

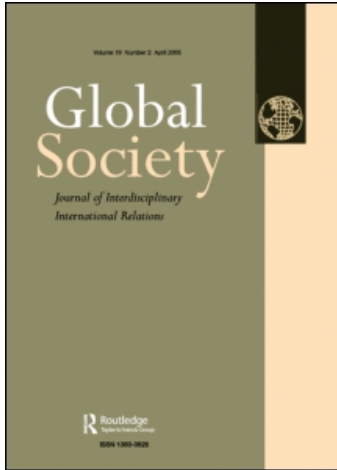
This article was downloaded by: *[Bayerische Staatsbibliothek]*

On: 10 November 2009

Access details: *Access Details: [subscription number 906455949]*

Publisher *Routledge*

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



Global Society

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title~content=t713423373>

Why Greylag Geese and Money-laundering are Not Objective Problems: A Rejoinder

Rainer Hülse

To cite this Article Hülse, Rainer 'Why Greylag Geese and Money-laundering are Not Objective Problems: A Rejoinder', *Global Society*, 23: 2, 183 – 190

To link to this Article: DOI: 10.1080/13600820902766250

URL: <http://dx.doi.org/10.1080/13600820902766250>

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: <http://www.informaworld.com/terms-and-conditions-of-access.pdf>

This article may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

Why Greylag Geese and Money-laundering are Not Objective Problems: A Rejoinder

RAINER HÜLSSE

Introduction

Over the past few years, the population of greylag geese has grown rapidly on the Bavarian lake where I live. Much to the annoyance of swimmers, this growth has the consequence that many beaches have become terribly polluted by the geese's excrement. As I like to swim the geese are, for me, definitely a problem that needs to be solved. Now, let us assume Ian Roberge came for a visit because we wanted to exchange our views on money-laundering not only in *Global Society*¹ but also in person. Perhaps we would sit by the lake having a sandwich, when a gaggle of geese came waddling by. I would mumble that hopefully the council will soon allow the geese to be culled in order to reduce their numbers. What I had not known is that—again, this is just an assumption—Ian Roberge was an animal-rights activist. He would be upset by what I had just said. To him, the greylag geese are not at all the problem, but rather it is people like me who want them to be culled. Who is right? Are the greylag geese a problem or not? I would hold that this cannot be decided. They are a problem for me, but not for him. Roberge, in contrast, would argue that this surely can be determined, as an issue is "in and of itself" either a problem or not. And greylag geese, he would declare, are definitely not a problem—and he would feed what is left of his sandwich to the geese in defiance.

This fictitious scenario illustrates the principal disagreement between Ian Roberge and me—though admittedly our "real-world" disagreement is not about greylag geese but about the money-laundering "problem". For Roberge, my concept of "problematization" denies the existence of a real money-laundering problem. Below I will argue that, yes, this is exactly what the concept implies, and that his argument of why money-laundering is an objective problem does not convince me as it is contradictory. The other point of criticism in Roberge's response suggests that my article ignores the dominant role of the United States in the global anti-money-laundering regime. This criticism simply misses its target, as my contribution does emphasise the key role played by the United States. Yet, even if it had not, this would hardly have weakened my general argument. In the following I deal with both criticisms in greater detail, starting with the role

1. See Rainer Hülse, "Creating Demand for Global Governance: The Making of a Global Money-laundering Problem", *Global Society*, Vol. 21, No. 2 (2007), pp. 155–178; Ian Roberge, "Bringing the United States Back In: A Response to Rainer Hülse's 'Creating Demand for Global Governance'", *Global Society*, Vol. 23, No. 2 (2009), pp. 177–181.

of the United States in anti-money-laundering, before returning to the broader theoretical question about the “nature” of the policy problem at stake here.

