

Michigan Journal of Political Science

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Letter from the Editors

Dear Readers,

Hello and welcome to the Fall 2020 Edition of the Michigan Journal of Political Science. After publishing our inaugural edition last semester, we are pleased to continue the legacy of MJPS in our second edition showcasing exceptional undergraduate work from the fall of 2020. Originally founded in 1981, the Journal was created as a platform to share undergraduate work in Political Science in order to foster discussions on contemporary and thought-provoking political issues in a non-partisan, academic fashion. We hope you enjoy the thoughtful and creative arguments, made by students around the world, in this edition.

In this issue, you will find perspectives from students responding to the differing political shocks facing the world today. Our papers range from thoughts on ideal voting systems in Michigan, to inquiries on nationalism across Asia, to the historical philosophical justifications of the rule of law. Our pieces are reverent of the past, using it to address the turbulent and unpredictable global events experienced today. In “In Statu Naturae: A Case Study of Civil Unrest in Seattle”, you will read how Thomas Hobbes’ conception of the state of nature can provide a lens to analyze American protest, while “China and UN Peacekeeping in Mali” shows how a shared history of imperialism affects modern day foreign policy. These case studies have shown that politics is borne from the struggle for power. We hope these twelve pieces will collectively elucidate the importance of agency and power in people and institutions that have mediated, aggravated, or quelled these imbalances of power.

We want to thank our Junior Editors and particularly our Section Editors Charlotte, Claire, Yousef, and Emily for their hard work and leadership throughout this semester. This edition could not have been possible without your dedication and attention to detail. We will miss Charlotte and Claire as they move on from the journal and graduate this year, and we thank you both for helping us relaunch and mold MJPS from its beginning. We thank the Department of Political Science, and particularly Brian Min, Joseph Johnson, and Dustin Hahn for giving us the platform and support to enact our vision for this journal.

Our ultimate mission as a Journal has always been to promote free discourse on the most important issues. We hope that you can see the value that these undergraduate students’ careful argumentation and rigorous research can bring to political discourse.

Sincerely,

Ambika Sinha and Andres Ramos Salinas

Editors-in-Chief

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Section 1:

American Politics

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Featuring:

“Tyranny of the Minority: An Examination of Alternative Ways to Transform
Votes into Seats in the Michigan Legislature”

Written by Matthew Ferraro
Cornell University, Government and French Majors, Class of 2020

“Popular Sovereignty as a Means to Maintain Racial Violence”

Written by Isabelle Bogojevic
University of Michigan, Political Science Major, Class of 2021

Tyranny of the Minority: An Examination of Alternative Ways to Transform Votes into Seats in the Michigan Legislature

Matthew Ferraro

Introduction

Since the last redistricting cycle in Michigan took effect in 2012, Democrats have continued to poll higher than—or at least even with—Republicans in the popular vote totals for state House and Senate elections, but have consistently fallen short of a majority of the seats in both chambers. The problem is evident in the grossly unfair allocation of votes into seats via the current system. In other words, the party winning the most votes is not winning the most seats, even receiving *substantially* fewer seats than the second place party. The degree to which seats do not match vote totals is called partisan bias, and this poses an obvious problem for democracy: the will of the majority of voters is *consistently* ignored.

Gerrymandering has been blamed as the main culprit for this problem, and it has gained traction in recent years. In 2018, four states approved referendums to combat gerrymandering.¹ It cannot be denied that gerrymandering plays a large role in perpetuating partisan bias, but perhaps it is time to expand our understanding of the problem of partisan bias beyond gerrymandering and examine a more sinister actor: reliance on single-member plurality districts (SMPs) in Michigan.

In light of this unequal allocation of seats, the question becomes what solutions exist to remedy this democratic deficit. Simply upholding first-past-the-post single-member districts for both chambers of the Legislature will continue to result in a legislature tainted with a relatively large degree of partisan bias. To explore how this bias could be eliminated or drastically reduced, I will examine how changing the allocation of seats in one or both chambers of the Legislature using an Independent Citizens Redistricting Commission, Proportional Representation, or Ranked Choice Voting (Instant Runoff Voting) could potentially alleviate Michigan's current imbalance in seat allocation. However, before exploring these solutions, I will note important contextual information about the Michigan Legislature and examine several recent elections to illuminate the problem of legislative partisan bias more clearly.

I. Context for Michigan: State Government and Politics

Given Michigan's population of almost 10 million people, a Michigan state representative could expect to have about 90,000 constituents, and a state senator 260,000.² The bicameral legislature mandated by the 1963 state Constitution contains a 110-member House of Representatives and a 38-member Senate. State Representatives serve two-year terms, while Senators serve 4 years (elected in Presidential midterm

¹ Mulroy, Steven. *Rethinking US Election Law: Unskewing the System*. Cheltenham, UK: Edward Elgar Publishing Limited, 2018. Web. Ch. 6.

² Lorentz, Kevin G II. and Bledsoe, Timothy. "Michigan's Legislature." *Michigan Government, Politics, and Policy*, edited by Klemanski, John S., and David A. Dulio. Ann Arbor: University of Michigan Press, 2017. Print. 149.

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years). The Constitution mandates the use of single-member districts for the state House and Senate elections, and statute requires that whoever wins the most votes in an election wins the district.^{3,4}

Michigan is also a term limit state. After a Constitutional Amendment in 1992, Michigan has had some of the strictest term limits for state legislators in the country: a lifetime limit of six years for state representatives and eight years for state senators.⁵ Additionally, Michigan legislators are among the best paid in the country, bringing home \$71,685 annually.⁶ The National Conference of State Legislatures ranks the Michigan Legislature alongside those of New York, California, and Pennsylvania for its high compensation, large staff, and full-time operation.⁷

Although the state legislature holds the legislative power of the state government and oversight powers over the other branches, the people of Michigan retain a powerful legislative tool: the citizen's initiative, referendum, and recall. Michigan is one of 15 states to afford its citizens these powers, which can be used to drastically alter the way Michigan allocates its legislative seats—the people can bypass their representatives.⁸ Although they would have to wage an up-hill political battle and convince a majority of their fellow citizens that a change is necessary and worthwhile, they could and have done it before. The most recent example of Michiganders taking the reins with regard to electoral reform was in the 2018 election, when two Constitutional Amendments—one establishing an Independent Citizens Redistricting Commission and the other adding eight reforms to ease voting in the state—were passed with 61 percent and 66 percent of the vote respectively.^{9, 10, 11}

Most relevant to this paper, perhaps, is the fact that the State Legislature controls the redistricting process in Michigan. Through gerrymandering, the high level of partisan bias for the Republican party has been possible, at some points giving the Republican Party a super majority in the State Senate and a large majority in the House even when the party lost the popular vote for the Legislature (see Figure 1 below). In their essay on the Michigan Legislature in the 2017 book titled *Michigan Government, Politics, and Policy*, Lorentz and Bledsoe describe the theoretical and actual redistricting process in Michigan:

The redistricting process begins when committees in the two chambers hold public hearings and hear testimony about the need for a transparent process that yields a fair and balanced map of legislative districts. Behind the scenes, though, skilled consultants hired by the two parties work quietly and out of sight to produce maps that maximize the number of safe seats for the party, with a “safe seat” defined as one that can be held even against a strong partisan tide for the other side.¹²

Her frustration with such a system where, to borrow the anti-gerrymandering activists' phrase, politicians choose their voters and not the other way around, motivated 26-year-old political novice Katie Fahey to establish Voters Not Politicians to challenge the

³ “Michigan Election Law (Excerpt) Act 116 of 1954 § 168.171.” Michigan Legislature. Web.

⁴ “Constitution of Michigan of 1963.” Michigan Legislature. Web. Article IV Sections 2 & 3.

⁵ Lorentz and Bledsoe, 150.

⁶ Lorentz and Bledsoe, 150.

⁷ “Full and Part Time Legislatures.” National Conference of State Legislatures. Web.

⁸ Lorentz and Bledsoe, 152.

⁹ “2018 Michigan Election Results.” Secretary of State of Michigan. Web.

¹⁰ “Michigan Proposal 2, Independent Redistricting Commission Initiative (2018).” Ballotpedia. Web.

¹¹ “Michigan Proposal 3, Voting Policies in State Constitution Initiative (2018).” Ballotpedia. Web.

¹² Lorentz and Bledsoe, 154.

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gerrymandering status quo. In 2018, after a 2-year electoral battle (and with continued legal fights to this day), the group succeeded in enshrining an Independent Citizens Redistricting Committee in the state constitution.

The establishment of such a committee goes a long way to alleviate the partisan bias of the Legislature, but it is certainly not the only remedy that could or even should be implemented to combat such a problem.

II. *The Problem: The Misallocation of Votes into Seats*

The problem is not just gerrymandering, although it worsens the partisan bias of the legislature. Rather, it is the system itself, a single-member plurality system, that creates the opportunity for partisan bias in the first place. Among the problems that SMP systems present is the strengthening of the two-party system as third parties become spoilers. For example, if a voter were to vote for a Libertarian candidate, and the results in the district were 3% Libertarian, 48% Republican, 49% Democrat, the Libertarian candidate likely will have relied on votes that would have gone to the Republican candidate if the Libertarian hadn't been in the race. If the Republican candidate was actually the second choice of the voter in this scenario, the voter would have actually helped elect her third choice by supporting a third-party candidate (if one assumes all the Libertarian votes would have gone to the Republican in a two-party race).¹³ SMP districts also result in lower turnout elections, as voters can feel disappointed by their two "real" choices. If voters had more candidates with a realistic possibility of getting elected, turnout would likely increase.¹⁴ Indeed, in one study, systems that used proportional representation as opposed to SMP districts saw an average increase in voter turnout of 10 percent.¹⁵

Among its disadvantages, SMP districts create the problem of wasted votes. These wasted votes include every vote that is not part of the winning plurality, and can comprise an overall majority of votes cast in a given election.¹⁶ For example, if we use the scenario above where a Democratic candidate receives 49 percent of the vote in a state House election, and her Republican and Libertarian challengers receive 48 percent and 3 percent respectively, then those votes, even though they constitute a majority of votes cast, are wasted because they do not count for the candidate that won the seat. Perhaps most problematically, SMP districts allow gerrymandering to flourish. Gerrymandering can happen in any system that employs the use of districts but is compounded in districts with only one winner.¹⁷ Creating multi-member districts would result in fewer districts that could be gerrymandered, and an at-large state-wide district could not be gerrymandered at all.

Take for instance the following chart of popular vote totals for the Michigan Legislature since 2012, which was the first year of new districts since the 2010 census (note: there were House elections 2012-2018 and Senate elections in 2014 and 2018):

¹³ Amy, Douglas J. *Real Choices/New Voices: How Proportional Representation Elections Could Revitalize American Democracy*. New York: Columbia University Press, 2002. Print. 6-9.

¹⁴ Amy, 6-9.

¹⁵ Mulroy, Ch. 8.

¹⁶ Amy, 6-9.

¹⁷ Amy 6-9

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Figure 1. Michigan Legislative election results, 2012-2018 — Winning statewide vote totals and seat totals are highlighted blue for Democrats and red for Republicans.

Year	Votes for Democrats	Votes for Republicans	Raw vote difference	Vote % by party (rounded to nearest tenth)	Seats in State House and Senate	Seat % by party (rounded to nearest tenth)
2012 House	2,387,756	2,040,126	-347,630	53.3% D 45.6% R	59 R-51 D	46.3% D 53.6% R
2014 House	1,541,018	1,467,591	-73,427	50.8% D 48.5% R	63 R-47 D	42.7% D 57.3% R
2014 Senate	1,486,209	1,530,712	+44,503	48.9% D 50.4% R	27 R-11 D	28.9% D 71.1% R
2016 House *	2,302,417*	2,283,727*	-18,690*	49.4% D 49.0% R	63 R-47 D	42.7% D 57.3% R
2018 House	2,092,164	1,917,150	-175,014	51.3% D 47.0% R	58 R-52 D	47.3% D 52.7% R
2018 Senate	2,062,494	1,945,209	-117,285	51.2% D 48.3% R	22 R-16 D	42.1% D 57.9% R

Sources: Michigan Secretary of State for 2012 and 2014 district results, statewide vote totals were then tabulated by the author; The Metro Times for 2016 and 2018 statewide vote totals; Ballotpedia for seat distributions. Percentages calculated by the author. Full citations in Bibliography.

*In 2016, special elections resulted in the Democrats winning the statewide popular vote by 18,000 votes, however if removed, Republicans won by about 3,000 votes.

Note: the Figure includes only two major parties, but the vote percentages reflect votes received by third parties.

What is obvious is that the will of the People of Michigan, or at least the will of the majority, is not being respected when the Legislature is seated. Worse, this is not a one-off experience, it has occurred for multiple election cycles. In five of the six state House and Senate elections since 2012, the Democrats have won a clear majority of votes

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or have been in a dead heat with Republicans in the state-wide totals. In 2012, they won by a whopping 340,000 votes. Yet, they remain in the minority in both Chambers, often by a substantial number of seats. These numbers are troubling for democracy, mainly because of the consistent neglect towards the will of the majority. What faith is inspired in a government when the will of the majority is disregarded this often? The perceived ability of an out-of-power opposition to win in future elections is a huge determinant of whether that party will remain committed to playing within a democratic framework. By extension, a legislature that consistently shuts the winning party out of power can only sow frustration with the current democratic system in Michigan, and this is arguably the case for all states that have high degrees of partisan bias.

III. Possible Solutions

The good news for solving the problems of SMPs is that viable alternatives to single-member districts abound. In this section, I will examine three possible solutions to the disproportionate allocation of votes into seats that currently plagues Michigan's state legislative elections: an Independent Citizens Redistricting Commission, a Proportional Representation system, and the use of Ranked Choice Voting (particularly Instant Runoff Voting).

An Independent Citizens Redistricting Commission

Having been approved in a 2018 ballot initiative by 61 percent of voters, an Independent Citizens Redistricting Commission is perhaps the most obvious solution to the disproportionate allocation of votes into seats that Michigan has experienced in the last decade.

Generally, Independent Redistricting Commissions are boards of experts appointed to redraw district boundaries. In Michigan, however, the Commission will be composed of ordinary citizens who can use information provided by experts.¹⁸ There are two types in the United States: non-partisan, where no member can have a partisan affiliation, and bi-partisan, where there are an equal number of Republicans, Democrats and Independents.¹⁹ Often, in a bipartisan Commission, the tie-breaking member(s) will be picked by the consensus of appointed Republicans and Democrats on the Commission.²⁰ Once Commissions draw boundaries, they either go into effect automatically or must be approved by the state Legislature (although there is usually a limit on how many times a Legislature can reject a redistricting plan). Of the three countries that still use SMP districts as their only types of districts—the United States, Canada and the United Kingdom—the U.S. is the only one that does not use Independent Redistricting Commissions to draw its legislative boundaries.²¹

As stated above, an Independent Citizens Redistricting Commission is already being implemented in Michigan. Although litigation is still ongoing, the Secretary of State is actively soliciting applications from the public to participate in the Commission. If it withstands its current legal challenges, the Commission will be composed of 13 members—4 Republicans, 4 Democrats, and 5 Independents.²² Any resident of Michigan who meets certain requirements—like not having held an elected position in the last six years—is eligible to apply for the Commission. A third-party accounting firm will

¹⁸ "Voters Not Politicians." Secretary of State of Michigan. Web.

¹⁹ Mulroy, Ch. 6.

²⁰ Mulroy, Ch. 6.

²¹ Amy, 2.

²² "Voters Not Politicians." Secretary of State of Michigan. Web.

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randomly select 200 of these applicants, of which the Republican and Democratic leaders in the state House and Senate can strike 4 each (up to 20). After this, there is another random narrowing until the 13 commissioners are selected.²³ The new Commission will apply to state legislative seats—both the House and Senate—as well as Michigan’s federal Congressional districts.

Interestingly, Michigan had an Independent Redistricting Commission when the 1963 Constitution was first established. However, as John Clark notes in his article in *Michigan Government, Politics, and Policy*, “because it was unable to reach a consensus, the responsibility for drawing state legislative districts ended up in the hands of the state Supreme Court three straight times (1968, 1972, and 1982).”²⁴ The Commission was eventually invalidated by the state Supreme Court because of the means by which commissioners were selected.

Returning to the modern day, there is evidence that Independent Commissions make districts more competitive and increase voters’ faith in their electoral systems. Steven Mulroy, a professor at the University of Memphis School of Law, states in *Rethinking US Election Law: Unskewing the System* that “In one study, public faith that redistricting was carried out ‘fairly’ was only at 25% in non-commission states, and almost doubled in commission states.”²⁵ Most importantly in the context of this paper, there is evidence that the degree of partisan bias is reduced in districts that use Independent Redistricting Commissions. Mulroy notes:

...in an earlier and more comprehensive study of 2002 election results in 50 state legislative chambers, 26 states showed a median partisan bias of 4.7 percentage points in commission states, compared to 8.6 points in non-commission states...Note, though, that while these studies show that commissions can reduce partisan bias, they do not tend to eliminate it completely...While this may at first not seem like much, it can make a real difference in two-party systems, where the major parties’ respective total vote percentages are frequently within this range.²⁶

Concerning partisan bias, it is obvious that Independent Commissions lower partisan bias, but Mulroy’s point that the former does not eliminate the latter is crucial. It suggests that, although adopting such a Commission would ameliorate to a certain degree the problems of fairness in an SMP system, the system itself makes it impossible to eradicate the problems associated with it. Indeed, the task of drawing district lines at all may be the problem, given that controlling partisan clustering and striving to check off all the boxes that “fair” districts would require is practically impossible. Mulroy perfectly states that:

Partisan fairness, competitive districts, contiguity, compactness, respect for political subdivisions—all are important, all point in different directions, and all must bow to the federal law imperatives of equality of population and racial/ethnic fairness. Something—usually several somethings—has got to give.²⁷

²³ “Voters Not Politicians.” Secretary of State of Michigan. Web.

²⁴ Clark, John A. “Elections and Political Participation in Michigan.” *Michigan Government, Politics, and Policy*, edited by Klemanski, John S., and David A. Dulio. Ann Arbor: University of Michigan Press, 2017. Print. 229.

²⁵ Mulroy, Ch. 6.

²⁶ Mulroy, Ch. 6.

²⁷ Mulroy, Ch. 6.

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Thus, although it is certainly true that Independent Redistricting Commissions are a huge step in the right direction, they are not the only step we can or should take.

Proportional representation in one or both Houses

The idea of proportional representation (PR) is rather simple: a party receives as close to the same amount of seats in the legislature as it did a share of the vote. In a perfect system, the proportion of votes to seats is equal: if party X receives 40% of the vote for a 100-person legislature, it receives 40 seats. Mount Holyoke political scientist Douglas Amy points out that PR systems all share some underlying traits. He notes that “they are all built on the same political principles: that all voters deserve representation and that all political groups in society deserve to be represented in our legislatures in proportion to their strength in the electorate.”²⁸ Fundamentally, all PR systems use multimember districts.²⁹

Proportional representation systems seem to have numerous advantages: they encourage participation by endowing each vote with importance (i.e. wasting votes is not a problem), thereby increasing the say citizens have in their governments. It would effectively end the two-party monopoly, as voters could choose other parties, confident in the knowledge that these parties would be seated and have real political power. Additionally, the undesirable qualities of drawing district lines, most notably gerrymandering, would mostly be eliminated.³⁰

Additionally, PR necessitates compromise across parties as it is much more difficult for one party to gain an outright majority. Furthermore, Mulroy notes that diversity of parties “increases the number of voters who feel represented by *somebody* in the legislature, and thus can ameliorate the alienation currently felt by the many people in SMPs who are in the voting minority.”³¹ Beyond leading to fairer representation, PR could help alleviate partisan polarization as well by ensuring that all voters have some power in decision making. Mulroy notes, as additional evidence for the increased political buy-in of citizens in PR systems, that “countries with PR systems tend to have turnout rates about 10 percentage points higher than countries using traditional, winner-take-all systems.”³²

In contrast to these advantages, the main criticisms leveled against proportional representation are that it disconnects politicians from their geography and from interactions with constituents. However, as will be examined later, other systems allow proportional representation while connecting some seats to geography and supplying constituent services (i.e. Mixed Member Proportional systems). Additionally, since PR makes reaching an outright majority in a legislature more difficult, this could cause gridlock in getting legislation enacted. But, one has simply to look at our current system of political gridlock to note that what we are doing now does not work very well in this regard either. Perhaps enabling parties to compromise—as no party will control a majority of the seats—could result in more or better legislation coming out of state legislatures like Michigan’s.

There are three main types of proportional representation in use in the world: the Party List system, the Mixed Member Proportional system (MMP), and the Single Transferable Vote system (STV).³³ The general idea behind the Party List system is that

²⁸ Amy, 16.

²⁹ Amy, 2.

³⁰ Amy, 6-9.

³¹ Mulroy, Ch. 8.

³² Mulroy, Ch. 8.

³³ Amy, 18.

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political parties assemble a slate of candidates, run on a unified platform, and allow the voters to vote for a whole party. Parties then receive an allotment of seats in the legislative body in proportion to their share of the vote. There is always a threshold percentage of the vote a party must win to enter a legislature. Although this system is perhaps the easiest PR system to understand, voters may prefer to have more of a choice in the actual candidates (which raises the idea of having primaries for the party list). Amy notes that 80 percent of PR systems in the world use a version of the Party List system.³⁴

In a mixed-member proportional system (MMP), seats elected by proportional representation are added onto already elected single member representatives in a legislature. Germany is one example of this system, where representatives are elected in SMP districts, and then additional representatives are added via party list so that the proportion of votes a party wins in the whole country is represented by seats in the legislature. Amy notes that this system may result in the best outcomes by “providing the geographical representation and close constituency ties of single-member plurality voting along with the fairness and diversity of representation that comes with PR voting.”³⁵ In other words, voters still have a single representative they can go to with concerns, but the political will of the people as a whole is respected as well. MMP is usually combined in a unicameral legislature, and it does seem that its advantages would be diluted if it was split bicamerally—the chamber that utilizes SMP would still endure the problems that plague the current SMP legislature in both houses. Thus, if applied to Michigan or any other state, MMP may be more useful in a unicameral legislature or if it were applied to both chambers.

The third system, the Single Transferable Vote (STV), is by far the most complex of these PR options. In a way, STV is the multi-member equivalent of Instant-Runoff Voting. In a multi-member district, voters rank their preferred candidates. A threshold, signifying the minimum number of votes a candidate needs to win office, is necessary in this system. Amy describes the process:

To decide who gets elected, all the first place votes are counted and any candidates that receive enough votes to place them over the threshold are declared elected. If there are still seats to be filled, then a process of transferring votes begins—a process unique to this system and designed to ensure that most people contribute to the election of a candidate.³⁶

Unlike Instant Runoff Voting (IRV), which eliminates the candidate receiving the least first place votes, STV transfers additional votes to other candidates once a candidate has surpassed the minimum threshold for office, until enough candidates surpass the threshold. As the electoral reform group FairVote notes, “the transfer process in STV is designed to ensure that the fewest votes are wasted and that the maximum number of people gets to elect a representative to office.”³⁷

Although there are a plethora of examples of PR use in other countries, some states in the U.S. already have experience with multi-member districts. Mulroy notes that four states use multi-member districts to elect all of their legislators, and that “over 1,000 state legislative seats, about 15% of the country’s total, are elected from multimember

³⁴ Amy, 18.

³⁵ Amy, 20.

³⁶ Amy, 22.

³⁷ “Proportional Representation Voting Systems.” FairVote. Web.

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districts.”³⁸ Thus, there is already a standard for multimember districts in the U.S., which bodes well for a possible change to PR in Michigan.

Implementing PR in Michigan would require a state Constitutional Amendment as Article IV, Sections 2 & 3 of the Michigan Constitution mandate single-member districts for state House and state Senate elections. Additionally, since the U.S. Supreme Court ruled on *Reynolds v. Sims* in 1964, which applied the concept of “one person, one vote” to state legislatures,³⁹ the new PR district(s) would have to be an at-large district encompassing the whole state or several multimember districts equal in their population.

If Michigan were to implement a PR system, it would likely be beneficial to keep at least one chamber constituent based, or if an MMP system is adopted, perhaps a unicameral chamber with SMP seats and additional party-list seats added on to reflect the statewide popular vote for the legislature (similar to the system in Germany). Indeed, it is difficult to imagine a party list system being implemented without some form of constituent-bound representatives as well.

One can imagine several permutations of PR in Michigan, the table below represents three possibilities:

Figure 2: Possible PR iterations of a future Michigan Legislature

System	House	Senate
Mixed Member Proportional (bicameral)	House elected via single-member districts; either continue with plurality voting or switch to IRV. Voters choose or rank candidate(s).	Senate elected via party lists (closed or open). Voters vote specifically for a party.
Mixed Member Proportional (unicameral)	House elected via single-member districts; either continue with plurality voting or switch to IRV. Voters choose or rank candidate(s) and mark a separate preference for a party. Additional representatives are then added on to represent a party’s share of the state-wide popular vote.	NA
Single Transferable Vote	House elected via STV. Voters rank candidates in multimember districts.	Senate elected via STV. Voters rank candidates in multimember districts.

The table above showcases how these different PR systems could be applied in Michigan to eliminate some or all of the problems of single member districts. In the first case, one chamber is elected via single member districts, while the other is chosen via party list. Voters would have two votes, one for a district representative and one for a party (unless IRV was used for the single member district chamber, in which case they would rank district candidates). This system would more accurately reflect the popular will of voters state-wide; regrettably, it leaves the door open to the problems associated with an SMP system as one chamber could still employ SMP districts. However, if combined with the

³⁸ Mulroy, Ch. 8.

³⁹ “Reynold v. Sims.” *Oyez*. Web.

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current Independent Redistricting Commission, the degree of partisan bias in this chamber would at least be smaller and more coincidental than deliberate.

The second plan is a bit more radical in the American context. A mixed member proportional system employing a unicameral legislature such as a House of Representatives, composed of SMP members with seats added on via party list to adequately represent state-wide party vote totals. Again, this would help ensure accountability towards constituents and accurately reflect the statewide popular will, eliminating the concern of having one house elected solely under an SMP system.

Lastly, STV could be used for both chambers of the Legislature (even though this raises the question of redundancy). The main drawback of STV is that it is difficult to understand. However, voters could rank their politicians, in effect creating more choice, and could also find comfort knowing that the winning candidate will more likely represent their views.

Regardless of the system, a push towards PR in state legislative elections in Michigan would require a huge political effort. However, this effort is made slightly easier by the ability of citizens to initiate constitutional amendments.

Ranked Choice Voting (RCV)

Ranked Choice Voting could also solve the problems SMP districts present. In this section, we will examine the specific RCV system of Instant Runoff Voting, more commonly abbreviated to IRV. In an IRV election, voters are presented with a list of candidates and rank each candidate from their first choice to their last. Mulroy explains the system as follows:

Each vote initially counts for its first choice. If no one candidate receives a majority, the system eliminates the candidate with the fewest votes. If a voter's top choice is eliminated, their vote is added to the totals of their next candidate choice. If there is now a candidate with a majority, the system declares that candidate the winner. If not, the process of eliminating candidates round-by-round continues until a candidate wins with a majority.⁴⁰

These elections continue to take place in single-member districts. In 2018, Maine became the first state to use IRV in federal elections, and depending on its effectiveness in Maine, it may be worth developing in Michigan.⁴¹

IRV has several advantages over other systems. It ensures that consensus candidates are elected, taking into account peoples' second or third choices until a winner emerges with a majority. It encourages third party candidates as they are no longer "spoilers." Finally, it maintains the constituency link that has long been a facet of American political life. Under IRV, each constituent and several thousand of his/her neighbors will still have a representative.

IRV's detractors say it would cause too much confusion for voters, but there seems to be little evidence of this in other countries and even in U.S. jurisdictions that employ IRV. Mulroy notes that "in the over 20 IRV elections held in 2014 [in the U.S.]... over 99% of voters cast a valid ballot."⁴² Mulroy also observes that IRV is more effective than the traditional system for single-office elections, like Governor or Attorney General,

⁴⁰ Mulroy, Ch. 7.

⁴¹ Maloy, J.S. *Smarter Ballots: Electoral Realism and Reform*. Cham: Springer International Publishing, 2019. Web. Conclusion.

⁴² Mulroy, Ch. 7.

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because IRV would still rely on single-member districts in legislative elections.⁴³ This allows for the continued existence of partisan bias in the Legislature, which could be an advantage for IRV. It could be used in the single member districts that already exist, meaning that Michigan could retain its current 110-member House and 38-member Senate. In other words, it may be the most palatable solution because it maintains vestiges of the former electoral system.

Changing to an IRV system in Michigan would likely require a mere statutory change as Michigan's plurality system (not its single member districts) derives from a statute, not the Constitution.⁴⁴

IV. Conclusion

Advocates for continued use of the SMP system will debate the merits of moving to new systems, but the fundamental question remains: why wouldn't we want a system that more closely reflects what we vote for? In five of the last six elections for Michigan's state House and Senate, Democrats have won the statewide popular vote. In all six elections, Republicans have continued to hold majorities—in one particularly egregious case by 71 to 29 percent margin—in these Chambers.

By approving an Independent Citizens Redistricting Commission in 2018, the people of Michigan sent a message that they will no longer tolerate partisan gerrymandering. The Michigan Secretary of State has begun soliciting applications for the new Commission, and if it survives the pending litigation, Michigan will be well on its way to implementing fairer and more democratic elections. But could they be better? That is the question that has animated this paper—the problem is obvious, and one solution has been embarked upon, but is there more that could be done? In a purely theoretical sense, the answer is a resounding yes. Proportional Representation and Instant Runoff Voting would make elections in Michigan even more fair. So what is the current state of these additional electoral reforms? They would undoubtedly face large hurdles in becoming law; one simply has to look at the amount of resistance the Independent Citizens Redistricting Commission encountered, at least from monied interests. However, one way in which the process is facilitated more easily is that Michigan citizens themselves can initiate Constitutional Amendments and ballot initiatives. This powerful tool allows Michiganders to take electoral reform into their own hands, forging a more perfect democracy through direct democracy.

So, while the Commission was an excellent start, Michiganders should now examine other systems that could make ours a better democracy. Implementing systems that take into account more than a plurality of voters' wishes will undoubtedly result in more political clout for citizens, encourage broader participation, and promulgate a more diverse representation of views than currently takes place in our two-party system.

⁴³ Mulroy, Ch. 7.

⁴⁴ "Michigan Election Law (Excerpt) Act 116 of 1954 § 168.171." Michigan Legislature. Web.

American Politics

References

Amy, Douglas J. *Real Choices/New Voices: How Proportional Representation Elections Could Revitalize American Democracy*. New York: Columbia University Press, 2002. Print.

Clark, John A. "Elections and Political Participation in Michigan." *Michigan Government, Politics, and Policy*, edited by Klemanski, John S., and David A. Dulio. Ann Arbor: University of Michigan Press, 2017. Print.

"Constitution of Michigan of 1963." *Michigan Legislature*. Web.
[http://www.legislature.mi.gov/\(S\(uojg2dfgotiibyukuznpecao\)\)/mileg.aspx?page=GetObject&objectname=mcl-Constitution](http://www.legislature.mi.gov/(S(uojg2dfgotiibyukuznpecao))/mileg.aspx?page=GetObject&objectname=mcl-Constitution)

"Full and Part Time Legislatures." *National Conference of State Legislatures*. Web.
<http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>

Lorentz, Kevin G II. and Bledsoe, Timothy. "Michigan's Legislature." *Michigan Government, Politics, and Policy*, edited by Klemanski, John S., and David A. Dulio. Ann Arbor: University of Michigan Press, 2017. Print.

Maloy, J.S. *Smarter Ballots: Electoral Realism and Reform*. Cham: Springer International Publishing, 2019. Web.

