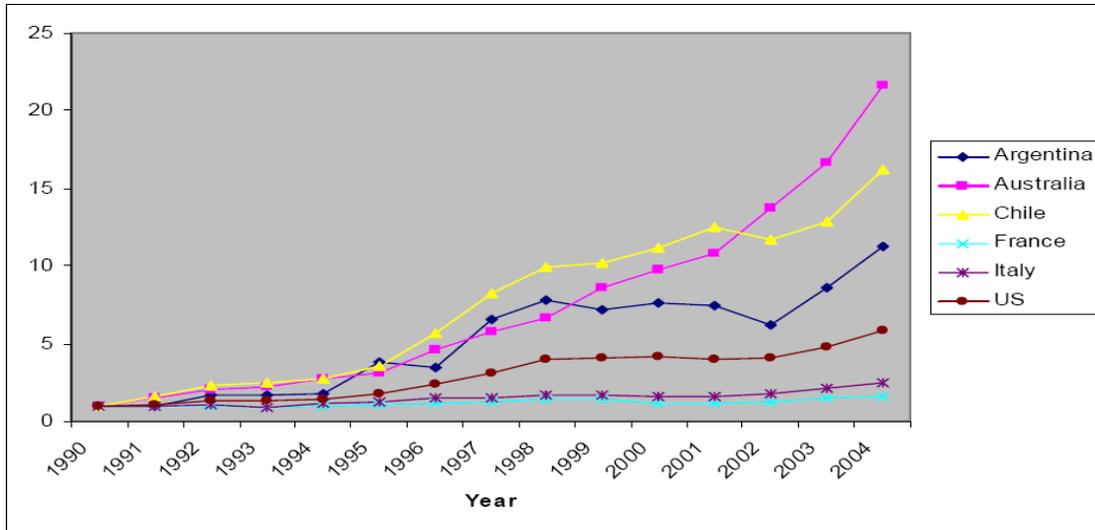


Figure 1. Wine exports value (basis 100 in 1990)¹²⁰

Between 1983 and 2000 the combined volume share of French, German, Italian and UK wines slipped from 89% to 71.5%.¹²¹ The situation of France is of particular note. While it is still the world's largest producer and consumer of wine, in recent years France's historical dominance has been threatened by both European and New World competitors: it is now ranked as the world's third largest exporter behind Italy and Spain and its traditional dominance in the British wine market has been lost to Australia.¹²² Indeed, even France's domestic wine consumption is on the decline and has more or less halved over the course of a generation.¹²³

¹²⁰ UN Commodity Trade Statistics Database in Yue, above n38, 4.

¹²¹ Steiner, B, 'French wines on the decline? Econometric evidence from Britain' (2004) 55(2) *Journal of Agricultural Economics*, 267-288, 285.

¹²² *Ibid.*

¹²³ Castaldi, above n37, 18.

2004 rank	Country	2000 Exports		2004 Exports		Growth in Volume, 2004 vs. 2000
		billion liters	% of world's exports	billion liters	% of world's exports	
1	Italy	1.76	28%	1.454	19%	-17%
2	Spain	0.89	14%	1.448	19%	63%
3	France	1.52	24%	1.43	19%	-6%
4	Australia	0.31	5%	0.65	9%	108%
5	Chile	0.27	4%	0.47	6%	73%
6	USA	0.28	4%	0.39	5%	40%
7	Portugal	0.19	3%	0.32	4%	68%
8	Germany	0.25	4%	0.27	4%	8%
9	South Africa	0.16	3%	0.26	3%	64%
10	Argentina	0.10	2%	0.16	2%	63%
total exports from 9 nations profiled		5.54		6.54		
worldwide exports		6.27		7.60		

Figure 2. Top 10 Wine Exporters in the World¹²⁴

The growing threat to European domination in the wine industry has led to much concern in Europe, not only amongst wine producers, but also at a national and European level. Europe considers its wine sector to be at the heart of social and economic life for many of its rural regions: 2% of EU agricultural areas are wine producing and wine production represented 5% of the value of EU agricultural output in 2006.¹²⁵ Indeed, as recently as 3 July 2007, the European Commission in Brussels announced a policy of agricultural reform to overhaul the entire European viticultural industry by lifting some of the complex restrictions that currently apply to wine production, as well as by simplifying labelling requirements and reducing subsidies and production levels.¹²⁶ The poor performance of European wine internationally raises a big question mark over the effectiveness of Europe's current marketing strategies and production methods that are interlinked with the complex and highly regulated GI systems.

While numerous internal and external factors can be seen as contributing to decline in popularity of European wines, experts generally agree that the primary threat the European export market is its complex and rigid labelling practices and the consequential "inability of

¹²⁴ Castaldi, above n37, 19.

¹²⁵ European Commission, 'CAP Reform: wine reform will help Europe regain lost market share' (Press Release) <http://ec.europa.eu/agriculture/capreform/wine/index_en.htm> at 9 July 2007.

