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**TOWSON UNIVERSITY
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LETTER FROM THE EDITOR

December 12, 2023

Dear Readers,

I am pleased to present to you the first issue of volume LVII of the Towson University Journal of International Affairs. The Fall 2023 edition of the Journal features three fascinating articles that touch on numerous topics, regions, and global events. This issue's authors represent some of the world's most prestigious academic institutions, including our own Towson University.

In our first article, titled "*The American Presidency and the Remake of World Politics*," Max Schreiber chronicles the establishment of the Office of the American President in 1787 and its impact on how American foreign policy is conducted today. Schreiber elucidates the significance of the Presidency for the United States and argues that the President reenergized American foreign policy by consolidating power from a decentralized Congress to one individual, giving the United States legitimacy among European states as a respected sovereign power.

In our second article, titled "*The Seaborne Security Force: The United States Navy, Countering China in the South China Sea, and an Innovative Solution for Global Naval Security*," Alan Cunningham argues for the creation of a security force assistance unit staffed by United States Naval Officers to support Taiwanese Naval Forces in developing strategic countermeasures to Chinese military aggression in the South China Sea.

In our third article, titled "*The Pursuit of Linguistic Unity: The Emergence of Swahili as Kenya's National Language*," Eunice Sheila Waweru discusses the colonial policies that encouraged the spread of Swahili in Kenya and examines the factors leading to the adoption of Swahili as its official language.

To conclude, I want to thank our incredible journal staff and Dr. Paul T. McCartney, who have worked diligently over the last few months to deliver this article to you, our valued readers. On behalf of our entire editorial team, I hope you enjoy Volume LVII Number 1 of the Towson University Journal of International Affairs.

Sincerely,

Walter Donoughe

Editor-in-Chief

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The American Presidency and the Remake of World Politics

Max Schreiber*

Abstract: *This article explores how the Presidency's creation in 1787 reenergized and reorganized American foreign policy after the young nation struggled to effectively make deals and protect national interests upon winning independence from the British in 1783. Structurally, the Presidency enabled the federal government to avoid the division and indiscretion that prevented the States and Congress alike from achieving diplomatic success. Normatively, the Presidency also motivated European monarchs to begin treating the United States like a world rival; the office was viewed as a near-equal to the Sovereigns and it replaced European frustration toward Congress with excitement about the young country. Finally, the Presidency was a democratic victory, as it is the first example in western history of the people getting a direct say through the republican Electoral College in how their leadership conducted foreign policy. These legal changes primed America for success abroad and were soon emulated by the very European powers who had regularly out-negotiated American diplomats and Congress during the Articles of Confederation era.*

Keywords: *Executive power, US diplomacy, The President, Early American history*

Introduction

The cardinal moment in American foreign policy's early history was the creation of the Presidency. Through the "creation of a strong executive" at the Constitutional Convention, the Founders enabled the United States to negotiate with a unified voice and on equal terms against their European counterparts, all of which were led diplomatically by sovereign monarchs.¹ This near-plenary authority over foreign affairs is part of what former US Attorney General William Barr called the "real miracle" from the Constitutional Convention.² Furthermore, the Presidency revolutionized diplomacy by giving "we the people" a say in how America was represented

*Mr. Schreiber is an attorney at the Hamilton Lincoln Law Institute in Washington, DC, and a 2022 cum laude graduate of Harvard Law School. He is an active-duty intelligence officer in the United States Space Force. Between law school and OTS, Mr. Schreiber was the 2022 Bolton Caldwell Fellow in the Solicitor General's Office of West Virginia. Mr. Schreiber recently published the article "Talking Space," regarding strategic messaging and public diplomacy in the space domain, in the Air Force's Space Race and the Strategic Defense Initiative.

¹ William P. Barr, "The Role of the Executive," *Harvard Journal of Law and Public Policy* 43 (2020): 607.

² Barr, "The Executive," 607.

abroad. Before the Presidency, “[w]ars and peace, [and] alliances and treaties, were made not according to the will of the people or in conformity with their interests, but at the will, the pleasure, or the caprice of the sovereign.”³ Accordingly, empowering an elected kingmaker for the United States became its “leading social invention and [] main contribution to democratic governance.”⁴ Together, the democratic input and executive authority entrusted to the President revolutionized foreign affairs not just for the young United States, but the world.

This article explores how the Presidency reenergized and reorganized American foreign policy, after the young nation struggled to effectively make deals and protect national interests after winning independence from the British in 1783. The federal government from 1776 until 1787 consisted solely of a weak Congress, which could not police inter-state trade disputes and which had no legitimacy in the eyes of powerful monarchs abroad. Congress’ failures proved the solution to American frustrations with monarchy did not lie in overcorrecting governance by committee. Accordingly, the Constitutional Convention tried splitting the difference: It assigned operational and discretionary powers to the new President while giving supervisory and formal war powers to Congress. Making the President the face of the nation reflected the importance of a strong, unified voice in foreign affairs for American success.⁵

The Presidency instantly and significantly changed the way Americans conducted foreign affairs—and in the process, it empowered the country for international achievement. First, the Constitution’s structure empowered the President to negotiate *for* the States, which gave his word legitimacy and reduced inter-State trade disputes. It also removed the divided and indiscrete Congress from direct involvement in delicate trade and military discussions with

³ Willis Fletcher Johnson, *America’s Foreign Relations* (New York 1916), vol. 1, 3.

⁴ Sydney Hyman, *The American President* (New York 1954), 4.

⁵ U.S. Const. art. II.

foreign leaders. Second, the Presidency was a normative catalyst for how European powers viewed the United States. Whereas Congress got little respect from the West's monarchs, the President—with his broad diplomatic authority and command of the military—commanded similar stature and was viewed as an equal player on the world stage. Finally, the President's unique status as an *elected* executive gave the American people a direct say on how their interests abroad were represented, and empowered the President abroad in a way other European monarchs could not replicate.

The miracle of the Presidency was a breakthrough for diplomacy—and it ensured America was well-served by its executives for difficult challenges throughout our history. May its vital framework, as detailed in this brief history, live on.

Diplomatic Paralysis after the Treaty of Paris

The United States went without any President after its victory in the Revolutionary War. Initially, a sole Congress led the nation under the “Articles of Confederation,” which—like a useless academic committee—gave each State equal say in the national government and had no real power to enforce its policies. For foreign affairs, the Articles stated plainly, “no treaty [] shall be made whereby ... States shall be restrained from imposing such imposts and duties on foreigners ... or from prohibiting the exportation or importation of any [goods].”⁶ Accordingly, the upstart nation was immediately handicapped by an inability to enforce any binding international agreement.

Nothing epitomized the Articles' failure better than its approach to international trade, which paralyzed relations with all three European powers: France, England, and Spain.⁷ For

⁶ Articles of Confederation, art. IX.

⁷ Paul A. Gilje, “Commerce and Conquest in Early American Foreign Relations, 1750-1850,” 37 *Journal of the Early Republic* 37 (2017): 751, <https://www.jstor.org/stable/90014990>.

example, in 1785 Congress dispatched Thomas Jefferson to negotiate an economic treaty with France, hoping to stimulate trade. But the French knew the States could neuter tariff enforcement, so they did not trust any bargain made on Congress' behalf—and accordingly, none were made.⁸ Negotiations with England fared no better. On an almost daily basis, States violated trade provisions in the Treaty of Paris signed after the Revolutionary War.⁹ Congress sent John Adams to formalize trade policy with London—something the States recognized the country needed—but they refused to jointly implement pre-negotiation policies that would have earned actual concessions from the English.¹⁰

Nowhere did the Articles serve America worse, however, than with Spain. In 1784, Spain announced it would not recognize the Treaty of Paris—an international humiliation and rejection of the American republican experiment.¹¹ The Treaty gave America the right to free navigation of the Mississippi River, a claim Spain (which then controlled substantial land in the Gulf Coast) contested.¹² This outraged the southern States, which prioritized the Mississippi as critical to economic growth and future exploration. Meanwhile, the northern States—with greater ties to Europe and reliance on trade—were increasingly enthusiastic to formalize a trade deal with Spain.¹³ When Spanish diplomats arrived in the United States to discuss a possible treaty, one aide observed that “[t]he enthusiasm of the people of the United States for liberty, independence and popular government has ... already [changed] into disorder.”¹⁴ To bridge this divide John

⁸ Johnson, *America's Foreign Relations*, 135.

⁹ *Ibid.*, 144.

¹⁰ Gerard Clarfield, “John Adams: The Marketplace, and American Foreign Policy,” *The New England Quarterly* 52, no.3 (1976): 355-56 (1979) <https://www.jstor.org/stable/365630>.

¹¹ Johnson, *America's Foreign Relations*, 138; Charles McCarthy, “The Attitude of Spain During the American Revolution,” *The Catholic Historical Review* 2, no.1 (1916): 50-51 <https://www.jstor.org/stable/25011387>.

¹² Michael Allen, “The Mississippi River Debate, 1785-1787,” 36(4) *Tennessee Historical Quarterly* 36, no.4 (1977): 447, <https://www.jstor.org/stable/42625782>.

¹³ Lawrence S. Kaplan, *Colonies Into Nation* (New York 1972), 171-73.

¹⁴ Letter from Francisco Rendon to Jose de Galvez (Jan. 30, 1784).

Jay, the Secretary of State, proposed a limited commercial treaty that ceded Mississippi use exclusively to Spain for twenty-five years.¹⁵ But many southerners preferred to “part with the [union] than relinquish navigation of the Mississippi.”¹⁶ The Jay proposal failed along regional lines and led both the northern and southern block of States to reconsider their commitment to the Union.¹⁷

After all this dysfunction, many Americans recognized the Articles of Confederation were an embarrassment of civilized governance.¹⁸ Congress became the butt of jokes for its ineffectiveness in foreign affairs.¹⁹ A powerful consortium of respected civil leaders realized the Articles better represented a national suicide pact—inviting either war, stagnation, or internal chaos—than they served as the charter of any future world power.²⁰ These frustrated nationalists, known as the Federalists, started advocating for a new constitutional structure that preserved the sovereignty of individual States while introducing a stronger federal government to handle national issues, especially for diplomatic engagements.²¹ And in the summer of 1787, the Federalists manifested enough support to hold a Convention to draft a new U.S. Constitution.

Who Calls the Shots? Political Undertones at the Convention

Significant social and political tension overshadowed the Constitutional Convention. States mismanaged their own finances after the Revolution, leading to a prolonged recession.²² Credit flowed with the viscosity of candle wax.²³ Rising income inequality compounded

¹⁵ Allen, “The Mississippi River Debate,” 455-56.

¹⁶ Letter from John Marshall to Arthur Lee (March 5, 1787).

¹⁷ Allen, “The Mississippi River Debate,” 463-67.

¹⁸ Gordon S. Wood, *The Creation of The American Republic 1776-1787* (Chapel Hill 1969), 471.

¹⁹ Jerrilyn Greene Marston, *King and Congress* (Princeton 1987), 306.

²⁰ John Altman, “The Articles and the Constitution: Similar in Nature, Different in Design,” *Pennsylvania Legacies* 3, no.1 (2003): 20-21.

²¹ See generally Merrill Jensen, *The New Nation: A History of the United States during the Confederation 1781-1789* (New York 1950), 423-26; Wood, *The American Republic*, 516-30.

²² Woody Holton, “Did Democracy Cause the Recession that Led to the Constitution?,” *Journal of American History* 92 (2005): 442-43, <https://www.jstor.org/stable/3659274>.

²³ Holton, “Democracy Cause the Recession,” 456.

economic angst.²⁴ Much of this was due to incompetence by the very State legislatures the Revolution empowered.²⁵ As James Madison explained, “every new election in the States [changes] one half of the representatives,” resulting in a somewhat randomized potpourri of legislators—some “without reading, experience or principle.”²⁶

Why fight the Revolution? From a foreign affairs perspective, partially to get a say in government, a marked contrast from the sovereign-driven whims of European diplomacy.²⁷ And partially for independence, which included the right to self-govern, severance from English mercantilism, and sovereignty under international law.²⁸ But the populist control and ineffective governance of the early 1780s quickly led America to consider the possibility they had overemphasized egalitarianism. The American public still wanted an ordered social hierarchy—just one with more mobility than the European nations their ancestors left behind.²⁹ And American elites expected to be major players on the world stage—they were aghast at recent diplomatic embarrassments. Accordingly, the Constitutional Convention was set up as a battle between “aristocracy and democracy” after recent frustrations with both.³⁰

To the benefit of America, the Convention delegates settled on an institutional vehicle—the President—which had substantial diplomatic authority *and* republican constraints. An American king was never considered. More radical democratic thoughts, including a “war ... on the virtue, property and distinctions in the community” were soundly rejected.³¹ So was the idea of equitable allocations for every class of society in government—something demographic bean

²⁴ Holton, “Democracy Cause the Recession,” 446.

²⁵ Wood, *The American Republic*, 476-77.

²⁶ *The Federalist No. 62* (J. Madison).

²⁷ Johnson, *America’s Foreign Relations*, 3.

²⁸ Declaration of Independence (Jul. 4, 1776).

²⁹ Wood, *The American Republic*, 490-92.

³⁰ *Ibid*, 484-85.