"Michigan Election Law (Excerpt) Act 116 of 1954 § 168.171." Michigan Legislature. Web.
[http://www.legislature.mi.gov/\(S\(Oniobd3ytnnwnr1hsgxsnpdn\)\)/mileg.aspx?page=getObject&objectName=mcl-168-171](http://www.legislature.mi.gov/(S(Oniobd3ytnnwnr1hsgxsnpdn))/mileg.aspx?page=getObject&objectName=mcl-168-171)

"Michigan Proposal 2, Independent Redistricting Commission Initiative (2018)." *Ballotpedia*.
[https://ballotpedia.org/Michigan_Proposal_2,_Independent_Redistricting_Commission_Initiative_\(2018\)](https://ballotpedia.org/Michigan_Proposal_2,_Independent_Redistricting_Commission_Initiative_(2018))

"Michigan Proposal 3, Voting Policies in State Constitution Initiative (2018)." *Ballotpedia*.
[https://ballotpedia.org/Michigan_Proposal_3,_Voting_Policies_in_State_Constitution_Initiative_\(2018\)](https://ballotpedia.org/Michigan_Proposal_3,_Voting_Policies_in_State_Constitution_Initiative_(2018))

Mulroy, Steven. *Rethinking US Election Law: Unskewing the System*. Cheltenham, UK: Edward Elgar Publishing Limited, 2018. Web.
<https://www.elgaronline.com/view/9781788117500/chapter06.xhtml>

"Proportional Representation Voting Systems." *FairVote*. Web.
https://www.fairvote.org/proportional_representation_voting_systems

"Reynold v. Sims." Oyez. Web. <https://www.oyez.org/cases/1963/23>

American Politics

- “Voters Not Politicians.” *Secretary of State of Michigan*. Web.
https://www.michigan.gov/documents/sos/Voters_Not_Pol_p_598255_7.pdf
- “2012 Michigan Election Results.” *Secretary of State of Michigan*. Web.
<https://mielections.us/election/results/12GEN/>
- “2014 Michigan Election Results.” *Secretary of State of Michigan*. Web.
<https://mielections.us/election/results/14GEN/>
- “2016 Michigan Election Results.” *Secretary of State of Michigan*. Web.
http://miboecfr.nictusa.com/election/results/2016GEN_CENR.html
- “2018 Michigan Election Results.” *Secretary of State of Michigan*. Web.
https://mielections.us/election/results/2018GEN_CENR.html

Popular Sovereignty as a Means to Maintain Racial Violence

Isabelle Bogojevic

Introduction

On September 23, 1955, Emmett Till's murderers were acquitted by an all-white jury; 65 years later to the day, the cops that killed Breonna Taylor were cleared of murder charges.¹ Though Till's brutal death catalyzed the Civil Rights movement, its leaders neglected to embrace freedom *from* racial violence as a fundamental right. Ida B. Wells, the spearhead of the anti-lynching movement, insisted that Black citizens could not attain political, economic, or social rights until they were free from extrajudicial violence. Moreover, she theorized that popular sovereignty, as carried out through private violence, abetted the subordination of Black people. I posit that the centralization and growth of police forces in the twentieth century occurred, in part, because white supremacists played an explicit role in their expansion. In order to support this claim, I will outline the history of lynching in the United States, Ida B. Wells' theory of popular sovereignty, and the amassment of police union power in the 20th century. Then, I will focus on notable Supreme Court rulings from the decades following the Civil Rights movement which illuminate the development of the qualified immunity doctrine. I contend that this doctrine has aided the shift from *private* extrajudicial violence to *public*, state-sanctioned violence.

I. The Advent of Lynching

Wells' theory of popular sovereignty explains the rise of lynching in America. Surprisingly, the practice did not first appear in the South, but rather, developed out West as a means to detect and eliminate traitors. The custom was maintained in the territories until states formed and judicial institutions were established. Curiously, word of the wretched practice found its way to the South during the Reconstruction era. Members of the Ku-Klux Klan and "red-shirt" organizations ruthlessly terrorized Black citizens, whether it be through entering their homes or by assaulting them at the polls. Perpetrators of this violence viewed themselves as carrying out "unwritten law" that sought to prevent "negro domination" at all costs.² Through the passage of the 13th, 14th, and 15th amendments, the subordination of Black people was no longer legally permitted. As such, white southerners took it upon themselves to ensure white supremacy was upheld. Since so many former-Confederates shared this view, conveying it through violence was, according to Wells, an expression of popular sovereignty. Its definition is as follows: "a democratic practice [that] shows the degree to which understandings of democracy in the US context relied upon violent and exclusionary notions of rule and who counts as fit to rule [has] been embedded in the public political culture."³ This implies that racial violence is ingrained in our society, making it acceptable to murder Black and brown people for any "reason." Given the multiethnic nature of the United States, overt

¹ Molly Callahan, "Police Weren't Indicted for the Killing of Breonna Taylor. What happened?", News @ Northeastern, September 24, 2020, <https://news.northeastern.edu/2020/09/24/what-might-have-happened-inside-the-room-during-the-breonna-taylor-grand-jury-proceeding/>, 1.

² Ida B Wells (January 1900), 17.

³ David Temin accessed December 2020, 28.

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white supremacy is unacceptable in general American culture. Racist rhetoric is toned down to make it more palatable to the public. In order for lynching to be perceived favorably, for example, white men propagated the belief that it was the appropriate punishment for Black men that raped white women. This falsehood was so widely spread that northerners believed that “lynchers were justified in taking revenge on Black men, who were inherently more prone to criminality.”⁴ Not only did Northerners accept this as truth, but Ida B. Wells also believed the white women who claimed to be victims of sexual assault. It was not until she was personally impacted by this horror that she decided to investigate the practice of lynching.

Ida B. Wells’ extensive journalistic research revealed that Black people were the victims of terrorism, rather than perpetrators of crime. Wells’ friends, Tom Moss, Calvin McDowell, and Will Stewart established a grocery store. Their store drove away business from the local white-owned competitor. As aforementioned, southern whites sought to hinder “negro domination” so the competitor took it upon himself to sabotage their venture. After Moss, McDowell, and Stewart were imprisoned for shooting at white vandals, a mob invaded the jail and subsequently lynched them. This catalyzed Wells’ anti-lynching crusade; she traveled the South for two months, compiling information on lynchings in the region. Wells published the *Red Record* in 1895, an explosive exposé on the true circumstances of hundreds of Black people who died at the hands of a lynch mob. She outlines the charges of the 241 people lynched in 1892. They include: “rape, murder, rioting, race prejudice, insulting women, attempted rape, suspected robbery, larceny, self-defense, fraud, robbery, incendiarism, desperadoes, and no cause given.”⁵ While some of these crimes are more egregious than others, subjection to the death penalty without trial is flagrantly illegal. Clearly, white supremacists did not have much concern for the law. Rather, Wells asserted that these crimes were carried out “by a contempt for law and by race prejudice.”⁶ The fact that lynching not only contravenes due process but also the 6th, 7th, and 8th amendments proves that the mobs had little regard for the written law and were exercising their popular beliefs. This becomes extremely troubling when considering that local officials, such as sheriffs and mayors, participated in lynch mobs.

II. *Explicit Ties between Law Enforcement & Lynching*

Local officials consistently engaged in lynching, which effectively legitimized the practice—thereby showing the early connection between white supremacists and involvement with law enforcement. Ida B. Wells recounts a lynching that occurred in Texas: “In Paris the officers of the law delivered the prisoner to the mob. The mayor gave the school children a holiday and the railroads ran excursion trains so that the people might see a human being burned to death.”⁷ It was not fanatics perpetuating violence, but rather, agents of the state. Because the killings were not state-performed, they were *private* acts of violence that *public* officials participated in. Nineteen years after Wells gave the speech, “Lynch Law in America,” lynchings remained at an all-time high. The NAACP responded to this phenomenon by declaring that “the real problem was the amount of power that local and state governments possessed.”⁸ Since local officials often participated in lynchings, they would be shielded from accountability by their superiors in

⁴ David Temin accessed December 2020, 13.

⁵ Ida B Wells (January 1900), 21.

⁶ Jeremy Chandler, “PDF” (Montrose County, n.d.), 2.

⁷ Ida B Wells (January 1900), 19.

⁸ Megan Ming. Francis, “2 - The Birth of the NAACP, Mob Violence, and the Challenge of Public Opinion,” in *Civil Rights and the Making of the Modern American State* (Cambridge: Cambridge University Press, 2014), pp. 29-58, 58.

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state government. The Supreme Court addressed this problem in the 1883 *Civil Rights Cases*, in which Justice Bradley developed the state action/neglect doctrine. Bradley asserted that “if a citizen’s natural rights were violated, and the state did nothing to remedy the injury, then the federal government could step in.”⁹ Consequently, Justice Bradley established the precedent for which the federal government could redress wrongful actions committed by local and state officials. This doctrine remained pertinent throughout the twentieth century as the private, extrajudicial terrorizing of Black people transformed into public, state-sanctioned violence.

The presence of white supremacists in law enforcement can be traced to their development from the Colonial era through the Roaring Twenties. As America industrialized, businessmen and slave owners alike fostered the growth of police forces to protect their property. In the colonial South, slave patrols were a prominent form of policing. Members of these patrols sought to recover runaway slaves and thwart slave revolts.¹⁰ Even after losing the Civil War, southerners did not modify their policing practices. In fact, “many local sheriffs functioned in a way analogous to the earlier slave patrols, enforcing segregation and the disenfranchisement of freed slaves.”¹¹ This corroborates Wells’ assertion that local officials participated in lynchings. Such behavior was validated by the release of the now-infamous *Birth of a Nation* in 1915, which President Woodrow Wilson screened at the White House. Consequently, Klan membership skyrocketed in the 1920s. Ku Klux Klan members did not limit their terrorizing of Black people to when they wore their robes: they joined police forces. Moreover, Geoff Ward writes, “when the KKK was at its peak ‘whole klaverns [i.e., Klan chapters] were deputized’ to conduct police business. These explicit White supremacist ties to policing continued through the civil rights movement period.”¹² Note Ward’s use of the word “explicit.” Subsequently, President Hoover’s Wickersham Commission in 1929 drove the professionalization of police forces during the twentieth century.

III. *The Consolidation of American Law Enforcement*

The reforms that took place in the ensuing decades merely functioned to fortify law enforcement rather than improving relationships with the communities they served. Crime historian Samuel Walker contends that the push for professionalism resulted in “the creation of police departments that were ‘inward-looking’ and ‘isolated from the public,’ and crime-control tactics that ended up exacerbating tensions between police and the communities they watch over.”¹³ The origins of law enforcement in America focused on the needs of white capitalists through the creation of slave patrols; twentieth-century reforms doubled down on that commitment. This is glaringly obvious when considering the police brutality Black people endured in the 1950s. Take the case of Charles Fitzgerald, a wealthy Black business owner. He informed law enforcement that he was aware of KKK plans to assail his establishment. During a shootout between Fitzgerald’s “organized defenses” and a KKK mob, a Klansman was killed. They discovered that it was

⁹ Kali Borkoski, “Pamela Brandwein Re-Imagines Reconstruction Jurisprudence,” SCOTUSblog, October 1, 2018, <http://www.scotusblog.com/2015/05/pamela-brandwein-re-imagines-reconstruction-jurisprudence/>, 8.

¹⁰ Olivia B Waxman, “The History of Police in America and the First Force,” Time (Time, March 6, 2019), <https://time.com/4779112/police-history-origins/>, 7.

¹¹ Olivia B Waxman, “The History of Police in America and the First Force,” Time (Time, March 6, 2019), <https://time.com/4779112/police-history-origins/>, 7.

¹² Geoff Ward, “Living Histories of White Supremacist Policing,” *Du Bois Review: Social Science Research on Race* 15, no. 1 (July 27, 2018): pp. 167-184, <https://doi.org/10.1017/s1742058x18000139>, 173.

¹³ Olivia B Waxman, “The History of Police in America and the First Force,” Time (Time, March 6, 2019), <https://time.com/4779112/police-history-origins/>, 13.

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Officer James Johnson because he was wearing his police uniform underneath his Klan robe.¹⁴ Eight years later in Mississippi, a Sheriff was acquitted by an all-white jury for beating a Black man to death while he was in jail for drunk driving.¹⁵ The fact that the jury exonerated him is reflective of how acceptable it was to violently maintain the racial status quo: it can be interpreted as an expression of popular sovereignty. Police brutality occurred at such high rates in the early 1950s that:

“Tuskegee officials recommended a “New Index of Race Relations,” explaining that ‘Lynching as traditionally defined and as a barometer for measuring the status of race relations in the United States, particularly the South, seems no longer to be a valid index.’ Citing the ‘development of other extralegal means of control,’ such as... police brutality, whose terrors functionally related to lynching...”¹⁶

This is evidence of the shift from private violence to public violence. As law enforcement increased the brutality enacted against Black people, police simultaneously strengthened their labor rights.

There is a causal relationship between the rise of collective bargaining rights within police unions and the increase of police brutality against Black people. Economists Rob Gillezeau, Jamein Cunningham, and Donna Feir, sought to prove this causality by investigating what followed after officers gained collective bargaining rights beginning in the late 1950s. Because different counties weren't able to unionize until their state government permitted it, researchers were able to compare counties that gained collective bargaining rights early on to those that hadn't. Gillezeau reported to NPR that “0.026 to 0.029 additional civilians are killed in each county in each year, of whom the overwhelming majority are nonwhite. That's about 60 to 70 civilians per year killed by the police in an era historically where there were a lot fewer police shootings.”¹⁷ Police unions work to shield officers from accountability, partially out of fear that the officers' safety could be at risk. Smith adds, “the added [contract] protections negotiated by the union would be protecting the officer by giving the officer more leeway to shoot or kill someone if the officer felt threatened.”¹⁸ This is conceptually sensical; however, police union contracts should limit when the use of excessive force is acceptable. Without limits on the use of excessive force, officers know they will enjoy impunity for killing civilians. Take the case of Jon Burge, Chicago's former police commander, who is infamous for his torturous interrogation tactics used on Black people throughout the 1970s-1980s. More than 50 complaints were filed against him at the time of his termination from the force in the 1990s, showing that he was never reprimanded for his actions at the height of his power.¹⁹ This is because of the “Burge rule,” which entails the following: “unless a police

¹⁴ Geoff Ward, “Living Histories of White Supremacist Policing,” *Du Bois Review: Social Science Research on Race* 15, no. 1 (July 27, 2018): pp. 167-184, <https://doi.org/10.1017/s1742058x18000139>, 173.

¹⁵ Geoff Ward, “Living Histories of White Supremacist Policing,” *Du Bois Review: Social Science Research on Race* 15, no. 1 (July 27, 2018): pp. 167-184, <https://doi.org/10.1017/s1742058x18000139>, 168.

¹⁶ Geoff Ward, “Living Histories of White Supremacist Policing,” *Du Bois Review: Social Science Research on Race* 15, no. 1 (July 27, 2018): pp. 167-184, <https://doi.org/10.1017/s1742058x18000139>, 170.

¹⁷ Dylan Matthews, “How Police Unions Became So Powerful & How They Can Be Tamed,” *Vox* (Vox, June 24, 2020), <https://www.vox.com/policy-and-politics/21290981/police-union-contracts-minneapolis-reform>, 37.

¹⁸ Amanda Aronczyk, “Police Unions and Police Violence,” NPR (NPR, June 5, 2020), <http://www.npr.org/transcripts/871298161>, 37.

¹⁹ Natasha Korecki, “What Chicago's Ultimate Bad Cop Taught Me About Police Reform,” *POLITICO* (POLITICO, June 16, 2020), <http://www.politico.com/news/magazine/2020/06/15/chicago-bad-cop-police-reform-318955>, 2-16.

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chief signs off, investigations of civilian complaints are subject to a five-year statute of limitations.”²⁰ This demonstrates that police forces can protect each other from accountability internally. Police union contracts strengthen such protection. Rushin explains, “Most states permit police officers to bargain collectively over the terms of their employment, including the content of internal disciplinary procedures. This means that police union contracts—largely negotiated outside of public view—shape the content of disciplinary procedures used by American police departments.”²¹ As police unions amassed power and influence, the courts developed the qualified immunity doctrine—thereby crippling §1983 of the Civil Rights Act of 1871.

IV. *The Development of the Qualified Immunity Doctrine*

The Civil Rights Act of 1871 is the bedrock for various types of civil suits, making the Supreme Court’s incapacitation of the Act a heavy blow to victims of state-sanctioned violence. In response to white supremacist activity in the South, Congress suspended the writ of *habeas corpus* for Klan members and other vigilante groups.²² Also included in the Act was the power for citizens to sue any official—whether at the state or local level—who infringed upon their constitutional rights.²³ Moreover, people had the right to “seek relief in a federal district or circuit court. This part of the legislation was later made a part of the United States Code as 42 U.S.C §1983 (often referred to just as “§1983”) and served as the basis for many federal court lawsuits against state and local officials.”²⁴ This provided a means for citizens to obtain redress from abuse. As mentioned earlier, the NAACP concluded that local and state governments were unduly responsible for the abuse levied against Black citizens, 50 years after this legislation was enacted. For that matter, Justice Bradley’s state neglect doctrine was developed because state governments were not doing enough to protect Black people from the KKK and other white supremacists.²⁵ The fact that race relations had not improved within that period reaffirms the necessity of §1983. As such, the Supreme Court did not explicitly attack it. Rather, through cases like *Pierson v. Ray*, the Court weakened it.

Pierson v. Ray was indispensable in the development of the qualified immunity doctrine, which absolves police officers for accountability from their murderous actions. In 1961, a group of White and Black clergymen were on a “prayer pilgrimage” promoting racial integration by attempting to congregate in a bus waiting room. Not long after, Jackson, MI police officers arrested them on charges of “breaching the peace.”²⁶ The petitioners challenged this charge, using §1983 as grounds for their claim. The Court of Appeals essentially responded by holding that police officers should not be expected to know the constitutionality of select state laws. In response, the Supreme Court held that:

²⁰ Adeshina Emmanuel, “How Union Contracts Shield Police Departments from DOJ Reforms,” In These Times (The Institute for Public Affairs, 2020), <https://inthesetimes.com/features/police-killings-union-contracts.html>, 14.

²¹ Stephen Rushin, “Police Union Contracts,” Duke Law Journal 66, no. 6 (2017): pp. 1191-1222, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3890&context=dlj>, 1222.

²² United States House of Representatives, “The Ku Klux Klan Act of 1871,” <https://history.house.gov/HistoricalHighlight/Detail/15032451486?ret=True>, 2.

²³ Federal Judicial Center, “Civil Rights Act of 1871,” FJC, April 20, 1871, <http://www.fjc.gov/history/timeline/civil-rights-act-1871>, 1

²⁴ *Ibid.*

²⁵ Kali Borkoski, “Pamela Brandwein Re-Imagines Reconstruction Jurisprudence,” SCOTUSblog, October 1, 2018, <http://www.scotusblog.com/2015/05/pamela-brandwein-re-imagines-reconstruction-jurisprudence/>, 8.

²⁶ *Pierson v. Ray*, 386 U.S. 547 (1967).

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1. The settled common-law principle that a judge is immune from liability for damages for his judicial acts was not abolished by §1983.

2. The defense of good faith and probable cause which is available to police officers in a common-law action for false arrest and imprisonment is also available in action under §1983.

3. Though the officers were not required to predict this Court's ruling in *Thomas v. Mississippi, supra*, that §1983, it does not follow that the count based thereon should be dismissed since the evidence was conflicting as to whether the police had acted in good faith and with probable cause in arresting the petitioners.²⁷ The Court's holding regarding good faith and probable cause proved most consequential in establishing the qualified immunity doctrine. "Good faith" refers to the notion that an individual is acting honestly during proceedings. It is important to highlight that the notion of a "good faith defense" has origins in common law.²⁸ I assert that the exercise of common law and popular sovereignty are comparable, as both rely on implicit understandings of societal norms. Moreover, "few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction."²⁹ The Court defends this by saying that constant interruption and attacks would be at the expense of the citizens they seek to serve.

Parratt v. Taylor served another death knell to citizens seeking redress from abuse at the hands of state officials. Bert Taylor, an inmate at a Nebraska prison, ordered a package that arrived the same day that he was sent to administrative segregation. When he returned to his original unit, his package was nowhere to be found. As a result, Taylor "concluded that he had been deprived of his property without due process of law in violation of the fourteenth amendment."³⁰ The Court countered his claim, saying that the incident did not constitute a fourteenth amendment violation because Nebraska state law had the avenues to provide redress, via a tort claim procedure, at the time the incident occurred. Moreover, the Supreme Court held that "a deprivation must be shown to have been effected 'without due process of law... wherever a government body, agency, or official proposed to terminate or impair a citizen's property or liberty interests, the constitutional rule required that the process due precede the deprivation."³¹ Because of Nebraska's post-deprivation process, the Court affirmed that Taylor had only been deprived of property, not due process. While this seems to be a sensible conclusion, the context of this case is critical. At the time, Justice Rehnquist sought to decrease the amount of §1983 cases that filled the federal courts' dockets. As a result, this was invoked to strike subsequent cases. This precedent served to strengthen the qualified immunity doctrine because it hinders the ability of citizens to seek federal redress for local/state

²⁷ *Pierson v. Ray*, 386 U.S. 548 (1967).

²⁸ Congressional Research Service. 2020. Policing the Police: Qualified Immunity and Considerations for Congress. June 25. Accessed 13 November, 2020. <https://crsreports.congress.gov/product/pdf/LSB/LSB10492>.

²⁹ *Pierson v. Ray*, 386 U.S. 554 (1967).

³⁰ David Zensky, "Parratt v. Taylor: Unauthorized Deprivations and the Content of an Adequate Remedy," *N.Y.U. Review of Law and Social Change* 16, no. 2 (1988): pp. 161-229, <https://socialchangenyu.com/review/parratt-v-taylor-unauthorized-deprivations-and-the-content-of-an-adequate-remedy/>, 166.

³¹ David Zensky, "Parratt v. Taylor: Unauthorized Deprivations and the Content of an Adequate Remedy," *N.Y.U. Review of Law and Social Change* 16, no. 2 (1988): pp. 161-229, <https://socialchangenyu.com/review/parratt-v-taylor-unauthorized-deprivations-and-the-content-of-an-adequate-remedy/>, 168.

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abuse. Circuit courts have prevented §1983 claims from reaching the Supreme Court by citing state laws that apply to the issue at hand. The Court's conclusion is a direct violation of the state action doctrine that it had developed during Reconstruction. *Parratt v. Taylor* fortified the qualified immunity doctrine, which would be further strengthened through *Harlow v. Fitzgerald* in 1982.

Though *Harlow v. Fitzgerald* concerns abuses of power at the federal level, the Supreme Court's ruling established a modern test for bestowing qualified immunity to governmental officials at all levels. Fitzgerald, formerly an employee at the Department of the Air Force, challenged his dismissal on the basis that it was retribution for a testimony he made before Congress. He sued two of the president's aides, alleging them of conspiracy against him.³² The Court held that "qualified immunity applies to presidential aides regarding their official actions, and it can be penetrated only when they have violated clearly established statutory or constitutional rights."³³ To support this ruling, the Court distinguished between absolute and qualified immunity. The former is granted to those occupying offices at the federal level, i.e. the President, members of Congress, judges, and prosecutors. The purpose of absolute immunity is to "provide high-level officials a 'greater protection than those with less complex discretionary responsibilities.'"³⁴ The Court held that higher-level officials should not be burdened with civil challenges. Officials holding positions at lower levels of government, however, are only entitled to qualified immunity. Hence, the modern objective test was born: "granting qualified immunity to those government officials whose conduct does not violate a clearly established statutory or constitutional rights of which a reasonable person would have known."³⁵ The invocation of "reasonable" harkens back to the Court of Appeals' position in *Pierson v. Ray*. This is the case because it distances government officials, e.g. police officers, from the responsibility to consistently follow constitutional provisions. As the Supreme Court has grown increasingly conservative, it consistently delivered rulings that are to the benefit of police officers.

Technological advancements of the 21st century have finally exposed the rampant, unchecked violence of police officers to the American people. Much like the lynching victims of the past, the crime Eric Garner was arrested for was minor. He was accused of selling cigarette packs without tax stamps. The NYPD officer that arrested Garner escalated the situation and used excessive force, eventually killing Garner.³⁶ After a recording of the arrest went viral, the country learned of the atrocity Garner faced. Despite public outrage, Eric Garner has not been brought to justice. Daniel Pantaleo, the officer responsible for Garner's death, "faced a long-delayed departmental trial in May to determine whether he violated department rules. The Justice Department [in 2019] said it would not bring a civil rights case against him after a five-year investigation."³⁷ Not only did the Supreme Court shield Pantaleo from accountability, but it also took five years for him to get fired. This is representative of a host of other police misconduct cases. For instance, legal scholar Kit Kinports investigated eighteen qualified immunity cases from

³² Oyez. 2020. *Harlow v. Fitzgerald*. Accessed 14 November, 2020. <https://www.oyez.org/cases/1981/80-945>, 1.

³³ Congressional Research Service. 2020. Policing the Police: Qualified Immunity and Considerations for Congress. June 25. Accessed 13 November, 2020. <https://crsreports.congress.gov/product/pdf/LSB/LSB10492>.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ CBS. 2019. "NYPD Judge Recommends Firing Officer over Eric Garner's Chokehold Death." August 2. Accessed Nov 13, 2020. www.cbsnews.com/news/eric-garner-trial-nypd-administrative-judge-recommends-firing-daniel-pantaleo-today-2019-08-02/.

³⁷ *Ibid.*

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2000-2016. The scholar found that the Court granted immunity to sixteen police officers who were undeserving of it; they all used excessive force. The Court absolved them because, according to them, they did not contravene established law. Moreover, “the Court has emphasized that the clearly established right must be defined with specificity, such that even minor differences between the case at hand and the case in which the relevant legal right claimed to be violated was first established, can immunize the defendant police officer.”³⁸ Consequently, the burden of proof has been set far too high for plaintiffs. Though legal procedures have been tacitly reshaped to fit within the mold of civility politics, the material conditions of minorities have remained largely the same.

V. *Conclusion*

White supremacy is a stain on the entirety of America’s existence. Once southerners lost the rights to their human property, they lashed out by lynching Black Americans. By developing the notion that Black people were intrinsically more likely to act criminally, the desire to violently maintain the racial status quo gained popularity. Ida B. Wells was key in exposing the reality behind lynch mobs. She declared that being free from violence was the most important step that Black people had to achieve in attaining equality. As law enforcement grew powerful in the twentieth century through unionizing and gaining collective bargaining rights, violence shifted from the *private* domain to the *public* sphere. Police forces consolidated, known KKK members filled its ranks from the 1920s-1960s, and although the aftermath of the Civil Rights Movement made discrimination illegal, the Supreme Court gradually weakened the state action doctrine that had been developed during The Reconstruction Era. In effect, the development of the qualified immunity doctrine continues to shield police officers from accountability. This exacerbates the cover-ups that happen within police unions following a civilian casualty. Racist police terror against Black people has the same purpose that lynching did: to oppress them. As such, one can conclude that the criminal justice system has supported the shift from extrajudicial violence to state-sanctioned violence. The resurgence of #BLM this past summer has been the most powerful challenge to law enforcement yet. Just as Ida B. Wells’ asserted the necessity in achieving freedom *from* violence, the Black Lives Matter movement has been working to achieve that same goal since 2013.³⁹ Now that the Biden administration has begun, Black Lives Matter activists seek to pressure them into passing the BREATHE Act, calling for divestment from policing and incarceration and investment into Black communities.⁴⁰ Given that President Joe Biden co-sponsored the 1994 Crime Bill that increased federal funding for local and state law enforcement—which “encouraged states and cities to increase arrests, prosecutions, and incarceration”—Black Lives Matter activists have an uphill battle ahead.⁴¹ Thus, an intersectional movement that opposes police brutality is especially prudent in America today.

³⁸ Congressional Research Service. 2020. Policing the Police: Qualified Immunity and Considerations for Congress. June 25. Accessed 13 November, 2020.

<https://crsreports.congress.gov/product/pdf/LSB/LSB10492>.

³⁹ Patrisse Cullors, “6 Years Later and Black Activists are Still Fighting,” Black Lives Matter, 2019.

<https://blacklivesmatter.com/six-years-strong/>, 5-7.

⁴⁰ Electoral Justice Project of the Movement for Black Lives, “What is the Breathe Act?” M4BL, 2020, <https://breatheact.org/learn-more/>, 1-6.

⁴¹ Lauren-Brooke Eisen, “The 1994 Crime Bill and Beyond: How Federal Funding Shapes the Criminal Justice System,” Brennan Center for Justice, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/1994-crime-bill-and-beyond-how-federal-funding-shapes-criminal-justice>, 19.

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References

- Callahan, Molly. "Police Weren't Indicted for the Killing of Breonna Taylor. What Happened?". *News @ Northeastern*, September 24, 2020. <https://news.northeastern.edu/2020/09/24/what-might-have-happened-inside-the-room-during-the-breonna-taylor-grand-jury-proceeding/>.
- Wells, Ida B. "Lynch Law in America." Speech, January 1900.
- Temin, David. "Ida B. Wells: Lynch Law and the Democratic Politics of Racial Violence." Lecture, n.d. Accessed 2020.
- Chandler, Jeremy. "Primary Source from 'Lynching and the Excuse for It' by Ida B. Wells." Montrose County, n.d.
- Francis, Megan Ming. "2 - The Birth of the NAACP, Mob Violence, and the Challenge of Public Opinion." Essay. In *Civil Rights and the Making of the Modern American State*, 29–58. Canvas. Cambridge: Cambridge University Press, 2014.
- Borkoski, Kali. "Pamela Brandwein Re-Imagines Reconstruction Jurisprudence." SCOTUSblog, October 1, 2018. <http://www.scotusblog.com/2015/05/pamela-brandwein-re-imagines-reconstruction-jurisprudence/>.
- Waxman, Olivia B. "The History of Police in America and the First Force." *Time*. Time, March 6, 2019. <https://time.com/4779112/police-history-origins/>.
- Ward, Geoff. "Living Histories of White Supremacist Policing." *Du Bois Review: Social Science Research on Race* 15, no. 1 (July 27, 2018): 167–84. <https://doi.org/10.1017/s1742058x18000139>.
- Matthews, Dylan. "How Police Unions Became So Powerful - and How They Can Be Tamed." *Vox*. Vox, June 24, 2020. <https://www.vox.com/policy-and-politics/21290981/police-union-contracts-minneapolis-reform>.
- Aronczyk, Amanda. "Police Unions and Police Violence." NPR. NPR, June 5, 2020. <http://www.npr.org/transcripts/871298161>.
- Korecki, Natasha. "What Chicago's Ultimate Bad Cop Taught Me About Police Reform." *POLITICO*. POLITICO, June 16, 2020. <http://www.politico.com/news/magazine/2020/06/15/chicago-bad-cop-police-reform-318955>.
- Emmanuel, Adeshina. "How Union Contracts Shield Police Departments from DOJ Reforms." In *These Times*. The Institute for Public Affairs, 2020. <https://inthesetimes.com/features/police-killings-union-contracts.html>.
- Rushin, Stephen. "Police Union Contracts." *Duke Law Journal* 66, no. 6 (2017): 1191–

American Politics

1222.

<https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3890&context=dlj>.

United States House of Representatives, "The Ku Klux Klan Act of 1871," History, Art, & Archives, April 20, 1871.

<https://history.house.gov/HistoricalHighlight/Detail/15032451486?ret=True>

Federal Judicial Center. "Civil Rights Act of 1871." FJC, April 20, 1871.

<http://www.fjc.gov/history/timeline/civil-rights-act-1871>.

Pierson v. Ray, 386 Oyez (US Case Law 1967).

Zensky, David. "Parratt v. Taylor: Unauthorized Deprivations and the Content of an Adequate Remedy." N.Y.U. Review of Law & Social Change 16, no. 2 (1988): 161–229. <https://socialchangenyu.com/review/parratt-v-taylor-unauthorized-deprivations-and-the-content-of-an-adequate-remedy/>.

Cheney, Kyle, Ferris, Sarah, Barrón-López, Laura. "Inside job': House Dems ask if Capitol rioters had hidden help," POLITICO. POLITICO, January 8, 2021.

<https://www.politico.com/news/2021/01/08/congress-democrats-capitol-riot-inside-job-456725>

Cullors, Patrisse, "6 Years Later and Black Activists are Still Fighting," Black Lives Matter. Black Lives Matter, 2019. <https://blacklivesmatter.com/six-years-strong/>.

Electoral Justice Project of the Movement for Black Lives, "What is the Breathe Act?" M4BL. The Breathe Act, 2020, <https://breatheact.org/learn-more/>.

Lauren-Brooke Eisen, "The 1994 Crime Bill and Beyond: How Federal Funding Shapes the Criminal Justice System," Brennan Center for Justice, September 9, 2019.

<https://www.brennancenter.org/our-work/analysis-opinion/1994-crime-bill-and-beyond-how-federal-funding-shapes-criminal-justice>.

Section 2:

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Featuring:

“China and UN Peacekeeping in Mali: Understanding China’s Evolving Role in Malian Security through Four Balancing Acts”

Written by Elena Ortiz
Georgetown University, International Politics Major, Class of 2021

“A Tale of Two Identities:
Analyzing the Myth of One Country Two Systems in the Age of Social Media”

Written by Sophie Jiarui Wang
University of Colorado, Denver, Economics and History Majors, Class of 2021

“Does European Enlargement Still Make Sense?”