¹²⁶ Castle, S, *Painfully, Europeans Ponder Cutback in Wine Industry* (2007) New York Times <<http://www.nytimes.com/2007/07/04/business/worldbusiness/04wine.html?ex=1341201600&en=a960b668b615b429&ei=5088&partner=rssnyt&emc=rss>> at 7 July 2007.

the appellation system to appeal to what is becoming the global way of understanding wines'.¹²⁷

There have been a number of recent studies into consumers' responses to GIs. Steiner, for example, uses a hedonic analysis to examine the decline in popularity of French wine in the British wine market and finds that there is a correlation between this decline and consumers' low valuation of GIs. Consumers in Britain now show a preference for wines marketed according to their grape variety (varietal wines) and Steiner concludes that a more simplified labelling strategy such as this is a more effective method of reaching consumers.¹²⁸

There has also been significant research into the EU's Protected Designation of Origin (PDO) label.¹²⁹ As the PDO is a form of GI, these studies are useful in evaluating the general effect of GIs on consumers. Bonnet and Simioni's study into consumers' willingness to pay for PDO-labelled Camembert shows that consumers do not value the PDO quality signal.¹³⁰ Furthermore, some studies specifically distinguish between consumers' responses to country-of-origin labels and official PDO certifications. Tregear, Kuznesof and Moxey (1998) show that while certain consumers may make a positive association between a product and its origin, the PDO label adds nothing to a product's appeal.¹³¹ A study by Van Ittersum et al. (2001) also supports this finding. Although certain consumer segments, such as those who actually reside in the product's region-of-origin, may be influenced to some extent by a product's origin,¹³² the PDO label in itself has no direct effect on consumer preference.¹³³ Most countries, including New World countries like the US and Australia, already have strict requirements in place concerning accurate labelling of foodstuffs and require that a product's origin be clearly specified. These studies demonstrate that the presence of a certified GI on a product's label adds nothing that would influence a consumer's preference over and above that which is already achieved through specifying a product's origin. Both studies conclude that for such

¹²⁷ Castaldi, above n37, 19

¹²⁸ Steiner, above n42, 285.

¹²⁹ Implemented by EU Regulation 2081/92 in 1992. See, eg, Van der Lans, I A, et al. 'The role of region of origin and EU certificates of origin in consumer evaluation of food products' (2001) 28(4) *European Review of Agricultural Economics* 451-477, 451.

¹³⁰ Bonnet, C, and Simioni, M, 'Assessing consumer response to Protected Designation of Origin labelling: a mixed multinomial logit approach' (2001) 28(3) *European Review of Agricultural Economics* 433-449.

¹³¹ Tregear, above n51, 384-5.

¹³² Van der Lans, above n50, 469.

¹³³ *Ibid* 474.

labels to have any effect on consumer choice, a coherent marketing strategy would need to be embarked upon to significantly raise their profile among consumers.¹³⁴

A number of factors have been identified as contributing to the poor consumer response to GIs as a marketing tool. First, the proliferation of GIs, while promoting product diversity, can lead to consumer confusion. Indeed, Peri and Gaeta indicate that there are more than 1397 official wine appellations in Europe and more than 850 of those are accounted for by France and Italy combined.¹³⁵ Studies into French consumers' recognition of labels containing the French AOC indication, which is a type of GI, show that it is at a mere 12%.¹³⁶ Marette and Zago promulgate that one of the main problems is simply the legibility and clarity of the label, especially those labels bearing an official seal.¹³⁷ The lack of clarity makes it difficult for consumers to differentiate between wines and this can be particularly problematic in foreign markets, such as the US.¹³⁸ Especially in countries where the typical consumer is unfamiliar with the complex European viticultural systems, such intricate labelling can make the wine retail section of a store appear as a "Wall of Confusion". Rather than helping consumers to make a selection, the "wine geek speak" can actually make the process of choosing a bottle all the more daunting.¹³⁹

Conversely, promotion of wines using a brand advertising strategy facilitates the development of the wine's individual reputation and consumer recognition.¹⁴⁰ Indeed, Bonnet and Simioni's study into consumers' willingness to pay for PDO-labelled Camembert indicates that the brand is more relevant information in the consumer's valuation of the available products.¹⁴¹ Brand advertising is the preferred method of promotion among New World producers. Australia has been particularly successful in brand-building and has numerous top-selling internationally recognised brands, such as Jacob's Creek, Yellow Tail and Alice White. Indeed, Australia's

¹³⁴ Ibid.

¹³⁵ Peri, C, and Gaeta, D, 'Designations of origins and industry certifications as means of valorising agricultural food products' (1999) *European Agro-Food System and the Challenge of Global Competition*.

¹³⁶ Yue, above n 38, 4.

¹³⁷ Marette, S, and Zago, A, 'Advertising, collective action and labelling in the European wine markets' <<http://www.farmfoundation.org/projects/documents/marette-zagopaper.pdf>> at 24 August 2007, 5.

¹³⁸ Ibid.

¹³⁹ Stallcup, J, *Toppling the "Wall of Confusion"* (2005) *Wine Business Monthly* <<http://www.winebusiness.com/html/MonthlyArticle.cfm?dataId=37561>> at 5 July 2007.