³¹ Letter from Thomas Sedgwick to Rufus King (June 18, 1787).

counters today have not given up on.³² Pragmatists recognized the country was served by *both* political egalitarianism and social order, and such thinking translated into the Convention's diplomatic philosophy. Alexander Hamilton in *The Federalist No. 35* recognized that American society was not as fragmented as often asserted, that all people have a mutual interest in good public policy, and that competent governance outperforms ingroup governance.³³ The immense power soon entrusted to the national government—and particularly the President in the realm of foreign affairs—was “deductible from the only source of just authority – the People.”³⁴

Presidential Architecture

When the Constitution was finished, the powers given to the President made the Office the “primary locus” of American diplomacy.³⁵ It was also “a remarkable democratic institution—the only figure elected by the nation as a whole.”³⁶ After settling on the issue of having one President—versus an executive council—the Convention pivoted to more interesting questions:³⁷ What authority would this office have, especially in the realm of foreign affairs?

The Convention appointed a “Committee of Detail” to promulgate a constitution that suited the consensus of the delegates. Originally, the Committee classified making war and treaties as legislative power.³⁸ But it also recognized the need for speed, secrecy, discretion, and prudent judgment to execute diplomatic initiatives.³⁹ So, the Committee first assigned the new Senate chamber alone the powers over war and trade.⁴⁰ The Senate—with its members having

³² Richard Henry Lee, “Letters of a Federal Farmer,” in Paul L. Ford, *Pamphlets on the Constitution of the United States* 288-89 (1888); Wood, *The American Republic*, 496.

³³ *The Federalist No. 35* (A. Hamilton).

³⁴ Letter from John Jay to George Washington (Jan. 7, 1787).

³⁵ Saikrishna B. Prakash and Michael D. Ramsey, “The Executive Power Over Foreign Affairs,” *Yale Law Journal* 111 (2011): 233.

³⁶ Barr, “The Executive,” 613.

³⁷ Norman A. Graebner, “Foreign Affairs and the U.S. Constitution, 1787-1788,” *Proceedings of the Massachusetts Historical Society* 98 (1986): 4-5 <https://www.jstor.org/stable/25080958>.

³⁸ Graebner, “Foreign Affairs,” 6.

³⁹ Eric Nelson, *The Royalist Revolution: Monarchy and the American Founding* (Cambridge 2014), 221-24.

⁴⁰ Prakash and Ramsey, “The Executive Power,” 284.

longer terms and being chosen by the State legislatures—theoretically insulated Senators from political pressures that previously complicated diplomatic negotiating. And it also retained the power to appoint diplomatic personnel in the initial proposal, just as the preceding Congress had.⁴¹

Separately, the Committee envisioned a singular President with authority to enforce the laws of Congress through an executive branch of government.⁴² As conceived, the President would mirror State governors, who traditionally lacked any foreign affairs power beyond executing the instructions of State legislatures.⁴³ The Senate would set foreign policy for the President to implement, with the Committee hoping the Senate's stature could win sufficient international respect. But the Convention hadn't yet figured out how the Senate—or the entire new Congress—would apportion representation amongst States. When that issue was settled by the “great compromise,” the calculus of the foreign affairs powers materially changed.⁴⁴

The Convention decided, via the Great Compromise, to make Congress a bicameral legislature that gave States equal representation in the Senate.⁴⁵ Thus, under the Committee's proposal, small States would—relative to population—dominate decisions about diplomacy.

Consequentially, big States and especially Virginia—the anchor of the south—turned against bestowing diplomatic powers solely to the Senate.⁴⁶ Further, giving the Senate the treaty power raised concerns over ratification. Only a couple of years earlier, treaty negotiations with Spain

⁴¹ Graebner, “Foreign Affairs,” 6-7.

⁴² 2 The Records of the Federal Convention of 1787 at 182-85.

⁴³ Quincy Wright, “The Control of the Foreign Relations of the United States: The Relative Rights, Duties, and Responsibilities of the President, of the Senate and the House, and of the Judiciary, in Theory and in Practice,” *Proceedings of the American Philosophical Society* 60, no.3 (1921): 238 <https://www.jstor.org/stable/984422>.

⁴⁴ Graebner, “Foreign Affairs,” 7-8.

⁴⁵ Jack N. Rakove, “The Great Compromise: Ideas, Interests, and the Politics of Constitution Making,” *The William and Mary Quarterly* 44, no.3 (1987): 424-25, <http://www.jstor.org/stable/1939765>.

⁴⁶ Graebner, “Foreign Affairs,” 8.

almost split the Union when the north and south could not agree on how to balance regional economic interests.⁴⁷

Assigning the Sovereign Powers

The Treatymaking Authority

After the Great Compromise, a revised consensus formed that treatymaking should be an executive function. As Edmund Burke tells it, “no one liked” the Committee’s decision to give the Senate treatymaking power.⁴⁸ One possible resolution was splitting treatymaking authority between the Senate and the executive branch, while John Mercer of Maryland tried arguing that treatymaking was solely an executive function.⁴⁹ The delegates quickly abandoned giving the Senate treaty power, fearing its group membership would make unity and discretion difficult—inviting the same inconsistency, feebleness, and paralysis as the Articles.⁵⁰

Instead, the Convention “unambiguously vested the executive power over foreign affairs” into the President through the Constitution’s “vesting” clause.⁵¹ As the Supreme Court explained in its 1936 decision *United States v. Curtiss-Wright Export Corp.*, the Vesting Clause’s “very delicate, plenary and exclusive power” made the President “the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress.”⁵² The President’s executive authority is found “not in the [textual] provisions of the Constitution,” but incorporated into the document via “the law of nations” as understood at the time of drafting and ratification.⁵³ Meanwhile, the Senate was

⁴⁷ Allen, “The Mississippi River Debate,” 463-67.

⁴⁸ Graebner, “Foreign Affairs,” 9-10.

⁴⁹ *Ibid*, 9-10.

⁵⁰ Prakash and Ramsey, “The Executive Power,” 269.

⁵¹ *Ibid*, 281.

⁵² *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936).

⁵³ *Ibid*, 318.

assigned limited and express supervisory roles over the President, such as the requirement to “advise and consent” over full treaties and nominated ambassadors.⁵⁴ *Curtis-Wright* is not without its critics: Acclaimed Yale law professor Harold Koh wrote in his book *The National Security Constitution* that the Constitution’s text, framework, and *power shared* amongst the three branches.”⁵⁵ But Koh’s argument does not adequately account for the Constitution as a *counterreaction* to both the Articles-era Congress’s impotence in treaty-making and the international disrespect America was receiving from a monarch-dominated Europe.⁵⁶ Centering the foreign affairs authority in the Presidency fixed both issues.

When the Vesting Clause gave the President “the executive power,” that phrase was not—unlike a baby’s first words—some random farrago of English language. It was deliberate. Specifically, the clause reflects what, in 1787 political science terms, the Founders understood “executive power” to mean.⁵⁷ Because the Founders’ culture and politics derived from the Anglican tradition, the English political system is highly persuasive source as to what executive power constitutes. In England’s governmental structure, the Crown controls the executive power, and exercises almost all its authority in foreign affairs and war.⁵⁸ In fact, the Crown had little authority beyond these domains, as financial, regulatory, and legislative functions were reserved to Parliament.⁵⁹

Classical liberal scholars whom the Founders championed also supported interpreting the Vesting Clause to give the President near-plenary authority over foreign affairs.⁶⁰ These

⁵⁴ U.S. Const. art. II, § 2, cl. 2.

⁵⁵ Harold Koh, *The National Security Constitution* (New Haven 1990), 69.

⁵⁶ *Ibid.*, 69-84.

⁵⁷ Prakash and Ramsey, “The Executive Power,” 253.

⁵⁸ *Ibid.*, 253-54.

⁵⁹ *Ibid.*

⁶⁰ 1 *The Records of the Federal Convention of 1787*, at 437 (Max Farrand ed., 1966) (statement of Luther Martin) (citing Locke); *ibid.* at 71, 391 (citing Montesquieu), 472 (citing Blackstone).

philosophers were “the ideological origins of the American Revolution,” and their work was “quoted everywhere in the colonies, by everyone who claimed a broad awareness.”⁶¹ For example, the English philosopher John Locke argued that the “federative power” over “war and peace ... alliances, and [treaty] transactions” belonged to the nation, and whoever had the executive power also held the federative power because together they “are almost always united” and require “the force of society.”⁶² Montesquieu merged the two powers entirely,⁶³ treating them as indistinguishable and inseparable. William Blackstone, the esteemed English esquire whose analysis justified the Crown’s authority, wrote that the King “has the sole power of sending ambassadors to foreign states, and receiving ambassadors at home,” that he “make[s] treaties, leagues, and alliances with foreign states,” and that he maintains “the sole prerogative of making war and peace.”⁶⁴ This is because “what is done by the royal authority, with regard to foreign powers, is the act of the whole nation.”⁶⁵

Of course, the actual Founders made it publicly clear that the Convention gave the President substantial diplomatic authority too. Thomas Jefferson, the first Secretary of State under the new Constitution, believed foreign policy was “executive altogether,” subject only to the Senate’s express supervisory powers.⁶⁶ George Washington, early in his first Presidential term, described diplomacy with other nations as “my duty,” consistent with “the interests of the United States” and “circumstances ... most conducive to the public good.”⁶⁷ Alexander Hamilton wrote in *The Federalist No. 72* that “the actual conduct of foreign negotiations” is executive in

⁶¹ Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge 1967), 27.

⁶² John Locke, *Two Treatises of Government* (Peter Laslett ed., Cambridge 1963) (1690), 383.

⁶³ Baron De Montesquieu, *The Spirit of Laws* (Classics of Liberty Library 1994) (1751), 185.

⁶⁴ William Blackstone, *Commentaries on the Laws of England* (1765), vol.1, 249.

⁶⁵ *Ibid*, 252.

⁶⁶ Thomas Jefferson, *Opinion on the Powers of the Senate* (Apr. 24, 1790).

⁶⁷ George Washington, *Address to the United States Senate and House of Representatives* (Jan. 8, 1790).

nature, and that American ambassadors should be supervised and directed by the President.⁶⁸ In *The Federalist No. 84*, Hamilton further opined that the “management of foreign negotiations will naturally devolve” onto the President’s desk, subject to the Senate’s ultimate agreement.⁶⁹ And John Jay and Robert Livingston—*while* they were acting as Secretaries of State for Congress under the Articles—believed they were fulfilling an executive function.⁷⁰

Military Control and the War Powers

While the Vesting Clause gave the Presidency the sole power to conduct diplomacy, did it also give the office the war and peace powers? Making deals with other nations is a lesser authority than declaring or ending war with them. Much more so than diplomatic authorities, the formal war powers were hotly contested at the Convention. And the war powers debate was further complicated once the Convention gave the President sole command of the military via the “Commander in Chief” Clause.⁷¹ Would the President mirror the sovereigns in England and France, where Kings possessed both operational military control and the war powers? Or would these powers be shared in this new republic?

Fascinatingly, there was barely any debate over the Commander in Chief Clause during the Convention or in the Federalist Papers. From a theoretical perspective, entrusting the executive with operational military authority was entirely consistent with the law of nations.⁷² From a practical perspective, everyone at the Convention witnessed effectively delegating to General George Washington worked⁷³ And the Convention delegates inferred from experience

⁶⁸ *The Federalist No. 72* (A. Hamilton).

⁶⁹ *The Federalist No. 84* (A. Hamilton).

⁷⁰ Prakash and Ramsey, “The Executive Power,” 276.

⁷¹ U.S. Const. art. II, § 2.

⁷² *Curtiss-Wright Export Corp.*, 299 U.S. at 318.

⁷³ Hyman, *The American President*, 280.

during the Articles era how foolish it would be to give a structurally divided body like Congress operational control over the military.

Further, the “Commander in Chief” Clause was not limitless, as the Constitution provided buffers and checks against political-military consolidation. For example, while the military was “always at the disposal” of the President, the state militias (today’s National Guard) continued to serve at the direction of their Governors and, cumulatively, were far larger than the standing federal army.⁷⁴ Also, Congressional appropriations for the common defense could not extend beyond two years, so Congress could always use the power of the purse to limit the President’s command authority.⁷⁵

But the war powers, in contrast, went beyond command of the military—they addressed “initiating a state of war by a public act” such that one nation “declares herself an enemy to all the individual []” citizens of another.⁷⁶ This is the unrivaled choice only sovereigns make. In England, this decision traditionally belonged to the Crown.⁷⁷ Yet after hearing Pierce Butler’s recommendation to give the President alone the same power, future Vice President Elbridge Gerry shot back that he “never expected to hear in a republic a motion to empower the Executive alone to declare war.”⁷⁸ Separately, there was serious concern, primarily from James Madison, that the President—if his executive power included the war powers—could delay peace for political advantage.⁷⁹

The Convention gave Congress the formal war powers, but the Commander in Chief Clause ensured “the [P]resident played the primary role in war [operations] and a significant, if

⁷⁴ Hyman, *The American President*, 278.

⁷⁵ *Ibid.*, 279.

⁷⁶ Michael D. Ramsey, “Textualism and War Powers,” *University of Chicago Law Review* 69 (2002): 1545; Emmerich de Vattel, *Law of Nations* (1758), § 225.

⁷⁷ Blackstone, *Commentaries*, 249.

⁷⁸ Peter Irons, *War Powers: How the Imperial Presidency Hijacked the Constitution* (New York 2005), 21.