Written by Sara Shoemaker
University of Michigan, Political Science, French and Francophone Studies, and
History of Art Majors, Class of 2021

“China and UN Peacekeeping in Mali: Understanding China’s Evolving Role in Malian Security through Four Balancing Acts”

Elena Ortiz

In 2013, the first ever Chinese deployment of UN Peacekeeping combat troops arrived in Mali to support the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUMSA), deviating from Beijing’s traditional policies. China’s increasingly active role in UN Peacekeeping in Mali reflects a series of balancing acts characterizing Beijing’s evolving security agenda in Africa: 1) reconciling the principle of non-interference with the security-development nexus; 2) pursuing a reputation as a responsible global stakeholder while distinguishing its diplomatic model from the West; 3) navigating its dual identity as a great power and member of the global south; and 4) enhancing its global image while minimizing domestic audience costs. To explore these dynamics in depth, this paper will first present the history of China-Mali relations, continue by outlining China’s peacekeeping contributions in Mali and other missions in Africa, and then explore each of the four balancing acts and their respective implications for China’s evolving security agenda.

China-Mali ties date back to 1960 when diplomatic relations were established following Mali’s independence from French colonial rule. Through the 1980s, ties were characterized by trade and small-scale infrastructure projects throughout Mali, emphasizing the values of cooperation and mutual benefit.¹ In the 1990s and early 2000s, economic ties between the two countries were strengthened through expanded private sector development projects, including the 1996 China-Mali Sukala joint sugar cane venture and the 2005 contract between major Chinese and Malian telecoms operators to install Mali’s first wireless phone network.² This period also ushered in a wave of Chinese migrants who established small businesses and livelihoods, mostly concentrated in Bamako, the capital of Mali.³

Today, between 5,000 to 10,000 Chinese expatriates reside in Mali, and ties between the two countries have never been stronger.⁴ Economically, bilateral trade has flourished, increasing from \$231 million in 2008 to over \$434 million in 2018.⁵ Following Mali’s announcement that it had officially joined China’s Belt and Road Initiative in 2015, Chinese banks and businesses helped finance key infrastructure projects throughout the country, including the 2015 Bamako-Dakar railway, the University Campus of Kabala, and a new bridge across the Niger River in Bamako.⁶

¹ Harrie Esterheuse and Kane Moctar, “China-Mali Relationship” (Stellenbosch University, 2013), 2.

² Lina Benabdallah and Daniel Large, “Development, Security” (China Africa Research Institute, 2020), 4.

³ Antoine Kernan, “Small and Medium-Sized Chinese Businesses in Mali and Senegal”, *African and Asian Studies* 9, no 3 (2010): 254.

⁴ Jean-Pierre Cabestan, “China’s Involvement in Africa’s Security: The Case of China’s Participation in the UN Mission to Stabilize Mali”, *The China Quarterly* (2018): 720.

⁵ China Africa Research Initiative, “China-Africa Trade”, last modified in 2018, <http://www.sais-cari.org/data-china-africa-trade>.

⁶ Benabdallah and Large, “Development, Security”, 12-13.

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However, of the 52 African countries China invests in, according to the China Africa Research Initiative, Mali ranks 30th in terms of total Chinese investment, signaling that Mali is a significant, but not crucial, economic partner for China.⁷ Overall, there is strong local support for these investments in Africa, with 88 percent of Malians expressing favorable views towards development assistance according to a 2015 Afrobarometer survey.⁸

Against a backdrop of violent civil conflict, bilateral relations are also strong in the security arena. In 2012, a crisis erupted when a northern insurgent group, the National Movement for the Liberation of Azawad, launched a separatist movement against the Malian government in pursuit of an independent homeland for the Tuareg people. Following a failed peace deal in 2013, the UN unanimously adopted the MINUSMA mandate to assist with re-establishing state authority, supporting the implementation of a peace agreement, and protecting civilians.⁹ China has been a consistent peacekeeping contributor since the mission's inception. Of the 13,432 total UN peacekeepers from 61 countries comprising MINUSMA, China is the tenth largest contributor with 413 peacekeepers deployed as of October 2020.¹⁰ The only mission in Africa to which China has committed more personnel is in South Sudan at 1,030 peacekeepers, though China also commits peacekeepers to missions in Western Sahara, Central African Republic, Democratic Republic of Congo, and Darfur.¹¹ Among the P5, China is the largest UN personnel contributor and second largest financial contributor to UN Peacekeeping efforts, following the United States, thereby demonstrating a substantial commitment.¹²

What most distinguishes Chinese peacekeeping in Mali is China's first ever contribution of combat troops to a UN mission in 2013, though since then, in 2015, China also contributed a contingent of combat troops to UNMISS.¹³ Approximately 170 of the Chinese peacekeepers deployed to Mali are combat troops, with the rest comprising engineers, medical staff, construction workers, and non-frontline staffers.¹⁴ Based in the city of Gao located in the Western part of the country, the Chinese unit is tasked with protecting the UN military camp but has also led the construction of a hospital in the region.¹⁵ Research conducted by Benabdallah and Large finds that Chinese peacekeepers in Mali are generally risk-averse, especially following a violent raid on the base in 2016 that killed a Chinese soldier and injured four others.¹⁶ Chinese forces seldom leave the base and have limited contact with civil society in an attempt to avoid the most dangerous situations. Interviews from other MINUSMA personnel revealed that the Chinese contingent possesses weak knowledge of the national and regional conflicts across the

⁷ China Africa Research Initiative, "China FDI Stock in African Countries", last modified in 2018, <http://www.sais-cari.org/chinese-investment-in-africa>.

⁸ Benabdallah and Large, "Development, Security", 10.

⁹ United Nations Peacekeeping, "MINUSMA Mandate", last updated July 2020, <https://minusma.unmissions.org/en/mandate-0>.

¹⁰ United Nations Peacekeeping, "Troop and Police Contributors", last updated August 2020, <https://peacekeeping.un.org/en/troop-and-police-contributors>.

¹¹ United Nations Peacekeeping, "Troop and Police Contributors".

¹² Cabestan, "China's Involvement", 716.

¹³ Fung, Courtney. "Providing for Global Security: Implications of China's Combat Troop Deployment to UN Peacekeeping." *Global Governance* 25, no. 4 (December 10, 2019): 522. <https://doi.org/10.1163/19426720-02504006>; Since 2013, China has also committed combat troops to the UN mission in South Sudan.

¹⁴ Benabdallah and Large, "Development, Security", 14.

¹⁵ Cabestan, "China's Evolving Role as a UN Peacekeeper in Mali" (USIP: 2020):, 3.

¹⁶ Benabdallah and Large, "Development, Security", 18-20.

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Lake Chad region and has demonstrated limited efforts to learn local languages.¹⁷ Insights from an interview with Dr. Marc Lanteigne reaffirmed these critiques and added that the Chinese peacekeepers are generally less willing to collaborate closely and share information with UN staff from other nations.¹⁸

Chinese peacekeeping in Mali, and especially the novel decision to deploy combat troops, signals an evolving Chinese security agenda in Africa, reflecting a series of balancing acts. The first is China's reconciliation between the principle of non-interference and the security development nexus. On one hand, the principle of non-interference in the sovereign affairs of other countries has been a cornerstone of Chinese foreign policy since 1953, when it was articulated as one of the Five Principles of Coexistence by Zhou Enlai.¹⁹ This policy sharply contrasts the Western model of developmental aid conditionality, which stipulates domestic governance or societal reforms. The principle of non-interference stems from China's own history as a country that regained sovereignty after decades of foreign aggression and the corresponding view that diplomacy should be grounded in mutual benefit instead of patronizing imperialism.²⁰ Thus, China's engagements with African states have traditionally focused on economic cooperation with deliberate emphasis on not intervening in local politics or governance.

However, China's combat troop contributions to MINUSMA demonstrate the malleability of the non-interference principle.²¹ Combat troops embody a greater frontline role than China's typical peacekeeper deployments, including medical staff, engineers, and construction workers, and signal an elevated interest in actively promoting local stability. As Lanteigne highlights, this shift is tied to the increasingly interconnected relationship between issues of security and development, making it harder for China to engage exclusively with Mali's economic affairs.²² Benabdallah articulates this as the security-development nexus, recognizing the interdependent relationship between preventing conflict, reducing poverty, and spurring economic growth.²³ China benefits from a stable political climate and, by committing combat troops to MINUSMA, indicates a willingness to stray from the principle of non-interference in order to support the maintenance of a political environment conducive to development.

However, the full extent to which China is willing to digress from the principle of non-interference remains unclear. While their deployment of combat troops demonstrates a stronger commitment to promoting local stability, the risk-averse behavior of Chinese peacekeepers in Mali still suggests a reluctance to engage completely with the crux of the conflict. Chinese policymakers have also avoided explicit endorsement of liberal norms such as the responsibility to protect (R2P), which more

¹⁷ Benabdallah and Large, "Development, Security", 17.

¹⁸ Marc Lanteigne, "Interview with Elena Ortiz". See Appendix 1 for a list of interview questions.

¹⁹ Duchâtel, Mathier, Oliver Bräuner, and Zhou Hang. *Protecting China's Overseas Interests: The Slow Shift Away from Non-interference*, (Stockholm International Peace Research Institute: 2014): 1..

²⁰ *Ibid.*

²¹ Miwa Hirono, Yang Jiang, and Marc Lanteigne. "China's New Roles and Behaviour in Conflict-Affected Regions: Reconsidering Non-Interference and Non-Intervention." *The China Quarterly* 239 (2019): 573-93; Cabestan, "China's Involvement", 729.

²² Marc Lanteigne "China's UN Peacekeeping in Mali and Comprehensive Diplomacy." *The China Quarterly* 239 (September 2019): 639.

²³ Lina Benabdallah. "China's Peace and Security Strategies in Africa: Building Capacity Is Building Peace?" *African Studies Quarterly* 16, no. 3-4 (December 2016) 18.

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directly challenge the non-interference principle.²⁴ These tensions capture the essence of this first balancing act: adapting to the realities of the security-development nexus while still preserving the integrity of the non-interference principle.

The second balancing act that China's deployment of combat troops to MINUSMA reflects is navigating the growing pressure to be a responsible global stakeholder while also pursuing a diplomatic model that is distinct from the West. As pointed out by Lanteigne, once a nation is perceived as a great power, maintaining a *vernier* of neutrality becomes increasingly difficult due to international norms calling for an active role in promoting peace and security.²⁵ As its global influence expands, China has indeed faced pressure from the international community to be a responsible power.²⁶ Before committing to MINUSMA, China faced criticism for only contributing peacekeepers to countries where it had significant interest in natural resources, including South Sudan, the DRC, and Liberia.²⁷ In contrast, Mali is not one of China's top economic partners, nor does it possess large quantities of natural resources pursued by China. Contributing combat troops to MINUSMA, and thereby demonstrating a deeper commitment to promoting security, reflects an effort to assuage global concerns that Chinese peacekeeping efforts in Africa solely serve economic incentives and resource extraction purposes.²⁸ Around the time of MINUSMA's launch, for example, US President Obama accused China of "free riding" on Western-led military operations in Africa.²⁹ MINUSMA provided an opportunity for China to directly demonstrate its commitment to African security. President Xi Jinping's speech to the UN General Assembly in 2015 affirmed this through his pledge to commit \$100 million in financial assistance to the creation of an African Union standby force to enhance crisis response capacities across the continent.³⁰ This broadcasted a message of comprehensive diplomacy and sincere interest in promoting security and stability in African states beyond economic gains, while also producing reputational benefits for Beijing by blunting criticisms of not being a responsible power.³¹

While these actions highlight China's sustained willingness to operate through the UN, a core channel of the Western-led liberal world order, China is also forging a diplomatic model distinct from the West. This second balancing act is defined by China's simultaneous, but selective, operation both within and outside the liberal system. MINUSMA offered an opportunity for China to challenge traditional European models of stabilization in developing countries, especially in former colonies.³² In 2013, France unilaterally launched Operation Serval in Mali to oust insurgents from the north who were beginning to close in on central Mali. In response, the Chinese government voiced

²⁴ Faith Maberu. "China's Evolving Approach to the African Peace and Security Agenda: Rationale, Trends, and Implications." In *China Africa Cooperation: Towards and African Policy on China?*, ed. Philani Mthembu and Faith Maberu, 135–62 (Palgrave Macmillan, 2021): 143-144.

²⁵ Lanteigne, "Interview with Elena Ortiz".

²⁶ Benabdallah and Large, "Development, Security", 19.

²⁷ David H Shinn and Joshua Eisenman. *China and Africa: A Century of Engagement*, (Philadelphia: University of Pennsylvania Press, 2012): 187.

²⁸ Lanteigne, "China's UN Peacekeeping", 645.

²⁹ Bree Feng, "Obama's 'Free Rider' comment", *New York Times*, 2014 <https://sinosphere.blogs.nytimes.com/2014/08/13/obamas-free-rider-comment-draws-chinese-criticism/>.

³⁰ Courtney Fung, "Providing for Global Security", 522.

³¹ Courtney Fung. "What Explains China's Deployment to UN Peacekeeping Operations?" *International Relations of the Asia-Pacific* 16, no. 3 (September 2016) 417.

³² Marc Lanteigne, *China's Peacekeeping Policies in Mali: New Security Thinking or Balancing Europe?*, working paper (Freie Universität Berlin, 2014): 11.

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concern that France was using the operation to revive its dominant position in the Sahel region and paternalistically pacify the country.³³ China's comprehensive diplomacy, marked by long-term economic partnership and the commitment of frontline peacekeepers, directly contrasts Operation Serval and highlights Beijing's distinct and comprehensive model regarding intervention in domestic conflicts, articulated by Xuejun as the "developmental peace model".³⁴

Balancing between operating within and outside the liberal system is beneficial for China who benefits by demonstrating adherence to the norms of being a responsible global stakeholder, while also distinguishing its diplomacy from the West. Similarly, Chinese combat troops in Mali and an active frontline role in reducing civil conflict symbolize a partial endorsement of R2P, a core norm of the liberal international ethos.³⁵ However, China has redefined and shaped this norm to better suit the Five Principles by emphasizing the importance of host country consent and situating its military involvement within a broader scope of comprehensive diplomacy.³⁶ Through this, Beijing strikes a balance between working within and pushing against the liberal system. China's contrasting developmental peace model is also central to the third diplomatic balancing act reflected by China's contributions to MINUSMA: reconciling the dual identity of being a great power and member of the global south. While the liberal peace model represents Western experiences of democracy, China's developmental peace model draws on its own history and developmental experiences, namely Western imperialism and the century of humiliation.³⁷ As both a great power and member of the global south, China is well positioned to identify with African state partners, including Mali, and promote relationships grounded in cooperation instead of neo-colonialism.³⁸ Rejecting the view that China's combat troop deployment in MINUSMA and interest in local security is exclusively linked to material gains, parallel historic experiences contextualize the sincere pursuit of comprehensive diplomacy and holistic development. The sustained commitment to peacekeeping in Mali underlines China's different interpretation of what great power status entails, leveraging its shared global south identity as an alternative to Western neocolonialism often disguised as liberal norms.³⁹ The behavior of Chinese peacekeepers in Mali affirms this. As Lanteigne points out, Chinese combat troops are notorious for avoiding coalition with Peacekeepers from other nations, especially from the West.⁴⁰ Albeit on a small scale, this can still be seen as an act of protest towards the Western legacy of colonialism in Mali and across the African continent.

Recalling the first balancing act, China's dual status as a great power and member of the global south make it increasingly difficult to adhere to the principle of non-interference. China's solidarity with the global south is evident in its concern over France

³³ Lanteigne, "China's UN Peacekeeping", 645-646.; Cabestan, "China's Involvement", 721.

³⁴ Wang Xuejun, "Developmental Peace: Understanding China's Africa Policy in Peace and Security", in *China and Africa*, ed. Alden C., Alao A., Chun Z., Barber L. (Palgrave Macmillan 2018):, abstract.

³⁵ Cabestan, "China's Involvement", 719.

³⁶ Chris Alden and Daniel Large. "On Becoming a Norms Maker: Chinese Foreign Policy, Norms Evolution and the Challenges of Security in Africa." *The China Quarterly* 221, no. 221 (March 2015):, 579.

³⁷ Steven Kuo. "China's Approach to Peace in Africa Is Different. How and Why." *The Conversation*. 2020. <https://theconversation.com/chinas-approach-to-peace-in-africa-is-different-how-and-why-129467>.

³⁸ Fung, "What Explains", 411.

³⁹ *Ibid.*

⁴⁰ Lanteigne, "Interview with Elena Ortiz".

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taking the lead in Mali's stabilization through Operation Serval in 2013. The contemporaneous commission of combat troops to MINUSMA represents a compromise between resisting French neocolonialism while attempting to maintain the ideals of non-interference.⁴¹ Integrating its global south identity into its great power projection aids China's ascent on the international stage by emboldening China's distinction from the West. Committing peacekeepers and combat troops to MINUSMA, therefore, presents an ideal opportunity for China to project global influence, communicate solidarity as a fellow member of the global south, and thereby redefine what it means to be a great power.

Another factor China must reconcile with its ascent as a global power is domestic criticism and audience costs, embodying the fourth balancing act exhibited by Chinese peacekeeping in Mali. Chinese citizens have expressed dissatisfaction towards the frontline role of their soldiers, sentiments only amplified following the news of Chinese casualties and injuries in the 2016 terrorist attack on the base in Gao.⁴² Counteracting this, however, is the recognition that being a global power necessitates risk taking and active participation in promoting international peace and security.⁴³ The risk averseness of Chinese peacekeepers in Mali is one manifestation of this balancing act. China's global reputation and image benefits from the principle of combat troop deployment, while the risk-averse and low-profile behavior of soldiers in practice minimizes the odds of casualties and direct danger, avoiding criticism at home. A second manifestation of this balancing act rests in China's public framing and rationale for combat troop commitments. Based on his own analysis of Chinese press and media surrounding peacekeeping deployment, Lanteigne underlines a pattern of rhetoric emphasizing that Chinese peacekeepers are important in protecting Chinese investments, assets, and citizens overseas.⁴⁴ Especially as the Chinese presence grows in Africa, UN soldier deployments can be strategically framed to alleviate concerns from Chinese citizens surrounding the safety of their fellow nationals abroad.⁴⁵ Similarly, Chinese leadership is deliberate about publicly recognizing the service and bravery of its peacekeepers when they return home. For example, a press release from 2019 covering the homecoming of MINUSMA troops heralded the heroic efforts of soldiers to stabilize Mali and protect civilians, also noting that all 395 returning personnel would be receiving Medals of Honor.⁴⁶ These efforts to celebrate Chinese peacekeepers publicly communicated the government's value and honor of soldiers, which helped boost domestic support for continued UN commitments.⁴⁷

These four balancing acts reflected through Chinese peacekeeping in Mali are not mutually exclusive; they very much overlap and inform one another. China's ascent as a global power resonates throughout all four, as does the deepening complexity of the globalized order. This series of balancing acts reveals efforts to reconcile exogenous and endogenous forces, traditional instruments of foreign policy with fluctuating modern realities, and the evolving meaning of great power status against the rules of the liberal-led order. This interplay illuminates the complex and multidimensional nature of China's evolving security agenda in Mali, and Africa more broadly. It is important to note that

⁴¹ Lanteigne, "Interview with Elena Ortiz".

⁴² Benabdallah and Large, "Development, Security", 19.

⁴³ *Ibid*, 16.

⁴⁴ Lanteigne, "Interview with Elena Ortiz".

⁴⁵ Hirono, Jiang, and Lanteigne, "China's New Roles", 583.

⁴⁶ Chen Zhuo. "6th Chinese Peacekeeping Force to Mali Returns Home." Ministry of National Defense of the People's Republic of China, 2019. http://eng.mod.gov.cn/news/2019-05/27/content_4842354.htm.

⁴⁷ Lanteigne, "Interview with Elena Ortiz".

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China-Mali ties do not exclusively represent these dynamics, but rather, serve as a critical case study of China's evolving role in African security in which these four balancing acts converge. Thus, the case of Mali is allegorical to China's broader transition to more comprehensive diplomacy in Africa as both an economic and security guarantor. China's ascent as a great power is an omnipresent dynamic transcending these four balancing acts that raises questions surrounding what the future of responsible global leadership will look like.

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References

- Alden, Chris and Daniel Large. "On Becoming a Norms Maker: Chinese Foreign Policy, Norms Evolution and the Challenges of Security in Africa." *The China Quarterly* (London) 221, no. 221 (March 2015): 123–42. <https://doi.org/10.1017/S0305741015000028>.
- Benabdallah, Lina and Daniel Large. 2020. Development, Security, and China's Evolving Role in Mali. Working Paper No. 2020/40. China Africa Research Initiative, School of Advanced International Studies, Johns Hopkins University, Washington, DC. Retrieved from <http://www.sais-cari.org/publications>.
- Benabdallah, Lina. "China's Peace and Security Strategies in Africa: Building Capacity Is Building Peace?" *African Studies Quarterly* 16, no. 3-4 (December 1, 2016): 17–34.
- Cabestan, Jean-Pierre. "China's Involvement in Africa's Security: The Case of China's Participation in the UN Mission to Stabilize Mali." *The China Quarterly* (London) 235 (September 2018): 713–34. <https://doi.org/10.1017/S0305741018000929>.
- Cabestan, Jean-Pierre. Rep. *China's Evolving Role as a UN Peacekeeper in Mali*. USIP, September 2018. <https://www.usip.org/publications/2018/09/chinas-evolving-role-un-peacekeeper-mali>.
- China Africa Research Initiative. "China-Africa Trade," 2018. Available at: <http://www.sais-cari.org/data-china-africa-trade>
- China Africa Research Initiative. "Chinese FDI Stock in African Countries," 2018. Available at: <http://www.sais-cari.org/chinese-investment-in-africa>
- Duchâtel, Mathier, Oliver Bräuner, and Zhou Hang. *Protecting China's Overseas Interests: The Slow Shift Away from Non-interference*. Report. Stockholm International Peace Research Institute, 2014. 1-4. Accessed November 13, 2020. <http://www.jstor.org/stable/resrep19183.7>.
- Esterhuysen, Harrie and Kane Moctar. 2014. China-Mali relationship: Finding mutual benefit between unequal partners. CCS Policy Briefing, January 2013. Stellenbosch University: Centre for Chinese Studies.
- Feng, Bree. 2014. "Obama's 'Free Rider' comment draws Chinese criticism," *The New York Times*, 13 August. <https://sinosphere.blogs.nytimes.com/2014/08/13/obamas-free-rider-comment-draws-chinese-criticism/>
- Fung, Courtney. "Providing for Global Security: Implications of China's Combat Troop Deployment to UN Peacekeeping." *Global Governance* 25, no. 4 (December 10, 2019): 509–34. <https://doi.org/10.1163/19426720-02504006>.

International Politics

- Fung, Courtney. "What Explains China's Deployment to UN Peacekeeping Operations?" *International Relations of the Asia-Pacific* 16, no. 3 (September 2016): 409–41. <https://doi.org/10.1093/irap/lcv020>.
- Hirono, Miwa, Yang Jiang, and Marc Lanteigne. "China's New Roles and Behaviour in Conflict-Affected Regions: Reconsidering Non-Interference and Non-Intervention." *The China Quarterly* 239 (2019): 573–93. doi:10.1017/S0305741018001741.
- Kernen, Antoine. "Small and Medium-Sized Chinese Businesses in Mali and Senegal." *African and Asian Studies* 9, no. 3 (2010): 252–68. <https://doi.org/10.1163/156921010X515950>.
- Kuo, Steven. "China's Approach to Peace in Africa Is Different. How and Why." *The Conversation*. The Conversation US, Inc, January 27, 2020. <https://theconversation.com/chinas-approach-to-peace-in-africa-is-different-how-and-why-129467>.
- Lanteigne, Marc. "China's UN Peacekeeping in Mali and Comprehensive Diplomacy." *The China Quarterly* (London) 239 (September 2019): 635–55. <https://doi.org/10.1017/S030574101800173X>.
- Lanteigne, Marc. Interview by Elena Ortiz. Personal. Conducted via Zoom. November 9, 2020.
- Lanteigne, Marc. Working paper. *China's Peacekeeping Policies in Mali: New Security Thinking or Balancing Europe?* Freie Universität Berlin, 2014. http://www.asianperceptions.fu-berlin.de/de/system/files/private/NFG_Working_Paper_11_2014.pdf.
- Mabera, Faith. "China's Evolving Approach to the African Peace and Security Agenda: Rationale, Trends, and Implications". Essay. In *China Africa Cooperation: Towards and African Policy on China?*, edited by Philani Mthembu and Faith Mabera, 135–62. International Political Economy Series. Palgrave Macmillan, 2021.
- Shinn, David H., and Eisenman, Joshua. *China and Africa: A Century of Engagement*. Philadelphia: University of Pennsylvania Press, 2012. Accessed November 15, 2020. ProQuest Ebook Central.
- United Nations Peacekeeping. "Mandate." United Nations Peacekeeping. United Nations, July 14, 2020. <https://minusma.unmissions.org/en/mandate-0>.
- United Nations Peacekeeping. "Troop and Police Contributors." United Nations Peacekeeping. United Nations, August 2020. <https://peacekeeping.un.org/en/troop-and-police-contributors>.
- Xuejun, Wang. *Developmental Peace: Understanding China's Africa Policy in Peace and*

International Politics

Security. 2018. In: Alden C., Alao A., Chun Z., Barber L. (eds) *China and Africa*. Palgrave Macmillan, Cham. <https://doi.org/10.1007/978-3-319-52893-9>

Zhuo, Chen. "6th Chinese Peacekeeping Force to Mali Returns Home." Ministry of National Defense of the People's Republic of China, May 27, 2019. http://eng.mod.gov.cn/news/2019-05/27/content_4842354.htm.

Appendix 1: Interview Questions for Dr. Marc Lanteigne

November 9, 2020 via Zoom

1. My first question is about China's choice to send combat troop peacekeepers to Mali and South Sudan specifically, given that China has contributed troops to a variety of missions. In your view, what is it about these conflicts in particular that has persuaded China to commit combat troops as opposed to other missions that it's involved in?
2. China's combat troop commitments to the UN missions in Mali and South Sudan signal the malleability of China's principle of non-interference. Do you think this is as far as China is willing to go in terms of bending that principle, or do you anticipate further transformation in China's interpretation and practice of that principle?
3. What do you think are some of the key negative consequences, if any, that China's evolving role in African security may produce?
4. As China grows into its role as both an economic and security guarantor of African states, what policy advice would you give Beijing related to its combat troop contributions?

A Tale of Two Identities: Analyzing the Myth of One Country Two Systems in the Age of Social Media

Sophie Jiarui Wang

Abstract: Pro-democracy protests in Hong Kong since the summer of 2019 mark this semi-autonomous city's intensified relationship with China. After the handover of Hong Kong's sovereignty in 1997, the Chinese government declared Hong Kong a Special Administrative Region and established the policy of One Country Two Systems; however, divergent education systems in history rooted fundamentally different core values in China and Hong Kong. Thus, the fear for an uncertain future following a 2047 full handover to China has led to a city-wide identity crisis. To explore the group attitudes of both sides toward the political controversy and to what extent One Country Two Systems has fallen apart in Hong Kong, this paper used Python programs to collect original data and conducted keyword frequency and sentiment analysis. Evidence shows that Hong Kong intellectuals play a crucial role in propagating nationalism-related ideologies as influencers on the internet, while the Chinese State media seeks to use the technology to channel public opinion, resulting in a widened gap between Hong Kong and China in the age of social media.

Introduction

In the second half of 2019, Hong Kong went through a period of political turmoil. Beginning with opposition to a bill introduced in June 2019 that would have allowed the extradition of fugitives from Hong Kong to mainland China, the protests grew to include broader demands in the context of greater democracy and equality. Violent confrontations between police and demonstrators generated further volatility in the once peaceful Asian city. A year later, the National Security Law enacted by Beijing intensified frustration among Hong Kong residents, leading to fear of an uncertain future as well as a city-wide identity crisis. Even though the Chinese government declared Hong Kong a Special Administrative Region after the handover of its sovereignty in 1997 and established the policy of *One Country Two Systems* for the semi-autonomous city, Hong Kong citizens' sense of belonging is ambiguous. With the development of new technologies, social media has become a battlefield for ideologies. The Communist Party of mainland China emphasizes patriotism in its school curriculum, releasing propaganda on State media to reinforce nationalism. In the post-handover era Hong Kong, intellectuals play a crucial role in promoting the search of identity. Hong Kong's independent education system means Hong Kong citizens have a distinct, oftentimes complex, view towards China and their identity. By rejecting the Chinese identity, Hong Kong pro-democracy activists, represented by intellectuals, have been calling for the creation of a national identity for Hong Kong citizens since the Umbrella Movement of 2014.¹ Some of Hong Kong's intellectuals were arrested outside the city and deported to Beijing with the passing of the National Security Law in May 2020. Since many of them

¹ Anthony Fung, "Postcolonial Hong Kong identity: Hybridising the local and the national," *Social Identities* 10, no. 3 (2004): 413.

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are active influencers on social media platforms such as Twitter, and the Chinese State media has a strong voice on China's Twitter-like website Weibo, this paper analyzes original data derived from both Twitter and Weibo to explore the linkage between education, intellectuals and national identities in the age of social media. The relative frequency and sentiment analysis of key words in the data shows that Hong Kong's growing awareness of local identity and desire for independence contrasts with China's tough position on the *One Country Two Systems* principle, resulting in a widened gap between the identities of Hong Kong and China. Continual protests against Beijing indicate that turbulence in Hong Kong has not ended; it is not the only struggle facing a rising and more aggressive China. Exploring data from social media reveals a link between intellectuals and nationalism as well as group attitudes toward the political controversy with the developing technologies of this new era, and more importantly, brings a peaceable solution to Hong Kong's relationship with China a step closer.

I. Literature Review

Nationalism and roles of intellectuals

According to Anthony Smith, there are four paradigms of national identity and nationalism. The *modernist paradigm* and its nation-building model has been the standard orthodox theory since the 1960s, believing that the construction of a nation is a planned process of modernization. In contrast to modernism and the modernist paradigm, *ethno-symbolism* emphasizes long-term analysis on subjective factors that influence the formation of nationalism. *Primordialism*, supported by an older generation of historians, asserts the persistence in the history of nations and sees nationalism as part of a long cycle of ethnic identity. Lastly, *perennialism* is an organic version of theory regarding nations and nationalism.² Scholars such as Benedict Anderson and Ernest

Gellner adhered to the modernist paradigm yet have a different theoretical emphasis. Anderson took the view that technologies influence the worldview of people, leading to nationalism in society. Gellner saw nationalism as an idea organically arising from divisions in society. Hroch defined nationalism as ideas arising from the efforts of a group of intelligentsia, which then grows to eventually become a movement of the populace.

In the Enlightenment of the eighteenth-century, the invention of novels and modern newspapers were important for the birth of imagined communities of nations, providing the technological means for "representing" certain communities.³ This social transformation not only enriched one's emotional expression but influenced the apprehensions of time; consequently, the way people understood the world fundamentally changed. Examining the structures of eighteenth century novels and newspapers, Anderson points out that the emergence of our conception of *simultaneity* was important to the imagined communities of nations since "the idea of a sociological organism moving calendrically through homogeneous, empty time is a precise analogy of the idea of a nation, which also is conceived as a solid community moving steadily down (or up) in history."⁴ The convergence of capitalism and print technology, as well as the diversity of human language, basically set the stage for the modern nation.⁵

² Anthony Smith and Anthony D. Smith, *Nationalism and modernism* (London and New York: Routledge, 2013), 24.

³ Benedict Anderson, *Imagined communities: Reflections on the origin and spread of nationalism* (London and New York: Verso, 1983), 25.

⁴ *Ibid.*, 26.

⁵ *Ibid.*, 46.

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Ernest Gellner holds a different perspective regarding nations and nationalism. He views nationalism as “primarily a political principle, which holds that the political and national unit should be congruent,” and “a theory of political legitimacy, which requires that ethnic boundaries should not cut across political ones, and, in particular, that ethnic boundaries within a given state, a contingency already formally excluded by the principle in its general formulation, should not separate the power-holders from the rest.”⁶ Gellner disagrees with the Marxist notion that nationalism is a class ideology formed within capitalism and instead thinks of it as a product of the progress of industrialization and modernization. In an industrial society, occupational changes increased the mobility of the literate. Such changes are constant and continuous; therefore, nationalism is “rooted in a *certain kind* of division of labor, one which is complex and persistently, cumulatively changing.”⁷ Since such mobility requires people to be acceptable to their fellows, an educational machine which can provide “a wide range of training for the generic cultural base” is needed.⁸ However, this educational infrastructure would be too large and costly for intuitions other than the State to sustain. Therefore, only the state is strong enough to control such a crucial function. This explains why state and culture *must* now be linked in an unavoidable way, and hence why we live in the age of nationalism.