¹⁴⁰ Yue, above n38, 4.

¹⁴¹ Bonnet, C, and Simioni, M, 'Assessing consumer response to Protected Designation of Origin labelling: a mixed multinomial logit approach' (2001) 28(3) *European Review of Agricultural Economics* 433-449.

successful branding strategies, involving the use of creative brand names, bright labels and reasonable pricing, have helped it to become the world's fourth largest wine exporter in 2004 and more than double its export volume between 2000 and 2004.¹⁴²

Secondly, GIs also impose many restrictions on production that inhibit producers' ability to experiment and innovate with new technology and techniques to improve production efficiency and improve predictability and consistency in taste.¹⁴³ Because of the long tradition of winemaking in Europe, winemaking techniques have been tried and tested over many years and what they consider to be the best techniques and practices are selected and codified. For example, French laws enshrine local viticultural and vinification practices, which they describe as '*les usages locaux, loyaux et constants*'.¹⁴⁴ European GIs control the entire method of wine production, including imposing restrictions on minimum yields, the minimum distance between vines, pruning methods, soil type, grape variety, maximum levels of sugars, minimum levels of alcohol and acceptable vinification and viticultural methods etc.¹⁴⁵ Conversely, the New World lacks such restrictions and allows its farmers to experiment and evolve.

The production restrictions in Europe have also led to the wine industry remaining highly fragmented and largely consisting of many small-scale vineyards. Indeed, the average French vineyard is less than 2 hectares in size.¹⁴⁶ This can be contrasted with the New World, where the wine industry is highly concentrated and large-scale production dominates.¹⁴⁷ The average vineyard size in Australia is 111 hectares and the industry is dominated by four main players (Fosters, Southcorp, Hardy and Orlando Wyndham) which account for over 75% of production.¹⁴⁸ Similarly, the four main producers in New Zealand account for 85% of production and the two largest producers in South Africa account for 80%.¹⁴⁹ As such, New World producers are in a stronger position to benefit from economies of scale and produce and promote wines at a lower cost.¹⁵⁰

¹⁴² Castaldi, above n37, 21.

¹⁴³ Yue, above, n38, 5.

¹⁴⁴ Stern, S, and Fund, C, 'The Australian system of registration and protection of geographical indications for wines' (2000) 5 Flinders Journal of Law Reform 39-52, 42-3.

¹⁴⁵ Ibid 48, 50.

¹⁴⁶ Yue, above n38, 5.

¹⁴⁷ Ibid.

¹⁴⁸ A country-level analysis of competitive advantage in the wine industry, p21

¹⁴⁹ How to promote quality perception in wine markets: brand advertising or GIs? p5

¹⁵⁰ Castaldi, above n37, 21.

The burdensome restrictions associated with GIs in Europe have contributed significantly to its inability to keep up with New World competitors. Indeed, in the EC's recent proposal for a new Council Regulation announced in Brussels on 4 July 2007, the Commission acknowledges the European wine industry's lack of competitiveness and proposes to overhaul the entire industry. Of the measures proposed by the EC, the first-listed is to implement 'renewed, simplified and more straightforward regulatory measures'.¹⁵¹ If adopted, this process would reduce the number of constraints on producers by allowing them to expand their production levels and implement more adaptable oenological practices.¹⁵² While the EC's proposal does not purport to diminish the role of GIs within the European wine industry, it does acknowledge the need to modify the rigidity of the associated regulatory measures. It also acknowledges the need to simplify wine classification and labelling methods through setting up a single legal framework for European wines¹⁵³ and the need to implement extensive marketing and awareness campaigns to make consumers better informed about European wines and their various GIs.¹⁵⁴

¹⁵¹ European Commission, 'Proposal for a Council Regulation on the common organisation of the market in wine and amending certain Regulations' (Brussels, 4 July, 2007) 5.

¹⁵² Ibid 5-6.

¹⁵³ Ibid 6-7.

¹⁵⁴ Ibid 8.

Lessons from the wine industry and implications for other industries

It has been demonstrated that the higher level of international protection for GIs for wines and spirits has not translated into increased sales for European producers. Rather, it has been shown that despite increased global protection, the EU has actually been losing out to its New World competitors, particularly Australia, Chile and the US. When this trend is assessed in light of the overly negative response by consumers to GIs as a marketing tool, it may be inferred that this decrease in popularity of European wines is at least partly due to its GI-based marketing strategy. At the very least, it would seem that increased GI protection has not *helped* Europe's ailing wine industry. In light of these findings, it would appear that the New World's strong opposition to increasing the protection of GIs for other products is unnecessary to safeguard its economic interests. However, before this conclusion can properly be reached, we must first consider whether the experience of the wine industry can actually be used to inform our understanding of GIs in other industries.

While each industry necessarily has its own particularities and, as such, it is impossible to state in advance what the impact of higher protection of GIs for other products would be with any certainty, some common underlying themes can certainly be identified.