⁷⁹ 1 *The Records of the Federal Convention of 1787*, at 540 (Max Farrand ed., 1966).

not primary, role in determining peace.”⁸⁰ Fearing tyranny if the President had the war powers, the Convention originally sought to give Congress alone the power to “make war.”⁸¹ But James Madison and Elbridge Gerry thought this language was too restrictive, believing it implied the President did not have the ability to use the military to deal with “exigent circumstances” and sudden attacks.⁸² Instead, the Convention settled on giving Congress the sole authority to “declare” war, as well as—by implication—the power to end it.⁸³ The war powers, therefore, were a partnership: The President would conduct war and repel invaders, but only the Congress could commit the United States to sustained conflict and define its scope. Madison cautioned that because “[t]he executive is the department of power most distinguished by its propensity to war,” it is the States and the people, through Congress, who “disarm this propensity of its influence.”⁸⁴

The Convention Spawns a Diplomatic Revolution

The Executive branch was a herculean diplomatic innovation in America’s early diplomatic history and future practice in three ways. First, it was real structural change that reoriented how the fledging national government conducted diplomacy. Second, the Presidency forced normative adjustments as to how other nations viewed the United States. It made America a more legitimate nation in the eyes of sovereign monarchs, especially in Europe—then the hub of global activity. Finally, the Presidency helped resolve the social tensions of the 1780s by giving Americans a say in their foreign affairs without materially degrading diplomatic discretion. Subsequent American foreign policy successes, driven by the Presidents, demonstrate that the office changed diplomacy not only in America, but around the world.

⁸⁰ John C. Yoo, *The Powers of War and Peace: The Constitution and Foreign Affairs After 9/11* (Chicago 2005), 107-08.

⁸¹ Prakash and Ramsey, “The Executive Power,” 285.

⁸² Barr, “The Executive,” 609 (citing Locke).

⁸³ 2 *The Records of the Federal Convention of 1787* at 318.

⁸⁴ James Madison, “Letters of Helvidius, No. IV,” *Gazette U.S.* (Sept. 14, 1793).

The Presidency's Structural Changes

The structural change to American foreign affairs from the Presidency is conspicuous in the Constitution's text. As the previous chapter highlighted, the Vesting and Commander in Chief clauses cabined vast foreign affairs authority to the President.⁸⁵ This marked a substantial departure from the Articles, in two different dimensions: (a) the State-federal balance and (b) the inter-branch balance.

First, the Constitution choked off the States' ability to conduct foreign affairs. Under the Articles, the States conducted diplomacy via collective action through Congress, with each State having one vote on treaty instructions, ratifications, and commissioner selections.⁸⁶ Without the States' endorsement, the Articles Congress could not conduct *any* foreign affairs. And State disagreements had killed important trade deals with both Spain and England. In response, post-ratification America became "virtually a unitary state" when conducting diplomacy.⁸⁷ The Constitution commanded "[n]o State shall enter into any Treaty, Alliance, or Confederation."⁸⁸ This even limited State authority to conduct military operations against Indian tribes, a key function of State government at the time.⁸⁹ The Constitution commanded the "United States" conduct diplomacy as one nation, under one President. After ratification, the most direct input States had on diplomacy was through the Senate, where their legislatures selected Senators.⁹⁰

Relatedly, the Constitution's "Supremacy Clause" made it so that federal law was supreme in every State.⁹¹ The principle extended to treaties once they were ratified by the

⁸⁵ *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 318-20 (1936).

⁸⁶ Hyman, *The American President*, 276.

⁸⁷ Louis Henken, "Constitutional Issues in Foreign Policy," *Journal of International Affairs* 23, no.2 (1969): 211, <https://www.jstor.org/stable/24356624>.

⁸⁸ U.S. Const. art. I, § 10, cl. 1.

⁸⁹ John M. Mathews, "The States and Foreign Relations," *Michigan Law Review* 19, no.7 (1921): 691 <https://www.jstor.org/stable/1276996>.

⁹⁰ U.S. Const. art. I, § 3, cl. 1.

⁹¹ *Ibid*, art. VI, cl. 2.

Senate, meaning they applied equally and forcefully in every State. The Clause was consistent with international law:⁹² As Blackstone explained “whatever contracts, therefore, [the Sovereign King] engages in, no other power in the kingdom can legally delay, resist, or annul.”⁹³ And as Emmerich de Vattel wrote “treaties are sacred between nations,” and therefore “he who violates treaties, violates the law of nations.”⁹⁴ By giving the foreign affairs powers to the federal government, the Constitution ensured that the nation could be trusted in international negotiations.

Then, by giving discretionary foreign affairs powers to the President, the Constitution elevated the discretionary capabilities that the Articles’ Congress lacked.⁹⁵ Post-Constitution, the federal government did not have to pray States would cooperate in returning foreign criminals to their homeland as required under international law, like Pennsylvania refused to do with the French fugitive Charles Longchamps.⁹⁶ Nor did the federal government have to beg States to pay revenue for helping captive Americans, like what happened when American shippers were held hostage in Algiers only a few years earlier.⁹⁷ By creating a unitary and empowered executive organ at the federal level, the Constitution made it possible to effectuate American foreign policy.

Finally, the Constitution installed considerable guardrails to prevent abuse of presidential power, beyond the Senate’s advice and consent on treaties and diplomatic appointments. Both houses of Congress reserved the power to lay duties on foreign commerce and regulate foreign

⁹² Graebner, “Foreign Affairs,” 16.

⁹³ William Blackstone, *Commentaries on the Laws of England* (London 1765), vol. 1, 249.

⁹⁴ Emmerich de Vattel, *Law of Nations* (1758), §§ 219, 221.

⁹⁵ Nelson, *The Royalist Revolution*, 221-24.

⁹⁶ Mary Giunta et al., *The Emerging Nation: A documentary History of the Foreign Relations of the United States under the Articles of Confederation, 1780-89* (Washington, D.C. 1996), vol. 2, 372-73.

⁹⁷ Johnson, *America’s Foreign Relations*, 144-145.

trade.⁹⁸ The Congress was also responsible for building and maintaining a navy⁹⁹—a key signal of legitimate nationhood—as well as providing for the common defense.¹⁰⁰ Even the Judiciary was given a minor role in diplomacy, getting jurisdiction over controversies arising out of ambassadors, ministers, and consuls, as well as the ability to interpret treaties when resolving judicial cases.¹⁰¹ However, since its inception, the Supreme Court is reticent to cast judgement on the President’s foreign affairs decisions, sustaining language in the seminal 1803 case *Marbury v. Madison* that remarked the President’s discretion in this realm “can never be examinable by the courts.”¹⁰²

From these structural changes, Professor Yoo remarks that the “customary executive power over foreign affairs [] returned to a unitary, energetic executive, but one that took the form of a republican president rather than a hereditary monarch.”¹⁰³ This constitutional paradigm is best explained in Justice Robert Jackson’s famous Supreme Court concurrence in *Youngstown Sheet & Tube Co. v. Sawyer*, where the Court rejected President Truman’s attempt to seize a steel plant at risk of strike in the midst of the Korean War. Justice Jackson explained that while the Executive maintained tremendous discretion and authority in war and foreign affairs, the extent of those powers could be calibrated based on the action (or inaction) of Congress.¹⁰⁴ But for truly exigent circumstances, the President was entrusted to shoot first and ask Congress

⁹⁸ U.S. Const. art. I, § 8, cl. 3.

⁹⁹ *Ibid*, cl. 13.

¹⁰⁰ *Ibid*, cl. 1.

¹⁰¹ Johnson, *America’s Foreign Relations*, 150-151.

¹⁰² Jide Nzelibe, “The Uniqueness of Foreign Affairs,” *Iowa Law Review* 89 (2004): 946 (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 166 (1803)).

¹⁰³ Yoo, *The Powers*, 107-08.

¹⁰⁴ Patricia L. Bellia, “Executive Power in *Youngstown’s* Shadows,” *Constitutional Commentary* 19 (2002): 100 (discussing *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952) (Jackson, J., concurring)).

later.¹⁰⁵ Giving the President this freedom to act ensured America did not concede any strategic advantage on the battlefield or in diplomacy to quick-moving monarchs and tyrants abroad.¹⁰⁶

As the historian Willis Johnson tells it, the structural changes made at the Constitutional Convention—and especially the Presidential powers—"[remedied] the defects of the old [Articles of] Confederation so far as the conduct of foreign affairs was concerned."¹⁰⁷

The Presidency's Normative Changes

Separately, the Presidency normatively changed how American diplomacy was perceived by European counterparties. Beyond the Articles' structural deficiencies, American foreign policy struggled because Congress did not resemble the European monarchs America negotiated with. Candidly, America was not yet "in da club."¹⁰⁸ In 1787, Europeans simply played a different game of statesmanship: Raw power was the principal concern.¹⁰⁹ And monarchical authority was at its apex in foreign affairs, with dynasticism a major motivation for international relations.¹¹⁰ The palace intrigue, egos, and strategy ensured European diplomatic affairs stayed dynamic and unpredictable.¹¹¹ Prior to the Presidency, anytime Congressional representatives met to negotiate with a European power, America was essentially pitting a committee of disagreeable lawyers against a drunk sailor.

Thus, the Presidency signaled America was a serious nation ready to conduct foreign affairs in a similar fashion to other great nations. The President alone would negotiate treaties and command troops on behalf of the States, much like the sovereigns of other countries did.

¹⁰⁵ Barr, "The Executive," 609.

¹⁰⁶ Godfrey Hodgson, "The Virtues and Vices of Democracy in Conducting Foreign Affairs," *University of Miami Law Review* 43 (1988): 217 (Irving Kristol speaking).

¹⁰⁷ Johnson, *America's Foreign Relations*, 151.

¹⁰⁸ Fifty Cent, *In Da Club* (2003).

¹⁰⁹ Johnson, *America's Foreign Relations*, 3.

¹¹⁰ Jeremy Black, "Britain's Foreign Alliances in the Eighteenth Century," *Albion* 20, no.4 (1988): 580, <https://www.jstor.org/stable/4050198>.

¹¹¹ *Ibid*, 581-82.

This change was welcome across the Atlantic, given that the European superpowers—England, France, and Spain—all quickly lost faith in America’s word after various diplomatic failures in the 1780s.¹¹² Further, while the President could not staff the government with friends and allies without Senate approval, he was free to associate, negotiate and make executive agreements with whichever monarch he wanted to abroad.¹¹³ With a President to lead it, America became the hottest free agent on the world stage overnight. Suddenly, the French and British—both of which wanted to maintain influence in the States but dreaded negotiating with Congress—could barter and charm for one man’s attention.

Further, because the Presidency is the only federal office elected throughout the nation, foreign diplomats went to the President to get the pulse of the American people, and the President—being duly elected—best represented it. So, with all the raw monarchical politics that dominated Europe, the ruling Kings and Queens finally could put a face to the American interest and spirit. Such impact cannot be understated: Just like the initial construction of the American navy during the Revolution legitimized the rebellious colonies as one nation in the eyes of the world,¹¹⁴ the creation of a singular executive to represent America abroad had similar effect.

Using the Presidency to gain foreign respect was intentional: Thomas Jefferson wrote in support of the Constitution’s ratification that someday the election of the President of the United States would be far more interesting to nations around the globe than whoever the King of Poland was.¹¹⁵ He may have understated this goal. By creating an institution that was “not unlike the Crown” with similar “color and pageantry,” the Constitution successfully reengaged

¹¹² Marston, *King and Congress*, 306; Johnson, *America’s Foreign Relations*, 130-45.

¹¹³ Hyman, *The American President*, 92.

¹¹⁴ Sam Willis, *The Struggle for Sea Power* (New York 2016), 81.

¹¹⁵ Hyman, *The American President*, 6.

European monarchs and reenergized the world about American potential.¹¹⁶ In fact, the Constitution's foreign affairs structure was so successful and respected internationally that soon enough English politicians started debating it for themselves.¹¹⁷

Even Koh's skepticism of a unitary executive concedes the normative hegemony of the Presidency in foreign affairs. In explaining his shared foreign-affairs model, Koh cites cooperation between President Washington and Congress on issues like the Neutrality Proclamation, initiating military action, and the *Jay Treaty*.¹¹⁸ But in all these scenarios, President Washington *led* the relevant American policymaking on his own, with Congress following. Washington issued the initial Neutrality Declaration as an executive policy, he moved troops on his own accord, and he initiated treaty discussions with England and gave the American envoy its instructions.¹¹⁹ Further, Washington was the "sole constitutional responsibility for *communicating* with foreign nations"—something Koh is mistaken to dismiss.¹²⁰ The abilities to act first and to be the sole voice on foreign affairs are overwhelming even within a "shared" constitutional model like the to which one Koh adheres. Presidential leadership through the foreign affairs power often incentivizes Congress to fall in line, something Koh himself observed happened often during the George Washington era and beyond.¹²¹

¹¹⁶ *Ibid*, 13.

¹¹⁷ Quincy Wright, "The Control of Foreign Relations," *The American Political Science Review* 15, no.1 (1921): 3, <https://www.jstor.org/stable/1944023>.

¹¹⁸ Koh, *National Security Constitution*, 78-79.

¹¹⁹ John Yoo, "George Washington and the Executive Power," *University of St. Thomas Law Journal of Law and Public Policy* 5 (2010): 19-21; George Washington, Proclamation of Neutrality (Apr. 22, 1793); Forrest McDonald, *The Presidency of George Washington* (Lawrence, Kansas 1974): 139-41.

¹²⁰ Koh, *National Security Constitution*, 78.

¹²¹ *Ibid*, 74-100.