No Need to Bring it Back In: The United States has Never been Out

By far the largest part of Roberge’s article deals with the role of the United States in the global anti-money-laundering efforts in an attempt to show that “[t]he global regime against money-laundering and terrorist financing has largely been driven by the United States.”² The Financial Action Task Force (FATF) became what it is only because the United States wanted it, although the author does not want to go so far as to call the FATF “an instrument of American foreign policy.”³ While the global anti-money-laundering regime is an effect of US power, Roberge still sees a task for constructivists. They should, he suggests, study the American values behind the global regime and how these values structured the international norms. This suggestion is quite typical of the way in which mainstream scholars in international relations (IR) have reacted to constructivism, namely by delegating to constructivists the study of norms and values while the more important issues of (material) power are dealt with by themselves. Indeed, such a division of labour has been accepted by many constructivists—often called moderate constructivists. However, not all constructivists wanted to confine themselves to studying only the softer aspects of international life. Their deeper or radical version of constructivism aims at understanding how that which is taken to be normal and obvious—both in the real world and by mainstream scholarship—came to be taken for granted. Studying how it became possible that money-laundering is now often regarded as a natural, objective problem is part of such a research endeavour. And—as I shall make clear below—investigating how international problems are made is also an enquiry into how power plays out in the international realm.

Still, the advice to study the values behind the anti-money-laundering regime is not Roberge’s main point here. Rather, he argues that my article neglects the role of the United States. “Ultimately”, he writes, “we must consider the origin of the FATF’s power”,⁴ and he leaves no doubt that, for him, the United States is at the origin of the FATF’s power. Yet he must have overlooked that my article more than once points to the importance of the United States in the anti-money-laundering regime. I argue that the “problematization” of money-laundering began when the United States decided to criminalise money-laundering in 1986.⁵ I wrote that the FATF was created because the United States “pressed its G7 partners to join the fight against money-laundering”,⁶ and I claim that the FATF’s original understanding of money-laundering as being an effect of drug-related crimes mirrored the United States’ motivation to take up the fight against money-laundering.⁷ Hence, one can hardly assert that my contribution ignores the role of the United States in the global fight against illicit finance.

That being said, I am still tempted to disagree with Roberge to a certain degree. It appears to me that he exaggerates the influence of the United States within the

2. Roberge, *op. cit.*, p. 177.

3. *Ibid.*, p. 179.

4. *Ibid.*, p. 178.

5. Hülsse, *op. cit.*, p. 176.

6. *Ibid.*, p. 166.

7. *Ibid.*, p. 172.

FATF. His account makes one wonder why the United States created the FATF in the first place. Would it not have been much easier for the United States—and also much more effective—to go it alone and to impose its own national anti-money-laundering system upon the world? That the United States has made a deliberate decision to follow a multilateral approach⁸ indicates that it felt that there were limits to what the country could achieve by itself. Apparently, it saw the need for support by its G7 partners. And it is safe to assume that the G7 did not simply execute decisions made in Washington, DC; indeed, the 40 recommendations are not simply a reflection of US practices.⁹ Some authors even claim that it is the European countries that dominate the FATF.¹⁰

However, even if we accept Roberge's claim that the FATF is little more than an agent of the United States, this does not make my analysis of the FATF any less necessary or appropriate. After all, as Roberge admits, the United States acts "through the FATF",¹¹ and therefore one has to study the FATF in order to understand how the United States plays out its power in the anti-money-laundering regime. That the FATF has tried to establish money-laundering as a global problem, as described in my piece, would then have to be interpreted as the United States' attempt to "problematise" the money-laundering issue. However, this would hardly weaken my argument. In fact, it even demonstrates that the United States did not simply use brute force to make the rest of the world comply with its anti-money-laundering rules but tried to persuade other countries that there was a problem which called for an international solution. Why the United States—despite a short episode when the FATF acted more coercively (the NCCT process)—has been rather reticent to make use of its power in a blunt way must be rather puzzling for scholars like Roberge. In my view, this has to do with legitimacy: as I have argued elsewhere, the FATF (and thus, according to Roberge, the United States) is hardly able effectively to eliminate money-laundering as long as the fight against money-laundering has not been accepted globally as a legitimate undertaking.¹² In this sense, my reconstruction of the FATF's "problematism" activities is also a description of the more subtle "power politics" that characterises global governmentality.¹³