First, it should be noted that the various studies indicating an overall poor consumer response to GIs were not limited to GIs for wines and spirits, but also included the EU's PDO label, which applies to many different agricultural products. A key example is the study into French consumers' response to PDO-labelled camembert;¹⁵⁵ if even the French consumers demonstrate indifference to this type of GI-labelling, it can be surmised that Australian or American consumers are unlikely to be more receptive.

Secondly, when we turn to the question of why GIs generate this negative response in consumers, it can be seen that some of the issues contributing to the problem in the wine industry also exist in other industries. One such issue is the sheer proliferation of GIs and the confusion that this generates in consumers. As with the wine industry, a large number of the GIs that the EU seeks to protect in other agricultural sectors will be unfamiliar to all but the most dedicated of connoisseurs. While there are a few well-positioned exceptions which have secured strong international reputations, such as Champagne in the wine industry and Parmesan cheese and feta in the cheese industry, most consumers would never have heard of cheeses such as Sainte-Maure de Touraine from France, Valtellina Casera from Italy or Idiazábal

¹⁵⁵ See page 10.

from Spain, which are all protected PDOs in the EU.¹⁵⁶ These little known cheeses, along with many other similarly unfamiliar agricultural products, make up the bulk of GIs that the EU is so adamant that the New World protect. As such, the confusion caused in the wine industry from the sheer proliferation of GIs may equally result in other agricultural sectors.

A final lesson to be learned is the damaging effect that over-regulation can have on productivity. The overly burdensome restrictions on production techniques and maximum yields imposed on GI-users in the wine industry have contributed to the EU's inability to effectively compete against New World competitors. These issues would also be problematic for producers in other industries.

Conclusion

In light of the minimal impact that increased GI protection has had on the wine industry and on the overall poor consumer response to GIs as a marketing tool, the perceived benefits of a GI-focused marketing strategy appear to be ill-founded. Indeed, even if the EU succeeds in extending the higher protection to all GIs, any short-term economic advantage they may gain is unlikely to be sustainable. As such, both the EU and the New World need to seriously reconsider their positions in the GI debate and question whether it is all really worth the fight. Indeed, from an economical standpoint, neither side seems to be acting in their own best interests.

For the EU, I suggest that it carefully consider whether obtaining the higher global protection for GIs it so desires will really bring about the results it expects, given the problems currently faced by its wine industry. In light of the poor consumer response to GIs and the stifling effect that they have on innovation and adaptability, the EU could certainly benefit from re-evaluating its heavy reliance on a GI-focused marketing strategy. The cost and energy expended by the EU in attempting to secure increased international protection for GIs is misplaced, as it has been demonstrated that they will not ultimately offer European producers the extra layer of economic protection they desire.

For the New World, I suggest that they can relax. They seem to be doing very well even in a competitive system that is designed by the Europeans. Thus, from an economic perspective there is little point in continuing to struggle against the European crusade to have the higher standard of protection applied universally to all GIs. As the Europeans seem unlikely to

¹⁵⁶ For a full list of the products that qualify for the EU's PDO label go to http://ec.europa.eu/agriculture/qual/en/1bbaa_en.htm.

relinquish their position on GI extension, the New World should adopt a purely pragmatic strategy that discounts all theoretical arguments for and against the EU proposals. Acceding to the EU's demands would likely result in some short-term costs, including those associated with modifying the existing legal framework to accommodate all types of GIs, finding sufficient resources to adequately police the rights of GI-owners, as well as the costs of re-labeling products and re-educating the public. A degree of short-term consumer confusion would also likely result up until the time when the new product names were sufficiently entrenched in everyday language, such as the transition from "Australian Champagne" to "Sparkling wine". However, in the long term, the experience of the wine industry shows us that it may not actually be detrimental to the New World's economic interests to accede to the higher level of GI protection for all products. Given that the EU feels so strongly about GIs, the New World should use the issue as leverage in broader trade negotiations to obtain reduced trade barriers within the European market for its own producers. If this could be achieved, acceding to the EU's demands would actually *benefit* the New World, rather than hold it back.

BIBLIOGRAPHY

1. ARTICLES/BOOKS/REPORTS/PAPERS

Addor, F, and Grazioli, A, 'Geographical indications beyond wines and spirits: a roadmap for a better protection for geographical indications in the WTO/TROPS Agreement' (2002) 5(6) *The Journal of World Intellectual Property* 865-897.

Appleton, A, and Mazur, A, 'France at the crossroads: an end to French exceptionalism', in H.J. Wiarda (ed.), *European Politics in the Age of Globalisation* (New York: Harcourt, 2001)

Agarwal, S, and Barone, M J, 'Emerging issues for geographical indication branding strategies' (Research Paper No 05-MRP 9, Midwest Agribusiness Trade Research and Information Centre, Iowa State University, January 2005).

Babcock, B A, 'Geographical indications, property rights, and value-added agriculture' (2003) 9(4) *Iowa Ag Review* 1-3.

Banks, G, and Sharpe, S, 'Wine, regions and the geographic imperative: the Coonawarra example' (2006) 62 *New Zealand Geographer* 173-184.

Barham, E, 'Translating terroir: the global challenge of French AOC labeling' (2003) 19 *Journal of Rural Studies* 127-138.