The Presidency's Democratic Changes

The Presidency's last great diplomatic legacy was its radical commitment to representative governance, especially as a vehicle to directly effectuate the people's "ordinary political energy" abroad.¹²² In 1787, every American either lived under sovereign regimes or had ancestors who lived under sovereign regimes where the heads of state were born, not elected. Accordingly, foreign affairs in these regimes served "dynastic and personal ends."¹²³ The Articles' Congress offered a democratic alternative which collectively could make treaties, declare war, and appoint ambassadors.¹²⁴ But that approach proved fractured and ineffective—a decade of diplomatic disaster demonstrated as much. And while the American political milieu remained optimistically egalitarian, there was deserved concern—particularly amongst the governing class—that the nation was prioritizing dysfunctional democracy over competent governance and the national interest. So, they split the difference—entrusting the diplomatic authority to one man (presumably an elite), who would be elected and restrained by a *republican* mechanism, the Electoral College.¹²⁵

Modern legal orthodoxy interprets the American constitutional structure as intentionally designed to "tame" majoritarian influence by dividing powers and creating a system of checks, balances, and guaranteed rights to insulate political minorities from majoritarian rule.¹²⁶ But others like Richard Parker, the populist law professor, contend the Constitution is (or should be) a vehicle for unleashing the popular will. The democratic versus aristocrat divide at the Convention lives on: Parker notes concerns about majoritarian governance are overblown, as it

¹²² Richard D. Parker, "Here, the People Rule: A Constitutional Populist Manifesto," *Valparaiso University Law Review* 27 (1993): 531.

¹²³ Wright, "The Control," 13.

¹²⁴ Hyman, *The American President*, 276.

¹²⁵ Barr, "The Executive," 613.

¹²⁶ Parker, "Here, the People Rule," 531-32, 558-59.

was an “open question” under the American system whether the majority rules at all—especially in this modern era of subpar voter turnout, lobbyists, agency bureaucrats, and industry’s “revolving door” with government.¹²⁷ Instead, he proposes that the constitutional system’s “fundamental requirement” is that it should be “systematically responsive” to the will of the people.¹²⁸ At least amongst the original Constitution, the Presidency represents a bold attempt to make American diplomacy systematically responsive to popular will.

Two constitutional features link the President to the people when he implements foreign affairs:¹²⁹ First, the President is elected and maintains office alone. There is no shared responsibility or blame, so the President’s diplomatic agenda is directly accountable. The polity may value other issues more sharply than foreign affairs in terms of how they vote or critique the President, but that is their prerogative—the direct line to give the President feedback on diplomatic decisions exists through election. This is in complete contrast to Congress, which works jointly as two bicameral houses, and the Judiciary, which is unelected and likewise operates by committee. Unlike a king, the President must cooperate with the popular will to survive and succeed politically, by fulfilling the people’s “public philosophy.”¹³⁰

Second, because the President executes the foreign affairs powers largely alone, there is a straight line from his policies and personnel to the consequences this nation faces beyond our borders. Without the support of the people, the President has no power abroad; but with it, the President has better stature than any monarch, because the people have blessed—or even reaffirmed through re-election—his judgment. *Vox populi, vox dei.*¹³¹ When executing

¹²⁷ *Ibid.*, 559.

¹²⁸ *Ibid.*, 572.

¹²⁹ Phillip R. Trimble, “Foreign Affairs Law and Democracy,” *Michigan Law Review* 89 (1991): 1376.

¹³⁰ Philip Abbott, *The Exemplary Presidency: Franklin D. Roosevelt and the American Political Tradition* (Amherst 1990), 6-14.

¹³¹ R.F., *Vox Populi, Vox Dei* (1709) (Translated as “the voice of the people is the voice of God”).

diplomacy, the President acts as the “delegate [] of his people” because, unlike with traditional contract law, the negotiation of foreign agreements is not conducted in an individual capacity.¹³² As the Founding Fathers maintained, the President got power from the people and executed it on their behalf.¹³³

Compare the structure of Congress with that of the Presidency. Tip O’Neill, the 47th Speaker of the House who held the job from 1977 to 1987, once proclaimed “all politics is local.”¹³⁴ Accordingly, as the journalist Irving Kristol explains, congressmen “do not see the world ... they see their own restricted, parochial interests.”¹³⁵ Voters hold Congressmen responsible for crappy infrastructure and rising crime; they hold the President accountable for war. By virtue of being elected nationwide, the President is more isolated from local politics, and thus able to devote resources and attention to national and international issues.¹³⁶ Further, Presidents and Kings engage in intermural negotiation as heads of state, whereas Congress performs intramural negotiation across committees, parties, and the two houses.¹³⁷

The courts’ hesitancy to weigh in on foreign affairs issues further strengthens the connection between the Presidency and political authority. The Supreme Court held that the federal courts are “not the principal arena” for deciding what the President may do abroad, so these battles must be “fought between [] the political branches, in the press, in the bar associations, and legal journals.”¹³⁸ If some take issue with the President’s foreign policy, they must persuade the voters to impose a political price for his decisions.¹³⁹ “Boundary disputes”

¹³² Blackstone, *Commentaries*, 245.

¹³³ Letter from John Jay to George Washington (Jan. 7, 1787).

¹³⁴ Thomas O’Neill, *Man of the House* (New York 1987), 26.

¹³⁵ Hodgson, “The Virtues and Vices,” 217 (Irving Kristol).

¹³⁶ Hyman, *The American President*, 54-55.

¹³⁷ Wright, “The Control,” 16.

¹³⁸ Henkin, “Constitutional Issues,” 211.

¹³⁹ *Ibid.*

between Congress and the President in foreign affairs are essentially public relations wars over Constitutional ambiguity (with much of it, as the Supreme Court often reminds us, almost always vested in the President).¹⁴⁰ Other common attacks against Presidents over isolationism, anti-interventionism, or usurpation of authority are grounded in conveying to the voters that the President's current actions abroad are not "acceptable."¹⁴¹ These types of critiques are grounded in the democratic process—and therefore, they empower it.

Even Professor Koh, who criticizes a unilateral Presidency in diplomacy, nevertheless acknowledges the importance of democratic input to the President's foreign affairs powers. He makes three pertinent observations: First, that Judge Abraham Sofaer, Legal Adviser to the Reagan and Bush State Departments, believed the President is attuned to both "the legislative and the popular will" in his decision-marking.¹⁴² Second, that Congress would act to supplement the popular foreign policy decisions of President Washington, such as when it expanded the Neutrality Proclamation of 1793 with the Neutrality Act of 1794.¹⁴³ The President's popular authority on foreign affairs *led* Congress and bolstered his own governance—Washington, as a unanimous President, demonstrated this principle better than anyone else. Third, when (soon to be Chief Justice) John Marshall said on the House floor in 1800 that the Presidency was the "sole organ" of the nation's foreign relations, this "uncontroversial" remark amongst the American public forced Congress to acquiesce to such a principle too.¹⁴⁴ Thus, even for skeptics of a President-led foreign policy like Koh, the popular will serves as a force multiplier for the President's diplomatic authority.

¹⁴⁰ *Youngstown Sheet*, 343 U.S. at 635-38 (Jackson, J., concurring).

¹⁴¹ Henkin, "Constitutional Issues," 211.

¹⁴² Koh, *National Security Constitution*, 80.

¹⁴³ *Ibid*, 78-79.

¹⁴⁴ *Ibid*, 81.

Beyond America's borders, the world is full of friends, enemies, and other neutral or complicated nations whose relationships with the United States vary greatly. Accordingly, America takes a measured and dynamic approach to international relations.¹⁴⁵ By representing the nation as one office, the President can discern—efficiently and discretely—what each nation offers or expects of America, when our interests align, and when those interests change or conflict. The American people may not be scholars or experienced practitioners of diplomacy, but they understand relationships, fairness, and interests.¹⁴⁶ An effective President “relies on these simplicities” to represent the people as one nation.¹⁴⁷

Hyman wrote that “with each decision a President makes, he becomes less and less a President of all the people.”¹⁴⁸ As the President navigates difficult issues and makes consequential choices, he is judged. But Hyman's point is not incompatible with the Presidency as a Parker-like instrument for democratic rule. To maintain popular support, get re-elected, and be effective, the President does not need to govern according to the interests of “all the people;”¹⁴⁹ he need only respond to the aggregate interests of the voters.¹⁵⁰ As Parker would describe it, successful Presidents have interests that overlap with those of the people.¹⁵¹ The President's stake in both political preservation and legacy incentivizes that he acts in America's best interest when representing the nation. This is because liberty and prosperity, as Justice Learned Hand put it, live not in the Constitution, nor in the law, but in politics— “in the hearts of men and women.”¹⁵²

¹⁴⁵ Hodgson, “The Virtues and Vices,” 218 (Irving Kristol).

¹⁴⁶ *Ibid* (Irving Kristol).

¹⁴⁷ *Ibid* (Irving Kristol).

¹⁴⁸ Hyman, “The American President,” 54.

¹⁴⁹ *Ibid*.

¹⁵⁰ Parker, “Here, the People Rule,” 583.

¹⁵¹ *Ibid*, 572.

¹⁵² Learned Hand, *The Spirit of Liberty* (1952), 189-190.

Conclusion

The Constitution's structural changes—especially Article II—empowered a young America to effectuate foreign policy that was binding on the States and representative of the federal government. The Presidency forced European monarchs to treat America as a serious nation and immediately gave the United States the legitimacy it lacked with a lone Congress. And by reconciling aristocratic governance with republican constraints, the Presidency could effectuate foreign policy that effectively served the American people. On these grounds, the Presidency forever changed diplomacy and its creation and importance should be recognized accordingly.

The Seaborne Security Force: The United States Navy, Countering China in the South China Sea, and an Innovative Solution for Global Naval Security

Alan Cunningham*

Abstract: *The tensions between the Taiwanese and Chinese governments have been increasing in recent months, with many national security experts and academics finding a conflict in the South China Sea likely in 2023. China's naval forces are the largest in the world and this is perhaps their greatest strength, while Taiwan's navy remains dwarfed by their greatest adversary. While a conflict in the South China Sea would not be easy and U.S. support would surely assist Taiwan, creating a security force assistance (SFA) unit staffed by U.S. Naval officers to focus on teaching, training, and providing assistance to the Taiwanese Navy could prove beneficial in countering the Chinese military. By providing expert intelligence, military strategy advice on naval operations, and training Taiwanese officers in naval combat tactics, such a unit could be able to benefit not only Taiwan, but other allied nations with an interest in a non-China dominated South China Sea (e.g., Australia, Japan, South Korea).*

Keywords: *Security Force Assistance, U.S. Navy, Foreign Internal Defense, National Defense, International Security, China, Taiwan*

Advisors are a key aspect of military policy and strategy. They typically assist in a multipronged approach; they assist in developing U.S. foreign and military policy goals by building up a national security framework in a foreign land, in addition to helping a foreign allied nation better develop their skills at performing various kinds of operations. More often than not, these are sensitive national security missions such as counterinsurgency and counterterrorism but can also be missions in teaching foreign soldiers demolition and weapons tactics, alongside assisting them in the development of intelligence networks, communications systems, and logistic-supply lines.

In modern military conflicts, advisors are a method by which powerful nation-states (i.e., the United States) can support their allies abroad. Nowhere would such an advisory unit be more

successful and important than in Taiwan, where American advisors could provide combat and combat support to Taiwanese naval units to counter Chinese naval forces in the event of an all-out invasion of Taiwan by China.

The Definition of Security Force Assistance

While advisors exist in a variety of capacities across branches, currently, the United States Army is the only branch carrying out large Security Force Assistance (SFA). The Army does so through their Security Force Assistance Brigades, also known as SFABs. Security force assistance is defined as:

the unified action to generate, employ, and sustain local, host-nation, or regional security forces in support of a legitimate authority ... conducted across the spectrum of conflict or in any of the operational themes [and normally] part of a larger security sector reform effort, while in other instances, security force assistance is not tied to reform but to building partner capacity.”¹

While very similar to the concept of foreign internal defense, the two are not the same. Foreign internal defense, according to Joint Publication 3-22 of the Joint Chiefs of Staff of the U.S. Armed Forces, is defined as “the participation by civilian agencies and military forces of a government or international organization in any of the programs or activities taken by a host nation government to free and protect its society from subversion, lawlessness, insurgency, violent extremism, terrorism, and other threats to its security.”² Foreign internal defense is conducted under the banner of the U.S. Department of Defense, with constant cooperation by Special Operations Forces and geographic level combatant commands, while also entailing:

* Alan Cunningham is a PhD student at the University of Birmingham’s Department of History in the United Kingdom. He holds an MA in International Relations from Norwich University and a BA and BS from the University of Texas at Austin.

¹ U.S. Department of Defense, U.S. Department of the Army, *Field Manual No. 3-07.1* (Washington, D.C., 2009), pg. v, <https://issat.dcaf.ch/download/54519/880346/US%20Army%20FM%203-07.1%20Security%20Force%20Assistance%202009.pdf>.

² U.S. Department of Defense, Chairman of the Joint Chiefs of Staff, *Joint Publication 3-22 Foreign Internal Defense* (Washington, D.C., Pentagon, 17 August 2018), pg. ix-x, https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_22.pdf?ver=2018-10-10-112450-103.

[security cooperation] activities (programs and authorities) integrated with interagency activities ... [involving] indirect support (training [host nation] security forces), direct support (e.g., intelligence cooperation, logistic support, and civil-military operations), and [foreign internal defense] US combat operations, all in unified action with interagency and multinational partners as required.³

It is very important to note here that foreign internal defense is not completely, or solely, a combat-oriented operation or mission; it can include all facets of a military mission from sustainment to intelligence gathering to combat support. In fact, having foreign internal defense be a purely combat mission will more than likely negatively affect the host nation's operations. The differences here may seem minor or otherwise insignificant, however, they are quite important to understanding America's counterterrorism and counterinsurgency missions. Major Derek C. Jenkins, formerly a U.S. Air Force staff officer with the LeMay Center for Doctrine Development and Doctrine, works to define both terms. Jenkins clarifies in an article for the online publication *Small Wars Journal* that:

The focus of all US foreign internal defense efforts is to support the Host Nation's (HN) program of Internal Defense and Development ... If an insurgency, illicit drug, terrorist, or other threat develops, [internal defense and development] becomes an active approach to fight that threat. SFA differs from foreign internal defense in that foreign internal defense primarily deals with internal threats. SFA deals with internal and external threats as they are often connected, and SFA focuses on the same security forces that deal with both types of threats.⁴

One way to put this is that security force assistance can be classified as the larger, overall strategic-level assistance one nation provides to a host nation while foreign internal defense is the more tactical, internal level of nation-to-nation defense assistance being provided. In short,

³ Chairman of the Joint Chiefs of Staff, *Joint Publication 3-22 Foreign Internal Defense*, pg. x.