Intellectuals with western experiences are leading the force to create an image of national identity in Hong Kong. They embody Miroslav Hroch’s theory of the crucial role intelligentsia plays in the development of nations and nationalism. The development of nationalism often follows certain stages. During the initial period, which Hroch has called Phase A, “the energies of the activists were above all devoted to scholarly enquiry into and dissemination of an awareness of the linguistic, cultural, social, and sometimes historical attributes of the non-dominant group.”⁹ In other words, an original small circle of intellectuals rediscovers the national “culture” and formulates the idea of the “nation.” There follows the crucial Phase B of promulgating the idea of the nation by politicizing cultural nationalism in growing towns to “win over as many of their ethnic group as possible to the project of a future nation.”¹⁰ Finally, when a majority of the population adopts a special story around their shared national identity, Phase C is formed. The popular involvement in nationalism creates a mass movement. Hroch emphasizes that it is “only during this final stage that a full social structure could come into being.”¹¹

II. Methodology

This paper gathered data from social media platforms to explore the role student intellectuals play on developing national identities in the age of social media. For the Hong Kong section, the analyzed objects were online posts from four significant pro-democracy activist accounts on Twitter. However, Twitter is inaccessible in the mainland: political voices are dominated by State media due to strict censorship. Therefore, to gather information from China, the analyzed objects were public search results on Weibo, a Twitter-like Chinese social media platform said to have 486 million monthly active users in its latest second-quarter earnings report of 2019.¹² To examine the general attitude of common Chinese people towards the protests in Hong Kong since June 2019,

⁶ Ernest Gellner and John Breuilly, *Nations and nationalism* (New York: Cornell University Press Ithaca, 1983), 1.

⁷ *Ibid.*, 24.

⁸ *Ibid.*, 38.

⁹ Miroslav Hroch, “From National Movement to the Fully-Formed Nation: The Nation Building Process in Europe,” *New Left Review* 198, no. 3 (1993), 5.

¹⁰ *Ibid.*

¹¹ *Ibid.*, 6.

¹² Weibo Corporation, 2019, *Weibo Reports Second Quarter 2019 Unaudited Financial Results*.

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noting that news relating to Hong Kong was selectively reported and interpreted by the Chinese State media's account on Weibo, the author conducted relative frequency and sentiment analysis of keywords in trending headlines on the platform. According to a report from the China Internet Network Information Center (CNNIC), 67.8% of internet users are between the ages of 10-39.¹³ Thus, the search results could reveal how the younger Chinese generation in particular views China's relationship with Hong Kong and ideologies about nationalism under the influence of propaganda on social media. On Weibo, people can use tags and discuss current news, the homepage provides the ranks of the top fifty trending headlines for every given moment. The author of this paper designed and wrote a web-scraping program and a keyword statistical analysis program in Python to generate and analyze data from the Chinese Twitter-like social media. Due to the availability of Weibo's search history results, data from May 9th, 2017 to October 28th, 2019 was collected by the Python programs and found 546 trending headlines in total related to Hong Kong. Data crawled from Weibo showed that Chinese people were apathetic towards news relating to Hong Kong before the protests began in June 2019. Once protests started, the opinion was generally negative, as based on news reports from the Chinese State media.

Corresponding to the data analysis of mainland China, similar Python programs were used to collect data from the homepage of the representative Hong Kong pro-democracy activist organization *Demosistō* on Twitter as well as its three founders. An open and developer-friendly system, Twitter is an informative source containing extensive collections of data. Therefore, the sentiment and relative frequency analysis of keywords in original tweets of those four ever since their accounts' registration show the significant role of Hong Kong pro-democracy activists, represented by intellectuals, in promoting ideas regarding nationalism using social media platforms.

III. Case Study

The Case of Hong Kong

According to Benedict Anderson, a "nation" is an imagined community, and "nationalism" is a human-made concept to consolidate nations.¹⁴ The uncertain future of Hong Kong in the post-handover era has led to a stronger willingness of residents to solve the identity crisis by creating a new national identity. Previously an English colony for more than 150 years, Hong Kong is deeply influenced by British culture; however, it still maintains traditional Chinese culture. Due to its geographical location, Hong Kong's culture is closely tied to and influenced by Cantonese culture. Guangdong province in China shares the same language with Hong Kong and celebrates the same Cantonese festivals. Thus, the culture of Hong Kong is not unique as a foundation for nationalism, but considering the trend of globalization, the definition of nationalism may be expanded. The combination of Eastern and Western cultures makes it possible for Hong Kong citizens to formulate an identity of a multicultural region.

Education is a major tool to promote a national character and identity.¹⁵ Traditional Chinese culture was rooted in Hong Kong education, even before the handover of its sovereignty. In the nineteenth century, the British believed investing tax revenue into education for the colony of Hong Kong was worthwhile. Since the schools in Hong Kong taught students to be more sympathetic towards the British compared to

¹³ China Internet Network Information Center, 2019, *The 43rd Statistical Report on Internet Development in China*.

¹⁴ Anderson, *Imagined Communities*.

¹⁵ Morris, "Education and Politics: The Case of Hong Kong from an Historical Perspective," 249.

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other foreign powers in China, education could bring long term benefits to British trade and influence in Hong Kong once the Hong Kong-educated men became leaders of the modernization movement in China.¹⁶ The peak of British educational policy was the founding of Hong Kong University in 1911 through the cooperation of local multiracial elites, the British colonial government, and the Chinese provincial government of Guangdong.¹⁷ Traditional Chinese culture was emphasized in Hong Kong education to serve the British colonial rule at that time. Educational policy in Hong Kong often changed over time to accommodate particular political goals, meaning the link between China's identity and Chinese culture was unstable. Prior to 1982, the link "primarily involved the conscious pursuit of apoliticization as a counter to the intrusion of external political influences."¹⁸

Colonialism and the decolonization of Hong Kong have been major influences on the educational system generally, but specifically, on the curriculum.¹⁹ There are four main consequences and features of the political influence on school curriculum in Hong Kong. The first, and most apparent, is the population was unprepared for its future as a semi-autonomous region of the PRC after the political transition of 1997. Second, the emergence of local political leadership is a recent phenomenon. Thirdly, the school curriculum can also partially account for this feature of Hong Kong society, which can be viewed as having a lack of clarity between national and cultural identity. Lastly, Hong Kongers' "pursuit of self and family interests and a relative lack of concern for broader communal and national concerns" also influenced school curriculum in Hong Kong.²⁰

In the early colonial period, British administrators and Chinese educators in Hong Kong selectively employed Chinese cultural heritage and their own influences to cultivate the sense of "being at the periphery of both the Chinese and the Western worlds."²¹ However, although it is undoubted that the pre- and post-colonial politics of Hong Kong have had a crucial impact on syllabus drafting, textbook production, and teaching, it has seldom been the result of direct governmental interference. The civil war between the Nationalist government and the Communist revolutionaries brought an endless stream of refugees into Hong Kong.²² Most of them were educated and recognized themselves as Chinese, yet could not return to China. Indifferent to the local history of their new home, refugee teachers put their nostalgia into textbooks. However, in 1952, the committee of the Education Department of Hong Kong determined those textbooks propaganda of the People's Republic of China (PRC) and sought to educate students in a more neutral way.²³ Divergent education guidelines made Hong Kong different from mainland China.

Negligence vastly explains the growing willingness of a population towards independence. Despite the Chinese government declaring Hong Kong a Special Administrative Region, Hong Kong citizens were never recognized as Chinese in the same way as those on the mainland. Although the legitimacy of the authorities increased after

¹⁶ Luk, "Chinese Culture in the Hong Kong Curriculum: Heritage and Colonialism," 656.

¹⁷ Ibid.

¹⁸ Morris, "Education and Politics: The Case of Hong Kong from an Historical Perspective," 250.

¹⁹ Paul Morris and Anthony Sweeting, "Education and Politics: The Case of Hong Kong from a Historical Perspective," *Oxford Review of Education* 17, no. 3 (1991): 249.

²⁰ Morris, "Education and Politics: The Case of Hong Kong from an Historical Perspective," 265.

²¹ Bernard Hung-Kay Luk, "Chinese Culture in the Hong Kong Curriculum: Heritage and Colonialism," *Comparative Education Review* 35, no. 4 (1991): 650.

²² Luk, "Chinese Culture in the Hong Kong Curriculum: Heritage and Colonialism," 661.

²³ Ibid., 667-68.

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the handover, Hong Kong citizens still harbored a feeling of distance from mainland political icons.²⁴

Since then, external influences have suppressed the local identity of Hong Kong, and official voices of Hong Kong have been perceivably subsumed into the national identity.²⁵ Various Hong Kong residents, especially the intelligentsia, believe that it is necessary to protect and reinforce their own identity. Usually, in Chinese social media, Hong Kong residents are called “Hong Kong citizens” to avoid ambiguous political meaning. However, for radical Hong Kong residents, a simple acknowledgement is not enough; their goal is to build the national identity of “Hong Kongers.” Increasing political activism has led to mass participation in protests such as the Umbrella Movement, pointed out by Edmund Cheng as “a particular manifestation of a new wave of bottom-up activism in post-colonial Hong Kong, where the hybrid regime is characterized by civil liberties, an independent judiciary, and evolving electoral politics, but also corporatist domination and a resourceful local government backed by an authoritarian sovereign.”²⁶ The intellectuals’ participation in the Umbrella Movement of 2014 was critical to promote local identity and appeared to follow the phases Hroch described.²⁷ Several activists, mainly college students who were not satisfied with Hong Kong’s condition under *One Country Two Systems*, sought the benefits of being recognized as a national community. Since the Umbrella Movement, many activist groups have created and spread their unique ideas of nationalism among the public. To politicize cultural nationalism, they underlined the cultural differences between Hong Kong residents and mainland Chinese, portraying the latter as the opposite of liberal ideas and values. Fearing the loss of democratic institutions and personal liberties, as well as uncertainties following a 2047 full handover to China, a strong sense of isolation and alienation grew among Hong Kong residents. Protesters then followed Phase B, using social media to spread their ideas to a wider audience and therefore increasing the awareness of nationalism and participation in political protests. The upheavals in Hong Kong since the summer of 2019 exemplifies Miroslav Hroch’s conclusion – the final stage of popular involvement in nationalism creates a mass movement.

Similar to the Umbrella Movement, intellectuals who were usually well educated by universities in Hong Kong and with overseas experiences are the leading forces of the protests that began from the summer of 2019. Regarding the mix of Chinese traditional Confucian ideologies and Western liberal ideas that they have been taught, the latter is more favorable to them. *Demosistō* is a young political party that advocated for the self-determination of Hong Kong. Its founding members were former leaders of student activist groups that played important roles during the 2014 Umbrella Movement. Joshua Wong, the secretary-general of *Demosistō*, and Agnes Chow, the deputy secretary, were core members of a student activist group called *Scholarism*, which was active in Hong Kong education and youth policies. Another founder of *Demosistō*, Nathan Law, was the former secretary-general of the *Hong Kong Federation of Students*, a student organization founded by student unions of the four universities in Hong Kong with more than sixty years of history. Activist organizations like *Demosistō* have significant influence on universities and social media, explaining why college students were a major force behind the 2019 protests.

²⁴ Anthony Fung, “Postcolonial Hong Kong identity: Hybridising the local and the national,” 413.

²⁵ *Ibid.*, 412.

²⁶ Edmund Cheng, “Street politics in a hybrid regime: The diffusion of political activism in post-colonial Hong Kong,” *The China Quarterly* 226 (2016): 384.

²⁷ Miroslav Hroch, “From National Movement to the Fully-Formed Nation: The Nation Building Process in Europe,” *New Left Review* 198, no. 3 (1993), 5.

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Due to radically promoting the independence of Hong Kong, Joshua Wong was banned from the District Council election of Hong Kong by the Hong Kong government with the support of Beijing. The attacks over his potential Vietnamese background on social media revealed how ideas of nationalism were used to discredit him. Joshua Wong, a well-educated elite, along with the other leaders of activist organizations, studied at an Ivy League school and received awards and praise in the West. Behaving like an adroit politician, Wong successfully appeased the Hong Kong citizens, and many Hong Kong news reports, into speaking out against criticism from the mainland. Anthony Smith noted that “One should add that nationalists themselves, perhaps not unexpectedly, have wanted to have things both ways: seeing the nation as organic and rooted in history and territory, but at the same time as created and engineered by nationalist elites.”²⁸

The Case of Mainland China

2019, the 70th anniversary of its founding, was a remarkable year for China. It was also 30 years after the Tiananmen massacre. The memory of this tragedy has been wiped out entirely in mainland China since 1989: none of the history textbooks mention it at all. Therefore, for those born in the 1990s beyond, the Tiananmen massacre is unfamiliar. As a result, their interest in investigating the tragedy has disappeared. For instance, if one searches “Zhao Ziyang,” the ousted leader of the CPC imprisoned for believing in holding open talks with student demonstrators in 1989 on the Chinese internet, no relevant information would appear, significantly different from the extensive search results that would appear on Google.²⁹ The same thing would happen if one searched for “Tank Man,” the most iconic symbol of the Tiananmen massacre. The centralized political power under the current Chinese president Xi Jinping deliberately oppresses the intention of anyone learning the truth about the Tiananmen massacre. Glenn Tiffert argues that “By controlling the past, Xi is reclaiming the right to monopolize the meaning that Chinese attach to the present and the intentions that they form about the future.”³⁰

Xi believes “an open door to Western political and economic ideas will undermine the power of the Chinese state.” Thus, to consolidate power, Xi aims to silence alternative political voices, particularly on China’s internet.³¹ Under Xi, censorship in China is stricter than ever. Moreover, with the development of new technologies, the emerging paradigm of digital censorship enables authorities to edit historical records freely to suit past and present needs.³² In the process of unifying ideology, Xi has labeled western ideas that would challenge China’s political system as unpatriotic and dangerous. Hence, Beijing has banned academic research and teaching on seven topics: “universal values, civil society, citizens’ rights, freedom of the press, mistakes made by the Communist Party, the privileges of capitalism, and the independence of the judiciary.”³³ Xi also tightened patriotic education in schools, especially in colleges. Considering students’ roles in the Tiananmen protests, he intended to make them a “stronghold of Party leadership.”³⁴

²⁸ Smith, *Nationalism and modernism*, 23.

²⁹ Ziyang Zhao, *Prisoner of the State: The Secret Journal of Zhao Ziyang* (New York: Simon and Schuster, 2009).

³⁰ Glenn Tiffert, “30 Years After Tiananmen: Memory in the Era of Xi Jinping,” *Journal of Democracy* 30, no. 2 (2019): 46.

³¹ Elizabeth C. Economy, “China’s imperial president Xi Jinping tightens his grip Citation metadata.” *Foreign Affairs* 93, no. 6 (2014): 4.

³² Tiffert, “30 Years After Tiananmen: Memory in the Era of Xi Jinping,” 44.

³³ Economy, “China’s imperial president Xi Jinping tightens his grip Citation metadata,” 42.

³⁴ Tiffert, “30 Years After Tiananmen: Memory in the Era of Xi Jinping,” 42.

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Nationalism has been firmly intertwined with patriotism in China. According to Lagerkvist, Mao Zedong created anti-imperialist nationalism. His successors, like Deng Xiaoping, furthered his work into a new Chinese nationalism, emphasizing the importance of national-patriotic education to prevent China's youth from conducting similar movements ever again. "The people's resentment needed an outlet; the government deftly directed it outward, towards the rest of the world," Lagerkvist argued.³⁵ This is the tactic of Xi Jinping's government today. "Foreign forces" have been the scapegoat of the Chinese government regarding protests in Hong Kong since the summer of 2019. In a study of China's strategies on nationalism, Johan Lagerkvist and Tim Rühlig emphasized that "The aim of the Communist Party's new nationalist program was to sharpen the Chinese sense of humiliation at having been bullied and colonized by the West and Japan in the nineteenth century."³⁶ Thus, for young people in mainland China, it can be assumed the embarrassment and humiliation about China's modern history is having two effects: escapism combined with low-level political awareness and a strong sense of patriotism. Chinese authorities glorify individual success and economic growth to ensure any "suppressed energy" is directed towards the nascent market economy instead of seeking personal freedom and liberty within politics and society.³⁷

For young people in Hong Kong, the apathy and low political awareness their contemporaries display in the mainland has created a strong sense of alienation from China. There is a growing uneasiness regarding how the mainland government directs the views of its people. The so-called "legendary development" of China, especially after the *Reform and Opening-up* policy in 1979, is purely economic. Therefore, the "legendary development" is unconvincing to the younger generation of Hong Kong, who prioritize individual liberal rights. Residents of Hong Kong have traditionally enjoyed more political freedom than those on the mainland, and many who have called for democratic reform have watched Xi's moves with growing concern.³⁸ Since the summer of 2019, protests in Hong Kong have become more radical, widening the chasm of misunderstanding between Hong Kong and China.

A typical example of this gap is that in Chinese mass media Hong Kong police are regarded as 'defenders of the motherland' – the opposite of their portrayal in Hong Kong. The CPC picked out a policeman named "Liu Sir the baldhead" as a typical character for propaganda purposes, offering him nationwide praise and honor. Meanwhile, that same character was shown in Hong Kong's news as one who was ready to shoot citizens and threatens demonstrators. Consequently, he and his family received death threats from Hong Kong pro-democracy activists. The effects of the propaganda in China became clear when "Liu Sir the baldhead" and a few other police officers were invited to Beijing during the National Day holiday of China in October 2019. The data from that event shows that the trending headlines on Weibo all concern patriotism and nationalism, such as the group of invited Hong Kong police officers who climbed the Great Wall and waved the five-star red flag, symbolizing China. Nevertheless, the data also indicated that every detail of the Hong Kong police officers' journey to Beijing was thoroughly reported, revealing that the highlights of their trip had been carefully selected. Considering that headlines of "Liu Sir the baldhead" was trending in China since September 29th, two days before the National Day holiday, and a series of relevant news reports were released

³⁵ Johan Lagerkvist and Tim Rühlig, "The mobilization of memory and tradition: Hong Kong's Umbrella Movement and Beijing's 1989 Tiananmen Movement," *Contemporary Chinese Political Economy and Strategic Relations: An International Journal* 2, no.2 (2016): 737.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Economy, "China's imperial president Xi Jinping tightens his grip Citation metadata," 2.

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during the holiday, it is reasonable to discern that the Chinese mass media was posting required political propaganda. Because of the deep and pervasive censorship in China, “outspoken newspapers were assigned new editorial teams, a once-vigorous corps of investigative reporters have been hemmed in, and coverage now generally parrots the official line on topics of any significance.”³⁹

VI. Data Analysis

Hong Kong

Activist organizations in Hong Kong like *Demosistō* have been influential in the mass media, leading to participation through generating attitudinal support.⁴⁰ On the other hand, media exposure implies that Hong Kong’s newly-found identity is thus largely a “mediated construction, foregrounding the cultural differences between ‘Hong Kongers’ and the mainland Chinese.”⁴¹ Additionally, as part of the younger generation, these activists know the power of social media and have used it to promote nationalist ideas to wider potential audiences. Ideally, during this process of identity formation, the mass media would be neutral, serving as a “primary site of socialization, assimilation, social integration, and identity formation.” However, in reality, according to Fung, “mainland people were stigmatized as ‘uncivilized’ and ‘uneducated’ outsiders and intruders, and a ready-made cultural contrast against which modern, cosmopolitan Hong Kongers could define themselves.”⁴²

Figure 1 contains four different graphs of the relative frequency of keywords from the Twitter homepage of the representative Hong Kong pro-democracy activist group *Demosistō* and the three founders of it – Joshua Wong, Nathan Law, and Agnes Chow. This paper used an original Python web-scraping program written by the author to collect and analyze data from Twitter. The result showed that from the day of the account’s creation, the number of original tweets scraped from Joshua Wong is 2125, from Nathan Law is 1330, from Agnes Chow is 547, and from the group homepage of *Demosistō* is 784. The sentiment and relative frequency analyses show that the top six keywords in their tweets were mainly related to liberal ideas, such as “democracy,” “freedom,” and “legislation.” Another frequently mentioned word was “police” – 18.45% of Joshua Wong’s and 24.68% of Agnes Chow’s tweets were about the police. Specifically, they criticized the way Hong Kong police treated protestors. The tweets also focused on social and political issues in Hong Kong such as health care and public education. Social media has been used as an effective platform to promote progressive ideas for activist organizations like *Demosistō*. Frequently appeared keywords may reinforce concepts of liberty to the public, particularly college students. Creating a strong sense of something different from their impression of a typical Chinese national identity, the official website of *Demosistō* claims they “push for the city’s political and economic autonomy from the oppression of the CPC and capitalist hegemon.” They also assert that the organization uses nonviolent means to achieve goals, however, the reality of Hong Kong from June 2019 onwards shows quite the opposite. There has been a radical escalation of violence. The conflicts between police and protestors are tense, and the attitude of common Hong Kong citizens towards the protests is ambiguous. It is possible that citizens remain silent for their self-interest and would favor the winning side once tensions settle down.

³⁹ Tiffert, “30 Years After Tiananmen: Memory in the Era of Xi Jinping,” 41.

⁴⁰ Francis L.F. Lee, Hsuan-Ting Chen, and Michael Chan, “Social media use and university students’ participation in a large-scale protest campaign: The case of Hong Kong’s Umbrella Movement,” *Telematics and Informatics* no.34 (2017): 458.

⁴¹ Fung, , “Postcolonial Hong Kong identity: Hybridising the local and the national,” 401.

⁴² Ibid.

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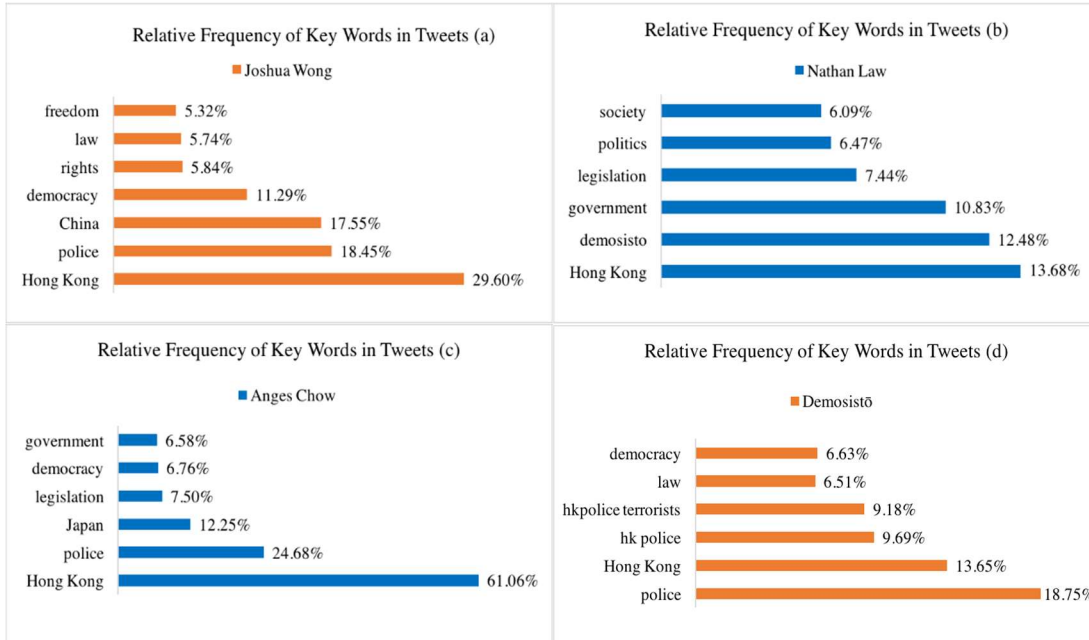


Figure 1. Relative Frequency of Keywords in Tweets

Mainland China

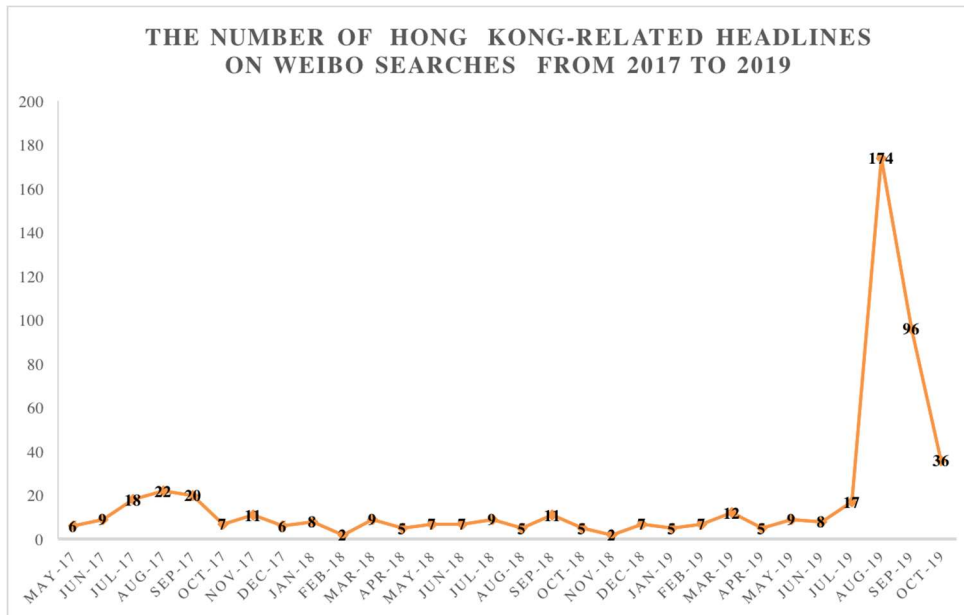


Figure 2. The Number of Hong Kong-Related Headlines on Weibo Searches

Although the Chinese government proclaimed Hong Kong as a Special Administrative Region under the policy of *One Country Two Systems*, the island has been isolated from mainland China since the handover of sovereignty in 1997. Even with the rapid development of the Internet, it has been a challenge for young people from

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mainland China to understand their peers in Hong Kong in an unbiased way due to their inability to access uncensored information about Hong Kong. A significant increase in topics appeared in August, when the situation in Hong Kong was intense, and protests started to become more radical (Figure 2). Since online searching is a voluntary and subjective behavior, it is plausible to conclude that Chinese people were apathetic about the real life of Hong Kong citizens before this turbulent summer.

Analyzing the relative frequency of keywords in trending headlines related to Hong Kong, July 2019 was a tipping point (Figure 3). Before July 2019, shown in blue, the trending keywords were related to people's livelihood, like transportation or mobile payments. Nevertheless, since July 2019, as portrayed in orange (Figure 2), keywords containing clear political orientation began trending with higher frequency. State media controlled by the CPC portrayed the Hong Kong police as hero-like symbols to the public from the very beginning of the summer, yet described Hong Kongers who supported the demonstrators as "spoiled youth." Negative keywords like "mob," "violence," and "arrest" demonstrate how Chinese people's attitude towards this issue was channeled in a certain direction.

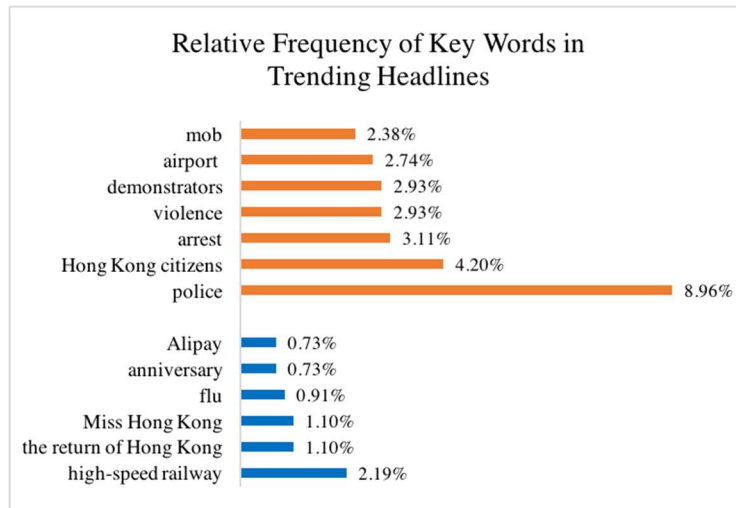


Figure 3. Relative Frequency of Key Words in Trending Headlines on Weibo

This result also shows how the political tactics of the Communist Party of China have changed. The Party learned from the bloody experience of the Tiananmen massacre and the Umbrella Movement of Hong Kong in 2014 that a direct violent crackdown may not effectively appease an angry crowd. Instead, the party used social media as a propaganda tool. During the summer of 2019, antagonism towards protesters in Hong Kong and their unpatriotic behaviors was increased by news media in mainland China that were substantially under the Party's control.

Since the information in social media that people are exposed to is filtered by those who users trust and relate to, it has the potential to be more effective than other informational venues.⁴³ In the case of China, the authority reinforces nationalism and patriotism through selective news reporting by State's media accounts on the social media platform Weibo, which spearheads Chinese people to view protesters in Hong Kong in a

⁴³ Gil de Zúñiga, Homero, Nakwon Jung, and Sebastián Valenzuela, "Social Media Use for News and Individuals' Social Capital, Civic Engagement and Political Participation," *Journal of Computer-Mediated Communication* 17 no.3 (2012): 331.

negative way. By regarding Hong Kong citizens as ungrateful mobs, Chinese people have developed a strong sense of belonging and honor towards their national identity, peaking on October 1st, the National Day of China. The alleged mobs in Hong Kong have become an imagined common enemy, with the consequence that there is a greater divide between Hong Kong and China.

VII. Discussion

The political reality of China is that Xi's leadership and his rising centralized power have made Hong Kong citizens fear of losing democracy and freedom plausible. The way that the CPC deals with historical events like the Tiananmen massacre, both the direct crackdown of it in 1989 and the artificial disappearance of it in records, has increased Hong Kong citizens' anxiety regarding the uncertain future the city faces. Although not every activist advocates complete independence of Hong Kong, most pursue more democracy and freedom than under the CPC's tougher stance on the issues of the city.

Because social media has become more of a battlefield between ideologies, this paper analyzed the relative frequency and sentiment of Hong Kong-related keywords in both Hong Kong and mainland China's social media. The sentiment and relative frequency analysis of keywords reveal common mainland Chinese people's attitudes towards Hong Kong were profoundly affected by China's strict censorship and selective news reporting.

First, mainland Chinese people did not seem concerned about Hong Kong until the escalation of protests spread over the news, matching the significant increase in search results and trending headlines related to Hong Kong in August 2019. This implies that under the *One Country Two Systems* principle, the geographical and psychological isolation between mainland China and Hong Kong has given the latter room and willingness to grow an independent identity.

Second, political content, or propaganda, on social media widens the gap between Hong Kong and China by intentionally stigmatizing the other side. In Hong Kong, pro-democracy activists frequently mentioned keywords related to liberal ideas, reinforcing the difference in culture and beliefs between Hong Kong residents and those of mainland China and thus rationalizing their resistance to merging with Chinese patriotism and nationalism promoted by the CPC. This intentional opposition has led to an inevitable divergence between Hong Kong and China. Data from social media shows that Hong Kong pro-democracy activists, represented by intellectuals with experience studying overseas, have created a sense of superiority in being liberal, modern, and cosmopolitan to increase Hong Kong citizens' cohesion. Similarly, Hong Kong protestors have been portrayed as unruly mobs who carried out riots by Chinese State media to create antipathy among the mainland Chinese and create a stronger sense of patriotism.

Education and intellectuals are crucial factors in constructing nationalism and play different roles in mainland China and Hong Kong. State-controlled curriculums of the mainland have emphasized patriotism as the foundation of nationalism since the age of Mao, and the historical memory of the public has been strictly filtered by the Party. Hong Kong's educational policies have changed over regimes, yet retain the root of Chinese culture and Western ideologies. Intellectuals have also made notable contributions to the development of nationalism in Hong Kong. Most founders of Hong Kong pro-democracy activist originations have studied overseas and use modern means like social media to propagate ideas of self-determination and stress the inevitability of creating an independent identity against the politically correct one.