Beier, F K, and Schricker, G (eds), *From GATT to TRIPS - The Agreement on Trade-Related Aspects of Intellectual Property Rights* (Vol. 18, Weinheim, New York, 1996).

Berthomeau, J, 'Comment mieux positionner les vins français sur les marchés d'exportation ?' (Report submitted to Jean Glavany, Minister of Agriculture and Fishing, 31 July, 2001).

Bitsch, M, *Histoire de la construction européenne de 1945 à nos jours* (Editions Complex, Brussels, 2004).

Blakeney, M, 'Proposals for the international regulation of geographical indications' (2001) 4(5) *The Journal of World Intellectual Property* 629-652.

Bonnet, C, and Simioni, M, 'Assessing consumer response to Protected Designation of Origin labelling: a mixed multinomial logit approach' (2001) 28(3) *European Review of Agricultural Economics* 433-449.

Bramley, C, and Kirsten, J F, 'Exploring the economic rationale for protecting geographical indications in agriculture' (2007) 46(1) *Agrekon* 69-93.

Bullbrook, J, 'Geographical indications within GATT' (2004) 7(4) *The Journal of World Intellectual Property* 501-522.

Castaldi, R, Cholette, S, and Hussain, M, 'A country-level analysis of competitive advantage in the wine industry' (Working Paper No DEIAgraWP-06-002, Department of Economics and Agricultural Engineering, University of Bologna, May, 2006).

Cheung, C, '“Feta” cheese - geographic indication or generic term?' (2004) 16(9) *Australian Intellectual Property Law Bulletin* 133-135.

Combris, P, Lecocq, S, and Visser, M, 'Estimation of a hedonic price equation for Bordeaux wine: does quality matter?' (1997) 107 *The Economic Journal* 390-402.

Cortés Martín, J M, 'The WTO TRIPS Agreement: The battle between the Old and the New World over the protection of geographical indications' (2004) 7(3) *The Journal of World Intellectual Property* 287-326.

Davison, M, 'Protection of geographical indications: the European Community's proposals on GATT' (1990) October *Australian Business Law Review* 352-354.

Desquilbet, M, Hassan, D, and Monier-Dilhan, S, 'Are geographical indications a worthy quality signal? A framework on Protected Designation of Origin with endogenous quality choice' (Paper presented at the American Agricultural Economics Association Annual Meeting, Long Beach, California, 23-26 July, 2006).

Drummond, F, and Jouguelet, C, 'Geographical indications - update' (2005) 17(10) *Intellectual Property Law Bulletin* 177.

Farquhar, S, 'Geographical indications, WIPO and TRIPS - where to from here?' (2004) 15 *Australian Intellectual Property Journal* 82-6.

Giraud-Héraud, E, Soler, L, and Tanguy, H, 'Concurrence internationale dans le secteur viticole: quel avenir au modèle d'Appellation d'Origine Contrôlée?' (Cahier du LORIA No 2002-02, Laboratoire d'Organisation Industrielle Agro-alimentaire, 2002).

Handler, M, 'The EU's geographical indications agenda and its potential impact on Australia' (2004) 15 *Australian Intellectual Property Journal* 173-195.

Handler, M, 'The WTO geographical indications dispute' (2006) 69(1) *The Modern Law Review* 70-91.

Hayes, D J, Lence, S H, and Babcock, B, 'Geographic indications and farmer-owned brands: why do the US and the EU disagree?' (2005) 4(2) *EuroChoices* 28-35.

Heath, C, and Kaperman Sanders, A (eds), *New Frontiers of Intellectual Property Law: IP and Cultural Heritage, Geographical Indications, Enforcement and Overprotection* (Hart Publishing, Oregon, 2005).

Josling, T, 'Presidential address - the war on *terroir*: geographical indications as a transatlantic trade conflict' *Journal of Agricultural Economics* (2006) 57(3) 337-363.

Jouguelet, C, 'Geographical indications: the saga continues' (2006) 19(3) *Australian Intellectual Property Law Bulletin* 42-3.

Kellie, L, "'What's in a name? that which we call a rose by any other name would smell as sweet"... or would it? An overview of the protection of geographical indications in Australia' (2001) 46 *Intellectual Property Forum* 8-20.

Marette, S, and Zago, A, 'Advertising, collective action and labelling in the European wine markets' <<http://www.farmfoundation.org/projects/documents/marette-zagopaper.pdf>> at 24 August 2007.

Nair, L R, Kumar, R, *Geographical Indications: A Search for Identity* (Lexis Nexis, New Delhi, 2005).

O'Connor, B, *The Law of Geographical Indications* (Cameron May, London, 2004).

Peri, C, and Gaeta, D, 'Designations of origins and industry certifications as means of valorising agricultural food products' (1999) *European Agro-Food System and the Challenge of Global Competition*.

Ryan, D, 'Geographical indications and trade marks' (1998) 9 *Australian Intellectual Property Journal* 127-133.

Ryan, D, 'The protection of geographical indications in Australia under the EC/Australia Wine Agreement' (1994) 12 *European Intellectual Property Review* 521-524.