⁴ Derek C. Jenkins, "Distinguishing Between Security Force Assistance & Foreign Internal Defense: Determining A Doctrine Road-Ahead," *Small Wars Journal*, Small Wars Journal, published 10 December 2008, <https://smallwarsjournal.com/blog/journal/docs-temp/146-jenkins.pdf>.

these forms of assistance, foreign internal defense and security force assistance, are closely related in some points, but clearly quite different in theory and implementation.

For the most part, both foreign internal defense and security force assistance is conducted by members of other branches outside of the U.S. Army. These include the Marine Corps Special Operations Command, U.S. Navy SEALs, and U.S. Army Special Forces. The units conducting these operations are ones more familiar with counterterrorism missions, counterinsurgency missions, and the technical aspects of search and destroy, hostage rescue, special reconnaissance, and other combat-oriented tactics. While these missions each revolve around key military areas like logistical support, air superiority and targeting, intelligence collection, and communications, these specific operations are clearly more combat driven and will therefore be limited to a direct-action response.

Foreign internal defense and security force assistance missions are far more than ground warfare or combat focused; they are everything needed in creating a legitimate, capable nation-state that has a functioning military arm, law enforcement body, and effective government. The United States military, it seems, limits itself to having these operations be solely combat focused, in addition to having these military aspects be dealt with by the U.S. Army, only. Furthermore, the entire role of security force assistance and foreign internal defense seems limited in that many of the units conducting these missions (or being recruited into one of the security force assistance brigades), come from the special operations forces of the Army or the respective branch carrying out such a mission. There is a need for more diversity in terms of skillsets and prerequisites. Having individuals conduct security force assistance and foreign internal defense who are more special operations forces focused, and therefore, focus on the more direct combat operation or strictly combative mission, deprives the host nation of all the surrounding areas of a

military mission that are important. While an expansion of the security force assistance mission across all branches and specialties would substantially bolster the ability by which the U.S. Armed Forces communicates and interacts with their foreign counterparts, the U.S. Navy, in particular, would substantially benefit from such a unit specifically for their Surface Warfare and Submarine Warfare branches and services.

Changing Tides in the South China Sea

The U.S. Armed Forces has, for the past twenty years, been consumed by asymmetric warfare. Counterterror operations, direct action missions, and counterinsurgency practices became the standard in both the wars in Afghanistan and Iraq, and throughout the Global War on Terrorism. In the very publicized awakening both the public and government went through following the 2021 pull out of Afghanistan, the United States has aimed to rework their entire military strategy in order to better confront new and emerging threats.⁵

Among those emerging threats include the desires by China to become “the preeminent power in East Asia and a major power on the world stage ... convinced they can do so only at the expense of U.S. power and influence.”⁶ China’s main strategic goals include undermining “U.S. financial hegemony,” becoming a “global leader in advanced manufacturing and key emerging technologies, and field a world-class military capable of operating on a global scale.”⁷ Along with this is probably China’s most significant and important geopolitical desire: the reunification

⁵ Lee Hudson, “The Biggest Threat to the U.S. Aren’t What You Think,” *Politico*, Axel Springer SE, published 14 December 2022, <https://www.politico.com/news/magazine/2022/12/14/new-national-security-threats-pentagon-00071052>.

⁶ Vera Bergengruen, “China’s Ambitions, Russia’s Nukes, and TikTok: Spy Chiefs Talk Biggest U.S. Security Threats,” *Time*, Time USA, LLC, published 08 March 2023, <https://time.com/6261094/china-russia-tiktok-top-threats-to-us/>.

⁷ Peter Mattis, “A Thorough Explanation of China’s Long-Term Strategy,” *War on the Rocks*, Metamorphic Media LLC, published 17 August 2021, <https://warontherocks.com/2021/08/a-thorough-explanation-of-chinas-long-term-strategy/>.

of China with Taiwan. This has long been a desire by China, to reclaim what they view as their rightful people and territory.⁸ The rhetoric and language indicating this has been growing in recent years.⁹

Many academics and experts on China have begun raising the alarm on China using military power to try and reclaim Taiwan in 2023.¹⁰ The U.S. Intelligence Community's Annual Threat Assessment, released in February of 2023, also identified Chinese control and superiority over Taiwan and the South China Sea as a key area to watch out for. The Intelligence Community indicates that "Beijing will continue to apply pressure and possibly offer inducements for Taiwan to move toward unification and will react to what it views as increased U.S.–Taiwan engagement," which is likely China building upon their actions in 2022, which may "include more Taiwan Strait centerline crossings or missile overflights of Taiwan."¹¹

Looking not at a takeover of Taiwan, but simply considering the potential of an invasion of the island nation by China, Taiwan's individual economy would be devastated, and their semiconductor production halted.¹² This poses problems for societies across the globe, and would likely be a "catastrophic blow to the global economy" with no country being able to "shield itself from the repercussions of a war with Taiwan."¹³ America itself would be incredibly

⁸ "China and Taiwan: A really simple guide," *BBC News*, British Broadcasting Corporation, published 06 April 2023, <https://www.bbc.com/news/world-asia-china-59900139>.

⁹ Rhoda Kwan, "Xi Jinping vows to oppose Taiwan 'pro-independence' influences as a third term begins," *The Guardian*, Guardian Media Group, published 13 March 2023, <https://www.theguardian.com/world/2023/mar/13/xi-jinping-taiwan-independence-china-parliament-national-peoples-congress>.

¹⁰ Jose Caballero, "China: why Beijing has decided this is the year to 'unify' with Taiwan," *The Conversation US*, The Conversation US, Inc., published 24 February 2023, <https://theconversation.com/china-why-beijing-has-decided-this-is-the-year-to-unify-with-taiwan-199726>.

¹¹ United States Intelligence Community, Office of the Director of National Intelligence, Director of National Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community* (Washington, D.C.: 06 February 2023), pg. 06, <https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-Unclassified-Report.pdf>.

¹² Jacob Zinkula & Jake Epstein, "A Chinese invasion of Taiwan is a real and dangerous possibility that could wreck armies and ruin the global economy worse than the 1929 stock market crash," *Business Insider*, Insider, Inc., published 29 January 2023, <https://www.businessinsider.com/what-would-happen-china-invades-taiwan-economy-military-politics-2023-1>.

¹³ Patrick Wintour, "If China invaded it would destroy world trade, says James Cleverly," *The Guardian*, Guardian Media Group, published 25 April 2023, <https://www.theguardian.com/world/2023/apr/25/if-china-invaded-taiwan-it-would-destroy-world-trade-says-james-cleverly>.

disabled, not only from an economic standpoint, but militarily.¹⁴ A report from the *Center for Strategic and International Studies* indicates that the United States Navy would suffer heavy losses in defending Taiwan, despite likely winning the conflict and defeating the Chinese threat.¹⁵ Any defense of Taiwan or defeat of China will be largely conducted and determined on the sea, not on the ground or in the air. Some well-informed scholars on the subject have even identified submarine warfare as playing a key role in any potential conflict with China.¹⁶ Furthermore, while the United States would likely play a substantial role, the Taiwanese Navy would be the main force to directly counter China and defeat any naval campaign waged by the Chinese.

As such, it is beneficial to look at how strong and effective Taiwan's Navy is. According to an October 2022 issue of the magazine, *The Week*, Taiwan's military, overall, is outnumbered by the Chinese quite strongly, with Taiwan having 170,000 active-duty troops (and another 1.5 million in reserves) compared to China's nearly 2 million on active-duty.¹⁷ Taiwan also has had a

¹⁴ Sascha Brodsky, "How America Would Be Screwed if China Invades Taiwan," *The Daily Beast*, The Daily Beast Company LLC, published 29 January 2023, updated 30 January 2023, <https://www.thedailybeast.com/how-america-would-be-screwed-if-china-invades-taiwan>.

¹⁵ Mark F. Cancian, Matthew Cancian, & Eric Heginbotham, "The First Battle of the Next War: Wargaming a Chinese Invasion of Taiwan," *Center for Strategic and International Studies*, Center for Strategic and International Studies, published January 2023, https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/230109_Cancian_FirstBattle_NextWar.pdf?VersionId=WdEUwJYWiySMPir3ivhFolxC_gZQuSOQ.

¹⁶ Mike Sweeney, "Submarines Will Reign in a War with China," *Proceedings* vol. 149 no. 03 (March 2023), <https://www.usni.org/magazines/proceedings/2023/march/submarines-will-reign-war-china>; David Axe, "The U.S. Navy Submarine Force Could Sink The Chinese Fleet And Save Taiwan, But At The Cost Of A Quarter Of Its Boats," *Forbes*, Forbes Media LLC, published 10 January 2023, <https://www.forbes.com/sites/davidaxe/2023/01/10/the-us-navy-submarine-force-could-sink-the-chinese-fleet-and-save-taiwan-but-at-the-cost-of-half-its-boats/?sh=6b2352c43c36>.

¹⁷ Chas Newkey-Burden, "How strong are Taiwan's military defenses?," *The Week*, Future plc, published 28 October 2022, <https://www.theweek.co.uk/news/world-news/china/958331/how-strong-are-taiwans-military-defences>.

mandatory conscription plan in place, which was extended in late December of 2022 from four months to twelve months, and has also increased their national defense budget for 2023 by 15% from 2022.¹⁸

From a naval standpoint, China has the largest naval force in the world and would be able to deploy two aircraft carriers “32 destroyers and 48 frigates . . . nine nuclear attack and six ballistic missile submarines” against Taiwan during an invasion, while Taiwan has only four destroyers, twenty-two frigates, and “two diesel attack submarines.”¹⁹ This also does not account for China’s total arsenal of seacraft and other naval vehicles at their disposal, which has been substantially modernized since 2012.²⁰ While the number of military forces and equipment does not necessarily mean success on the battlefield, in naval conflicts the force with the greater amount of seacraft or naval power overcomes the other, historically.²¹

However, with proper training and strategic assistance, Taiwan could be able to heavily counteract a Chinese offensive. By all accounts, the United States and Taiwan (alongside their allies in the UK, Australia, Japan, and South Korea) would deal a military defeat to China, capturing, wounding, or killing hundreds of thousands of their troops, decimating their Navy, and soundly crippling their air forces.²² But, to say that the U.S. and Taiwan would emerge unscathed or better off in a military or economic sense would be incorrect. Conflict would not

¹⁸ Chad De Guzman, “Taiwan Is Extending Conscription. Here’s How Its Military Compares to Other Countries,” *Time*, Time USA, LLC, published 06 January 2023, <https://time.com/6245036/taiwan-conscription-military-comparison/>.

¹⁹ James Bickerton, “How Taiwan’s Military Power Compares to China,” *Newsweek*, Newsweek Inc., published 04 August 2022, <https://www.newsweek.com/how-taiwans-military-power-compares-china-war-nancy-pelosi-1730795>.

²⁰ “How is China Modernizing its Navy?,” *Center for Strategic and International Studies*, Center for Strategic and International Studies, published 17 December 2018, [https://www.businessinsider.com/pentagon-charts-show-chinas-military-advantage-over-taiwan-2022-1](https://www.csis.org/analysis/how-china-modernizing-its-navy-0#:~:text=The%20U.S.%20Congressional%20Research%20Service,comprised%20296%20vessels%20in%202021; Benjamin Brimelow, “New Pentagon charts lay out China’s growing military advantage over Taiwan,” <i>Business Insider</i>, Insider, Inc., published 18 January 2022, <a href=).

²¹ CPT Sam J. Tangredi, “Bigger Fleets Win,” *Proceedings* vol. 149 no. 01 (January 2023), <https://www.usni.org/magazines/proceedings/2023/january/bigger-fleets-win>.

²² De Guzman, “Taiwan Is Extending Conscription. Here’s How Its Military Compares to Other Countries,” *Time*.

completely destroy either country, but it would be a costly, if highly necessary, conflict. In order to accomplish this, a robust and strong navy would be essential to the defense of Taiwan. Given this is a largely seaborne conflict, many of the ground combat tactics seen with security force assistance would be impracticable. A security force assistance policy with a focus on surface and submarine warfare will be most helpful and beneficial in defending Taiwan and defeating China.

Security Force Assistance in the United States Navy's Submarine and Surface Corps

Surface warfare and submarine warfare will take on a new role and meaning in the coming years and decades, and nowhere more substantially than in the South China Sea. As such, a new unit of security force advisors, specializing in surface warfare and submarine warfare operations, is imperative in the development of a defense against Taiwan. This unit would be comprised of the best strategists in naval warfare, expert trainers and tacticians of surface and submarine warfare, and individuals who have cultural experience and knowledge of their specific geographical region. Surface Warfare Officers, Submarine Warfare Officers, Military Intelligence Officers, and others with skillsets ranging from logistics to telecommunications would be prime individuals to fill the ranks of a security force unit. These individuals would integrate themselves within their host nation's specific defense ministry or department, naval command, or specific host nation fleets, groups, and task forces. They would take a hands-on approach, subjecting the host nation to intense academic and classroom instruction, guiding junior and senior commissioned officers through historical analyses on surface warfare, creating war gaming exercises, and surveilling these officers during training exercises and simulations. These naval advisors would also help implement policies which would benefit the host nation's defense framework, as well as improve the host nation's

intelligence gathering and provision on enemy adversaries. Finally, the advisors would suggest methods that can improve the host nation's strategy and capabilities at sea.