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At the 2019 commencement ceremony of Hong Kong University, the speaker Professor Liu Ningrong pointed out that until now, people could not see the truth of the predicament of Hong Kong since they only asked about positions instead of facts, sought freedom instead of order, talked about ideologies without any questions, accomplished goals without compromise, and held enmity instead of mercy.⁴⁴ The transcript of Liu's speech caused a sensation on the Chinese internet before being quickly banned by the Party. The future of the relationship between Hong Kong and China is not optimistic. After months of anti-government and pro-democracy protests in 2019 and 2020 that escalated violence within the city, the newly passed National Security Law of May 2020 further darkened the future of Hong Kong. The policy, which the Chinese government claims and insists upon, is the beginning of *One Country Two Systems* slowly becoming *One Country Two Nations*. In the age of social media, education is still an important tool to practice nationalism for both Hong Kong and China. As influencers on the internet, Hong Kong intellectuals play a crucial role in propagating nationalism-related ideologies, while the Chinese State media seeks to use the technology to channel public opinion. Social media has no doubt become the new battlefield of contradictory ideologies as well as creating socioeconomic globalization. A rising and aggressive China challenges the rest of the world – Hong Kong's struggle is not singular.

⁴⁴ Liu Ningrong. "Until today we still can't know the truth of Hong Kong's predicament." Speech, 2019 Fall Commencement of Institute for China Business at Hong Kong University, Hong Kong, September 16, 2019.

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References

- Anderson, Benedict. *Imagined communities: Reflections on the origin and spread of nationalism*. London & New York: Verso, 1983.
- Cheng, Edmund. "Street politics in a hybrid regime: The diffusion of political activism in post-colonial Hong Kong." *The China Quarterly* 226 (2016): 383-406.
- China Internet Network Information Center. 2019. *The 43rd Statistical Report on Internet Development in China*.
<https://cnnic.com.cn/IDR/ReportDownloads/201911/P020191112538996067898.pdf>.
- Economy, Elizabeth C. "China's imperial president Xi Jinping tightens his grip Citation metadata." *Foreign Affairs* 93, no. 6 (2014): 1-5.
- Fung, Anthony. "Postcolonial Hong Kong identity: Hybridising the local and the national." *Social Identities* 10, no. 3 (2004): 399-414.
- Gellner, Ernest, and John Breuilly. *Nations and nationalism*. New York: Cornell University Press Ithaca, 1983.
- Gil de Zúñiga, Homero, Nakwon Jung, and Sebastián Valenzuela. 2012. "Social Media Use for News and Individuals' Social Capital, Civic Engagement and Political Participation." *Journal of Computer-Mediated Communication* 17, no. 3 (2012): 319-336.
- Hroch, Miroslav. "From National Movement to the Fully-Formed Nation: The Nation Building Process in Europe." *New Left Review* 198, no. 3 (1993).
- Lagerkvist, Johan, and Tim Rühlig. "The mobilization of memory and tradition: Hong Kong's Umbrella Movement and Beijing's 1989 Tiananmen Movement." *Contemporary Chinese Political Economy and Strategic Relations: An International Journal* 2, no.2 (2016): 735-774.
- Lee, Francis L.F. , Hsuan-Ting Chen, and Michael Chan. "Social media use and university students' participation in a large-scale protest campaign: The case of Hong Kong's Umbrella Movement." *Telematics and Informatics*, no. 34 (2017): 457-469.
- Luk, Bernard Hung-Kay. "Chinese Culture in the Hong Kong Curriculum: Heritage and Colonialism." *Comparative Education Review* 35, no. 4 (1991): 650-668.
- Morris, Paul, and Anthony Sweeting. "Education and Politics: The Case of Hong Kong from an Historical Perspective." *Oxford Review of Education* 17, no. 3 (1991): 249-267.
- Smith, Anthony, and Anthony D. Smith. *Nationalism and modernism*. London and New York: Routledge, 2013.

International Politics

- Ningrong, Liu. "Until today we still can't know the truth of Hong Kong's predicament." Speech, 2019 Fall Commencement of Institute for China Business at Hong Kong University, Hong Kong, September 16, 2019.
- Tiffert, Glenn. "30 Years After Tiananmen: Memory in the Era of Xi Jinping." *Journal of Democracy* 30, no. 2 (2019): 38-49.
- Vickers, Edward. *In Search of an Identity: The Politics of History as a School Subject in Hong Kong, 1960s-2002*. New York & London: Routledge, 2004.
- Weibo Corporation. 2019. *Weibo Reports Second Quarter 2019 Unaudited Financial Results*.
<https://www.prnewswire.com/news-releases/weibo-reports-second-quarter-2019-unaudited-financial-results-300903386.html>.
- Zhao, Ziyang. *Prisoner of the State: The Secret Journal of Zhao Ziyang*. Edited by Renee Chiang, Adi Ignatius Bao Pu. Translated by Renee Chiang, Adi Ignatius Bao Pu. New York: Simon and Schuster, 2009.

Does European Enlargement Still Make Sense?

Sara Shoemaker

I. European Enlargement in the Past

During the twentieth century, Europe was torn apart by two great wars and has since been sewn back together through the development, and subsequent enlargements, of the European Union (EU). This union, developed over the last seventy years, has become a web of political and economic institutions that member states use to operate collectively on the international stage. Since the 1970s, every decade has seen the EU encompass more strategic European partners such as the United Kingdom and Finland.¹ As of March 25th 2020, five countries have been designated candidate countries seeking admission to the EU: Albania, North Macedonia, Montenegro, Serbia, and Turkey.² Analyzing the consequences of their membership is most relevant to the discussion of the practicality of European enlargement since they are the closest to becoming members if another period of enlargement were to take place. There are also two potential candidate countries, Bosnia and Herzegovina and Kosovo; however, their candidacies have not been deemed as likely as the current candidate countries. Pursuing enlargement at this time would be risky because it would increase security tensions with Russia, hinder stabilization of the European economy, and would not significantly improve the protection of human rights across more European countries.

Due to the geographic proximity of European countries, the creation of the EU was a natural next step for the countries predisposed to regular diplomatic and financial interactions. The concept of a union across Europe has had time to develop as each nation state has sought to protect their own sovereignty, but simultaneously take advantage of the proximity to profitable neighbors. Trade proved one method to capture these benefits. The Hanseatic League, operating during the late Middle Ages in Northern Europe, was an early project that grew to include foreign cities like Stockholm and Riga, laying the foundation for cooperative economic endeavors between centers of power across Europe.³ In an attempt to progress further, a Pan European movement in the 1920s intended to create a united Europe that prevented strong trade partners from destabilizing economies and military powers from coming into direct conflict.⁴ While this movement failed at the time, the EU was formed in the aftermath of the Second World War by Belgium, France, Germany, Italy, Luxemburg, and the Netherlands. All six countries had been seriously debilitated by the war and needed a way to guarantee European security and avoid future conflict. By producing economic communities, these countries dissuaded military posturing between France and Germany. The first was the European Coal and Steel Community Treaty in 1952 which united the members in a common market. The founding rules of the common market required that customs duties for fellow members be waived, exemption from discriminatory policies on foreign goods, and the free

¹ European Neighborhood Policy and Enlargement Negotiations, *EU Enlargement Factsheet*, Brussels: European Commission, 2019, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/factsheet_en.pdf (accessed March 21, 2020).

² European Commission, "Check Current Status," accessed March 23, 2019, https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status_en.

³ *Encyclopedia Britannica*, 15th ed., s.v. "Hanseatic League: The League In Its Final Form," <https://www.britannica.com/topic/Hanseatic-League/The-league-in-its-final-form>

⁴ Dan Vataman, "History of the European Union," *Lex ET Scientia International Journal* 2, no. 18 (2010): 109.

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movement regardless of quantity.⁵ Two markets were added in 1957 and by 1967 all three had been merged into the European Community. Four governance bodies that members would work within were established to supervise internal behavior, the precursors to the European Commission, the European Council, the European Parliament, and the European Court of Justice. Establishing formal institutions within subsequent treaties allowed member states to negotiate transparently, mitigating leverage any one state might have over another in bilateral negotiations. These institutions could collectively moderate conflict resulting from the implementation of agreements within a member state across the European continent and avoid the devastating effects of another war.

As the European Community grew in complexity, it also grew in number as membership proved to be a stabilizing mechanism on the national economic and political institutions of neighboring countries. Proximity alone no longer drives enlargement. These expansions initially standardized trade regulations among neighbors predisposed to trading with each other due to proximity. However, after the Maastricht treaty in 1993, the Union took on a more explicit political dimension.⁶ When the Iron Curtain fell in the 1990s, there was a push in Eastern Europe to leave the sphere of influence of the former Soviet Union and embrace the open market and political liberty. This most recent enlargement occurred in 2004 and 2007, adding twelve new Eastern members.⁷ Future enlargement to include the second set of Balkan countries would bring Europe southbound, further from the heart of the continent and, in the case of Turkey, even into part of the Middle East. Therefore, as the European Union considers adding countries, current political and economic conditions are more relevant than geographic and historical ties between the two groups to the debate concerning future enlargement.

II. Enlargement Today Would Threaten Members' National Security

Though enlarging the EU guaranteed members' security in the past, today it would be dangerous to add countries that Russia has directly attacked to the Union because it is not as well equipped as the North Atlantic Treaty Organization (NATO) to respond to Russian aggression. Previously, enlargement of the EU strengthened its international security position. Having been formed to respond to a pressing threat between two major actors in Europe, the aggregation of security policy positions within an internal body was essential to the Union's stability. It made sense to bring the most powerful European states together to limit their capacity to engage in conflict with each other and standardize border security among neighbors. The EU aggregates policy responses to security threats that are carried out based on member consent rather than coercion. This is essential to the body's ability to legitimately operate on behalf of its member states as a security force internationally.⁸ The Union's ability to aggregate security policy in the face of external threats drew in post-Soviet states that had only known coercive security policy, strengthening the Union's projection of force. Russia was weak and thus could not mount an external security threat that would lead to resistance from existing member states. The EU did not need to demonstrate a creditable ability to respond to an external attack from Russia at that time, so its security policy relied on perception rather than action. However, the addition of states like Albania or North

⁵ Vataman, "History of the European Union," 114.

⁶ Vataman, "History of the European Union," 120.

⁷ *EU Enlargement Factsheet*, European Commission, 2019.

⁸ James Sperling, Mark Webber, "The European Union: security governance and collective securitization," *West European Politics* 42, no. 2 (2019): 234.

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Macedonia today, when Russia is in a stronger position to threaten the current member states in retaliation for enlargement, would jeopardize overall EU member security.

The addition of any of these five candidate countries would draw the EU into a more direct confrontation with the Russian Federation because of their individual, internal struggles with Russia at a time when tensions need to be eased to preserve the internal security of the EU. The perception of strength is no longer enough to deter Russian aggression within states. While Russia could not act in a credible manner to prevent the accession of the twelve countries that joined in 2004 and 2007, the 2014 invasion of Ukraine has shown Europeans that Russia is once again a security threat that must be taken seriously. Ukraine had been considering joining the EU and NATO since 1994 and 1997 respectively, two institutions that limit Russian influence in the European region, but has since been discouraged.⁹ Member states within the EU have been on any signs of overt or covert Russian military encroachment and would benefit from a less acrimonious relationship between Russia and the EU. Russia has aided destabilizing forces within several candidate countries to discourage the EU from absorbing them. Russian officials have made it difficult for North Macedonia to continue to join by attempting to prevent the country from successfully changing its name in line with Greek requests.¹⁰ Despite uncovering a plot by Russian forces to infiltrate its armed forces in November of 2019, Serbia would be unable to orient its foreign policy away from a close relationship with Russia and toward the EU's security objectives because they conduct military exercises together regularly.¹¹ Russia has also been tied to an attempted coup in Montenegro in 2016 aimed at blocking the state's accession to NATO and will continue to sow disruption within the country to prevent accession to the EU.¹² However, the most difficult security threat of all the candidates is Turkey which has clashed with Russian forces in Syria on multiple occasions, sparking fears of a war between the two.¹³ Currently the EU is not a party to the conflicts between candidate countries and Russia, but if enlargement were to proceed now, the Union would absorb responsibility for easing these internal conflicts which they are not prepared to do.

While the EU has a common defense clause that provides a legal basis for a security response to a threat, it must be strengthened; as of now, NATO's security clause is more suitable to protect candidate countries from aggression now.¹⁴ Candidate countries like Montenegro and North Macedonia, who fear Russian violations of their sovereignty, are better protected through their existing membership in NATO. It is better prepared than the EU to react to an attack due to superior strategy institutions and the large leadership role the United States military takes within NATO. Though the United States has recently threatened to scale down its presence in the organization, the budget allocations made to NATO by the United States affirm its full commitment to the

⁹ Scott N. Duryea, *How Far Can the EU Expand? The Dilemmas of Ukrainian Membership*, (Norfolk: Old Dominion University, 2013), <https://www.odu.edu/content/dam/odu/offices/mun/eu/MEU-Issue-Brief-Ukrainian-Accession.pdf>, 2, 8.

¹⁰ Yasmeen Serhan, "Why Russia Is Trying to Stop Macedonia From Changing its Name," *Defense One*, September 19, 2018, <https://www.defenseone.com/politics/2018/09/why-russia-trying-stop-macedonia-changing-its-name/151393/>.

¹¹ Tom Sayner, "Serbia: Between Russia and the West," *Global Risk Insights*, December 23, 2019, <https://globalriskinsights.com/2019/12/serbia-between-russia-and-the-west/>.

¹² Reuf Bajrović, Vesko Garčević, Richard Kraemer, "Hanging by a Thread: Russia's Strategy of Destabilization in Montenegro," *Foreign Policy Research Institute* (June 2018): 9, <https://www.fpri.org/wp-content/uploads/2018/07/kraemer-rfp5.pdf>.

¹³ Ishaan Tharoor, "A disaster in Syria as Russia and Turkey clash," *The Washington Post*, February 19, 2020, <https://www.washingtonpost.com/world/2020/02/19/disaster-syria-russia-turkey-clash/>.

¹⁴ Sperlina, Webber, "The European Union: security governance and collective securitization," 251.

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organization.¹⁵ The EU has struggled to produce a developed common defense unit guaranteeing the military security of its member states due to fears that national sovereignty could be eroded. The Treaty of Lisbon created the post of High Representative for Security and Foreign Policy to manage the Common Security and Defense Policy in 2009, but this wing of the EU has yet to be tested by the kind of territorial threat that Eastern and Balkan states fear and it is much smaller than NATO.¹⁶ The Permanent Structured Cooperation (PESCO) initiative is an attempt to coordinate European military integration, however it has been difficult to encourage members to volunteer troops for projects they do not benefit from or that have high political costs.¹⁷ Stronger commitments from member states to an actionable defense policy should be prioritized by the EU to counter Russian aggression. The Union has only recently begun to implement countermeasures to Russian-backed information attacks and has struggled to determine if fears of Russian military advancement are founded or not.¹⁸ Halting enlargement proceedings will ease tensions between Russia and the EU, allowing the Union to divert attention to consolidating institutions dedicated to developing common defense projects for the security of existing members of the EU.

III. Enlargement Today Would Threaten Members' Economic Security

The second reason enlargement today would be detrimental is that it would threaten the economic security of current members in two areas: foreign direct investment (FDI) and intrastate economic relations. Integration of these candidate countries into the European Union would stretch the potential FDI available for EU members further than previous enlargements. Accession to the EU requires adopting market policies that align with the Copenhagen Criteria established in 1993 including reductions in state controls of financial resources and a high level of competitiveness.¹⁹ This liberalization is crucial in attracting the capital and technology of foreign companies looking to expand their supply chains. Investors are more open to investing in the candidate country because membership in the EU implies that foreign investment will be legally protected from state involvement like improper seizure of profits or property. Some candidate countries have struggled with liberalization and implementing protections for foreign investors. For example, the European Commission found that Albania has struggled to implement a comprehensive law protecting investments and Turkey resorted to very strict capital controls to stem investor outflows during a crisis in 2018.^{20, 21} Even moderate liberalization will attract investors. A study by Jones et al in 2017 found that FDI into more liberalized Central and Eastern European countries like

¹⁵ Anthony H Cordesman, "The U.S., NATO, and the Defense of Europe: Shaping the Right Ministerial Force Goals," July 3, 2018, Washington D.C., Center for Strategic and International Studies, 8-10, <https://www.csis.org/analysis/us-nato-and-defense-europe-underlying-trends>.

¹⁶ Vataman, "History of the European Union," 127.

¹⁷ European Council on Foreign Relations, "Independence Play: Europe's Pursuit of Strategic Autonomy," Ulrike Franke, Tara Varma, Berlin: European Council on Foreign Relations, July 2018, https://www.ecfr.eu/page/-/ECFR_Independence_play_Europe_pursuit_strategic_autonomy.pdf.

¹⁸ European Council on Foreign Relations, "Winning the Normative War with Russia: An EU Power Audit," Kadri Liik, Berlin: European Council on Foreign Relations, May 2018, https://www.ecfr.eu/page/-/EU-RUSSIA_POWER_AUDIT.pdf.

¹⁹ Jonathan Jones, Ilona Serwicka, Colin Wren, "Economic integration, border costs and FDI location: Evidence from the fifth European Union enlargement," *International Review of Economic and Finance* 54 (2018): 194, Doi: 10.1016/j.iref.2017.08.007

²⁰ European Commission, "Commission Staff Working Document: Albania 2019 Report," Brussels: May 29, 2019, SWD(2019) 215 final, 57, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>.

²¹ European Commission, "Commission Staff Working Document: Turkey 2019 Report," Brussels: May 29, 2019, SWD(2019) 220 final, 67, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf>.

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Poland were three times as large as FDI in less liberalized countries like Latvia. However, more than 60 percent of the projects funded by FDI in Central and Eastern European countries were moved from the fifteen existing member states to the countries included in the Eastern enlargement.²² If five countries were added to the EU, thirty-two countries would be competing to attract FDI and the current member states could see decreases in FDI as investors have access to more secure places to invest their money. Other factors that could bring about a decrease in FDI within existing member states include comparative production costs and the level of liberalization within the new member states relative to current member states. This redirection of available funds across the EU will likely continue if the candidate states are added, reducing the economic resources available to current member states.

Along with this stretch in access to FDI, the divide between Northern economies and Southern economies will widen, exacerbating economic tension between Union members. When regional economies in the EU are closer to convergence, consensus is easier to reach because broad economic and trade policy benefits can be attained by more members. All five candidate countries received similar scores from the Heritage Foundation's Index of Economic Freedom with North Macedonia the most free of the group at 69.5 and Montenegro the least free at 61.5. This index broadly traps how open markets are, the ease of movement of goods, and the level government involvement in the economy of a given country. These countries were intermingled with other moderately free economies like Spain (66.9) and Italy (63.8), two members of the Southern economic region in the EU.²³ In contrast, Northern economies including Germany (73.5) and Ireland (80.9), rank higher and are designated as mostly free and free. One possibility is that the addition of any of these candidate countries will expand the ranks of the Southern economies to the detriment of the existing balance with the Northern economies. Northern economies are often the creditors of Southern economies and experience lower levels of unemployment. The addition of more countries that fall into the Southern tier could perpetuate the divergence between the North and the South on issues of monetary policy and labor demands. Another scenario is that some of these candidate countries experience rapid growth after becoming members due to highly skilled labor in certain sectors and lower production costs.²⁴ The automotive sector in the Balkan region, for example, is becoming increasingly embedded in EU member supply chains.²⁵ The technological advancements membership could bring would push their economies forward, perhaps past current members, whose economic security would be threatened by this new competition. It may also increase competition among Southern economies because Albania and Montenegro also have high levels of agricultural exports.²⁶ Joining the EU could hurt domestic markets within the two candidate countries, as well as exports to the regional partners, if they are unable to compete with other Union members in production and cost. Either scenario would not help Northern and Southern economies converge, but would increase economic instability among Southern economies that have been feeling pressure since the Eurozone crisis to lower unemployment, government debt, and trade deficits. Enlargement does not make sense at

²² Jones, Serwicka, Wren, "Economic Integration," 194

²³ "2020 Index of Economic Freedom: Country Rankings," 2020, The Heritage Foundation, <https://www.heritage.org/index/ranking>.

²⁴ Stefanović, Režonja, Golenko, "Unleashing the Transformation Potential for Growth in the Western Balkans," 36.

²⁵ Stefanović, Režonja, Golenko, "Unleashing the Transformation Potential for Growth in the Western Balkans," 138.

²⁶ Stefanović, Režonja, Golenko, "Unleashing the Transformation Potential for Growth in the Western Balkans," 13.

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this time from an economic standpoint because it will negatively affect the economic balance among member states.

IV. Enlargement Today Would Threaten Democratic Progress

Lastly, enlarging the EU now would hinder the protection of human rights and democratic government because the Union would lose leverage to enforce its higher standards once it agrees to accept candidate countries. The EU's enforcement of human rights protections across member states is already weak.²⁷ This makes it difficult to credibly commit its institutions to holding candidate countries accountable for the human rights reforms the Union requires. This includes protecting the rights of non-heterosexual people, ethnic minorities, and women. The EU has the most leverage when beginning negotiations for membership with a country. The body can demand large overhauls in legal and political institutions in a country to meet the standards of freedom and democracy endorsed by the EU Treaties. When countries become members, there is a lower incentive to implement the laws that they changed routinely. Backsliding on enforcement of these laws can occur for two reasons.

First, if the society and the political leaders of the candidate country are not prepared to take on enforcement of these types of laws, then it does not make sense for the EU to give up its leverage to demand demonstrated enforcement of these laws by proceeding with membership. A study by Tanja A. Börzel et al. found that new members in the Central and Eastern European bloc experienced decoupling of the law and administrative practice in social policies required by the EU.²⁸ Countries whose societies are not ready to practice the progressive policies of equality the EU espouses will have difficulty complying with these laws if their national publics believe that the laws disrupt their daily lives.²⁹ For example, a 2017 study on LGBTI rights in 174 countries included all five candidate countries and ranks the social acceptance of LGBTI people as very low. On an index of acceptance out of 10 – 10 being the most open – Turkey ranked 4.4, North Macedonia 3, Serbia 4.2, Albania 3.5, and Montenegro 3.6.³⁰ Backsliding in protective measures for these demographics would likely occur, following the trend that has already been documented after the enlargement period of 2004-2007. This would render enlargement for the purpose of protecting liberal human rights the EU champions ineffective.

Second, when the time between opening and closing negotiations becomes too wide, the Union's credibility and leverage are weakened. For example, Turkey began negotiations with the EU in 1997 and has only been able to close one chapter of negotiations in 23 years. In that time, it has introduced many new laws that restrict civil society and persecuted human rights activists and journalists.³¹ The prospect of enlargement to include Turkey, a candidate previously praised for its status as a budding democracy, has progressively soured because membership did not come quickly enough for Turkish political leaders to attempt to implement strict democratic safeguards. Political elites have benefited from the less democratic governance of President

²⁷ Börzel Tanja A. Antoaneta Dimitrova, Frank Schimmelfennig. "European Union Enlargement and Integration Capacity: Concepts, Findings, and Policy Implications." *Journal of European Public Policy* 24, no. 2 (2017): 170. Doi: 10.1080/13501763.2016.1265576.

²⁸ Börzel, Tanja A, Ulrich Sedelmeier. "Larger and more law abiding? The impact of enlargement on compliance in the European Union." *Journal of European Public Policy*, 24 no. 2, (2017): 211, Doi: 10.1080/13501763.2016.1265575

²⁹ Börzel, Sedelmeier, "Large and more law abiding?" 202.

³⁰ Andrew R Flores, "Social Acceptance of LGBT People in 174 Countries 1981-2017," Los Angeles: The Williams Institute, 2019, 33-35.

³¹ European Commission, "Commission Staff Working Document: Turkey 2019 Report," 7.

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Erdoğan.³² Thus, the promise of enlargement to include Turkey today does not make sense because the EU has little leverage to induce compliance. The Union should strengthen its enforcement mechanisms and hold member states accountable for human and democratic rights violations before increasing the number of potential violators. Member states like Hungary and Poland have already tested the Union's ability to sanction its own members for rule of law deterioration and curtailed freedoms of the press and minorities. As recently as January of 2020, no formal punishment has been issued for violations from 2019 and 2018 due to disagreement between the European Council and Parliament. These two countries are not the only member states that have experienced democratic backsliding and more members should be investigated.³³ The Union must rebuild internal credibility as an enforcer of civil rights before expanding its membership to countries at high risk of backsliding that will need to be held accountable even after they have become members.

V. Conclusion

It does not make sense to enlarge the European Union to include the current candidate countries at this time since it would increase the security risk, heighten the potential for economic instability, and would not credibly discourage human rights violations in Europe. This is not to say that expanding to include one or more of these countries will never happen, but at this time the EU is facing internal difficulties with securing protection for current members on these three fronts. It cannot be expected to spread its fledgling resources any thinner. The EU's more pressing concerns should be the internal capacity to strengthen the resolve of current members on these three topics. The security of current members can be improved by fostering a present environment free of an external threat from the closest non-EU neighbor, Russia while defense institutions are given credibility. The economic division within the EU needs to be bridged by an effort to converge Northern and Southern economies. Finally, human and democratic rights' standards must be met by member states or else punished in a resolute manner to protect minority Europeans. In time, the membership of countries like North Montenegro or Albania could be an asset to the EU. For other countries, like Turkey, the commitment to membership on both sides has likely frayed beyond repair. However, as the situation stands today, enlargement to include candidate countries would not make sense for the European Union nor its member states.

³² Murat Somer, "Understanding Turkey's Democratic breakdown: Old vs. New and Indigenous vs. Global Authoritarianism," *Southeast European and Black Sea Studies* 16, no. 4 (2016): 493, Doi: 10.1080/14683857.2016.1246548.

³³ Gostyńska-Jakubowska, Agata. "Make no mistake: Poland and Hungary aren't the only EU states abusing the law." *The Guardian*, Jan 22, 2020.

International Politics

References

- Allen, Grahame. "UK Trade Statistics." Research Briefing SN06211 for the House of Parliament, October 8, 2012. <https://commonslibrary.parliament.uk/research-briefings/sn06211/>.
- Bajrović Reuf, Vesko Garčević, Richard Kraemer. "Hanging by a Thread: Russia's Strategy of Destabilization in Montenegro." *Foreign Policy Research Institute* (June 2018): 1-14. <https://www.fpri.org/wp-content/uploads/2018/07/kraemer-rfp5.pdf>.
- Börzel Tanja A. Antoaneta Dimitrova, Frank Schimmelfennig. "European Union Enlargement and Integration Capacity: Concepts, Findings, and Policy Implications." *Journal of European Public Policy* 24, no. 2 (2017): 157-176. Doi: 10.1080/13501763.2016.1265576
- Börzel, Tanja A, Ulrich Sedelmeier. "Larger and more law abiding? The impact of enlargement on compliance in the European Union." *Journal of European Public Policy*, 24 no. 2, (2017): 197-215. Doi: 10.1080/13501763.2016.1265575
- Cordesman, Anthony H. "The U.S., NATO, and the Defense of Europe: Shaping the Right Ministerial Force Goals." July 3, 2018. Washington D.C., Center for Strategic and International Studies. <https://www.csis.org/analysis/us-nato-and-defense-europe-underlying-trends>.
- Duryea, Scott N. *How Far Can the EU Expand? The Dilemmas of Ukrainian Membership*. Norfolk: Old Dominion University, 2013. <https://www.odu.edu/content/dam/odu/offices/mun/eu/MEU-Issue-Brief-Ukrainian-Accession.pdf>.
- Encyclopedia Britannica*, 15th ed., s.v. "Hanseatic League: The League In Its Final Form." <https://www.britannica.com/topic/Hanseatic-League/The-league-in-its-final-form>.
- European Commission. "Check Current Status." Accessed March 23, 2019. https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status_en.
- European Commission. "Commission Staff Working Document: Albania 2019 Report." Brussels: May 29, 2019. SWD(2019) 215 final. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>.
- European Commission. "Commission Staff Working Document: Turkey 2019 Report." Brussels: May 29, 2019. SWD(2019) 220 final. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf>.

International Politics

- European Council on Foreign Relations. "Independence Play: Europe's Pursuit of Strategic Autonomy." Ulrike Franke, Tara Varma. Berlin: European Council on Foreign Relations, July 2018. https://www.ecfr.eu/page/-/ECFR_Independence_play_Europe_pursuit_strategic_autonomy.pdf.
- European Council on Foreign Relations. "Winning the Normative War with Russia: An EU Power Audit." Kadri Liik. Berlin: European Council on Foreign Relations, May 2018. https://www.ecfr.eu/page/-/EU-RUSSIA_POWER_AUDIT_.pdf.
- European Neighborhood Policy and Enlargement Negotiations. *EU Enlargement Factsheet*. Brussels: European Commission, 2019, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/factsheet_en.pdf (accessed March 21, 2020).
- European Parliament. "Rule of law in Poland and Hungary has worsened." News release, January 16, 2020. European Parliament. Accessed March 20, 2020. <https://www.europarl.europa.eu/news/en/pressroom/20200109IPR69907/rule-of-law-in-poland-and-hungary-has-worsened>.
- Flores, Andrew R. "Social Acceptance of LGBT People in 174 Countries 1981-2017." Los Angeles: The Williams Institute, 2019.
- Gostyńska-Jakubowska, Agata. "Make no mistake: Poland and Hungary aren't the only EU states abusing the law." *The Guardian*, Jan 22, 2020. <https://www.theguardian.com/commentisfree/2020/jan/22/poland-hungary-eu-states-abusing-law>.
- Jones, Jonathan, Ilona Serwicka, Colin Wren. "Economic integration, border costs and FDI location: Evidence from the fifth European Union enlargement." *International Review of Economic and Finance* 54 (2018): 193-205. Doi: 10.1016/j.iref.2017.08.007
- Sayner, Tom. "Serbia: Between Russia and the West." *Global Risk Insights*, December 23, 2019. <https://globalriskinsights.com/2019/12/serbia-between-russia-and-the-west/>.
- Serhan, Yasmeen. "Why Russia Is Trying to Stop Macedonia From Changing its Name." *Defense One*, September 19, 2018. <https://www.defenseone.com/politics/2018/09/why-russia-trying-stop-macedonia-changing-its-name/151393/>.
- Somer, Murat. "Understanding Turkey's Democratic breakdown: Old vs. New and Indigenous vs. Global Authoritarianism." *Southeast European and Black Sea Studies* 16, no. 4 (2016): 481-503. Doi: 10.1080/14683857.2016.1246548.
- Sperling, James, Mark Webber. "The European Union: security governance and collective securitization." *West European Politics* 42, no. 2 (2019): 228-260.

International Politics

Stefanović, Filip, Gorazd Režonja, Alice Golenko. "Unleashing the Transformation Potential for Growth in the Western Balkans." Paris: Organization for Economic Cooperation and Development, 2019. http://www.oecd.org/south-east-europe/programme/Unleashing_the_Transformation_potential_for_Growth_in_WB.pdf.

Tharoor, Ishaan. "A disaster in Syria as Russia and Turkey clash." *The Washington Post*, February 19, 2020. <https://www.washingtonpost.com/world/2020/02/19/disaster-syria-russia-turkey-clash/>.

Vataman, Dan. "History of the European Union." *Lex ET Scientia International Journal* 2, no. 18 (2010): 107-137.

"2020 Index of Economic Freedom: Country Rankings." 2020. The Heritage Foundation. <https://www.heritage.org/index/ranking>.

Section 3:

Political Theory

Featuring:

“The Brutus Papers: Populist Liberalism as an Antidote to Plutocracy”

Written by Sean-Michael Pigeon
Yale University, Political Science Major, Class of 2021

“*In Statu Naturae*: A Case Study of Civil Unrest in Seattle”

Written by Dylan Greifinger
Goucher College, History Major, Class of 2024

“Reacting in a Digital Age: A Habermasian Analysis of Facebook’s Public Sphere”

Written by Joseph Rodriguez
University of California, Berkeley, Political Science and Philosophy Majors, Class of 2021

“Contextualizing the Diceyan Rule of Law: Structuring Queries on Legality, Illegality and Everything in Between”

Written by Madhav Singh
Ashoka University, Political Science Major, Class of 2021

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The Brutus Papers: Populist Liberalism as an Antidote to Plutocracy

Sean-Michael Pigeon

Abstract: While the Federalist Papers have a wealth of literature dedicated to their thoughts and contributions to American classical liberalism, there is a comparatively scant examination of the anti-federalists, whose influence helped secure the Bill of Rights. This essay examines the implications of a prominent early-American jurist and anti-federalist, Robert Yates, through a close reading of his major works: Brutus I, Brutus III and Brutus IV. This essay seeks to show that Yates' thought deserves greater prominence in the literature and modern discourse as a unique voice championing a populist strain of classical liberal theory. I argue that his unique contributions to liberal thought center around the concept of representation and legitimacy. First, Yates' account of a free republic requires meaningful personal connections to the representative, which can only be achieved by radically decentralizing the unit of authority. Secondly, Yates' conception of the sovereign-as-people emphasizes an unmediated transfer of popular authority to a single legislative body, countering the liberal ideal of separation-of-powers while simultaneously rejecting the ends of previous conservative thinkers. Yates' theoretical underpinnings and political predictions are examined, concluding that his thought has proven to be—although imperfect—prescient.