Nothing to Hide: Money-laundering is a Problem of Our Making

The second and theoretically more interesting issue raised in Roberge's reply concerns the principal argument developed in my contribution. If an empirical

8. J.C. Sharman, "The Global Anti-money Laundering Regime and Developing Countries: Damned if they Do, Damned if they Don't?", Paper presented at the Annual Meeting of the International Studies Association, San Diego, California, 22–25 March 2006, p. 2.

9. *Ibid.*

10. *Ibid.*, p. 5; Bruce Zagaris, "The Merging of the Anti-money Laundering and Counter-terrorism Financial Enforcement Regimes after September 11, 2001", *Berkeley Journal of International Law*, Vol. 22, No. 1 (2004), pp. 124–157 (p. 137).

11. Roberge, *op. cit.*, p. 178.

12. Rainer Hülse, "Even Clubs Can't Do without Legitimacy: Why the Anti-money Laundering Blacklist was Suspended", *Regulation & Governance*, Vol. 2, No. 4 (2008), pp. 459–479.

13. See, for example, Oded Löwenheim, "Examining the State: A Foucauldian Perspective on International 'Governance Indicators'", *Third World Quarterly*, Vol. 29, No. 2 (2008), pp. 255–274; Ole Jacob Sending and Iver B. Neumann, "Governance to Governmentality: Analyzing NGOs, States, and Power", *International Studies Quarterly*, Vol. 50, No. 3 (2006), pp. 651–672.

phenomenon is not regarded as a problem by relevant social actors, an international regulator that wants to impose its rules without using material incentives or coercion needs to create the demand for such international regulation. It can do so by trying to persuade the other actors that there actually is a policy problem in need of a solution, a process I have referred to as “problematism”. I have shown how such a process works in practice by reconstructing the FATF’s “problematism” of money-laundering. It is here that Roberge makes the discovery that this “argument *hides* an important assumption—that money-laundering would not be a problem if we did not conceptualise it in such a way”, or “if policy makers had not constructed it in such a way.”¹⁴ And Roberge is right. Of course this is my assumption! But it is hardly one that is in any way hidden in the text, as without it my entire argument would not work. I do not think I could have been more explicit than stating that FATF “talks the problem [of money-laundering] into existence”.¹⁵

But what is it about the assumption that problems are socially constructed rather than naturally given that worries Roberge? Apparently, he believes that money-laundering is an objective problem (“in and of itself”, as he puts it),¹⁶ in that it exists as a problem regardless of people’s perceptions. Only this way can he suggest the study of “reality on the ground”¹⁷ separately from “problematism”. In this perspective, the argument that social problems are human creations is so worrying because it is regarded as a denial of reality. However, as I made very clear in my article, this is a misinterpretation. Empirical phenomena do exist and they can be observed. Just as greylag geese live around Bavarian lakes, so large sums of cash are paid into the bank and then transferred to offshore centres. However, whether or not these empirical phenomena count as problems depends on our interpretations. It is in this sense that problems are socially constructed and that one can indeed argue that they only exist as problems if they are constituted as such. The history of anti-money-laundering illustrates this well. While the various activities through which one can hide the origin of money have existed for a long time, they were not considered a problem until the 1980s. It is only since then that they have come to be understood as a social problem. Hence, money-laundering is only a problem because social actors have defined it as such. A similar argument can be made with respect to the different stages through which money is being cleaned—placement, layering and integration. Taken by themselves, most of the means used in the different stages are legal and thus unproblematic.¹⁸ And even those means that indicate a money-laundering process (like depositing large amounts of money) could also be part of a perfectly legal transaction. Yet if money-laundering consists of a combination of legal activities then human interpretation is necessary not only to constitute these activities as a problem but also to be able to conceive of and speak of money-laundering in the first place.