Some of this is likely already being done and performed by certain military attachés stationed at embassies around the globe, however, this is performed on a much-limited scale. Some embassies have only one attaché stationed in their area and that station is responsible for an entire country's operations. As well, their duties pertain to more than purely military stability, including serving as the main military advisor to the U.S. Ambassador and State Department staff and gathering intelligence on geopolitical developments on regional political-military events. My argument would call for the creation of a 15-20-man force which would explicitly work with the host nation military on improving their sea force and naval capabilities. Furthermore, they would be under the ultimate and primary control of the U.S. Department of Defense and the Department of the Navy rather than being coordinated through the Defense Intelligence Agency's Defense Attaché System or somehow being subordinate to the U.S. Department of State. Their role would be exclusively military and focused on the improvement of the host nation's naval force. In Taiwan's case, for example, this would be highly beneficial. It is well documented that the U.S. Navy's submarine warfare training programs and systems have made for an incredibly effective military force.²³ The Navy has made substantial reforms and adjustments to their surface warfare programs with an emphasis on "high-quality training and mentoring."²⁴

²³ Megan Eckstein, "Better weapons, complex training bolster US submarine force," *DefenseNews*, Sightline Media Group, published 03 November 2022, <https://www.defensenews.com/naval/2022/11/03/better-weapons-complex-training-bolster-us-submarine-force/>.

²⁴ Megan Eckstein, "Surface warfare boss unveils strategy to create 'more ready ships'; better trained sailors," *DefenseNews*, Sightline Media Group, published 11 January 2022, <https://www.defensenews.com/digital-show-dailies/surface-navy-association/2022/01/11/surface-warfare-boss-unveils-strategy-to-create-more-ready-ships-better-trained-sailors/>.

Furthermore, units that specialize in training military forces could be beneficial to allied nation states beyond Taiwan, such as Australia, South Korea, and Japan. All would benefit from such a unit and could greatly develop their militaries to better counter China in the South China Sea. Expanding such a program to the navies of Europe and North America, primarily the navies of Sweden, Canada, Denmark, Finland, and others, would be of immense benefit in countering China in the Arctic Circle, another area of interest to global security, economic, and scientific goals. Not only would such a unit would be a fantastic way of strengthening the bonds between friendly, allied navies (accomplishing political and foreign policy goals for the United States), but such a unit could also function as an effective deterrent against Chinese incursion.

Provided, it became public knowledge that Taiwanese naval forces were being trained, it could be a way to preempt any threatening action or give the Chinese a moment's pause. The U.S. Navy has recognized the importance of providing training and expert advice to military forces in Taiwan as, in April of 2023, "Japanese and South Korean naval commanders toured a US ballistic missile submarine off Guam" as "an example of how the US had advanced a trilateral relationship [and] intended to be resolute against threats that challenge regional stability."²⁵ This is not to say that the U.S. Navy or Department of Defense is looking at developing a security force assistance unit as described, but it does indicate they recognize the importance of having their own sailors and officers in foreign countries being embattled against a common enemy. A naval security force assistance unit explicitly designed to improve Taiwan's submarine and surface warfare corps, would be a logical next step, and likely prove to be incredibly useful, both as a method of warfighting and deterring an armed seaborne conflict.

²⁵ Minnie Chan, "Japanese, South Korean commanders tour US Navy nuclear sub in military 'first'," *South China Morning Post*, Alibaba Group, published 05 May 2023, <https://www.scmp.com/news/china/military/article/3219571/japanese-south-korean-commanders-tour-us-sub-military-first>.

Conclusion

The skills, knowledge, and capabilities learned, understood, and crafted by U.S. Navy officers in the surface and submarine warfare branches remain among the best in the world. They have access to the most stringent and thorough primary and continuing training and education; they maintain high entry educational standards; they pride themselves on being among the best of their class; they train in a variety of skills and departments to be able to best control and lead a frigate, destroyer, or aircraft carrier. Exporting this knowledge and capabilities to other, friendly navies in need of support would be of immense assistance to allied forces. The Security Force Assistance Brigades of the U.S. Army have found immense success in Indo-Pacific Asia and the Middle East, being recognized as such by practitioners, military scholars, and senior commanders alike.²⁶

Further research and analysis on how well a permanent, naval-oriented security force assistance unit would benefit host nations on the cusp, or verge of geopolitical crises, like the rising tensions in the South China Sea, is necessary before implementing such a policy clearly. Any kind of policy focusing on this would need to be bolstered by statistical analysis, directly related experience of security force assistance policy, and insider understanding of the security force assistance brigades currently in use by the U.S. Army. Ensuring that such a policy would be effective is a must before moving forward.

²⁶ Renanah Miles Joyce, Max Margulies, & Tucker Chase, "The Future of U.S. Security Force Assistance," *Modern War Institute*, U.S. Military Academy at West Point, U.S. Department of Defense, published 23 November 2021, <https://mwi.usma.edu/the-future-of-us-security-force-assistance/>; John T. Pelham IV, "Security Force Assistance Brigades and US Indo-Pacific Command Multi-domain Competition," *Parameters* vol. 52 no. 04 (2022), <https://press.armywarcollege.edu/cgi/viewcontent.cgi?article=3186&context=parameters>; C. Todd Lopez, "Success of First SFAB in Afghanistan Proves 'Army Got it Right,' Commander Says," *Defense.gov*, U.S. Department of Defense, published 08 May 2019, <https://www.defense.gov/News/News-Stories/Article/Article/1842220/success-of-first-sfab-in-afghanistan-proves-army-got-it-right-commander-says/>.

With proper and appropriate research, the United States Navy and U.S. Department of Defense could find a new way in which to counter the Chinese military overall, and the Chinese Navy specifically, while also working to support Taiwan's military and naval forces especially. Not only would such a strategy benefit the Taiwanese, but other regional nations allied to the United States who hold a national interest in such military advising operations could also utilize the program in accordance with their needs.

The Pursuit of Linguistic Unity: The Emergence of Swahili as Kenya's National Language

Eunice Sheila Waweru*

Abstract: *This paper explores how Swahili emerged as Kenya's national language. Although the language initially spread from the East African coast to the interior of the country, its nationalization was a result of colonial policies that enhanced its spread and nationalist interventions that cemented its status. This paper demonstrates this linguistic history and uses it to highlight the nation-building process in Kenya from its colonial period to its post-colonial period.*

Keywords: *Swahili, Kenya, Colonialism, Post-colonialism, Nationalization, Linguistics*

Introduction

The adoption of Swahili as Kenya's national language represents a historical journey shaped by colonial interventions and nationalist aspirations. This linguistic transformation was not a spontaneous, organic evolution, but rather the outcome of deliberate choices made by colonial settlers, missionaries, and nationalists in Kenya in the 19th and 20th centuries. This paper delves into these artificial interventions that contributed to the selection of Swahili as the national language, highlighting the interplay between colonial legacies, nationalist agendas, and linguistic dynamics.

Kenya is a country characterized by ethnic and linguistic diversity. The country has forty-three constitutionally recognized tribes and speaks about sixty languages.¹ Colonial settlers and missionaries, seeking to spread the Gospel and efficiently administer East Africa while avoiding imparting English language skills to Africans, created and implemented language policies that

¹ Lyndon Harries, "The Nationalization of Swahili in Kenya," *Language in Society* 5, no. 2 (August 1, 1976): <https://doi.org/10.1017/s0047404500006990>, 155.

* Sheila Waweru is a graduate student at Towson University in the Global Humanities program. As an undergraduate at the United States International University-Africa, she majored in Journalism and subsequently interned with an NGO, the Association of Media Women in Kenya.

promoted the spread and standardization of Swahili in Kenya and East Africa at large. Kenyan nationalists, seeking to unify the country and demonstrate difference from the British Empire, equally promoted and used the language until it was cemented as the country's national language by a Presidential declaration from the country's founding president and chief nationalist, Jomo Kenyatta.

The Origin and Spread of Swahili in East Africa

The history of Swahili is at least as long as the documented history of the East African coast. The earliest document we have about the East African Coast is a Persian document from 293 B.C., which mentions the King of Persia's trade relations with the King of the Zhand. Early Swahili speakers on the East African coast were certainly Bantus; however, we have no way of knowing what they called themselves. The Greeks called them "Azanians", the Persians called them "Zhand," meaning black people and the Arabs called them "Zanj." In 1331, Ibn Batuta, a Moorish explorer who traveled the coast of East Africa, noted the main seaport cities of the coast were Malindi, Mombasa, Sofala, Kilwa, and Zanzibar. He called Kilwa the land of the Zanj and the Swahili. These coastal cities evolved from coastal trading villages and later welcomed Arab refugees, which subsequently transformed them into strongly Islamic and Arab centers.² Swahili, as we know it today, originated from Bantu-speakers on the coast of East Africa who were heavily influenced by these Arab refugees. Today, a lot of Swahili words can trace their origins to Arabic.

The initial spread of Swahili from the East African coast can be attributed to trade between Arab and Swahili traders and inland communities. This linguistic expansion began in points along the coast such as Bagamoyo, Saadani, and Kilwa to Tabora, from where caravans

² Beverly Coleman, "A History of Swahili," *The Black Scholar* 2, no. 6 (February 1971): <https://www.jstor.org/stable/41163481>, 17-18.

went west to Ujiji and north to Uganda.³ The geographic range of Swahili today closely follows the old caravan trade routes used by inland Nyamwezi, Kamba, and Yao traders and coastal Arab and Swahili traders.⁴ On the coast, Swahili served both the religious and secular interests of Arab and Swahili communities; however, in the inland, Swahili was only a vehicle for business and trade.⁵ The further inland Swahili moved, the more emasculated it became, as it was stripped to a highly simplified language to serve as a means of communication between individuals of widely different groups.⁶ Inland communities continued to practice their traditional cultures and speak their traditional languages, and relegated Swahili to a language of minor importance, used for trading and business activities. This was the first time Swahili spread organically and consensually to inland Kenyan communities.

Swahili was the first Bantu language to be written. It was first written in the Arabic script, there are Arabic texts from as long ago as the 10th century with Bantu words in Arabic script. Later, German missionaries in Tanganyika, enthusiastic to use the language in their evangelizing mission, translated Swahili into Roman script.⁷

Language Planning in States

Language plays many roles in nation-building processes. Firstly, language serves a utilitarian role; it is used as a mode of communication that permits the nation to function efficiently in political and economic realms. Secondly, it is used as a unifier, as it promotes cohesion and allows the nation to develop a shared culture. Thirdly, if the language is visibly

³ Coleman, "A History of Swahili," February 1971, 19.

⁴ Francis Njubi, *Études Africaines de Géographie Par Le Bas African Studies in Geography from Below*, ed. Michel Arrous and Lazare Ki-Zerbo Ki-Zerbo (CODESRIA, 2008), <https://publication.codesria.org/index.php/pub/catalog/book/140>, 111.

⁵ Coleman, "A History of Swahili," February 1971, 19.

⁶ Whiteley, "The Changing Position of Swahili in East Africa," *Jstor*, October 1956, <https://www.jstor.org/stable/1156672>, 343.

⁷ Coleman, "A History of Swahili," February 1971, 20.

different from that of a neighboring group and has some measure of inner cohesion, it can be used as an argument for a separate nation. For this reason, nationalists throughout history have pushed for their aspiring states to adopt national languages that distinguish them from neighboring nations and make their case for separation.⁸

Nation-states and state-nations take different approaches to language planning and selecting national languages. In nation-states, states that emerge as a result of a process of homogenization of language and culture,⁹ the national language does not emerge naturally and is instead selected and promoted artificially.¹⁰ In state-nations, states that are not rooted in a shared homogenous identity consistent with their borders, the process of identifying and utilizing a national language is more organic. In these states, the process of electing a national language begins with the economic and political supremacy of a group; this group's language inevitably becomes the language of exchange and the language of the capital. The language furthermore takes root as national laws are enacted concerning its use and national bureaucracies, education systems, and armies adopt it.¹¹

Kenya is a state-nation; it is ethnically and linguistically diverse. Even the country's borders do not perfectly encapsulate all forty-three constitutionally recognized tribes within its borders. Tribes like the Somali and the Maasai are split between Kenya and its neighbors, Somalia and Tanzania, respectively. Despite this, linguistic planning in Kenya did not take place in the "state-nation style" but in the "nation-state style," with foundations being laid by missionaries and colonialists and final pushes from the country's founding father and other

⁸ Sue Wright, *Language Policy and Language Planning*, Palgrave Macmillan UK eBooks, 2004, <https://doi.org/10.1057/9780230597037>, 42.

⁹ René Grotenhuis, *Nation-Building as Necessary Effort in Fragile States* (Amsterdam University Press, 2016), <https://www.jstor.org/stable/j.ctt1gr7d8r.11>, 109-110.

¹⁰ Wright, *Language Policy and Language Planning*, 45.

¹¹ Wright, *Language Policy and Language Planning*, 43.

nationalists. For one, the language of the strongest political and economic ethnic community, the Kikuyu, was not selected as the national language, nor was English, another language familiar to Kenya's elite post-independence. Instead, Swahili, a language native to a minority in Kenya, was chosen.¹² Contrastingly, Kenya's neighbor Tanzania also speaks Swahili as its national language; in fact, the dialect of Swahili spoken in Kenya originates from Tanzania.¹³ This shows that Kenyan nationalists did not elect the country's national language under threat of being absorbed by neighbors. However, there is enough evidence to suggest that the country's anxieties of foreign domination were not from its neighbors but from the British Empire to which it formerly belonged.