Introduction

The Constitution of the United States is an oft-cited example of the political culmination of early liberal political theory, tracing its intellectual roots to Locke, Montesquieu and other prominent figures.^{1, 2} Scholarship surrounding Constitution interpretation and early American political thought has historically involved the Federalist Papers and the way Alexander Hamilton, James Madison, and to a lesser extent John Jay, added to and expressed the aims of Enlightenment thinkers who grounded their politics in "Reason," "Rights" and secular government.^{3, 4} While the political troubles which plagued the young American republic — such as Shays' Rebellion, the issue of specie payments, or the intractable federal gridlock — were influential, the Federalist Papers themselves were published in dialogue with, and as a reaction to, those who feared the Constitution and its implications.⁵

The anti-federalists came into being because of their shared opposition to the Constitution's ratification, however, the group remained a loose association of uncoordinated writers. These thinkers were disparate, ideologically and geographically, and there is little evidence they coordinated.⁶ While not a monolithic group, the papers

¹ Epstein, Richard, A. 2014. *The Classical Liberal Constitution*. Chap. 1 *Our Two Constitutions*. Cambridge, Massachusetts: Harvard University Press.

² Pangle, Thomas, L. 1988. *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke*. Chicago: University of Chicago Press.

³ Myerson, Michael. 2008. *Liberty's Blueprint: How Madison and Hamilton Wrote the Federalist Papers, Defended the Constitution, and Made Democracy Safe for the World*. New York: Basic Books.

⁴ Tillman, Seth Barrett. "The Federalist Papers as Reliable Historical Source Material For Constitutional Interpretation," *West Virginia Law Review* 105, no. 3 (Spring 2003): 601-620

⁵ Ketcham, Ralph. 1986. *The Anti-Federalist Papers and the Constitutional Convention Debates*. New York: New American Library.

⁶ Zelinsky, Aaron. "Misunderstanding the Anti-Federalist Papers: The Dangers of Availability," *Alabama Law Review* 63, no. 5 (2012): 1067-1114

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they wrote, published anonymously in local state newspapers, collectively rejected the notion that the drafted Constitution adequately protected the liberties and common goods of the American people. These anti-federalists considered themselves the true standard-bearers of liberalism, championing actively democratic government through reasoned discourse. Their contributions to liberal thought through their vociferous dissent to the Constitution, while touched on by some scholars, is comparatively under-examined in the existing literature.⁷

This article will primarily examine the writings of one particular anti-federalist author: Robert Yates. Robert Yates is believed by scholars to have published sixteen essays on the Constitution, and although other authors have been suggested, this essay will work under the assumption Yates is the true author.⁸ Writing under the pseudonym Brutus, he characterized the Constitution as concerningly illiberal on matters of legislative control, standing armies, slavery and more. This essay seeks to situate his writing and thought within the larger liberal political and intellectual tradition, arguing that his thought demands serious attention within the liberal intellectual tradition. First, the paper will briefly provide the background and context of the Constitution's ratification and the debates that sparked the Federalist and Anti-Federalist papers. Then, it will examine the most significant writings of Robert Yates, specifically *Brutus I, III* and *IV*, arguing that his thought draws and expands upon Enlightenment political theorists. Finally, Yates' immediate political contributions in the Bill of Rights and long term implications will be assessed, concluding that Yates' writing offers an essential counterbalance to the prevailing arguments of early-modern political theorists.

The Articles of Confederation was ratified in 1781 but came into *de facto* force in 1777 during the American Revolution. Historically, the Articles are considered a stopgap measure between royal rule and the United States Constitution, which replaced it in 1789. During the 1780s, it became increasingly obvious that the Articles were insufficient to provide for "the common good."⁹ This became violently apparent when Daniel Shays led a rebellion because of a national crisis of specie.¹⁰ In the aftermath of Shays' Rebellion, the fledgling nation called a Constitutional Convention where 55 delegates from twelve states (Rhode Island refused to send delegates) came to discuss and ostensibly revise the Articles of Confederation. In reality, many delegates planned on creating an entirely new document before arriving.

In just four short months, they hastily drafted the Constitution of the United States in Pennsylvania. It was crafted when the circumstances forced a hurried compromise, and the final result was fiercely contested over the seemingly endless extent of the federal government's reach. Many of the clauses were lambasted for being vague, particularly Article III regarding the judiciary, Article II in regulating elections, and basic procedures like impeachment, all of which spurred significant debate over the crafted document.¹¹ Benjamin Franklin famously gave a rather lukewarm assent to the Constitution: "I confess that there are several parts of this Constitution which I do not at

⁷ A search into Google Scholar reveals 1,410 results for the query "anti-federalist papers" whereas the search term "federalist paper" finds 37,700 scholarly articles and books on the subject in its database. Similarly, the Yale University Online Library returns 842 articles on the topic "federalist papers" but only 10 for "anti-federalist papers."

⁸ Robert Yates. 2019, January 25. Retrieved from <https://history.nycourts.gov/figure/robert-yates/>.

⁹ Brackemyre, Ted. "America's First Failure at Government." US History Scene. Retrieved from <http://ushistoryscene.com/article/articles-of-confederation/>.

¹⁰ Richards, Leonard. 2003. *Shays's Rebellion: The American Revolution's Final Battle*. Philadelphia: University of Pennsylvania Press. pp. 132–139.

¹¹ Larson, Edward J.; Winship, Michael P. (2005). *The Constitutional Convention: A Narrative History from the Notes of James Madison*. New York: The Modern Library.

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present approve, but I am not sure I shall never approve them ... In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such.”¹² While many delegates left with reservations, there was consensus that the Articles of Confederation was, in its present form, unworkable. Ergo, the Constitution ended up being signed by a majority of the 55 delegates who arrived and was immediately submitted to the states for ratification later that year.

One of the delegates who left the Constitutional Convention early, discouraged by the process, was Robert Yates, an ardent defender of the liberties won in the Revolutionary War.¹³ Robert Yates integrated himself in proto-American politics early in his career. Before the Revolutionary War, Yates identified as a Radical Whig and was a member of the Committee of Correspondence in the most crucial state, New York. His position on the Committee of Correspondence led him to represent Albany in the New York Provincial Congress from 1776-78.¹⁴ He worked as a practicing lawyer before and after the American Revolution and by the time of the Constitutional Convention, was a notable legal scholar.¹⁵ Yates had robust training in legal theory, sitting on the New York Supreme Court before attending the Constitutional Convention in 1787. In 1790, he achieved the highest legal office in New York, presiding as the Chief Justice of the New York Supreme Court for nine years.¹⁶

After attending and leaving the Constitutional Convention as a delegate from New York, Yates submitted essays to New York newspapers urging the voters of New York to reject the Constitution as written. Yates' views were similar to others with classically liberal positions, but in some cases, he took more extreme and iconoclastic stances than his compatriots. Yates' emphasis on personal liberty pervades his writings, which seem both carefully considered and passionately populist. While Yates tacitly relied on both Lockean ideas of intrinsic liberty and Hobbesian “self-interested” characterizations of human nature, his thought builds an anti-elitist vein of classical liberalism within American politics that still affects the political culture today.

I. *Brutus I*

Yates' most famous piece is his first, aptly titled and referred to here as *Brutus I*. It sets forth Yates' larger paradigm which emphasizes the liberty of people through state sovereignty and intimate representational government. Yates begins by reminding the citizens of the State of New York that the “invaluable blessings of liberty” are at stake in the people's decision to accept or reject the Constitution.¹⁷ Yates calls upon his fellow citizens to remember that liberty is inextricable from human dignity, leads to societal advancement in knowledge, virtue, and even heralds a golden age if they can retain their liberty for future generations. Yates' initial call for political freedom is striking in its energetic prose and unflinching optimism, a common thread throughout his writing.

Yates rhetorically contrasts the enchanting fruits of liberty with the drafted Constitution. His first full critique addresses the “necessary and proper” clause. The clause in full is: “that the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.”¹⁸ He argues that

¹² Madison Debates - September 17. (n.d.). Retrieved from https://avalon.law.yale.edu/18th_century/debates_917.asp

¹³ The Founding Fathers: New York. (n.d.). Retrieved from <https://www.archives.gov/founding-docs/founding-fathers-new-york>

¹⁴ Robert Yates. 2019, January 25. Retrieved from <https://history.nycourts.gov/figure/robert-yates/>.

¹⁵ Robert Yates. 2019, January 25. Retrieved from <https://history.nycourts.gov/figure/robert-yates/>.

¹⁶ Howell, George Rogers and Tenney, Jonathan. *Bi-centennial History of Albany*. vol. 1, p 131.

¹⁷ Storing, Herbert J. 1981. *The Complete Anti-Federalist*. Chicago: The University of Chicago Press. 2:363-372.

¹⁸ “The Constitution of the United States,” Article 1, Section 8.

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the Constitution will tilt towards complete federal unification if left without any limiting principle, stating:

How far the clause in the 8th section of the 1st article may operate to do away all idea of confederated states, and to effect [sic] an entire consolidation of the whole into one general government, it is impossible to say. The powers given by this article are very general and comprehensive, and it may receive a construction to justify the passing almost any law.¹⁹

When combined with Article VI, Clause II, known as the Supremacy Clause, Yates argues that state governments will be rendered entirely impotent. If a federal government can enact any law that is "necessary and proper"—a term that allows for "great and uncontrollable power"—any state law that conflicts with federal law must immediately be "nullified and declared void."²⁰ Yates acknowledges that the Constitution does not explicitly eliminate state power, but rather argues that there is nothing in the text *preventing* the federal legislature from doing so. Yates sees no other legal option available, as conflicting supremacy will not be allowed.

Brutus continues by arguing that a unitary system of governance is politically undesirable. Building upon the notion that political freedom is an *a priori* good, he asserts that free republics only stay free when they are small both geographically and in population. Turning to Montesquieu and Beccaria as authorities, Yates cites Rome and Greece as examples of tyrannical governments, which became increasingly authoritarian as their empires expanded to incorporate larger populations. Yates feared a similar fate for a unitary United States, especially considering it is even more populous and extends over more territory than Greece or Rome ever did. *Brutus I* argues that the diverse and conflicting interests of the various states are an exacerbating factor since "each would be in favor of its own interests and customs."²¹ Therefore, as the population and number of diverse interest groups increase, the barriers to accurate representation in a federal republic will become similarly great. Yates predicts that the entire polity will become "incapable of transacting public business."²²

In the passage, Yates bluntly states that "In every government, the will of the sovereign is the law," acknowledging a Hobbesian notion of sovereignty. Yates believes that direct representation is absolutely necessary to sustain a free republic because while a despotic sovereign may efficiently rule over a large or small territory, history shows that the same is not true for free republics. In his lamentation over Greece and Rome's fate, Yates argues for an inverse relationship between popular sovereignty and population size. While Yates may assent to Hobbes' premise, he rejects that the will of the sovereign must be bound up in the singular person of a monarch. Rather, Yates believes the will of the people can be channeled and unmediated through representatives. According to Yates, a free republic must be narrow in size and scope in order for lawmakers to know their constituents personally. Importantly, Yates does not believe there will be a singular "Will of the People", but rather that the individual wills of the people may be sovereignly expressed through his proposed electoral processes. With mutual confidence between well-known representatives and a watchful public, a free republic *can* be created, despite all historical precedents. Yates' optimism again joyfully peers through his writing.

¹⁹ Storing, *Complete Anti-Federalist*. 2:363-372.

²⁰ Storing, *Complete Anti-Federalist*. 2:363-372.

²¹ *Ibid.*

²² *Ibid.*

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His conclusion is one so utterly obvious today that it serves as a reminder of his insight: under the Constitution, the United States would not be a confederacy. The Constitution creates a unitary government. *Brutus I* provides prescient predictions of how this shift will occur. According to *Brutus I*, the federal government's gravest power under the Constitution is that the federal government acquires the power of direct taxation. In such a system, the created government cannot be a confederacy of equal, cooperating states. Yates predicted this would be a death knell for the rights of "sovereign" states and personal freedom. With the power to tax states, the federal government would become the primary governing force as states "must dwindle away, and, as before observed, their powers [will be] absorbed in that of the general government."²³ *Brutus* writes further that what power the states do exercise will begin to hinder the federal government. On account of this, Yates predicts that the system will become more unitary as men in the federal government seek to push their own agenda at the expense of state legislatures.

The natural aggregation of power towards a single entity is a theme also found in the Federalist Papers. Madison acknowledged this tendency in *Federalist 51*, noting that separation of powers on the federal level would "[guard] against [tyranny] by a division of the government into distinct and separate departments". He also briefly touches on the advantages of a "compounded republic."²⁴ However, *Brutus I* is less concerned with aggregation of power into the Executive or Legislative branches in particular, but with federal consolidation in general. In response, Madison iterates in *Federalist 47* that he understands this critique of the "supposed violation of the political maxim, that the legislative, executive, and judiciary departments ought to be separate and distinct."²⁵ In *Federalist 45*, Madison acknowledges that during times of crisis or war, the federal government will expand its sphere of influence over the states. However, he offers that, in peacetime, "the States will retain, under the proposed Constitution, a very extensive portion of active sovereignty."²⁶ While it does show that the framers of the Constitution valued state autonomy and sovereignty, it fails to seriously address the concerns proffered by Yates. The specific issue of taxation is largely avoided.

Some modern conservative politicians and commentators have cited Yates and other anti-federalists' writings to argue against the increasing size of the modern federal government.²⁷ However, while some on the modern Right may wish to point to Yates as a purveyor of conservative thought, a close reading of *Brutus I* reveals a radically liberal view of human nature. One of Yates' key arguments is that individuals are born free and that free countries "will assert the dignity of human nature."²⁸ Concepts of "hierarchy," "order" and "tradition," all pillars of traditional conservatism, are neither mentioned nor meaningfully considered. The letter lumps "despotic governments" together with monarchy, the form of government championed by conservative statesman Edmund

²³ Storing, *Complete Anti-Federalist*. 2:363-372.

²⁴ Madison, James. Federalist No. 51: 1788. "The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments." New York Packet.

²⁵ Madison, James. Federalist No. 47: 1788. "The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts." New York Packet.

²⁶ Madison, James. Federalist No. 45: 1788. "The Alleged Danger From the Powers of the Union to the State Governments Considered." New York Packet.

²⁷ Beck, Glenn., Balfé, Kevin., & Beck, Hannah. 2014. *Miracles and Massacres: True and Untold Stories of the Making of America*. New York: Threshold Editions/Mercury Radio Arts.; Lee, Mike. 2018. *Written out of history: The forgotten founders who fought big government*. NY, NY: Sentinel.

²⁸ Storing, *Complete Anti-Federalist*. 2:363-372.

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Burke.^{29, 30} Furthermore, he asserts that free democratic government is the best government, rejecting Aquinas, Plato and others before him. Even in his writing style itself, Yates rarely appeals to tradition, except as a warning to those who would take their liberty for granted. Instead, *Brutus I* optimistically looks to the future and a hopeful age of liberty, freedom and prosperity. While Yates may be lauded by some modern conservatives today, his thought is liberal and deeply out of step with his conservative contemporaries.

II. *Brutus III and IV*

Brutus I is Yates' most famous work and arguably the most influential anti-federalist paper. However, New York newspapers published fifteen other Brutus essays on topics ranging from the Constitution's judicial framework to the likelihood of corruption in the federal system. Each tackles a different issue in the Constitution with greater detail. Particularly, *Brutus III* and *IV* focus on crucial issues that are emblematic of the ways Yates and his anti-federalist contemporaries pushed the limits of the political implications of classical liberal thought. This section will first examine *Brutus III's* arguments concerning the federal legislature and then review *Brutus IV's* concerns regarding democratic representation.

Brutus III expands on *Brutus I*, arguing that even if those in the federal government were to resist the urges of political gain and power acquisition, they would still be unable to truly represent ordinary Americans' interests. He justifies his concerns by comparing the House of Commons in Britain to the proposed United States Congress under the Constitution. Yates points out that Parliament contains 558 members, whereas the entire US Congress would only contain 65 representatives at the time of ratification, even though the US was far larger geographically and more religiously and politically diverse than Britain. The Constitutional cap of 30,000 citizens-per-representative is far too large for Yates, who argues that a 14,000 (or lower) figure would be preferable. His concern is understandable. He asks, "what security therefore can there be for the people, where their liberties and property are at the disposal of so few men?"³¹ The thought was a radical idea, as such a low number was not even considered during his time. The Constitutional Convention initially set representative caps at 40,000 constituents-per-representative and only reduced it to 30,000 at the behest of George Washington himself. For context, if Yates' plan were adopted, our modern Congress would consist of approximately 23,000 members of Congress. While this would admittedly resolve the issue of only 17 people passing a piece of legislation to strip states of their hard-won autonomy, *Brutus III* does not consider how a Congress of over 20,000 would operate.

Yates does not touch on this concern in the Brutus papers since it is integral to his understanding of a free and proper democracy that the United States should never encompass such a large population. He avers that even federal Congressmen must be known by the electorate, which is why he is concerned that the result will be representatives who "will not possess the confidence of the people."³² This confidence will

²⁹ Burke, Edmund, Darrin M. McMahon, Conor Cruise, Brien, Jack N. Rakove, and Alan Wolfe. *Reflections on the Revolution in France*. Edited by Turner Frank M. New Haven; London: Yale University Press, 2003.

³⁰ Burke defends gradual change through ordered reform, and is considered a founding Conservative thinker. On page 22, he writes: "... in order that the monarchy might preserve an unbroken unity through all ages, and might be preserved (with safety to our religion) in the old approved mode by descent, in which, if our liberties had been once endangered, they had often, through all storms and struggles of prerogative and privilege, been preserved. They did well. No experience has taught us, that in any other course or method than that of an hereditary crown our liberties can be regularly perpetuated and preserved sacred as our hereditary right."

³¹ Storing, Herbert J. 1981. *The Complete Anti-Federalist*. Chicago: The University of Chicago Press. 2:377-382.

³² Storing, *Complete Anti-Federalist*. 2:377-382.

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erode since constituents will elect those they do not interact with, and the electorate will not know *nearly any* of their “representatives.” Yates concludes that governance without this level of personal oversight will be plutocratic with only “the fallacious appearance of [the citizenry] governed by men of their own election.”³³ This concern for plutocracy hearkens back to *Brutus I*'s assertion that the people can only be sovereign if their representatives are directly accessible.

Brutus IV defines what Yates means by “representation” – be they delegates or trustees – and why he believes matters of legislation are the centerpiece of free governance. He is unwavering in his commitment to this principle of representation. He criticizes both the House and the Senate as being undemocratic, the former being only marginally better than the latter. Yates’ conception of “representation” is formulated on both values and character, or identity. The very term “representative” implies that the person or body chosen for that purpose should resemble those who appoint them. A representation of the people of America, according to Yates, must be like the people:

It ought to be so constituted, that a person, who is a stranger to the country, might be able to form a just idea of their character, by knowing that of their representatives. They are the sign—the people are the thing signified.³⁴

For example, it is not enough for a farmer to have a senator who shares their values. An urbanite may have the same stances on government intervention or free trade. However, according to Yates, if that farmer does not have personal contact with that senator or does not intimately trust their character, then that senator fails to adequately signify the farmer's unmediated transfer of sovereignty. This criteria for a legitimate transfer of authority is quite exacting.

Lacking this legitimate transfer of the right-to-rule, *Brutus IV* does not believe the Constitution can capably administer the execution of the federal legislature's laws. Since the people will not trust the good character of congressmen, the laws passed will have to be “executed by force, or not executed at all.”³⁵ Yates seems to argue that people, if they adequately trust those in the federal government and understand that laws are passed on their behalf, will not need significant, if any, coercion to obey the federal law. The letter cites a contemporary argument that the “militia” would be necessary to enforce the federal government's laws. Yates wrote in other letters that he did not believe in any standing federal army, and the “militia” he is describing is likely a form of a modern federal army. In that context, *Brutus IV*'s concern is that individual states will be culled by the national standing army. If the national militia were deployed against an individual state, it would result in a crisis in sovereignty, leading “to the total destruction of liberty.”

Throughout both *Brutus III* and *Brutus IV*, Yates focuses on the federal legislature. He repeatedly contends that the limited number of senators and representatives will lead to corruption and incomplete representation.³⁶ While making the theoretical case for why corruption will mar the future federal Congress, Yates argues that corruption and politicking had already skewed the original Constitutional creation process. Yates eviscerates the “3/5ths compromise” as evidence of the illiberal and politically motivated way governance under the proposed Constitution will operate:

³³ Storing, *Complete Anti-Federalist*. 2:377-382.

³⁴ Storing, Herbert J. 1981. *The Complete Anti-Federalist*. Chicago: The University of Chicago Press. 2:382-387.

³⁵ *Ibid.*

³⁶ Storing, *Complete Anti-Federalist*. 2:382-387.

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If they have no share in government. why is the number of members in the assembly, to be increased on their account? Is it because in some of the states, a considerable part of the property of the inhabitants consists in a number of their fellow men, who are held in bondage, in defiance of every idea of benevolence, justice, and religion, and contrary to all the principles of liberty, which have been publickly [sic] avowed in the late glorious revolution? If this be a just ground for representation, the horses in some of the states, and the oxen in others, ought to be represented...³⁷

Yates' arguments against the "inhuman" trafficking of slaves alone are compelling. Used as evidence of the Constitution's failings, the rhetorical power and moral clarity of the letter are unmistakable.

Although we have only examined three of Yates' essays, there are many common threads woven throughout *Brutus I, III* and *IV*, and his other works. All have a distinctly populist nature, placing great faith specifically in the wisdom of the masses. While not a particularly bold claim politically, both his style and content separates Yates from other theorists as one of the champions of democracy. Nearly all previous political thinkers had rejected self-rule as merely a form of mob-rule. Hobbes and Aquinas believed in some form of monarchy, whereas Carlyle and others advocated for various versions of mixed-aristocratic rule.^{38, 39} Plato wrote of democracy in *The Republic* as "the most aggravated form of tyranny and slavery out of the most extreme form of liberty."⁴⁰ Even Jean Jacques Rousseau was not keen on letting the "Will of the People" be defined without aristocratic influence.⁴¹ Nevertheless, Yates defends "the united consent of those who associate." Free society cannot exist where voters do not craft their own laws with representatives who look and think like them. *Brutus II* advocates for even the poorest in society to be represented in Congress by their socio-economic peers.⁴²

It is easy to conclude that the Brutus papers were against the government as an institution. However, Yates has no qualms with state legislation, local governance, and the role of government. The papers are instead against the Constitution's unitary nature, vague clauses, the likelihood of corruption, and legislative misrepresentation owing to its incorporation of a large and disparate population.

III. Yates' Predictions

While the political theory that undergirds the Brutus essays' assertions may be abstruse in certain sections, the veracity of his political predictions can be examined with greater clarity than his theory, which is often embedded among more practical concerns. Yates' primary focus was the accumulation of power into the federal government at the expense of state autonomy. In this regard, some, but not all, of his fears have come to pass. Yates' anxieties about the central aggregation of power at the expense of diffused state power seem prescient today, but the increased freedom for women and minority

³⁷ Ibid.

³⁸ Carlyle, Thomas. *Chartism*. London: J. Frasier. 50-58. - While Carlyle has his own concerns about a landed aristocracy, he advocates for a "corporation of the best" to lead and to model the proper behaviors and norms.

³⁹ Asmis, Elizabeth. "A New Kind of Model: Cicero's Roman Constitution in "De Republica"." *The American Journal of Philology* 126, no. 3 (2005): 377-416.

⁴⁰ Plato, & Jowett, B. 1895. *The Dialogues of Plato, Volume II*. New York: Charles Scribners Sons. 392.

⁴¹ McCormick, John P. 2007. "Rousseau's Rome and the Repudiation of Populist Republicanism." *Critical Review of International Social and Political Philosophy*. 10:1, 3-27.

⁴² "Debates and Proceedings of the Convention of the Commonwealth of Massachusetts Held in the Year 1788 and Which Finally Ratified the Constitution of the United States." 1856. Boston: William White Printer to the Commonwealth. 378-384.

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groups show that federal intervention is not universally anathema to political and social freedom.

The paramount issue for Robert Yates was the protection of independent state power. While the anti-federalists fought for the instantiation of the Bill of Rights—in which the 10th amendment explicitly protects the autonomy of states—modern politics has failed to uphold this principle. Federal encroachment on state action began immediately after the ratification of the Constitution. The Federalists passed the Alien and Sedition Acts in 1798, an expansion of federal power that even James Madison could not stand. Penned by Jefferson and Madison, the Kentucky and Virginia Resolutions argued that states could nullify federal laws with which it disagreed.⁴³ The resolutions failed to gain steam nationally; states continued to dispute whether they could reject federal legislation.⁴⁴ Yates, an early opponent of slavery, would have abhorred the cause of the Confederate States of America's secession, but both he and the anti-federalists did foresee such a crisis. "Anti-federalist no. 3" (often titled Dangers of Civil War and Despotism) asserted that it is "uncertain" that a "national government will be productive of internal peace."⁴⁵ Yates' own criticism of slavery and his fear of a federal militia sent to quell rebellious states, when read in conjunction form a inchoate concern for the "fire bell in the night." The Civil War violently ended any debate about whether the states had the sovereignty to reject the federal government of the United States and truly validated Yates' assertion that "the will of the sovereign is the law."

The modern-day veracity of Yates' contention that the federal government was "formed as either directly to annihilate the state governments, or ... [indirectly] effect it" depends on one's definition of "annihilation."⁴⁶ States still exist as entities, with their own power of taxation and can make laws within the prescribed bounds of federal law. In fact, states have great control over social legislation and are still responsible for a significant sphere of governance. However, Yates' conception of confederated states in an equal partnership with the federal government never was. True state-sovereignty is neither politically nor intellectually active in modern politics. Judicial review, the commerce clause, and the incorporation doctrine have extended the influence of the federal government into all levels of governance. This is not to say these changes are necessarily antithetical to liberty, or even poor policy, but only that they have unequivocally narrowed the scope of state authority.

It is difficult to imagine that Robert Yates would approve of the Code of Federal Regulations, which, according to George Washington University's Regulatory Center, surpassed over 180 thousand pages in 2016.⁴⁷ While individuals have more autonomy than ever before in many ways, more federal laws govern more aspects of business and private life than any other time in American history. In 2013, there were 4,850 federal criminal laws, and in 2013 the United States held 22% of the world's prison population.⁴⁸ That this is a direct and causal result of centralization is challenging to maintain, local state regulations have increased similarly. That being said, Congress criminalized a new activity (on average) once every week for seven straight years, from 2000 to 2007, which

⁴³ Britannica, The Editors of Encyclopedia. "Virginia and Kentucky Resolutions." Encyclopedia Britannica. January 29, 2019. Retrieved from <https://www.britannica.com/event/Virginia-and-Kentucky-Resolutions>.

⁴⁴ Peterson, Merrill (1975). *Thomas Jefferson and the New Nation: A Biography*. Oxford University Press.

⁴⁵ Farmer, A. "New Constitution Creates a National Government, Will Not Abate Foreign Influence, Dangers of Civil War and Despotism." March 7, 1788. Retrieved from <http://resources.utulsa.edu/law/classes/rice/Constitutional/AntiFederalist/03.htm>

⁴⁶ Storing. *Complete Anti-Federalist*. 2:363-372.

⁴⁷ Reg Stats. Retrieved from <https://regulatorystudies.columbian.gwu.edu/reg-stats>.

⁴⁸ Walmsley, Roy. 2013. "World Prison Population List" Tenth Edition. *International Centre for Prison Studies*.

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is emblematic of the federal intervention the Brutus papers feared.⁴⁹ While some may consider the federal government's interventionist tendency as burdensome, the United States has largely avoided becoming a tyrannical authoritarian state. The United States has not been subjugated by the ilk of ancient Roman tyrants. However, America has continued to centralize in the 19th, 20th and 21st century, a trend that Yates foresaw and about which he sought to warn his contemporaries.

Yates' unitary conception of popular sovereignty invested in a populist legislative branch reappears in his judicial philosophy. In an essay titled "The Problem of Judicial Review," he warned that "The supreme court under this constitution would be exalted... [and] invested with such immense powers..."⁵⁰ Furthermore, *Brutus XI* asserts that the judicial supremacy will eventually subvert all "legislative, executive and judicial powers of the individual states," a process which will end up "endangering public liberty."⁵¹

Yates would likely consider the modern judicial system, particularly the Supreme Court's process of judicial review, the extra-legal and frightfully undemocratic body that he initially feared. New Deal programs upheld in court often pointed to the vague clauses in the Constitution that Yates lambasted as legal justification for expanding the national government's influence, often at the expense of state autonomy. In *West Coast Hotel Co. v. Parrish* (1937) and *United States v. Darby Lumber Co.* (1941), the scope of the Commerce Clause was expanded to justify minimum wage laws and regulation of the goods shipped across state lines. The court even stated in its ruling that the 10th amendment "is but a truism."⁵² It is difficult to see the current system as anything but a system where the federal judiciary has power over local legislative policy. These policies leading to state subversion might be wise decisions and may create a freer and more prosperous polity. Their immediate political consequences are beyond the scope of this essay. However, their effect in totality has been the relegation of towns, counties, states, and regions beneath the unitary federal government, a fate that Robert Yates would have found loathsome but predictable.

Although a staunch defender of state autonomy for its own sake, Yates argued that encroachments on state sovereignty would result in a greatly tyrannical government. Given that the United States is a unitary republic, has this resulted in greater tyranny? Definitions matter, yet again, as "tyranny" is a thorny concept. While Yates is ambiguous about his definition of tyranny, unquestionably part of his conception of *liberty* is the free election of representatives who know and mirror the electorate. Under that framework, our political climate has indeed become less liberal. Yates would be horrified to know that, rather than having a series of small community-based republics represented by local leaders, the delegates in the U.S. House of Representatives have an average constituency base of 747,000 citizens. While this is not a strictly American problem, it is exacerbated by our political system. Some democracies have legislatures that have 10,000 constituents-per-representative, but these are small nation-states such as Iceland, Luxembourg, or Estonia. For larger democracies, legislatures have not decided to expand at the same rate as their population base, with many OECD nations exceeding 100,000 constituents-per-representative.⁵³ Some studies have sought to ascertain whether this

⁴⁹ Vespa, Matt. "How Many Federal Laws Are There Again?" Townhall. June 06, 2015.

<https://townhall.com/tipsheet/mattvespa/2015/06/06/how-many-federal-laws-are-there-again-n2009184>.

⁵⁰ Storing, Herbert J. 1981. *The Complete Anti-Federalist*. Chicago: The University of Chicago Press. 2:437-442.

⁵¹ Storing, Herbert J. 1981. *The Complete Anti-Federalist*, Volume II. Chicago: The University of Chicago Press. 2:417-422.

⁵² "United States v. Darby Lumber Co., 312 U.S. 100 (1941)"

⁵³ DeSilver, Drew. 2018. "US population is growing, but House of Representatives is stuck at 435." Retrieved from <https://www.pewresearch.org/fact-tank/2018/05/31/u-s-population-keeps-growing-but-house-of-representatives-is-same-size-as-in-taft-era/>.

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trend has affected the access constituents have to their members of Congress, but these developments have certainly made Yatesian representation near impossible.⁵⁴ Yates often made little distinction between the public good, free elections, and individual liberty, and his concerns regarding representation have only been exacerbated by the United States' rapid population and geographical increase.

Yates predicted this representational distance between the electorate and the elected would delegitimize the legislature. Unsurprisingly, social science studies have found that political donors and lobbyists have greater access to representatives than rank-in-file constituents.⁵⁵ Incumbents win re-election at extraordinarily high rates.⁵⁶ This class of incumbents, as E.E. Schattschneider famously pointed out, typically "sings with a strong upper-class accent."⁵⁷ For these reasons and more, many regard politicians in Congress as corrupt and untrustworthy.

The Brutus papers connect tyranny and corruption, arguing that so few representatives will naturally lead to underhanded political maneuvering. In the years since the Constitution's ratification, corruption has been a consistent part of administrations from Jackson to Grant to Harding to modern administrations. Perhaps delegating more authority to local governments would ameliorate corruption, but it is not immediately apparent that centralization is to blame for the near-constant government corruption.