Steiner, B, 'French wines on the decline? Econometric evidence from Britain' (2004) 55(2) *Journal of Agricultural Economics*, 267-288.

Stern, S, 'The conflict between geographical indications and trade marks or Australia once again heads off down the garden path' (2005) 61 *Intellectual Property Forum* 28-37.

Stern, S, 'The overlap between geographical indications and trade marks in Australia' (2001) 2 *Melbourne Journal of International Law* 224-240.

Stern, S, and Fund, C, 'The Australian system of registration and protection of geographical indications for wines' (2000) 5 *Flinders Journal of Law Reform* 39-52.

Nerlove, M, 'Hedonic price functions and the measurement of preferences: the case of Swedish wine consumers' (1995) 39 *European Economic Review* 1697-1716.

Scarpa, R, Thiene, M, and Galletto, L, 'Consumers WTP for wine with certified origin: latent classes based on attitudinal responses' (Paper presented at the 98th EAAE Seminar 'Marketing within the Global Trading System: New Perspectives', Chania, Crete, Greece, 29 June - 2 July, 2006).

Schamel, G, 'International wine trade: analyzing the value of reputation and quality signals' (Paper submission prepared for the AAEA Annual Meeting, Montreal, Canada, 27-30 July, 2003).

Taylor, W, 'Trade marks and the overlap with geographical indications' (2000) 5 *Flinders Journal of Law Reform* 53-69.

Tregear, A, Kuznesof, S, and Moxey, A, 'Policy initiatives for regional foods: some insights from consumer research (1998) 23(5) *Food Policy* 383-393.

Van Caenegem, W, 'Registered geographical indications: between intellectual property rights and rural policy - Part I' (2003) 6(5) *The Journal of World Intellectual Property* 699-719.

Van Caenegem, W, 'Registered geographical indications: between intellectual property rights and rural policy - Part II' (2003) 6(6) *The Journal of World Intellectual Property* 861-874.

Van der Lans, I A, et al. 'The role of region of origin and EU certificates of origin in consumer evaluation of food products' (2001) 28(4) *European Review of Agricultural Economics* 451-477.

Vincent, M, 'Extending protection at the WTO to products other than wines and spirits: who will benefit?' (2007) 8(1) *The Estey Centre Journal of International Law and Trade Policy* 57-68.

Wallman, M, 'Recent developments in Australian intellectual property law: the protection of geographical indications of wines' (1994) 5 *Australian Intellectual Property Journal* 113-126.

Yue, C, Marette, S, and Beghin, J C, 'How to promote quality perception in wine markets: brand advertising or geographical indication?' (Working Paper No 06-WP 426, Center for Agricultural and Rural Development, Iowa State University, August, 2006).

Zandra-Symes, LJ, 'The protection of appellations of origin and other geographic indications in the United States of America' (1996) 7 *Australian Intellectual Property Journal* 161-166.

2. CASES

Comité Interprofessionnel du Vin de Champagne (1981) 57 FLR 434

3. LEGISLATION

Australian

Trade Practices Act 1974 (Cth).

Trade Marks Act 1995 (Cth).

Australian Wine and Brandy Corporation Act 1980 (Cth).

European

Commission Regulation (EC) No 753/2002.

Council Regulation (EEC) No 2392/89.

Council Regulation (EEC) No 2081/92.

Council Regulation (EC) No 1493/1999.

4. TREATIES

Agreement between the European Community and Australia on trade in wine and Protocol, 31 January 1994, OJ L 86 (entered into force 1 March 1994).

Agreement between the European Community and Canada on trade in wines and spirit drinks, 16 September 2003, OJ 35 2004 (not yet entered into force).

Agreement between the EC and the Republic of South Africa on Trade, Development and Cooperation, October 1999, OJ L 311, 04.12.1999 (provisionally entered into force 1 January 2000).

Agreement between the EC and the Republic of South Africa on trade in wine, 28 January 2002, OJ L 28, 30.01.2002 (provisionally in force).

Agreement between the EC and the Republic of South Africa on trade in wine, 28 January 2002, OJ L 28 of 30.01.2002 (provisionally entered in force 28 January 2002).

Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drinks, 27 May 1997, OJ L 152 of 11/06/1997.

Agreement on Trade-Related Aspects of Intellectual Property Rights, Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization, opened for signature 15 April 1994, 1869 U.N.T.S. 299 (entered into force 1 January 1995).

EC-Chile Association Agreement, 18 November 2002, OJ L 352 of 30/12/2002 (partially entered into force 1 February 2003).

EU-US Wine Accord (entered into force 10 March 2006).

Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, open for signature 31 October 1958, 923 U.N.T.S. 205 (entered into force 25 September 1966)

Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, opened for signature 14 April 1891, 828 U.N.T.S. 163 (entered into force 15 July 1892).

Paris Convention for the Protection of Industrial Property, opened for signature 20 March 1883, 828 UNTS 305 (entered into force 7 July 1884).

International Convention on the Use of Appellations of Origin and Denominations of Cheeses ('Stresa Convention'), 1 June 1951, Journal Officiel de la Republique Française, N° 5821, 11 June 1952.