In my article I have pointed to work in political science where one can find arguments about the social construction of political problems similar to the one I have

14. Roberge, *op. cit.*, p. 177; emphasis added.

15. Hülse, “Creating Demand for Global Governance”, *op. cit.*, p. 167.

16. Roberge, *op. cit.*, p. 180.

17. *Ibid.*, p. 181.

18. Angela Veng Mei Leong, “Chasing Dirty Money: Domestic and International Measures against Money Laundering”, *Journal of Money Laundering Control*, Vol. 10, No. 2 (2007), pp. 140–156 (p. 140).

made.¹⁹ What I neglected at the time was the sociological literature on social problems. This might have been a mistake. Apparently the idea that problems are made rather than being naturally given is difficult to swallow for some political scientists, and therefore it might have been better at least to indicate that this is a well-established view in sociology, and that therefore there is nothing exotic or threatening about it. Let me briefly catch up on this. Sociology looks back on more than three decades of questioning the givenness of social problems. The theoretical root of this research is symbolic interactionism, the key figures of which placed the topic on the sociological agenda in the first place.²⁰ However, it was only with the publication of *Constructing Social Problems*²¹ by Malcolm Spector and John Kitsuse in 1977 that a social constructionist²² approach to social problems was spelled out explicitly—and the book has remained the central point of reference in the debate to this very day.²³ Basically, what the authors proposed was a non-functionalist sociology of social problems, capable of explaining why one and the same condition—for example gender inequality—was regarded as a social problem at one point in time but not at another. They argued that conditions—I have referred to them as empirical phenomena or issues—become social problems as a result of the making of claims or definitional activities of social actors.²⁴ Hence, whether or not an empirical condition is regarded as a social problem depends on whether or not “problem entrepreneurs”²⁵ succeed in establishing their perception as the shared perception of their respective social group. This argument was taken up, (con)tested and refined by numerous scholars, with contributions by Schneider,²⁶ Woolgar and Pawluch,²⁷ Gusfield²⁸ and Pfohl²⁹ having been particularly influential.

Today, the basic premises of this constructionist approach to social problems are widely accepted in sociology and they are also gaining ground in other disciplines, for example in cultural studies³⁰ or criminology.³¹ This is arguably due not least to the fact that most of what has been written over the course of the

19. Hülse, “Creating Demand for Global Governance”, *op. cit.*, pp. 161–163.

20. Howard S. Becker, *Outsiders* (Glencoe, NY: Free Press, 1963); Herbert Blumer, “Social Problems as Collective Behavior”, *Social Problems*, Vol. 18, No. 3 (1971), pp. 298–306.

21. Malcolm Spector and John Kitsuse, *Constructing Social Problems* (Menlo Park, CA: Cummings, 1977).

22. Note that in sociology the term constructionism is more common than the term used in IR—constructivism.

23. Joel Best, “Constructing the Sociology of Social Problems: Spector and Kitsuse Twenty-five Years Later”, *Sociological Forum*, Vol. 17, No. 4 (2002), pp. 699–706.

24. Spector and Kitsuse, *op. cit.*; Best, *op. cit.*, p. 702; Joseph Schneider, “Social Problems: The Constructionist View”, *Annual Review of Sociology*, Vol. 11 (1985), pp. 209–229 (p. 209).

25. Schneider, *op. cit.*, 216.

26. *Ibid.*

27. Steve Woolgar and Dorothy Pawluch, “Ontological Gerrymandering: The Anatomy of Social Problems Explanation”, *Social Problems*, Vol. 32, No. 3 (1985), pp. 214–227.