In *Brutus IV*, Yates brings up a critique that has a more mixed legacy. In the letter, he laments that the power to regulate elections is given to Congress, arguing it would "deprive them by law of the privilege of a fair election."⁵⁸ If the Constitution allows Congress members to alter the terms by which they are elected, the critique goes, they could ossify their power by creating barriers for voters to exercise their vote. Political machines in the Gilded Age and the Progressive Era exerted immense influence over voters through election interference and the political party system they dominated. However, these were examples of local power monopolization, not national interference. Modern discourse is divided around voter security, gerrymandering, and foreign election interference, but elections today are mostly free and publicized. American political culture may result in turnout lower (or higher) than ideal, but it is not a widespread system of secret, phony elections organized by party bosses. In some respects, elections have become freer and more open despite Yates' dire predictions.

While much of Yates' analysis is trenchant, he failed to anticipate some of the very basic workings of the United States and other large modern democratic republics. He decried the very notion of a standing army writing, "A free republic will never keep a standing army to execute its laws."⁵⁹ Today, every country that meaningfully governs its citizens possesses an internal police force and has a permanent, professional, standing army that maintains order. Having no standing army was an impossibility even in Yates' own time; Britain, France, and frontier native tribes all posed worrying threats to the nation. Rebellions had to be quelled.

⁵⁴ Frederick, Brian. (2008). Constituency Population and Representation in the U.S. House. *American Politics Research*, 36(3), 358–381.

⁵⁵ Kalla, J.L. and Broockman, D.E. (2016), Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment. *American Journal of Political Science*, 60: 545-558.

⁵⁶ Friedman, John N. and Holden, Richard T. 2009. "The Rising Incumbent Reelection Rate: What's Gerrymandering Got to Do With It?" *The Journal of Politics*. 71:2, 593-611.

⁵⁷ Schattschneider, Elmer Eric. 1960. *The Semisovereign People: A Realist's View of Democracy in America*. Holt, Rinehart and Winston. 30.

⁵⁸ Storing. *Complete Anti-Federalist*. 2:382-387.

⁵⁹ Storing. *Complete Anti-Federalist*. 2:363-372.

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The most notable exception to Yates' prediction of Constitutional tyranny has not been addressed yet. It is indisputable that liberty and equality under the law has been greatly extended to women, African Americans and other minority groups since the time of the anti-federalists, all under the Constitutional framework. In a great many ways, federal expansion has increased the agency of many groups. The abolition of slavery and the 19th amendment are the most salient examples of this phenomenon. It is important to recognize that Yates himself might retort that the Constitution *itself* legally allowed the slave trade and instituted the 3/5ths compromise, and that his papers specifically argued against ratification on those grounds. This is quite true. As a theoretical point, however, it is a serious strike against Yates' contention that democratic localism is the only mechanism for achieving a free society.

IV. Legacy

Brutus' writings take on a number of different topics regarding the Constitution and leave a complex legacy. Yates' ultimate goal of rejecting the United States Constitution failed; his own state ratified it on July 26, 1788. Perhaps one of his greatest failings was in coordination and communication with his like-minded peers. While common themes within their ranks abound, the anti-federalists did not build a unified opposition. True to their respective intellectual designs, the Federalists coordinated and intentionally planned their letters to help secure the passage of the Constitution, whereas the anti-federalists were disconnected and failed to communicate with one another.⁶⁰ The anti-federalist papers tend to overlap and are, at times, contradictory.

Despite Yates' failure to prevent the Constitution's ratification, his writings considerably influenced the Bill of Rights, amended to the Constitution in 1791. He spearheaded a movement that coalesced around the rights of citizens, fear of centralization, and the sovereign rights of states, which influenced the ratification process so much that the Constitution was only approved under the auspices that a series of amendments protecting the rights of citizens would be added. Thus, while it is true that John de Witt was less pessimistic than Yates and while Cato often addressed concerns others did not have, in totality, they still advocated for their ideas convincingly and made their voices heard.^{61, 62} Additionally, a plurality, perhaps even a majority, of the concerns Yates raised came to pass. History looks favorably on many of his predictions of increased federal centralization and judicial power; his excoriation of the 3/5ths compromise remains some of his most energetic prose.

Yet, Brutus' essays and the anti-federalists generally remain outside of today's political theory literature. While the Federalist Papers are cited in political discourse, history textbooks and even political court cases, the anti-federalists remain on the fringes of political theory. This is perhaps because Robert Yates fails to offer a clear vision of the future in his localist, populist confederacy and why it is a more desirable polity. While the Federalist papers defend the Constitution and the positive vision of the new Congress, the anti-federalists were not similarly focused. However, I believe their exclusion is predicated on something more straightforward than merely their rhetorical infelicity. Scholars study entire schools of theorists despite their difficult-to-understand normative

⁶⁰ Lloyd, Gordon. "Introduction to the Antifederalists." *TeachingAmericanHistory.org*. Ashland, Ohio: The Ashbrook Center at Ashland University.

⁶¹ Dewitt, John. 1787. "To the Free Citizens of the Commonwealth of Massachusetts." Retrieved from <https://www.infoplease.com/homework-help/united-states-documents/john-dewitt-ii>.

⁶² Cato. 1788. *The New York Journal*.

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content. Instead, it seems more plausible that Yates and his compatriots remain in obscurity because of their immediate political failure to prevent ratification.

While it is true that the anti-federalists heavily relied on mere opposition to the Constitution to define their movement and that this weakened the impact of the political theory of men like Robert Yates, their broader thought and their political effect has vastly influenced the political culture of the United States. Additionally, as this essay has shown, Yates' writings showcase some of the most evident examples of how early liberals believed the political implementation of their ideas should manifest. Yates' social-contractarianism argues for a different, confederated and populist, form of liberal governance. His thought serves as a useful and intellectually robust buttress to the Madisonian ideal of federally-based separation-of-powers, while simultaneously rejecting both Rousseauian and Hobbesian ends. Despite his political shortcomings, Robert Yates remains a reasoned, influential and radically liberal early-American thinker occupying an important role in critiquing the Federalists, whose idyllic vision of the future and America's founding document has been left unchallenged for too long.

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References

- Asmis, Elizabeth. "A New Kind of Model: Cicero's Roman Constitution in "De Republica"." *The American Journal of Philology* 126, no. 3 (2005): 377-416.
- Beck, Glenn., Balfe, Kevin., & Beck, Hannah. 2014. *Miracles and Massacres: True and Untold Stories of the Making of America*. New York: Threshold Editions/Mercury Radio Arts.
- "Debates and Proceedings of the Convention of the Commonwealth of Massachusetts Held in the Year 1788 and Which Finally Ratified the Constitution of the United States." 1856. Boston: William White Printer to the Commonwealth. 378–384.
- DeSilver, Drew. 2018. "U.S. population keeps growing, but House of Representatives is same size as in Taft era." Retrieved from <https://www.pewresearch.org/fact-tank/2018/05/31/u-s-population-keeps-growing-but-house-of-representatives-is-same-size-as-in-taft-era/>.
- Dewitt, John. 1787. "To the Free Citizens of the Commonwealth of Massachusetts." Retrieved from <https://www.infoplease.com/homework-help/united-states-documents/john-dewitt-ii>
- Burke, Edmund, Darrin M. McMahon, Conor Cruise, Brien, Jack N. Rakove, and Alan Wolfe. *Reflections on the Revolution in France*. Edited by Turner Frank M. New Haven; London: Yale University Press, 2003.
- Brackemyre, Ted. "America's First Failure at Government." *US History Scene*. Retrieved from <http://ushistoryscene.com/article/articles-of-confederation/>.
- Britannica, The Editors of Encyclopedia. "Virginia and Kentucky Resolutions." *Encyclopedia Britannica*. January 29, 2019. Retrieved from <https://www.britannica.com/event/Virginia-and-Kentucky-Resolutions>.
- Carlyle, Thomas. *Chartism*. London: J. Frasier.
- Cato. 1788. *The New York Journal*.
- "The Constitution of the United States," Article 1, Section 8.
- Epstein, Richard, A. 2014. *The Classical Liberal Constitution*. Chap. 1 Our Two Constitutions. Cambridge, Massachusetts: Harvard University Press.
- Farmer, A. "New Constitution Creates a National Government, Will Not Abate Foreign Influence, Dangers of Civil War and Despotism." March 7, 1788. Retrieved from <http://resources.utulsa.edu/law/classes/rice/Constitutional/AntiFederalist/03.htm>
- Frederick, Brian. (2008). Constituency Population and Representation in the U.S. House. *American Politics Research*, 36(3), 358–381.

Political Theory

- “The Founding Fathers: New York. (n.d.). Retrieved from <https://www.archives.gov/founding-docs/founding-fathers-new-york>.”
- Friedman, John N. and Holden, Richard T. 2009. “The Rising Incumbent Reelection Rate: What's Gerrymandering Got to Do With It?” *The Journal of Politics*. 71:2, 593-611.
- Howell, George Rogers and Tenney, Jonathan. *Bi-centennial History of Albany*. vol. 1.
- Kalla, J.L. and Broockman, D.E. (2016), Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment. *American Journal of Political Science*, 60: 545-558.
- Ketcham, Ralph. 1986. *The Anti-Federalist Papers and the Constitutional Convention Debates*. New York: New American Library.
- Larson, Edward J.; Winship, Michael P. 2005. *The Constitutional Convention: A Narrative History from the Notes of James Madison*. New York: The Modern Library.
- Lee, Mike. 2018. *Written out of history: The forgotten founders who fought big government*. NY, NY: Sentinel.
- Lloyd, Gordon. "Introduction to the Antifederalists." TeachingAmericanHistory.org. Ashland, Ohio: The Ashbrook Center at Ashland University.
- Madison, James. Federalist No. 51: 1788. "The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments." *New York Packet*.
- Madison, James. Federalist No. 47: 1788. "The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts." *New York Packet*.
- Madison, James. Federalist No. 45: 1788. "The Alleged Danger From the Powers of the Union to the State Governments Considered." *New York Packet*.
- “Madison Debates - September 17.” (n.d.). Retrieved from https://avalon.law.yale.edu/18th_century/debates_917.asp
- McCormick, John P. 2007. “Rousseau’s Rome and the Repudiation of Populist Republicanism.” *Critical Review of International Social and Political Philosophy*. 10:1, 3-27.
- Myerson, Michael. 2008. *Liberty’s Blueprint: How Madison and Hamilton Wrote the Federalist Papers, Defended the Constitution, and Made Democracy Safe for the World*. New York: Basic Books.

Political Theory

Pangle, Thomas, L. 1988. *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke*. Chicago: University of Chicago Press.

Peterson, Merrill. 1975. *Thomas Jefferson and the New Nation: A Biography*. Oxford University Press.

Plato, & Jowett, B. 1895. *The Dialogues of Plato, Volume II*. New York: Charles Scribners Sons.

"Reg Stats." Retrieved from <https://regulatorystudies.columbian.gwu.edu/reg-stats>.

Richards, Leonard. 2003. *Shays's Rebellion: The American Revolution's Final Battle*. Philadelphia: University of Pennsylvania Press.

"Robert Yates." 2019, January 25. Retrieved from <https://history.nycourts.gov/figure/robert-yates/>.

Schattschneider, Elmer Eric. 1960. *The Semisovereign People: A Realist's View of Democracy in America*. Holt, Rinehart and Winston. 30.

Storing, Herbert J. 1981. *The Complete Anti-Federalist*. Chicago: The University of Chicago Press.

Tillman, Seth Barrett. "The Federalist Papers as Reliable Historical Source Material For Constitutional Interpretation," *West Virginia Law Review* 105, no. 3 (Spring 2003): 601-620

"United States v. Darby Lumber Co., 312 U.S. 100 (1941)"

Vespa, Matt. "- How Many Federal Laws Are There Again?" Townhall. June 06, 2015. <https://townhall.com/tipsheet/mattvespa/2015/06/06/how-many-federal-laws-are-there-again-n2009184>.

Walmsley, Roy. 2013. "World Prison Population List" Tenth Edition. International Centre for Prison Studies.

Zelinsky, Aaron. "Misunderstanding the Anti-Federalist Papers: The Dangers of Availability," *Alabama Law Review* 63, no. 5 (2012): 1067-1114

1896-1898. Cambridge: Cambridge University Press, 1988.

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In Statu Naturae: A Case Study of Civil Unrest in Seattle

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Thomas Hobbes' masterwork, *Leviathan*, is foundational to modern political thought, covering a vast array of topics regarding human nature and governance. The most critical aspect of this work is his focus on "the psychology of individuals through their wretched condition in the absence of a strong government."¹ This conception of the "state of nature" is the hallmark of Hobbesian thought. For Hobbes, the state of nature is the state of war, or *bellum omnia contra omnes* (war of all against all).² The Hobbesian concept of governance has influenced ruling doctrines around the globe, but how does his theory regarding the natural state of man apply to a developed world? On June 9, 2020, protestors overtook a six square block area in downtown Seattle, Washington.³ The fact that these protestors had no government opened up a lens of research into whether those living in the Capital Hill Organized Protest Zone (CHOP) had accidentally stumbled into Hobbes' vision of the state of nature. This paper will analyze Hobbesian philosophy and apply it to the state of affairs in CHOP. This example presents a prime case study of whether the Hobbesian conception of the state of nature is applicable to the modern world.

First, an examination of the concept of the state of nature is required. According to Alan Ryan, Hobbes' state of nature is defined by "the absence of sovereign authority and regular law" as its foundation. Hobbes was a proponent of strong government and believed that, in its absence, this state of nature develops.⁴ According to Jorg Spieker, "the Hobbesian state of nature refers to the human condition without epistemological or political foundations," essentially revealing the condition of man without knowledge or government.⁵ Now, the basis of the lack of epistemological foundation must be further examined given that all humans possess some knowledge. This provides a clearer picture of the conditions for the state of nature to exist. There must be no sovereign authority, no legal structure, and no philosophical thought in order for the state of nature to exist. Next, consideration of the state of nature as the state of war must be made. According to Hobbes, "the nature of War, consisteth not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary."⁶ This means that, even though it is referred to as the state of war, it is more realistically the state of fear or a state without peace. This is exemplified by philosopher Michael Foucault, who argues, "for Hobbes, it does not all begin with war."⁷ Spieker assesses that the real state of war is based on the mere threat of war.⁸ This is an important concept that will come into play in the analysis of Seattle.

The mere existence of the state of war requires a deeper analysis of Hobbes' causes of conflict. If the state of war is the state of fear, then the quandary presented

¹ Ryan, "Escaping the War of All Against All", 642.

² Hobbes, *De Cive*, 25; Hobbes, *Leviathan*, 178.

³ Reeve and Guff, "They Envisioned a World".

⁴ Ryan, "Escaping the War of All Against All", 644.

⁵ Spieker, "Foucault and Hobbes on Politics", 193.

⁶ Hobbes, *Leviathan*, 178.

⁷ Spieker, "Foucault and Hobbes on Politics", 191.

⁸ *Ibid.*

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becomes just how fear transitions into war. For that, Hobbes lists three causes: “Competition... Diffidence⁹... Glory.”¹⁰ He connects all of these causes of quarrel to their underlying motivations. For competition, it is “gain;” for diffidence, it is “safety;” and for glory, it is “reputation.”¹¹ These factors are each invaluable in understanding why people invade when in the state of nature. To understand Hobbes’ theory, analogies underscoring these principles can be looked at. If a farmer is growing and selling beets, he might attack his beet-farming neighbor in order to grow his business; this is competition in action. If a man is walking down the street and fears that someone is following him and is going to assault him, he may hide behind the next building and attack the follower; this is diffidence. Finally, if a boy is initiating into a street gang, he may shoot random strangers in order to gain street credit; this is glory.

Lastly, what Hobbes refers to as “incommodities of war” should be explored. He writes, “there is no place for industry... no Culture of the Earth... no arts; no letters; no society.”¹² He points to thirteen in total, however, some have no relevance in a modern world with cell phones and television news (for example, the inability to tell time). The most egregious, he writes, is “continuall feare.”¹³ These other factors pose an intriguing roadblock to declaring the state of affairs in Seattle a true state of nature. However, these are asserted as the by-products of the state of war rather than a cause. Therefore, the state of nature existing is not predicated on any or all of these factors being present.

Next, instances where scholars have applied the state of nature label in the past must be unpacked. George Klosko and Daryl Rice examine Thucydides’ influence on Hobbes’ work. They acknowledge that many scholars make this connection and address the similarities between Thucydides’ account of the state of nature and Hobbes’ notion of the incommodities of war.¹⁴ It is notable that Thucydides lived during the Peloponnesian War, which, according to Marshall Sahlins, was reflective of both philosophers’ perception of the state of nature. The state of Corcyra was caught in the crossfire of a *bellum omnia contra omnes*, with battles raging over “equality versus plutocracy, imperialism versus independence, ... freedom versus slavery.”¹⁵ This period was significant in providing the basis for the “state of nature” theory. Thucydides writes, “at this crisis in the breakdown of civic life[,] human nature, which is in any case conditioned to defy the laws in doing wrong, now triumphed over them and revelled in showing itself powerless against passion, too strong for justice and hostile to anything superior.”¹⁶ This harrowing description provides the basis for the descent into the state of nature. Thucydides speaks of the breakdown of civic life juxtaposed against descension into human nature. Sahlins explains that this period yielded immense death and destruction.¹⁷ Corcyra saw violence and fear overtake the island, aided by outside states that further fanned the flames of war. This descent into the state of war was brought out by an actual war, unlike Seattle where CHOP’s ideological underpinnings were derived from rejecting a police state. This drove them to make the decision to overtake the police precinct based upon the violence with which they were confronted. While there was no

⁹ “Diffidence, as Hobbes used the term, refers to the uneasiness or anxiety that all individuals, including and especially law-abiding ones, have about their own security and standing vis-à-vis one another” – Ristroph, “Hobbes on Diffidence”, abstract.

¹⁰ Hobbes, *Leviathan*, 177.

¹¹ *Ibid.*

¹² Hobbes, *Leviathan*, 179.

¹³ *Ibid.*

¹⁴ Klosko and Rice, “Thucydides and Hobbes”, 221.

¹⁵ Sahlins, “Iraq”, 27

¹⁶ Thucydides, *The War of the Peloponnesians*, 3.84.

¹⁷ Sahlins, “Iraq”, 27

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war, there was a “breakdown of civic life,” and based on the ideals presented by Hobbes and Thucydides, that is a sufficient basis for the state of nature effect.

This comparative example leads into a discussion of the state of nature as applied to Seattle. First, a foray into the background will provide necessary context. Following weeks of contentious clashes between individuals protesting the killing of unarmed black people and the Seattle police, the police abandoned their East Precinct.¹⁸ This led to the formation of the Capitol Hill Autonomous Zone (“CHAZ,” later renamed “CHOP”). This was declared a police-free area and had no strong government or organization. Protestors rallied behind a list of demands that they would impose upon the Seattle Police.¹⁹ Mayor Jenny Durkan referred to this zone as a “block party atmosphere” and allowed the protestors to form an independent zone in the middle of the city.²⁰ Over the three weeks, the zone grew in size with amenities such as a free clothing area, free food tents, a tent village, and late-night activities and bonfires.²¹ There was also artistry displayed, such as a Black Lives Matter mural, poetry, speeches, music, and pop-up farms.²² On its face, this was seemingly benign; however, there was also an armed militia presence, five shootings, sexual assaults, physical assaults, theft, vandalism, arson, and public drug use.²³ Business owners complained of threats of extortion and harassment and demonstrated their fear by barricading and locking their garages, all of which was compounded by the lack of a police, fire, or EMT presence.²⁴

These facts pose an interesting conundrum given that, while the lack of government is apparent, the state of fear is not wholly so. When assessing the incommodities of war, this zone falls in a grey area. The arts, letters, and cultural aspects will be examined first. Given that there was poetry, painting, and music, by all accounts there were arts and letters. However, some of the art could be conflated with vandalism. According to a class-action lawsuit filed against the city of Seattle by business owners and residents for suborning the protests, “graffiti [was] pervasive throughout CHOP.”²⁵ This is a complex issue as scholars throughout the ideological spectrum argue vehemently over whether graffiti is art or vandalism. Traditionally the more liberal perspective is that of art and the more conservative that of vandalism. Marissa Gomez draws a distinction between graffiti art and graffiti vandalism, arguing that art displays characteristics of artistry whereas vandalism is motivated by a desire “to mark territory, create notoriety, or show one’s defiance of the law and society.”²⁶ However, with phrases such as “kill cops,” “fuck the police,” protest phrases, and random phrases alike tagged everywhere from streets to private buildings, there is evidence that most graffiti in the CHOP falls into this vandalism category.²⁷ Furthermore, the destructive nature of the graffiti is heightened by the fact that graffiti artists threatened business owners with vandalism and arson if they painted over it.²⁸ This created a state of fear for the business owners who were powerless to regulate the “art” that appeared on their private property. This state of fear plays into the overarching notion that the CHOP bred a state of nature.

¹⁸ Williams, “This is What it’s like”

¹⁹ Ibid.

²⁰ Schwartz, “Seattle Mayor Durkan”

²¹ Reeve and Guff, “They Envisioned a World”.

²² Kelly, “Meet Raz Simone”

²³ Reeve and Guff, “They Envisioned a World”; Smith, “CHOP Medic Intervened”; Calfo, Complaint in *Hunters Capital*, 3-4.

²⁴ Kelly, “Meet Raz Simone”; Calfo, Complaint in *Hunters Capital*, 3-4.

²⁵ Calfo, Complaint in *Hunters Capital*, 4.

²⁶ Gomez, “The Writing on our Walls”, 635.

²⁷ Flores, “The Political Power of Graffiti”; Calfo, Complaint in *Hunters Capital*, 4, 12.

²⁸ Calfo, Complaint in *Hunters Capital*, 4.

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The state of nature being hostile to business interests did, however, prove true. According to the lawsuit, business owners have suffered property damage and economic loss. Their employees have been harassed, delivery trucks have been unable to access their properties, tenants have left buildings, and one company reported sales down by 70%.²⁹ This bears out Hobbes' idea that there is "no place for industry."³⁰ The individual stories of the business owners, many of which support the Black Lives Matter cause, leave no doubt that creation of an autonomous zone drastically impeded their ability to conduct business and provide for their families, who were left to live in a state of fear of harassment and violence.

Now that the incommunities have been assessed, the lack of government will be analyzed. As stated by Ryan and Spieker, the absence of government is the hallmark of the state of nature. A banner hung on the deserted police precinct read, "This space is now property of the Seattle people."³¹ According to Raz Simone, a self-declared leader of the Autonomous Zone, this venture was an experiment in self-government.³² However, self-government implies that the people were able to regulate themselves without an external authority. The people, in this case, included protestors, residents, business owners, journalists, and such others who sojourned in the CHOP. However, there was no coherence among peoples' differing ideas of governance. Indeed, some protestors were even distrustful of a group of unidentified people who set up tents and farmland in a park.³³

The lack of a government mandate was apparent when it came to the zone's security force. Group leaders, such as Raz Simone and men who called themselves, "Slate" and "James Madison," led a security force that policed the borders. However, this force was unaccountable, untrained, and had no mandate. Slate noticed as much when he commented that their group was based on reputation rather than a legal mandate.³⁴ Furthermore, a viral video showed Raz Simone handing out illegal, semi-automatic firearms to young strangers.³⁵ This force, known as the Sentinels, was responsible for all security in the area, since police were unwilling to enter the CHOP.³⁶ The groups within CHOP, while sharing some basic goals, had different ideas and plans for the protest which created the potential for serious discord. Any group could have turned on the other at any time, or *bellum omnia contra omnes*.³⁷ In fact, Slate reports having had to break up many bloody fist fights between "citizens" of CHOP.³⁸

This lack of coherence in leadership led to various pitfalls. Rev. Ben Johnson, a member of the Acton Institute, a conservative think tank, writes that CHOP "violat[e]d the purpose of government," by failing to "protect... resident safety," "exercise... exclusive sovereignty," "maintain... public order" and protect "public health."³⁹ These four critiques examine some basic aspects of modern governance. Yet, truly examining whether this zone was devoid of government necessitates a definition of government.

Hobbes' definition of the commonwealth is a fairly workable starting point for this discussion. Hobbes writes that the commonwealth is, "One Person, of whose Acts a

²⁹ Calfo, Complaint in *Hunters Capital*, 5-9.

³⁰ Hobbes, *Leviathan*, 179

³¹ Kelly, "Meet Raz Simone".

³² Ibid.

³³ Reeve and Guff, "They Envisioned a World".

³⁴ Ibid.

³⁵ Kasprak, "Does this Video Show".

³⁶ Reeve and Guff, "They Envisioned a World".

³⁷ Kelly, "Meet Raz Simone".

³⁸ Reeve and Guff, "They Envisioned a World".

³⁹ Ben Johnson, "Seattle's CHOP/CHAZ Violates the Purpose".

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great Multitude, by mutual Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence.”⁴⁰ He poses a set of conditions that can make this work: one person needs to be in charge, have a strong authority, and must use this authority to preserve peace and defense. First, it is clear from the analysis of CHOP’s loose leadership that there was not one authority. There were many different leaders of the distinct advocacy groups that made up CHOP, as well as unaffiliated leaders, such as “River,” who was arrested shortly following the disbandment of CHOP, and Mark Anthony, a 32-year-old tour guide and brand ambassador.⁴¹ With all of these different leaders, it is impossible to truly affirm that any one person or body was in charge. Now, there are forms of governance that involve group leadership, but Hobbes’ theory of governance requires a singular strong sovereign.

On this issue of authority, none of these leaders were elected, and certainly none of them spoke for any common interest in the CHOP. For one, the permanent residents of the area did not have “free and safe access in or out of their homes.”⁴² This essentially affirms their position as a marginalized class in the structure of the CHOP, and any leadership certainly did not have their covenant in coalition building. Many of the leaders of the Sentinels advised members of their force to stay away following the zone’s descent into violence.⁴³ This abandonment of the Sentinels demonstrates the group’s lack of preparedness, training, or ability to preserve the zone’s common defense. If this zone’s leadership couldn’t meet Hobbes’ first two conditions, it couldn’t meet the third. The succeeding conditions are contingent on the preceding ones, and as the descension into violence will show, the group’s needs for peace and defense were not met.

In order to better understand the conditions for peace and defense, three causes for quarrel will be examined. There was a case where a young man broke into Car Tender, an auto repair shop, lit a fire, assaulted the owner’s son with a knife, and attempted to steal a Mercedes.⁴⁴ This is a function of one of Hobbes’ conditions for war, namely, competition as he argues that man invades for gain.⁴⁵ In this case, it was the gain of the car. The man was detained by the shop owner in an effort to hand him to the police; however, they never responded to the scene. A mob formed outside—estimated to be around 500 people—and broke down the shop’s fence, demanding the release of the assailant.⁴⁶ The shop owner handed the man to the protestors and was assaulted but managed to escape following the altercation.⁴⁷ This incident exemplifies both the first cause of quarrel and the zone’s inability to provide for its common defense. The first cause of quarrel is evidenced by the simple fact that the assailant invaded for gain, which by definition, affirms Hobbes’ theory. The lack of a common defense, however, highlights the absence of strong sovereign authority, thus defining the state of nature. While the man was eventually caught and charged after attempting the same crime elsewhere, a violent miscreant was able to escape due to the members of the community opting for vigilante justice over a stable mechanism of defense.

The second cause of quarrel, diffidence, will be presented through consideration of one of the shootings. On June 29, a white Jeep crashed into the CHOP barricades. In

⁴⁰ Hobbes, *Leviathan*, 246.

⁴¹ Graham Johnson, “SPD Arrests Prominent CHOP Leader”; Gupta, “Seattle’s CHOP went out”.

⁴² Calfo, Complaint in *Hunters Capital*, 18.

⁴³ Reeve and Guff, “They Envisioned a World”.

⁴⁴ Calfo, Complaint in *Hunters Capital*, 20.

⁴⁵ Hobbes, *Leviathan*, 177.

⁴⁶ Calfo, Complaint in *Hunters Capital*, 21.

⁴⁷ Smith, “CHOP Medic Intervened”.

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the car were two boys, ages 16 and 14. Upon crashing into the barricade, shots were fired onto the car, leaving one boy in critical condition and the other dead.⁴⁸ Members of the Sentinels, specifically those who were guarding the barricades, were the ones who fired the shots.⁴⁹ No police or medical support showed up at the scene; instead, the boys were taken to the hospital by private vehicle. It is impossible to determine who fired the shots because the crime scene was “disturbed” according to the Seattle police.⁵⁰ This is a clear example of quarrel born out of diffidence. The Sentinel guards grew nervous regarding the oncoming Jeep and opened fire in an effort to launch a preemptive strike. This highlights the second cause of quarrel and exemplifies the lack of control necessary to achieve peace through a defense. This senseless killing was carried out by the very protectors of the zone’s defense. These guards had no training in de-escalation tactics and were unable to restore order.

The case of Isaiah Willoughby assists in assessing the third cause of quarrel. On June 12, 2020, a man in a yellow hoodie set fire to the abandoned police precinct. As captured on video, it was the protestors who put it out.⁵¹ A social media manhunt went underway looking for the suspect. Isaiah Willoughby, the alleged culprit, was turned in by his own family members. Willoughby posted on Facebook that he had planned to commit the arson, writing “Iam [sic] burn it down.”⁵² He also posted that he had committed arson, a stark admission that was deleted before he got caught. Willoughby told his aunt that he did it because he was angry about how he had been treated by officers of the East Precinct in the past.⁵³ This episode shows a quarrel borne out of glory. In Hobbes’ analysis, reputation is the cause of invading for glory. In this case, Willoughby clearly wanted people to know it was him based on his social media usage. Hobbes also writes that violent acts are borne out of this last form of quarrel over “trifles.”⁵⁴ It could also be said, then, that Willoughby sought rectification for a perceived past injustice, which would fall neatly within Hobbes’ conceptual framework of invading for glory.

Lastly, an exploration into the state of fear will be made. There are many elements that inspired fear in the residents of CHOP. As explored above, crime was one trigger that initiated fear, with five shootings, arson, sexual and other assault. While security forces concluded that much of the violent crime was gang-related, crime inspires fear regardless of who’s pulling the trigger.⁵⁵ Many residents and business owners lived in fear of vandalism, having to lock and barricade their garages so that no one could enter.⁵⁶ The city set up these concrete barricades in order to quell fears of cars driving into the protest zone and running down protestors. Fazel Khan needed permission from people “sitting in lawn chairs with guns” to cross the barricades in order to enter his place of business.⁵⁷ This threat is further amplified by the fact that 911 response times had tripled, and the Seattle Police told protestors that they were not going to enter the zone unless there was a mass-casualty event.⁵⁸

Outside malevolent actors also inspired fear. There were reports of right-wing agitators, such as the Proud Boys, gathering in and around the zone.⁵⁹ This created an

⁴⁸ Zilly, Order on Motion to Stay, 8.

⁴⁹ Reeve and Guff, “They Envisioned a World”.

⁵⁰ Zilly, “Order on Motion to Stay”, 9.

⁵¹ Smith, “CHOP Medic Intervened”.

⁵² Widmer, “Willoughby Arson Complaint”, 9.

⁵³ Widmer, “Willoughby Arson Complaint”, 8.

⁵⁴ Hobbes, *Leviathan*, 177.

⁵⁵ Reeve and Guff, “They Envisioned a World”.

⁵⁶ Calfo, Complaint in *Hunters Capital*, 4.

⁵⁷ Bowles, “Abolish the Police?”.

⁵⁸ “Is the ‘CHOP’ Here to Stay?”; Reeve and Guff, “They Envisioned a World”.

⁵⁹ Bowman, “Opinion: Seeing Through the Noise”.

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atmosphere permeated by fear with the threat of right-wing violence, police being unable to respond to life and death situations, unwanted visitors breaking through the barriers, and heavily armed, untrained security forces. Residents and business owners hired equally impressively armed private security forces, actions most assuredly motivated by a state of fear.⁶⁰

The Sentinels, in charge of protecting the residents, had their own encounters with fear. Slate reported that one member of the Sentinels pulled handguns on passersby and maced people indiscriminately.⁶¹ Certainly, if residents cannot trust the local protectors, then they would probably fear them. Accordingly, even the Sentinels advised members not to confront armed or suspicious-looking people. Many of them were fearful of retaliation after the episode involving the boys in the Jeep as they felt it could have been gang related. One security volunteer commented on the intense paranoia in CHOP surrounding being recorded.⁶²

Journalists and business owners lived in an even more intense state of fear. For example, Andy Ngo, a provocative conservative journalist, hid his identity and press credentials as a survival measure, reflecting reports of attacks on other journalists.⁶³ Employees of Richmark Label, a local business, did not feel safe coming to work because they were afraid of what would happen to them.⁶⁴ The owners and employees of Northwest Liquor and Wine lived in a state of fear as many were too afraid to go into work.⁶⁵ The owners of Sage Physical Therapy were forced to keep their door locked out of concern for their safety.⁶⁶ While there are many more cases of the rampant impact of fear on the residents, journalists, business owners, and protestors in CHOP, these examples highlight the pervasive quality of fear.