5. OTHER SOURCES

WTO DOCUMENTS

Communication from Bulgaria, the Czech Republic, the European Communities and its Member States, Hungary, Liechtenstein, Kenya, Mauritius, Nigeria, Pakistan, the Slovak Republic, Slovenia, Sri Lanka, Switzerland, Thailand and Turkey regarding paragraphs 18 and 12 of the draft Ministerial Declaration, WT/MIN(01)/W/11 (14 November 2001).

Communication from Bulgaria, the Czech Republic, Iceland, India, Liechtenstein, Slovenia, Sri Lanka, Switzerland and Turkey, WTO Documents IP/C/W/204 (18 September 2000).

Communication from New Zealand, WTO Documents IP/C/W/205 (18 September 2000).

Minutes of Meeting held in the Centre William Rappard on 5-7 March 2002, WTO Documents IP/C/M/35 (22 March 2002).

Proposal from Bulgaria, Cuba, the Czech Republic, Egypt, Iceland, India, Jamaica, Kenya, Liechtenstein, Mauritius, Nigeria, Pakistan, Slovenia, Sri Lanka, Switzerland, Turkey and Venezuela, WTO Documents IP/C/W/247/Rev.1 (17 May 2001).

EU MATERIALS

European Commission, 'Accompanying document to the Proposal for a COUNCIL REGULATION on the common organisation of the market in wine and amending certain regulations' (Commission Staff Working Document No SEC(2007) 893/2, European Commission, Brussels, 4 July, 2007).

European Commission, 'Fact Sheet: Towards a Sustainable European Wine Sector' (July 2007) <http://ec.europa.eu/agriculture/publi/fact/wine/072007_en.pdf> at 7 July 2007.

European Commission, 'Proposal for a Council Regulation on the common organisation of the market in wine and amending certain Regulations' (Brussels, 4 July, 2007) <http://ec.europa.eu/agriculture/capreform/wine/com2007_372_en.pdf> at 7 July 2007

European Commission, Protected Designation of Origin (PDO) / Protected Geographical Indication (PGI) Register, <http://ec.europa.eu/agriculture/qual/en/1bbab_en.htm> at 22 July.

European Commission, 'Reform of the wine sector: Commission proposal' (4 July 2007), <http://ec.europa.eu/agriculture/capreform/wine/index_en.htm> at 7 July 2007.

European Commission, 'The Reform of the EU's Wine Sector: Unleashing its Potential' (Presentation, 4 July 2007) <http://ec.europa.eu/agriculture/capreform/wine/presentations/wine_en.pdf> at 7 July 2007.

European Union, 'EU-US wine accord will help EU wine trade with US, EU Press Release, Brussels' (Press Release, 10 March 2006)

<<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/294&format=HTML&aged=0&language=EN&guiLanguage=en>>, at 13 August 2007.

NEWSPAPER ARTICLES

Author Unknown, *Bruxelles propose une vaste réforme du secteur vinicole de l'UE* (2007) La Tribune <<http://www.latribune.fr/info/Bruxelles-propose-une-vaste-reforme-du-secteur-vinicole-de-l-UE-294---AP-UE-VIN-REFORME-?Db=News/News.nsf-?Channel=Economie-?SubChannel=France>> at 7 July 2007.

Author Unknown, *Dans l'Aude, les viticulteurs se résignent à l'arrachage: le projet de réforme* (2007) Le Monde <http://www.lemonde.fr/web/recherche_breve/1,13-0,37-996413,0.html> at 7 July 2007.

Author Unknown, *EU aims to shake up wine industry with root-and-branch reform* (2007) Brisbane Times <<http://news.brisbanetimes.com.au/eu-aims-to-shake-up-wine-industry-with-rootandbranch-reform/20075905-m3h.html>> at 7 July 2007.

Author Unknown, *New EU/US Wine Accord* (20 September 2005), Wine News, <http://www.bbr.com/US/db/news-item/660?ID=null&first_news_F=21> accessed 13 August 2007.

Castle, S, *Painfully, Europeans Ponder Cutback in Wine Industry* (2007) New York Times <<http://www.nytimes.com/2007/07/04/business/worldbusiness/04wine.html?ex=1341201600&en=a960b668b615b429&ei=5088&partner=rssnyt&emc=rss>> at 7 July 2007.

Echikson, W, *For some Bordeaux wines, the price may not be right* (2005) Post-Gazette <<http://www.postgazette.com/pg/05245/564673.stm>> at 3 July 2007.

Gumbel, P, "Food Fight!" (31 August 2003) *Time Magazine* <<http://www.time.com/time/magazine/article/0,9171,480249-1,00.html>> at 11 July 2007.

Mercer, C, "Australia teaches Old World how to sell wine" (2005) *Beverage Daily* <<http://www.beveragedaily.com/news/printNewsBis.asp?id=60078>> at 5 July 2007.

Rumble, C, 'Naming a matter to whine about', *The Age* (Melbourne, Australia), 8 June 2007, News 5.