28. Joseph Gusfield, *The Culture of Public Problems* (Chicago: University of Chicago Press, 1981).

29. Stephen Pfohl, “The ‘Discovery’ of Child Abuse”, *Social Problems*, Vol. 24, No. 3 (1977), pp. 310–324.

30. Hsiao-Chuan Hsia, “Imaged and Imagined Threat to the Nation: The Media Construction of the ‘Foreign Brides’ Phenomenon’ as Social Problems in Taiwan”, *Inter-Asia Cultural Studies*, Vol. 8, No. 1 (2007), pp. 55–85.

31. Sven-Åke Lindgren, “Social Constructionism and Criminology: Traditions, Problems and Possibilities”, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, Vol. 6, No. 1 (2005), pp. 4–22.

past 30 years has been based on compelling empirical studies. Amongst other things, it was shown how the use of drugs, especially marijuana, was considered a massive social problem at one point in time, but not at others.³² This was found to depend not least on whether or not there were “norm entrepreneurs” and “moral crusaders” claiming that the use of marijuana was a social problem. Many more studies have similarly argued that the very fact that one and the same objective condition is sometimes regarded as a problem, and sometimes not, indicates that social problems are not natural givens. For example, beating children was considered a normal disciplinary measure in the 19th century, whereas today it is seen as child abuse.³³ Homosexuality used to be either a mental disorder or a crime, sometimes both.³⁴ In environmental studies similar arguments have been made with respect to global warming. Although objective measuring has long shown that temperatures are on the rise, this was not generally conceived to be a social problem even in the 1990s.³⁵ And if I may be allowed another reference to wildlife, pigeons used to be regarded as birds like all others and they were accepted inhabitants of cities. Since the 1960s, however, they have increasingly come to be defined as a public health problem, to the effect that today we regard them as “rats with wings”.³⁶

Its accomplishments notwithstanding, there is also a conspicuous blind spot in constructionist research, especially if looked at from an IR perspective: constructionism tacitly presumes that problem constructions take place mostly on a national level, and its studies are set up accordingly.³⁷ However, with globalisation it is increasingly unlikely that the making of problems is still a national activity. Therefore, research on how “problematization” works on a global level is needed. My study of the construction of a global money-laundering problem through the “problem-entrepreneurship” of an international organisation is a step in this direction.

Having provided a short update on the state of the art of the sociological debate that informs my argument, let me now turn to one specific point Roberge makes regarding my constructivist take on the money-laundering problem. He claims that “unlike many scholars, policy makers (granted those especially in the Western world) have come truly to believe that policies against dirty money will affect and chip away at the operation of criminals and terrorists”.³⁸ And a few lines further he asserts that “many policy makers see a real policy problem in need of a solution”.³⁹ This, he concludes, cannot be ignored by scholars. Until here, I am in perfect agreement with him. Yet what follows from this insight? For Roberge, the observation that policy makers regard money-laundering as a real problem seems to confirm his view that actually it is a real problem and that therefore we should study the “real nature” of this problem.

32. Becker, *op. cit.*; Spector and Kitsuse, *op. cit.*

33. Pfohl, *op. cit.*

34. Spector and Kitsuse, *op. cit.*

35. Jerry Williams, “Knowledge, Consequences, and Experience: The Social Construction of Environmental Problems”, *Sociological Inquiry*, Vol. 68, No. 4 (1998), pp. 476–497.

36. Colin Jerolmack, “How Pigeons Became Rats: The Cultural-spatial Logic of Problem Animals”, *Social Problems*, Vol. 55, No. 1 (2008), pp. 72–94.

37. Best, *op. cit.*, p. 704.

38. Roberge, *op. cit.*, p. 181.

39. *Ibid.*, p. 181.