The British Colonial Administration's Promotion of Swahili in Kenya

European settlers, missionaries, and colonial administrators were perhaps the first to impose the Swahili language in East Africa among Africans. While the colonial government lacked a single coherent language policy for its colony, there were varying preferences for Swahili, English, and vernacular languages among different classes of European imperialists and different policies and initiatives enacted throughout the colonial period. These policies and initiatives saw Swahili spread to the interior of the country more than any other indigenous language or English.

Missionaries who first arrived in Kenya began using vernacular languages to spread Western education and the Gospel. At first, the missionaries saw Swahili as too Islamic to be used to spread the Gospel. This was because the Swahili language was heavily influenced by Arabic, having been originally written in Arabic script, and its native speakers were primarily

¹² Harries, "The Nationalization of Swahili in Kenya", 156.

¹³ Chege Githiora, "Kenya: Language and the Search for a Coherent National Identity," in *Language and National Identity in Africa*, ed. Andrew Simpson (Oxford University Press, 2008), 248.

Muslims. Missionaries, through the Commission on Education in East Africa of 1919, opposed the use of Swahili by claiming it carried the spirit of Islam and therefore could not be used for the Christianization of Africans. When using vernacular languages proved difficult due to the sheer number of indigenous languages spoken in Kenya, the missionaries adopted Swahili and employed it in their schools and used it to spread the Gospel. Their decision was driven by the language's wide use across the country.¹⁴

The colonial settler population, on the other hand, promoted the use of Swahili in East Africa and opposed teaching Africans English from the get-go, because it gave them a sense of difference between the local African population and themselves, thus keeping them at arm's length.¹⁵ The Swahili these settlers used was a thin version of the language, containing a very limited and simple vocabulary, that came to be known as KiSettla, "the settler dialect," and was primarily used to instruct local African workers in basic tasks. Their preferred use of KiSettla led to the misconception that the rural folk – also non-native Swahili speakers – could only grasp a simplified version of the language.¹⁶ The settlers also viewed Swahili, much like Kenyan nationalists, as an instrument of detribalization necessary for the formation of a proletariat, since the language was spoken across the many tribes present.¹⁷

Colonial efforts to standardize Swahili in Kenya began after World War I. The colonial administration, having just acquired neighboring Tanganyika from the Germans, realized that a standardized version of Swahili was necessary for education and inter-territorial cooperation. In 1928, an Inter-Territorial Conference was held in Mombasa (Kenya), where all British East

¹⁴ Ayub Mukhawana and Priscah Jerono, "Language Attitudes in Colonial Kenya: An Historical Perspective," *International Journal of Education and Research* 2, no. 3 (March 3, 2014), <https://www.ijern.com/journal/March-2014/31.pdf>, 2-3.

¹⁵ Njubi, *Études Africaines de Géographie Par Le Bas African Studies in Geography from Below*, 113.

¹⁶ Whiteley, "The Changing Position of Swahili in East Africa on JSTOR", 349.

¹⁷ Alamin Mazrui and Ali Mazrui, "Dominant Languages in a Plural Society: English and Kiswahili in Post-Colonial East Africa," *Jstor*, July 1993, <https://www.jstor.org/stable/1601194>, 279.

African colonial governments agreed upon the views of the Acting Colonial Secretary of Kenya, which expressed a need for inter-territorial cooperation in the preparation of education materials and a committee that would select, revise, and translate these texts. The resulting committee was the Inter-Territorial Language Committee, created in January of 1930, whose central aim was the promotion, standardization, and development of Swahili. The Inter-Territorial Language Committee selected the Zanzibar dialect, KiUnguja, as the standard dialect of the language for Kenya, Tanzania, and Uganda.¹⁸ This dialect had been initially promoted and transliterated by the Germans in Tanzania and was not native to Kenya. The Kenyan dialect, KiMvita, was relegated while KiUnguja was taught in schools across the three countries. Today, the KiUnguja dialect is still taught in Kenyan schools as the “Kiswahili Sanifu” or “standard Swahili.”¹⁹

The colonial administration was not motivated by the increase in literacy that standardizing Swahili would bring about, but by its need for literate Swahili-speaking Africans who could communicate broadly in the country and with colonial administrators to form part of its workforce. These literate Swahili-speaking Africans were to work in the colonial administration’s district offices, police stations, and the military.²⁰ In the military, The King’s African Rifles East African Battalion, the colonial administration, used Swahili as a “compromise language” between African soldiers who had little to no training in English and Swahili, and British officers who similarly lacked training in African languages. Swahili was the trade language of the region and served as the language for inter-ethnic interactions. Swahili was further used by the colonial administration to foster a distinct identity in the military out of the diverse ethno-linguistic backgrounds of the African soldiers. As a result, the dialect KiKAR,

¹⁸ Whiteley, “The Changing Position of Swahili in East Africa on JSTOR”, 345.

¹⁹ Githiora, “Kenya: Language and the Search for a Coherent National Identity”, 248.

²⁰ Njubi, *Études Africaines de Géographie Par Le Bas African Studies in Geography from Below*, 117.

“language of the KAR,” emerged, which was relatively simple and had a distinct lexical borrowing of military terminology.²¹ These colonial language policies and preferences led to the further development and spread of Swahili in Kenya, which solidified Swahili as a pan-ethnic language, positioning it as the most suitable language for decolonization and nationalization.

Kenyans’ Responses to the Colonial Administration’s Promotion of Swahili

The colonial administration’s introduction of Standard Swahili as the medium of instruction in schools in Kenya was met with varying reactions. In the coastal region, where most native speakers are found, there was little objection. In Nyanza province, the Western part of Kenya, Bantu speakers and the Luo were opposed to the use of Swahili. The Kikuyus were indifferent and antagonistic towards the language policy and instead set up African Independent schools where they taught in Kikuyu. This reaction, however, can be seen as an opposition to all things introduced by Europeans and not so much as a reaction to Swahili itself.²²

The reactions of inland communities in Kenya reflected broader frustration with the colonial administration and Kenyans’ eagerness to learn English to acquire greater access to material success.²³ A report from the East African Royal Commission (1953-1955) refers to English as the “gate of entry to a new world” and records sentiments from Kenyans regarding their desire to learn the language. The report records Kenyans expressing statements like, “If I were English-speaking, I should be able to live in a new house”, “I plan to buy... when I finish my English exams”, and “If only I could speak English, I should get more pay.”

Kenyans were opposed to learning Swahili because they saw it as a colonial linguistic intervention aimed at restricting their access to the world and its material wealth. Swahili, while

²¹ Mungai Mutonya and Timothy Parsons, “KiKAR: A Swahili Variety in Kenya’s Colonial Army,” *Journal of African Languages and Linguistics* 25, no. 2 (July 27, 2005), <https://doi.org/10.1515/jall.2004.25.2.111>, 111-112.

²² Whiteley, “The Changing Position of Swahili in East Africa on JSTOR”, 348.

²³ Whiteley, “The Changing Position of Swahili in East Africa on JSTOR”, 348.

being popularized in East Africa by colonial administrators, was not used internationally nor was it used in the economic world. According to Mukhwana and Jerono, Swahili was a political weapon the British colonial administration used to keep Kenyans ignorant about themselves and the world, and to inhibit their economic empowerment.²⁴

Swahili as a Pan-ethnic Political Language

Because of its early use as a trade language and colonial policies, Swahili solidified as a pan-ethnic language. After the Second World War, towns and cities became centers for African nationalism, and a growing race consciousness was spreading among black East Africans. Black Kenyans were no longer only sensing their ethnic identities as Kikuyus, Luos, and Kambas, but were beginning to recognize and articulate their shared experience of exploitation and domination as black people.²⁵ Swahili played a key role in this new consciousness, as speeches agitating for independence were made in Swahili. The new movement and the role Swahili played in it was no doubt aided by the returning soldiers who fought for the King's African Rifles. As Chebet-Choge puts it, "Soldiers from East Africa in the two world wars returned with two knowledge weapons; that of warfare and the ability to speak Kiswahili."²⁶ Politics became national and more inclusive with the communicative facility of Swahili as the lingua franca. It was in this way that Swahili also acquired its sentimental value as a language of African nationalism.²⁷

²⁴ Mukhwana and Jerono, "Language Attitudes in Colonial Kenya: An Historical Perspective", 4 & 6.

²⁵ Mazrui and Mazrui, "Dominant Languages in a Plural Society: English and Kiswahili in Post-Colonial East Africa on JSTOR", 279.

²⁶ Susan Chebet-Choge, "Fifty Years of Kiswahili in Regional and International Development," *The Journal of Pan-African Studies* 4, no. 10 (January 1, 2012): 172, <https://www.jpanafrican.org/docs/vol4no10/4.10FiftyYears.pdf>, 176.

²⁷ Mazrui and Mazrui, "Dominant Languages in a Plural Society: English and Kiswahili in Post-Colonial East Africa on JSTOR", 279.

By the 1950s, Swahili was the language of multi-ethnic independence mobilization. According to Francis Njubi, politicians, songwriters, and journalists chose Swahili as the medium of nationalism.²⁸ Many freedom movements also adopted Swahili as their vehicle for independence. The Mau Mau resistance, originally Muthungu Athii Ulaya, Mugikuyu Ahoote Uthamaki, translated its acronym from Kikuyu to Swahili to ‘Mzungu Aende Ulaya Mwafrika Apate Uhuru’ (let the white man go to Europe, and let the African get independence).²⁹ On a more inclusive note, while undergoing translation, Mugikuyu (Kikuyu person) was changed to Mwafrika (African). This was a push from nationalists to become more inclusive and consolidate African agitation for independence. In 1960, the Kenya African Union (KAU), (Kikuyu based, led by Jomo Kenyatta), the National People’s Convention Party (NPCP), (Luo based, led by Tom Mboya, but with a good following from workers) and the Kenya Independent Movement (KIM), (mixture of Luo and Kikuyu, led by Oginga Odinga and Julius Kiano) merged to form the Kenya African National Union, (KANU), and chose Swahili as its language of operation.³⁰ This merger cemented Swahili as the language for political struggle.

By 1952, the anti-colonial movement had blossomed into a violent struggle that agitated the British. In October of that year, the British government declared a state of emergency in response to the Mau Mau uprising, initiating a seven-year state of emergency in Kenya. In the same year, a government commission recommended that Swahili be eliminated from the school administrative system except in regions where it was the mother tongue; in place of this, select “tribal vernaculars” would be used in a bid to preserve them.³¹ Within a few years, the Prator/Hutasoit commission ushered in the “English Medium Approach” to primary instruction,

²⁸ Njubi, *Études Africaines de Géographie Par Le Bas African Studies in Geography from Below*, 118.

²⁹ Chebet-Choge, “Fifty Years of Kiswahili in Regional and International Development”, 176.

³⁰ Chebet-Choge, “Fifty Years of Kiswahili in Regional and International Development”, 176.

³¹ Githiora, “Kenya: Language and the Search for a Coherent National Identity”, 241.

that endorsed English as the only language of instruction. This nipped linguistic nationalism in the bud and stunted the use of Swahili by Kenyans; as a result, nationalist ideas had to be spread in ethnic languages limiting their reach and impact.³²

Swahili as a Nationalist Language Post-independence

Immediately after Kenya gained its independence in 1963, the new leaders adopted Swahili to express national ideals, political aspirations, and optimism about the future, returning the language to the forefront of national discourse. Swahili was used at political rallies and in public broadcasts. The first post-independence commission of 1964, which saw national unity as the state's main aim, called for Swahili to be recognized as the language of national unity. As a result, Kenya's vernacular languages were relegated to a few teaching hours weekly and were only taught in the first three years of school.³³

While English's value in nation-building was limited to being purely instrumental, Swahili carried both sentimental and instrumental value.³⁴ Nationalists like founding President Jomo Kenyatta capitalized on this currency and used Swahili to express their nationalist ideals and aspirations for the country long before the language was gazetted as the state's national language. Kenyatta, for instance, invented "Harambee," meaning togetherness or together we pull, an ideology that whipped Kenyans into collective nation-building. In the spirit of Harambee, Kenyans came together to fundraise for the construction of schools and healthcare centers, raised fees for needy students, and paid medical bills for needy patients. After independence, he also described the enemies of Kenya as 'Ujinga, Umaskini, na Ugonjwa' which are ignorance, poverty, and disease. He created a sense of familiarity and togetherness in the

³² Githiora, "Kenya: Language and the Search for a Coherent National Identity", 241.

³³ Githiora, "Kenya: Language and the Search for a Coherent National Identity", 242-243.

³⁴ Mazrui and Mazrui, "Dominant Languages in a Plural Society: English and Kiswahili in Post-Colonial East Africa on JSTOR", 280.

country by calling Kenyans “ndugu zangu,” which means my brothers and sisters, and came up with the slogan “uhuru, kazi, na maendeleo” (freedom, work, and development).³⁵

Aside from adopting Swahili, nationalists also openly and directly promoted the use of the language by expressing their preference for it. In 1969, Kenyatta, in a speech to parliament, declared Swahili a “national language” and English an “imperialist language,” which Kenyans should free themselves from, and urged parliament to make Swahili the national language as a sign of identification and pride.³⁶ In 1970, the governing council of the ruling party KANU, led by Kenyatta, announced plans for radical linguistic changes in the country. The party called for all Kenyans to always speak in Swahili to both fellow Kenyans and foreigners in official, non-official, political, and social settings. This policy did not exempt the president, ministers, and government officials, who were required to also address all people, including foreigners, in Swahili and use a translator when necessary. This policy was maintained up until 1974. Additionally, all candidates for political office were required to be able to address a group of people in good Swahili for not less than ten minutes. All civil servants and diplomats were also required to pass an oral and written Swahili test.