Stallcup, J, 'Toppling the "Wall of Confusion"' (2005) *Wine Business Monthly* <<http://www.winebusiness.com/html/MonthlyArticle.cfm?dataId=37561>> at 5 July 2007.

SPEECHES

Mariann Fischer Boel (Member of the European Commission responsible for agriculture and rural development), 'A balanced reform for a stronger EU wine sector' (Speech delivered at the Agriculture Committee of the European Parliament, Brussels, 4 July 2007) <http://ec.europa.eu/agriculture/capreform/wine/com2007_372_en.pdf> at 7 July 2007.

INTERVIEWS

Le Figaro, Interview with Dominique Bussereau (Le Figaro, 23 June 2006) <http://www.rpfrance.eu/article.php3?id_article=540> at 7 July 2007.

BOOK REVIEW:

ATTILIO STAJANO RESEARCH, QUALITY, COMPETITIVENESS: EUROPEAN UNION TECHNOLOGY POLICY FOR THE KNOWLEDGE-BASED SOCIETY

(2ND ED, SPRINGER, 2009)

Reviewed by Matt Harvey

It was my pleasure to review the first edition of this book which was released in 2004. The second edition embodies even more research, quality and competitiveness than the first. It begins with a brief overview of the history of European integration and key data on the Member States. Part I then analyses the competitiveness of the European economy with a particular emphasis on Italy. Part II then analyses Research and Technology Policy in the EU, a subject on which the author has intimate knowledge as a former Commission official in the area. Ch8 in this Part looks particularly at the Lisbon Agenda and case studies in improved competitiveness by European enterprises.

Stajano points out that R&D not only leads to greater competitiveness, it also enhances European solidarity. He points to the importance of education and lifelong learning in enhancing competitiveness. In short, there is much to be done, but there is also cause for hope. The European social model is worth preserving and even if other countries have caught up, the EU still remains one of the world's most prosperous areas and this is likely to continue.

Part III then gives an overview of the institutional context of the EU. While this contains a useful analysis of the 2004 enlargement, it is otherwise material that can be readily found elsewhere. Appendixes cover the chronology of construction of the EU, university courses on research, quality and competitiveness (actually a detailed account of the course Stajano runs at Bologna using extensive learning technology) and further reading. In keeping with its enthusiastic embrace of technology, the book has a web site where further reading can be found.

The EU may not have caught up with the USA through the Lisbon Agenda, but the USA may come back to the field in the current crisis. While Europe too is suffering, its financial and industrial structure may prove more resilient than that of the USA. The European model may yet prove to be the most enduring. As Stajano both demonstrates and advocates, research and its application will and must remain a vital part of that model.



CESAA Review Editor: Dr Matt Harvey, Faculty of Business and Law, Victoria University, Melbourne, Australia

The *CESAA Review* is a formally refereed journal which aims to publish scholarly articles of a high standard related to theoretical and empirical aspects of contemporary European studies. Its research agenda is to further the development of European studies in Australia and New Zealand, and to provide a forum for debating issues relating to contemporary Europe, as well as Australia and New Zealand's relationship with Europe.

Correspondence:

CESAA Review
P.O. Box 2125
Hawthorn 3122
Australia
Tel: (03) 8344 5151
Fax: (03) 8344 7906
Editor: Matt Harvey
Email: Matt.Harvey@vu.edu.au

Back issues: To order back copies of the CESAA Newsletters/Review Numbers 1 to 30 send \$5.00 per copy – cheques made out to CESAA (specify editions) to the address above. Some editions of the CESAA Review are available to download, from the CESAA website at: www.cesaa.org.au



The Contemporary European Studies Association of Australia was launched as an independent body on 16 March, 1991 in Melbourne. The initiative for such an Association was based on the experience of the national Associations for Contemporary European Studies in each of the member states of the European Union and elsewhere, which is an experience of cooperation, sharing of learning and research interests and dissemination of information and critical analysis on contemporary issues.

AIMS OF THE ASSOCIATION

CESAA's objectives are:

- to promote teaching and research in contemporary European Studies;
- to provide a forum for discussion of contemporary European issues;
- to publish work of high quality in European studies;
- to maintain and foster links between tertiary educational institutions;
- to foster links among academics in Australia and internationally;
- to encourage European Studies in secondary schools;
- to advise interested government and non-government organisations.

The establishment of the Association reflects a desire that academics in Australia from all tertiary institutions, as well as interested individuals, participate in the activities of one Association throughout Australia. The approach of CESAA is interdisciplinary and interprofessional.

CESAA is an active member of the world-wide network of the European Community Studies Associations (ECSA), based in Brussels. CESAA was also a founding member of the Asia Pacific Network of ECSAs.

MEMBERSHIP DETAILS

CESAA welcomes new members and offers the following membership rates:

Students/retired/unwaged	\$ 10.00
Individuals	\$ 50.00

To join, please forward the application form at the back of the CESAA Review, together with the membership fee (cheque or money order) payable to CESAA, to:

CESAA Membership Secretary
P.O. Box 2125, Hawthorn
Victoria 3122, Australia

Membership forms are also available on our website at: www.cesaa.org.au