I, in contrast, would hold that taking seriously the perceptions of policy makers means to accept a constructionist understanding of social problems. No doubt, many policy makers do perceive money-laundering as an objective problem. Yet this does not make the problem objective. Money-laundering becomes a social problem, that is, a condition that is widely regarded as problematic, if these policy makers succeed in spreading their perception that money-laundering is a problem. Therefore, my article, which gives a detailed reconstruction of how the FATF (a policy-making body) seeks to persuade countries all over the world of the existence of a money-laundering problem, obviously takes policy-makers' perceptions very seriously—much more seriously than would an account that wants to study the problem independently from the policy-makers' constructions. Yet Roberge, by pointing to the importance of policy-makers' perceptions, undermines his own position. Why, after all, should these perceptions matter, if our fate was determined by the world's objective nature? Only if we accept that there is a social dimension to the world, that how we see the world and what we regard as problematic makes a difference, need we bother about perceptions.

There is another important implication of Roberge's argument that money-laundering must be a real problem because policy makers believe it to be one. As he admits, this is true especially for policy makers in the Western world. Policy makers in the rest of the world do not necessarily share this belief.⁴⁰ For them, money-laundering is not a problem either because they cannot see any money-laundering activities in their territory (policy makers in least-developed countries) or because they view money-laundering as an unproblematic (or even welcome) side-effect of the limited financial regulation that makes them attractive for global capital and thus allows them to prosper (financial havens around the world). It is precisely the fact that these policy makers remain unconvinced that money-laundering is a global problem which motivates the FATF's awareness-raising and persuasion efforts to this very day. Who are we to believe, then? Policy makers in the West who see a problem or those in the rest of the world who do not see one? Roberge simply adopts the Western view and claims that money-laundering is a problem, because that is what Western policy makers perceive it to be. However, if one takes seriously his claim that problems are real if policy makers take them to be real, then the opposite must also be true. If policy makers do not take money-laundering to be a problem, it is not a problem. As a result, money-laundering, according to Roberge's logic, is objectively both a problem and not a problem. And this—from a realist-objectivist point of view—must be rather troubling.

Conclusion

Let me conclude with a remark on the perspective from which Roberge's response has been written, namely that of an all-knowing author who looks at the world from a neutral outside-position. This outside-position enables him to see what the world is really like and what its objective problems are. Of course, Roberge

40. R. Sanders, Lunch Address, Conference on Crime in the Caribbean: Options on Transnational Crime, Ottawa, Canada, 3 March 2003; see also Beth A. Simmons, "The International Politics of Harmonization: The Case of Capital Market Regulation", *International Organization*, Vol. 55, No. 3 (2001), pp. 589–620 (fn. 73).

is hardly the only one arguing from such a perspective; in fact, this is positivism's view of the world. While such a perspective has certainly provided a great many insights, it is never as neutral as it purports to be. What is presented as objective knowledge is in fact infused with normative assumptions. The analyst working in this tradition has been described as a "technical expert whose moral vision supercedes that of the people studied"⁴¹—a fitting portrayal also of Roberge. He argues that money-laundering is an objectively given problem and that therefore there is an objective need to solve it—thus passing off his own view of money-laundering as a universal one. In this manner Roberge strikingly resembles the policy-making body I have described in my article. The FATF, too, tries to convince the rest of the world that what it regards as a problem is in fact a universal, an objective problem in need of a solution. From a constructivist perspective, in contrast, what is regarded as a problem is "the effect of a play of power at a particular moment in history".⁴² By naturalising the problem construction of the FATF—or, if he likes, of the United States—Roberge thus becomes the accomplice of the dominant power. In this sense, my article should serve as a reminder that problems, like theories, are never innocent. To paraphrase Robert Cox's⁴³ famous statement, problems are always *for* someone and *for* some purpose. Money-laundering is a problem for the United States, the greylag geese are one for me, and my denial of the existence of an objective money-laundering is one for Roberge. And by having these problems, we all have our particular purposes.

41. Schneider, *op. cit.*, p. 211.

42. Stephen Pfohl, "Toward a Sociological Deconstruction of Social Problems", *Social Problems*, Vol. 32, No. 3 (1985), pp. 228–232 (p. 228).

43. Robert Cox, "Social Forces, States and World Orders", *Millennium: Journal of International Studies*, Vol. 10, No. 2 (1981), 126–155.