Since most cabinet ministers would have had significant difficulties in passing a Swahili test above an intermediate level, the statement was not taken seriously. However, in education, the statement signaled that Swahili should be given more prominence in the syllabus.³⁷ Beyond this, the party’s resolutions held no legal standing and were seen as an exhortation to give Swahili more prominence, as well as a warning of future developments.

³⁵ Chebet-Choge, “Fifty Years of Kiswahili in Regional and International Development”, 175.

³⁶ Githiora, “Kenya: Language and the Search for a Coherent National Identity”, 243.

³⁷ Harries, “The Nationalization of Swahili in Kenya”, 154.

The Need for a National Language

After independence, Kenyan nationalists felt the country needed its own national identity, to distance themselves from its former colonial master. This explains two of Jomo Kenyatta's earlier-mentioned statements after independence. The first from 1974, when Kenyatta declared, "A nation without a culture is dead, and that is why I decreed that Swahili would be the national language,"³⁸ and the second declaring Swahili a "national language" and English an "imperialist language" which Kenyans should free themselves from.³⁹

According to Kembo-Sure's analysis of African countries' post-independence linguistic policies, African nations were anxious to hold their new polities together, and therefore wanted a language that would unify and link all their countries' regions together ensuring intranational interaction uninhibited by linguistic differences. They also wanted a standardized language that would symbolize distinctiveness from other speech communities and a language that would facilitate their participation in the global systems of communication, technological races, and cultural modernization.⁴⁰ Different African countries went about their linguistic policies in one of four ways, choosing to either adopt an indigenous language as the sole official language, adopt an indigenous national language and a foreign co-official language, adopt a foreign language as the sole official language, or adopt more than one foreign language.⁴¹ In Kenya, English was maintained as a co-official language to ensure the country's access to global systems, while Swahili was adopted as a national language to satisfy the need for linguistic difference with the British Empire and linguistic unity in the country.

³⁸ Harries, "The Nationalization of Swahili in Kenya", 155.

³⁹ Githiora, "Kenya: Language and the Search for a Coherent National Identity", 243.

⁴⁰ Kembo-Sure, "Linguistic Standardization and State Rationalization in Kenya: A Move towards Nation-Building," *The Journal of Third World Studies* 15, no. 1 (January 1, 1998): <http://www.africabib.org/rec.php?RID=P00054467&DB=p>, 191.

⁴¹ Kembo-Sure, "Linguistic Standardization and State Rationalization in Kenya: A Move towards Nation-Building", 190.

Kenya Elects Swahili as its National Language

The choice to elect Swahili as Kenya's national language after independence was not an organic democratic choice, but rather the product of an unconstitutional Presidential decree that was ill-received by the English-speaking political class. After independence, Kenya's constitution designated English as the official language, specifically the language in which the National Assembly conducted its business, and did not refer to any national language, including Swahili.⁴² On 4 July 1974, Kenya's founding President, Jomo Kenyatta, announced that from that day forward, Swahili would be the national language of Kenya and that Parliament would conduct its proceedings in the language.

The unfavorable news was not, however unexpected, as the status of Swahili as the national language had been asserted as an eventuality on many occasions at least in the prior decade by the President and his Party, KANU.⁴³ As early as 1969, President Jomo Kenyatta was reported saying "We are soon going to use Swahili in Parliament, whether people like it or not."⁴⁴ In the same year, he urged parliament to make it the national language, emphasizing that Swahili was "a national language" and that English was an "imperialist language," as mentioned earlier.⁴⁵ Additionally, and as earlier outlined, KANU's governing council decreed ambitious linguistic plans that were centered on the adoption of Swahili.⁴⁶ Kenyatta's 1974 pronouncement was not well-received by the Members of Parliament, some of whom pointed out that such a change contravened the Constitution and that not even the President had the right to amend the Constitution without following the right procedure. Nevertheless, to remove any suggestion of

⁴² Kenya Const., Ch. IV, sec 55.

⁴³ Harries, "The Nationalization of Swahili in Kenya", 154.

⁴⁴ Harries, "The Nationalization of Swahili in Kenya", 153.

⁴⁵ Githiora, "Kenya: Language and the Search for a Coherent National Identity", 243.

⁴⁶ Harries, "The Nationalization of Swahili in Kenya", 154.

disloyalty to the President and the ruling party, parliamentarians legally amended the constitution to make Swahili the only official language of the National Assembly.⁴⁷

Parliament's Adoption of Swahili

Traditionally, in state-nations, the elite of the country choose their language as the national language and then enact laws to establish it as such.⁴⁸ What Kenyatta did with his 1974 declaration was almost the complete opposite of this expectation, since Kenya's elite after independence, and especially at the time of the 1974 declaration, were firmly Anglophone and were among the first to be affected by the decree. According to Francis Njubi, since Kenya's independence era, the political elite promoted English as the language of the educated elite and Swahili as the language of the masses, which is not to say that it was entirely understood by many, but limitedly understood by lower-class citizens.⁴⁹ Most members of the political elite found it difficult to speak Swahili, especially in their professional capacities, and argued that the language's vocabulary was limited. Kenya's Attorney General at the time, Charles Njonjo, scorned efforts to make Swahili Kenya's national language, stating that it "was a concoction of Arabic phrases with an inadequate vocabulary," a criticism the language endured from critics with inadequate command of the language.⁵⁰

After Kenyatta's 1974 declaration, the move to make parliament conduct its business in Swahili was not realized swiftly but abruptly. On July 5, the day after Kenyatta unconstitutionally declared Swahili the national language, Parliament was still debating in

⁴⁷ Harries, "The Nationalization of Swahili in Kenya", 158.

⁴⁸ Kembo-Sure, "Linguistic Standardization and State Rationalization in Kenya: A Move towards Nation-Building," 186.

⁴⁹ Njubi, *Études Africaines de Géographie Par Le Bas African Studies in Geography from Below*, 118.

⁵⁰ Derek Peterson, "Charles Njonjo: Ruthless Defender of Entrenched Inequality," *The Elephant*, March 11, 2022, accessed November 19, 2023, <https://www.theelephant.info/features/2022/03/11/charles-njonjo-ruthless-defender-of-entrenched-inequality/>.

English. While discussing a motion concerning the proposal to set up an impartial body to oversee land transactions, Speaker Fred Mati ordered Mr. Mutiso Muyu, a member of the house, to respond to his colleague in Swahili. The speaker stated:

Before Mr. Mutiso Muyu stands to reply, I have an important announcement to make. I have spoken to His Excellency the President on the question of this House switching from English to Swahili. I have explained to him the difficulties we have in switching over to Swahili but it is his feeling that we should as an experiment start straightaway, but we shall in due course start sorting out our difficulties. He is going to listen to what Hon. Members are going to say in Swahili. So, all the other problems which we have, like the question of our palantypists and the Constitution, are taken into account. However, he would like to hear Swahili spoken right away, to see that we make a start, so, as from now, I am afraid Mr. Mutiso Muyu will have to reply to his Debate in Swahili.⁵¹

Fred Mati's statement derides three things: first, parliament's reluctance to adopt Swahili as their mode of communication; second, the lack of proficiency among members of parliament in Swahili; and third, Kenyatta's adamant stance that the country adopts Swahili as its national language.

Many Members of Parliament faced challenges expressing themselves in Swahili after Kenyatta's declaration. During the same debate on land transactions, Hon. George Anyona, said he had difficulties expressing himself in Swahili, to which a member shouted that he should then speak his mother tongue, Gusii. The same happened to Hon. Wachira Waweru who was equally advised to speak his mother tongue, Kikuyu, which he obliged, only to be cut short by loud laughter.⁵²

Given the difficulties these Members of Parliament found in expressing themselves in Swahili, Kenyatta's declaration faced some opposition. The Hon. Martin Shikuku of Butere, for

⁵¹ "The Place of Kiswahili in Legislative Work," Parliament of Kenya The National Assembly, 2021, <http://www.parliament.go.ke/sites/default/files/2022-08/FS21%20The%20Place%20of%20Kiswahili%20in%20Legislative%20Work.pdf>, 5.

⁵² Parliament of Kenya The National Assembly, "The Place of Kiswahili in Legislative Work", 7.

instance, suggested that the Members of Parliament were breaking the law by debating in Swahili since the constitution still stipulated that debates in parliament should be held in English.

Hon, G.G. Kariuki responded to him by saying:

The President, as we all know, is above all laws, now, he has already decided that we must speak in Kiswahili. We agreed yesterday and now, Mzee is demanding to know why we are not speaking in Kiswahili, I would like us to go on as planned even though some words are hard to pronounce.⁵³

This further illustrates the difficulty the parliamentarians found in using the language and its imposition upon them.

Why Swahili and Not Other Languages?

Seeing as Kenya was a multi-lingual state after independence, Swahili was certainly not the only choice for a national language in the state. Technically speaking, Kenyan nationalists, Jomo Kenyatta and KANU governing council members, could have opted for any of the languages spoken in the country. English and Kikuyu, specifically, would have been their first and second choices, as both were spoken in the capital and by the political elite, with the first being ethnically neutral. However, due to practical and political realities, these languages were not viable options.

Leading up to the selection of Swahili as a national language, English was so dominant in the country that it was the chief reason many Kenyans thought Swahili would never be decreed the national language.⁵⁴ However, as a national language, English would not have been a viable choice for three reasons. Firstly, selecting English as Kenya's national language would have been a rejection of the African ethos, and while the Nairobi elites were steeped in Englishness, Kenyans had a strong desire to embody an African country. Secondly, opting for English would,

⁵³ Parliament of Kenya, The National Assembly, "The Place of Kiswahili in Legislative Work," 6.

⁵⁴ Harries, "The Nationalization of Swahili in Kenya," 155.

in Harries' words, be "tantamount to making a public declaration in favor of what is foreign."⁵⁵

Thirdly, while Kenya was not trying to argue separation from its neighbors, much like nation-states previously mentioned, it wanted to forge a national identity separate from the empire it had belonged to and stave off imperialism.

Kikuyu, after independence, was one of Nairobi's most spoken languages. When President Kenyatta would communicate in public, he would sometimes switch to Kikuyu to reiterate a point or make a joke, and his audience, being a Kikuyu majority, would respond to either of these immediately. It was the language of the politically and economically strongest ethnic community and the native tongue of the president. It is for this reason that Kikuyu was not a viable option. However, opting for Kikuyu would have been seen as a Kikuyu attempt to dominate other ethnic communities in the country and would have incited ethnic rivalry. This was reflected in the University of Nairobi's Student Union election in 1972, when a Kikuyu candidate was defeated by a Luo candidate who received support from non-Kikuyu students. The union was banned by the government, and, according to the students, the ban was a result of the election's outcome.⁵⁶

Opting for English was politically unsound while opting for Kikuyu was politically explosive. Other indigenous languages were either not widely spoken or spoken by groups large enough to signal their dominion over other ethnic communities in the country. Kenyan nationalists were not willing to pay the price for either of these options and therefore saw Swahili as the better choice. Opting for Swahili (as it is an African language) was seen as a promotion of "Africaness" as it originated from Africa and had since managed to rid itself of its colonial stench during the struggle for independence. On the other hand, Swahili was the native tongue of

⁵⁵ Harries, "The Nationalization of Swahili in Kenya", 156.

⁵⁶ Harries, "The Nationalization of Swahili in Kenya", 156.

a small and politically inconspicuous ethnic community, rendering them devoid of the potential for dominance.

Conclusion

In conclusion, the emergence of Swahili as Kenya's national language is a historical phenomenon shaped by a combination of colonial interventions, nationalist aspirations, and linguistic dynamics. The selection of Swahili was not a result of organic evolution, but rather deliberate interventions and choices made by colonial settlers, missionaries, and Kenyan nationalists.

The colonial administration played a pivotal role in promoting Swahili, especially through missionary efforts and language standardization policies. The missionaries initially hesitated due to Swahili's Islamic connections, but practical considerations led to its adoption. The colonial government's preference for Swahili over English and other indigenous languages promoted its spread. The colonial administration also foreshadowed Swahili's nationalization when they designated it the language of inter-territorial cooperation between Uganda, Kenya, and Tanganyika colonial territories. This made it the language of resistance, and later on a viable choice for a national language.

Kenyan nationalists, seeking to unify the country and assert independence from British rule, embraced Swahili as a tool for national cohesion and sovereignty. This was possible despite Kenya's ethnic and linguistic diversity due to Swahili's pan-ethnic spread. Nationalist movements, including the Mau Mau resistance, employed Swahili in their struggle for independence, contributing to its status as a political and nationalist language. In the post-independence era, Kenyan nationalists continued to use Swahili to express their nationalist

aspirations and promoted its use until chief nationalist and founding President Jomo Kenyatta declared it the national language.

Although Kenya is a state-nation, its linguistic planning mirrors those of nation-states. Kenya's language planning since before its independence has been artificial and intentional on both colonial and nationalist parts. The artificiality of colonial linguistic planning is understandable as colonialists were trying to fashion a new colonial state out of an artificially demarcated territory inhabited by multiple ethnic communities. Nationalists' linguistic planning, however, is not as neatly explained. The reason nationalists' linguistic planning in Kenya mirrors that of nation-states has been explained as a European colonial legacy by the likes of Sue Wright.⁵⁷ What I propose in this paper instead is that Kenyan nationalists were conscious of their African/black identity and were determined to succeed and remain sovereign from the British Empire. In this endeavor, Swahili played the vital role of carving an identity separate from "Englishness" that would promote the country's sovereignty and unify it.

⁵⁷ Wright, *Language Policy and Language Planning*, 69.