What presented in Seattle was an unwitting experiment into the reality of human nature. By the time the police split up the CHOP on July 1st, the streets had begun to empty, and the soldiers laid down their arms. The descent into chaos was not simply the result of malfeasance, misgovernance, or wrongdoing on the part of the protestors, rather, it represented an encapsulation of Hobbes' depiction of the natural condition of mankind. It began as Mayor Durkan put it, "like a block-party atmosphere," but the fruits of that endeavor were unsustainable.⁶⁷ It is only through an analysis of the philosophy of human nature that the true cause of the failure in Seattle becomes clear. An ungoverned populace is simply unfeasible. What happened in Seattle is not an exact representation of Hobbes' ideas relating to the state of nature, but rather a modernized version in its nascent stages of existence. Not all the inconveniences of war were present, but the inconveniences of war are the result of long-term exposure to the natural condition. While there was not an overwhelming level of violence or warfare, the state of war is marked by the fear of violence and conflict rather than by a literal meaning of war. What was present was an absence of government and a state of fear, the two main requirements for the existence of state of nature in Hobbes' perspective. Due to these truths, however, it can be conceded that the state of affairs in Seattle most accurately resembles a state of nature, though the potential to grapple with the fully formed concept remains very much on the table. What is evident, regardless of names, is that a well-intentioned display of civil

⁶⁰ Gupta, "Seattle's CHOP went out".

⁶¹ Reeve and Guff, "They Envisioned a World".

⁶² Ibid.

⁶³ Ngo, "My Terrifying Five-Day Stay".

⁶⁴ Calfo, Complaint in *Hunters Capital*, 23.

⁶⁵ Calfo, Complaint in *Hunters Capital*, 24.

⁶⁶ Calfo, Complaint in *Hunters Capital*, 25.

⁶⁷ Kelly, "Meet Raz Simone".

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disobedience in a modern world exemplifies the natural condition Hobbes spoke of, thus opening up a remarkable opportunity for academic inquiry.

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References

- Bowles, Nellie. "Abolish the Police? Those Who Survived the Chaos in Seattle Aren't So Sure," August 10, 2020. <http://www.nytimes.com/2020/08/07/us/defund-police-seattle-protests.html?searchResultPosition=26>.
- Bowman, Nick. "Opinion: Seeing through the Noise as CHOP Debate Rages." MyNorthwest.com, June 17, 2020. <https://mynorthwest.com/1955706/opinion-debate-over-the-chop-seattle/>.
- Calfo, Angelo. Complaint. Hunters Capital LLC Et Al v. City of Seattle (United States District Court for the Western District of Washington June 24, 2020).
- Flores, Agueda Pacheco. "The Political Power of Graffiti: Erased from CHOP, on Display in Everett." Crosscut. Crosscut, July 22, 2020. <https://crosscut.com/2020/07/political-power-graffiti-erased-chop-display-everett>.
- Gupta, Arun. "Seattle's CHOP Went Out With Both a Bang and a Whimper." The Intercept, July 2, 2020. <https://theintercept.com/2020/07/02/seattle-chop-zone-police/>.
- Gómez, Marissa A. "The Writing on Our Walls: Finding Solutions Through Distinguishing Graffiti Art from Graffiti Vandalism." *University of Michigan Journal of Law Reform*, 5, 26, no. 3 (1993): 636–706.
- Hobbes, Thomas. *Leviathan: The Matter, Forme & Power of a Common-Wealth Ecclesiastical and Civill*. EBook Academic Collection (EBSCOhost). Auckland, New Zealand: The Floating Press, 2009. <https://goucher.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=e000xna&AN=314027&site=ehost-live&scope=site>.
- Hobbes, Thomas. *De Cive, or, The Citizen*. Edited by Sterling P. Lamprecht. New York: Appleton Century Crofts, 1949. <https://heinonline.org/HOL/P?h=hein.beal/decive0001&i=4>.
- "Is the 'CHOP' Here to Stay? City Adds Concrete Barriers to Seattle's Occupied Protest Zone." Q13 Fox, June 30, 2020. www.q13fox.com/news/is-the-chop-here-to-stay-city-adds-concrete-barriers-to-seattles-occupied-protest-zone.
- Johnson, Graham. "SPD Arrests Prominent CHOP Leader." KIRO, July 2, 2020. <http://www.kiro7.com/news/local/suspect-arrested-near-i-5-downtown-seattle-after-fleeing-police/76XZ3AEPNND2NMNR6LW6HKADRQ/>.
- Johnson, Rev. Ben. "Seattle's CHOP/CHAZ Violates the Purpose of Government." Acton Institute PowerBlog, June 24, 2020. <https://blog.acton.org/archives/116478-seattles-chop-chaz-violates-the-purpose-of-government.html>.
- Kasprak, Alex. "Does This Video Show Raz Simone Handing Out Guns in Seattle's CHOP?" Snopes.com, 2020. <http://www.snopes.com/fact-check/raz-simone-guns/>.
- Kelly, Jack. "Meet Raz Simone, The Alleged 'Warlord' Of The Capitol Hill Autonomous Zone." Forbes. Forbes Magazine, June 15, 2020. <http://www.forbes.com/sites/jackkelly/2020/06/14/meet-raz-simone-the-alleged-warlord-of-the-capitol-hill-autonomous-zone/?sh=21f523b4523f>.

Political Theory

- Klosko, George, and Daryl Rice. "Thucydides and Hobbes's State of Nature." *Thomas Hobbes*, 2017, 221–26. <https://doi.org/10.4324/9781315236131-13>.
- Ngo, Andy. "My Terrifying Five-Day Stay inside Seattle's Cop-Free CHAZ." *New York Post*. New York Post, June 22, 2020. <https://nypost.com/2020/06/20/my-terrifying-5-day-stay-inside-seattles-autonomous-zone/>.
- Reeve, Elle, and Samantha Guff. "They Envisioned a World without Police. Inside Seattle's CHOP Zone, Protesters Struggled to Make It Real." *CNN*. Cable News Network, July 7, 2020. <http://www.cnn.com/2020/07/05/us/chop-seattle-police-protesters-public-safety/index.html>.
- Ristroph, Alice. "Hobbes on 'Diffidence' and the Criminal Law." *Foundational Texts in Modern Criminal Law*, 2014, 23–38. <https://doi.org/10.1093/acprof:oso/9780199673612.003.0002>.
- Ryan, Alan. "Escaping the War of All against All: Leviathan, Thomas Hobbes." *Social Research: An International Quarterly* 85, no. 3 (2018): 639–49. muse.jhu.edu/article/707610.
- Sahlins, Marshall. "Iraq: The State-of-Nature Effect." *Anthropology Today* 27, no. 3 (June 2011): 26–31. <https://doi.org/doi:10.1111/j.1467-8322.2011.00810.x>.
- Schwartz, Ian. "Seattle Mayor Durkan: CHAZ Has A 'Block Party Atmosphere,' Could Turn Into 'Summer Of Love.'" *RealClearPolitics*, 2020. www.realclearpolitics.com/video/2020/06/12/seattle_mayor_durkan_chaz_has_a_block_party_atmosphere_could_turn_into_summer_of_love.html.
- Smith, Rich. "CHOP Medic Intervened in a Sexual Assault in Cal Anderson." *The Stranger*, June 19, 2020. <https://www.thestranger.com/slog/2020/06/19/43938596/chop-medic-intervened-in-a-sexual-assault-in-cal-anderson>.
- Spieker, Jörg. "Foucault and Hobbes on Politics, Security, and War." *Alternatives: Global, Local, Political* 36, no. 3 (2011): 187–99. <https://doi.org/10.1177/0304375411418596>.
- Thucydides. *Thucydides. The War of the Peloponnesians and the Athenians*. Translated by Jeremy Wynott. *EBSCOhost*. Cambridge: Cambridge University Press, 2013. search.ebscohost.com/login.aspx?direct=true&db=e000xna&AN=533811&site=ehost-live&scope=site.
- Widmer, Lexie. "Willoughby Arson Complaint." Seattle: United States Attorney for Western District of Washington, 2020. . <https://www.documentcloud.org/documents/6989345-Willoughby-Arson-Complaint.html>
- Williams, Philip. "This Is What It's like inside Seattle's 'Autonomous Zone'." *ABC News*. ABC News, June 15, 2020. <http://www.abc.net.au/news/2020-06-14/this-is-what-its-like-inside-seattles-autonomous-zone/12350342>.
- Zilly, Judge Thomas S. Order on Motion to Stay. *Hunters Capital LLC Et Al v. City of Seattle* (United States District Court for the Western District of Washington October 16, 2020).

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Reacting in a Digital Age: A Habermasian Analysis of Facebook's Public Sphere

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Abstract: The growing prominence of digital technologies has captured the attention of political theorists, giving rise to extensive and fruitful reflection on their important role in our social and political lives. But, notably, political theorists—specifically deliberative theorists—have mainly been skeptical about the applicability of digital technologies into deliberative processes because they argue that online communication compromises the very deliberation that deliberative theory should pursue. In this paper, I outline an alternative view and offer an approach for thinking about online communication, specifically regarding Facebook. By focusing on the Facebook platform, I demonstrate how its unique features introduce us to novel, and more inclusive, ways to think about online communication. In sketching out my view, I utilize a Habermasian approach to argue that Facebook Groups resemble Habermas's public sphere and also consider the role that Facebook Reactions play in the conversations we have with one another on Facebook. The upshot of my argument is that Facebook's public sphere—the digital public sphere—comes closer to realizing Habermas's goal of an inclusive public sphere.

Introduction

Among the burgeoning topics of study within the field of political theory has been deliberative democracy, generating a diverse and robust literature committed to studying the role of deliberation in political decision-making.¹ In their efforts to develop methods for evaluating deliberation, political theorists have engaged with the growing role of digital technologies, reflecting what may be called the digital age.² To call it the digital age suggests that social and political connection is sustained through social media platforms like Facebook and Twitter, as the COVID-19 pandemic has shown us. Despite this new advancement, the literature on deliberative theory has not derived much insight from these social media platforms themselves.

Thinking along these lines is integral, because the likelihood of social media platforms having a greater influence on the political landscape has increased in recent years, among political and apolitical users alike. What we find original in this context are what seem to be new forms of communication, such as “photos” on Instagram and “likes” on Facebook. By new forms of communication, I mean the kinds of digital features users partake in when they utilize these social media platforms, particularly those that are community-oriented and foster deliberative activity online.³ To be sure, this online context presents an exciting opportunity for deliberative theorists to see what, if any, resources these new forms of communication might offer to contemporary political theory and empirical political science.

¹ See, e.g., Simone Chambers, “Deliberative Democratic Theory,” *Annual Review of Political Science* 6 (2003): 307-26; Amy Gutmann and Dennis Thompson, *Why Deliberative Democracy?* (Princeton, NJ: Princeton University Press, 2004); Derek W.M. Barker, Noëlle McAfee, and David W. McIvor, *Democratizing Deliberation: A Political Theory Anthology* (Dayton, Ohio: Kettering Foundation Press, 2012).

² See, e.g., Zizi A. Papacharissi, *A Private Sphere: Democracy in a Digital Age* (Malden, MA: Polity Press, 2010); Anthony G. Wilhelm, *Democracy in the Digital Age: Challenges to Political Life in Cyberspace* (New York: Routledge, 2000).

³ This point has been made by both political scientists and political theorists alike. For further discussion, see Helen Margetts et al., *Political Turbulence: How Social Media Shape Collective Action* (Princeton, NJ: Princeton University Press, 2016).

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Upon surveying the field, some scholars argue that social media platforms are riddled with too many problems to make them effective deliberative forums, while others assert that online activity is, in its most basic form, about consumption.^{4,5} According to these accounts, online users are not deliberators. Instead, they are consumers of media, which suggests that the online setting is not conducive to deliberation that can form public opinion. In addition, social media platforms fail to facilitate common recognition because they are typically not understood as a space we share with others. So, is it possible to outline an alternative account, one that sees these novel forms of communication as advancing deliberative activity online? Do social media platforms only treat people, in the words of Noëlle McAfee, as “beseechers and consumers,” or do they offer us the potential to communicate with one another in ways that are meaningful, producing novel and significant deliberative effects?

In this paper, I describe an approach for the study of online communication that helps resolve some of these challenges, while also demonstrating what novel forms of communication are provided to deliberative theory in this context. Specifically, I focus on Facebook and argue that the digital public sphere offers unique insight into thinking about new communicative tools, such as Facebook Reactions.⁶ The conceptual questions are twofold: First, how does the concept of the digital public sphere represent a break from that of the public sphere, as imagined originally by Jürgen Habermas? Second, how, and in what ways, can Facebook Groups and Facebook Reactions offer us new communicative tools that have the potential to foster deliberative activity online?

The paper proceeds in three parts. First, I outline the original conception of the public sphere articulated in *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. In turning to Habermas, I find that there are resources in his work, particularly his attentiveness to the formation of the public sphere, that highlight the significance of introducing different forms of communication as meaningful to deliberative processes.⁷ Using Habermas’s original conception of the public sphere, I then explain the extent to which that conception is adapted when we consider the digital public sphere, proposing that social media platforms offer us new communicative tools, specifically Facebook Reactions. Finally, while considering objections to my account, I flesh out the implications of this view for deliberative theory. In particular, I look at another Facebook feature, Facebook Groups, to suggest that they resemble Habermas’s coffee houses, salons, and table societies in a modern, online setting.

I. Habermas and the Public Sphere

In *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Habermas outlines a historical-sociological account of the public sphere, defining it as the realm of social life in which public opinion can be

⁴ See, e.g., Noëlle McAfee, “Acting Political in a Digital Age,” in *From Voice to Influence: Understanding Citizenship in a Digital Age*, ed. Danielle S. Allen and Jennifer S. Light (Chicago: University of Chicago Press, 2015), 273-92.

⁵ See, e.g., Simone Chambers, “Truth, Deliberative Democracy, and the Virtues of Accuracy: Is Fake News Destroying the Public Sphere?,” *Political Studies* 68, no. 1 (2020): 1-17; Homero Gil de Zúñiga and Hsuan-Ting Chen, “Digital Media and Politics: Effects of the Great Information and Communication Divides,” *Journal of Broadcasting & Electronic Media* 63, no. 3 (2019): 365-73; Cass R. Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton, NJ: Princeton University Press, 2017).

⁶ A Facebook Reaction is a digital icon used to express an online reaction on Facebook’s platform.

⁷ I am drawing here on Iris Marion Young’s work on deliberative theory. See, in particular, Iris Marion Young, “Communication and the Other: Beyond Deliberative Democracy,” in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton, NJ: Princeton University Press, 1996), 120-36.

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formed.⁸ Habermas is offering us a genealogical account of the public sphere, describing how it came into being and what it might become in a world where technology reigns. Since its initial publication in 1962 and its translation into English in 1989, there has been a robust and lively field of scholarship assessing the public sphere's place and relevance in modern political discourse.⁹ According to Habermas, the "bourgeois public sphere may be conceived above all as the sphere of private people come together as a public."¹⁰ Attending to the modern world, Habermas suggests that the public sphere can refer to those spaces and places—whether in coffee houses, salons, or table societies—where citizens can talk about matters of common concern:

The "town" was the life center of civil society not only economically; in cultural-political contrast to the court, it designated especially an early public sphere in the world of letters whose institutions were the coffee houses, the salons, and the *Tischgesellschaften* (table societies).¹¹

What Habermas finds in these new associations are a set of norms conducive to democracy, and of particular importance was the rise of a free press.¹² For Habermas, the public sphere is the nexus between public life and civil society, where discussions can be had freely and democratically. On this view, private concerns became public concerns, whereby the private, no longer siloed off from a hidden realm, now took on public importance:

The bourgeois public sphere arose historically in conjunction with a society separated from the state. The "social" could be constituted as its own sphere to the degree that on the one hand the reproduction of life took on private forms, while on the other hand the private realm as a whole assumed public relevance. The general rules that governed interaction among private people now became a public concern.¹³

To call this the public sphere suggests that these discussions are directed toward the common good, as the formation of public opinion by means of rational discourse, deliberation, and debate aimed at political decision-making.

Locating the emergence of the public sphere in parts of 18th century Europe, Habermas argues that the structures of social life did not allow for any clear distinction

⁸ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, MA: MIT Press, 1989).

⁹ See, e.g., Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," *Social Text* 25/26 (1990): 56-80; Lincoln Dahlberg, "The Habermasian Public Sphere and Exclusion: An Engagement with Poststructuralist-Influenced Critics," *Communication Theory* 24, no. 1 (2014): 21-41; Douglas Kellner, "Habermas, The Public Sphere, and Democracy," in *Re-Imagining Public Space: The Frankfurt School in the 21st Century*, ed. Diana Boros and James Glass (US: Palgrave Macmillan, 2014), 19-43; Dounia Mahlouly, "Re thinking the Public Sphere in a Digital Environment: Similarities Between the Eighteenth and the Twenty-First Centuries," *Esharp* 20, no. 6 (2013): 1-19; Nicholas Garnham, "Habermas and the Public Sphere," *Global Media and Communication* 3, no. 2 (2007): 201-14; Pieter Boeder, "Habermas' Heritage: The Future of the Public Sphere in the Network Society," *First Monday* 10, no. 9 (2005): 13-27; Alexey Salikov, "Hannah Arendt, Jürgen Habermas, and Rethinking the Public Sphere in the Age of Social Media," *Russian Sociological Review* 17, no. 4 (2018): 88-102.

¹⁰ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 27.

¹¹ *Ibid.*, 30.

¹² *Ibid.*, 92-98. For Habermas, the press played an integral role in forming the public sphere, for a government founded on consent, on his account, requires a free press. "[T]he press," as he puts it, "was for the first time established as a genuinely critical organ of a public engaged in critical political debate" (60).

¹³ *Ibid.*, 127.

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between the public and the private and between the state and society.¹⁴ The first semblance of the public sphere appeared initially as the *bourgeois* public sphere, in reference to the emergence of a middle class with the time, money, and education to engage in political and social debates.¹⁵ Despite the fact the public sphere was historically dominated by the bourgeoisie, Habermas believes the ideal public sphere is accessible to all, regardless of class position. Yet it is worth noting that critics of Habermas have argued that the extent of this inclusiveness in practice is quite limited, and that the extension of the public sphere to the online realm is similarly exclusive, as elaborated on later in this paper.¹⁶

Central to Habermas's argument here is the claim that it is not class that binds participants of the public sphere. "The subject of this publicity," Habermas claims, "is the public as carrier of public opinion; its function as a critical judge is precisely what makes the public character of proceedings—in court, for instance—meaningful."¹⁷ Indeed, for Habermas, the very success of the public sphere depends upon robust rational-critical debate, in which everyone is an equal participant and has equal opportunities to convince others of the strength of their arguments. He writes: "Publicity was, according to its very idea, a principle of democracy...it could only be realized in the measure that these personal opinions could evolve through the rational-critical debate of a public into public opinion—*opinion publique*."¹⁸ The public sphere's critical function would include what Richard J. Bernstein refers to as a normative core.¹⁹ As Bernstein notes: "[H]e appeals to the normative core embedded in the bourgeois public sphere. The revitalization of a critical public is the very heart of political democracy."²⁰

This normative core, Habermas finds, has vanished in our contemporary setting. This is because the public sphere has been taken over by capitalist and consumerist tendencies, as public opinion is increasingly shaped and formed by the interests of corporations.²¹ In Habermas's words: "Inasmuch as the mass media today strip away the literary husks from that kind of bourgeois self-interpretation and utilize them as marketable forms for the public services provided in a culture of consumers, the original meaning is reversed."²² The public sphere is no longer about political deliberation. It is, rather, about amusement and advertisement: "Publicity loses its critical function in favor of a staged display."²³ Therefore, it follows that the public sphere is weakened, perhaps deteriorated altogether, from serving its critical function, which is to generate true public opinion.

¹⁴ *Ibid.*, 125.

¹⁵ As Habermas explains: "The coffee house not merely made access to the relevant circles less formal and easier; it embraced the wider strata of the middle class, including craftsmen and shopkeepers" (33).

¹⁶ See, e.g., Jodi Dean, "Why the Net is not a Public Sphere," *Constellations* 10, no. 1 (2003): 95-112.

¹⁷ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 2.

¹⁸ *Ibid.*, 219.

¹⁹ Richard J. Bernstein, "The Normative Core of the Public Sphere," *Political Theory* 40, no. 6 (2012): 767-78

²⁰ *Ibid.*, 774.

²¹ It is worth noting that this criticism has generated a considerable presence in the public sphere literature. For further discussion, see Peter Uwe Hohendahl, "Critical Theory, Public Sphere, and Culture: Jürgen Habermas and His Critics," in *The Institution of Criticism* (Ithaca: Cornell University Press, 1982), 242-80; Aeron Davis, *Promotional Cultures: The Rise and Spread of Advertising, Public Relations, Marketing and Branding* (Malden, MA: Polity Press, 2013).

²² Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 171.

²³ *Ibid.*, 206.

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II. The Digital Public Sphere

We can now turn to the concept of the digital public sphere. Our question, if we recall, was the extent to which the digital public sphere represents a break from Habermas's original conception. Indeed, as we shall see, the digital public sphere addresses many of Habermas's concerns, such as the criticism that the public sphere is no longer about communication and deliberation, but simply about amusement and advertisement. To get a better sense of what a reply to Habermas might look like, let's first turn our attention to defining the digital public sphere. What is the digital public sphere? Fundamentally, what is its architecture?

In his article, "Digital Public Sphere," Mike Schäfer answers these two questions by outlining the digital public sphere and its use in the literature:

Researchers envision the digital public sphere as a communicative sphere provided or supported by online or social media, from websites to social network sites, weblogs, and micro-blogs, where participation is open and freely available to everybody who's interested, where matters of common concern can be discussed, and where proceedings are visible to all.²⁴

Understood broadly as a communicative sphere online, the digital public sphere is marked by its transparency and accessibility; there are no barriers to entry because "proceedings are visible to all." Additionally, anyone can create a blog or a Facebook account, insofar as they have internet access. Inherited from Habermas's public sphere, the digital public sphere is a relatively novel concept, emerging alongside the proliferation of internet access in the early 21st century.²⁵ In this context, perhaps digital technologies have given rise to a second structural transformation of the public sphere.

However, the effects of the digital public sphere are "still largely unknown and may be rather small."²⁶ Schäfer shows that, among other research findings, "political discussions online ... tend to differ strongly from rational, civil deliberation."²⁷ Indeed, this interpretation is well-founded. Upon examining the literature, scholarly accounts cast doubt on the potential for the internet to create a public sphere.²⁸ This criticism, it appears, is tied to the idea that the public sphere must achieve a deliberative function, one where public opinion is generated. What is particularly significant in this context is that the digital public sphere does not seem to generate this. It is worth noting that the internet has created a new category for understanding political discourse, particularly on social media platforms. In creating this digital environment, the internet has, in Terje Rasmussen's words, "cancelled the social division between speakers and listeners of the public sphere and made everyone into potential participants."²⁹ Rasmussen argues that social media platforms have turned the public into narrators, reporters, editors, and broadcasters. When we examine Facebook, Rasmussen's argument is validated, since one

²⁴ M.S. Schäfer, "Digital Public Sphere," in *The International Encyclopedia of Political Communication*, ed. Gianpietro Mazzoleni, 1st ed., vol. 3 (Hoboken, NJ: Wiley, 2015), 1.

²⁵ One of the most important aspects of this increase in internet accessibility has been the (a) democratization of technology and (b) democratization of information. For further discussion, see Peter Dahlgren, *The Political Web: Media Participation and Alternative Democracy* (London, UK: Palgrave Macmillan, 2013).

²⁶ Schäfer, "Digital Public Sphere," 2.

²⁷ *Ibid.*, 5.

²⁸ See, in particular, Simone Chambers and John Gastil, "Deliberation, Democracy, and the Digital Landscape," *Political Studies* 68, no. 1 (2020): 17-33.

²⁹ Terje Rasmussen, "Internet and the Political Public Sphere," *Sociology Compass* 8 (2014): 1316.

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of the significant features unique to the platform is its ability to generate an environment conducive to communication. As a communicative space, then, Facebook has become more than a consumption platform.

III. Facebook Reactions

Facebook “Reactions” are quite similar to the “Emojis” available to smartphone users. As a small digital icon, an Emoji can be used to express ideas, emotions, or statements in text message conversations. Reactions, like Emojis, are one of the methods used by Facebook to promote conversation on the platform; currently, they include “Like,” “Love,” “Care,” “Haha,” “Wow,” “Sad,” and “Angry.” Users can “React” to a Facebook post, choosing one of the seven Reactions that fit their relevant real life “reaction.” We can posit at least two principles underlying the application of Reactions on the Facebook platform: (a) universality and (b) expressivity. Shown here, these two principles illuminate the usage of Reactions on the Facebook platform.

Universality refers to the idea that communication should be shared and understood in a global perspective, so that users can communicate with others across social and political boundaries in more effective methods. A “Sad” Reaction, for instance, leaves an impression that seems to transcend geographic boundaries, since the Reaction is linguistically universal; it can be understood without verbal communication.

Expressivity refers to the idea that this type of communication should be expressive in nature, meaning that it should mirror the expressions we have in face-to-face communication. Expressing a “Wow” Reaction, for example, might have a substantive effect on an online conversation, an effect potentially impossible without the Reaction.

In her article “Constructing Digital Democracies: Facebook, Arendt, and the Politics of Design,” Jennifer Forestal writes that the “introduction of Reactions into users’ Facebook experience may at first appear to be a relatively mundane design tweak. Yet seemingly small changes to the design of digital platforms can have enormous implications for how, and how well, we collectively practice democratic politics.”³⁰ Forestal concludes that Reactions have undermined the platform’s democratic potential because they have closed off spaces of appearance, but this claim is unwarranted for at least two reasons. First, Facebook Reactions afford users the ability to communicate with others in ways that are accessible, and, as a result, more inclusive. Second, Facebook Reactions give users a language to construct and convey their own thinking on various matters, as users are able to present their claims in understandable and meaningful ways to their fellow peers.

Reactions create this effect by reflecting the emotional component of speech, thereby tapping into greater communicative resources which humanize online communication. After all, facial expressions are an integral component of human communication, and are lost, it seems, when we communicate on online platforms.³¹ The two principles that constitute the application of Reactions need not, it is true, comprise a comprehensive vision of the right or wrong way to communicate online. Nonetheless, the epistemic resources Reactions rely on the important claim that online communication has the potential to be universal and expressive. Communication, described in this way, is designed to be comprehensible to the broadest possible audience. The key to this claim is

³⁰ Jennifer Forestal, “Constructing Digital Democracies: Facebook, Arendt, and the Politics of Design,” *Political Studies* 68, no. 1 (2020): 38.

³¹ I should clarify that my reference to human communication here is to an understanding of communication as capable of being both universal and expressive. I take it that there are significant differences between face-to-face communication and online communication. But, as I’d like to suggest, there are ways in which online communication mirrors face-to-face communication, and that is enabled by Reactions.

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to understand that Reactions are not, on their own, things that can create a functioning deliberative public. Instead, they are part of a broader deliberative toolkit that Facebook offers its users which, when combined, can generate an effective public sphere.³²

IV. Facebook Groups

In this last section, I will consider the implications of the proposed view. My claim here is that Facebook Groups resemble Habermas's coffee houses, salons, and table societies—those spaces and places that engendered the public sphere. In each of these environments, Habermas argues that they “preserved a kind of social intercourse that, far from presupposing the equality of status, disregarded status altogether.”³³ Citizens debated political issues, giving shape to the direction of political practice. Facebook Groups are analogous to these spaces; they allow Facebook users to connect with others, functioning essentially as communities of interest. This claim has a number of important implications.

A first implication is that Facebook Groups facilitate the multitude of interactions one would have in the digital public sphere, both between users and between the content received on a Facebook profile. Here, the claim that Facebook is an extension and adaptation of Habermas's public sphere becomes particularly relevant. Unlike the *bourgeois* public sphere depicted by Habermas, where public issues were debated, discussed, and deliberated by educated, landed owning men, Facebook by contrast provides a space where public issues can be communicated by all types of people—and that such communication is made possible by the platform itself. The claim that it is a mutual will that motivates us to discuss issues that are in the public interest, and not merely class, helps us to see how Facebook Groups represent a more contemporary conceptualization of Habermas's original insight.

This inclusive, expansive understanding of the digital public sphere should be the subject of interest for deliberative democrats. For one, the communication on Facebook that I have been describing here can be seen to represent an empowering form of agency—one which combines a notion of belonging with a notion of inclusivity. The former provides us with a helpful framework for making sense of the idea that online communication can be tied to political participation.³⁴ As Vanessa May notes, social structures are “meaningful in people's lives because they continue the historical givens in relation to which individuals act and which are relatively stable over time.”³⁵ In other words, our activity in the world is not self-contained, but always influenced by the structures in which we find ourselves. We always act and speak *somewhere*, and the design of that “where” will always shape how we communicate with others, whether online or in the real world.³⁶

³² My claim here thus resembles that known as a “network notification system for deliberation.” For further discussion, see Mustafa Oz, “Facebook as a Public Deliberative Space: Social Media, Deliberation and Public Sphere,” *Social Media Studies* 3, no. 1 (2016): 41-50.

³³ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 36.

³⁴ See, e.g., Vanessa May, *Connecting Self to Society: Belonging in a Changing World* (New York: Palgrave Macmillan, 2013).

³⁵ *Ibid.*, 43.

³⁶ As Habermas suggests, the social structures that actualized the public sphere were not neutral. Rather, they were “safeguarded whenever the economic and social conditions gave everyone an equal chance to meet the criteria for admission: specifically, to earn the qualifications for private autonomy that made for the educated and property owning person” (Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 86).

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This attentiveness to design platforms is an often overlooked—though no less integral—feature of democratic deliberation. The effects of Facebook’s software designs are thus central to serving its digital public sphere. Facebook Groups, which at times can function on private domains where an invite from the Group creator is required to enter the group, are accessible to the Facebook public at large. Members can raise topics suited to the theme of the Group, resulting in active participation among group members. Members are, in Habermas’s words, “conscious of being part of a larger public,” because they can never exclude others given Facebook’s public domain.³⁷ Habermas writes:

However exclusive the public might be in any given instance, it could never close itself off entirely and become consolidated as a clique; for it always understood and found itself immersed within a more inclusive public of all private people, persons who—insofar as they were propertied and educated—as readers, listeners, and spectators could avail themselves via the market of the objects that were subject to discussion.³⁸

Here, Habermas claims that educated men with property were brought into the public sphere as readers, listeners, and spectators, and this created the conditions fruitful for deliberation. It was incapable of being a “clique” and closing itself off because discussion was open and available to everyone. But it was, as we have seen, only open to property-owning, educated men. Thus there is a question worth raising here, since it might seem like Habermas’s analysis is not applicable to social media platforms like Facebook. We might want to ask the following question: How does internet inaccessibility challenge the notion that the digital public sphere is public and open to all?

This point has captured the attention of one political party in particular, and could be an area for further research, especially as it concerns what some scholars have called “the digital divide.”^{39, 40} Notwithstanding this challenge, there does seem to be significant progress when we compare Habermas’s public sphere—where propertied and educated men were the only ones taking part in discussion—with the digital public sphere, where such class barriers are dissolved.⁴³ This is because discussions are visible to the public, that is, to those who have a Facebook account. Furthermore, when we consider how social interaction functions on Facebook, we are invited to think of ourselves as digital citizens, as those who are capable of being, in Habermas’s estimation, readers, listeners, and spectators.

However, if we examine these platforms more closely, their design features can blur the picture we have been sketching. This fact raises a second objection: that is, social media alienates us more than it unites us. When users belong to Groups that are content-specific, a group for Democrats or Republicans, they seem more isolated than connected. They inhabit a private sphere more than a public one. Instead of fostering mutual recognition around public issues, spaces such as Facebook Groups might have an adverse effect, tearing down that sense of commonality necessary for civic participation. In this process, they isolate us and work to conceal the social connections necessary for robust,

³⁷ *Ibid.*, 37.

³⁸ *Ibid.*

³⁹ See Seong-Jae Min, “From the Digital Divide to the Democratic Divide: Internet Skills, Political Interest, and the Second-Level Digital Divide in Political Internet Use,” *Journal of Information Technology & Politics* 7, no. 1 (2010): 22-35.

⁴⁰ See, e.g., the 2019 Labour Party Manifesto, where “free full-fibre broadband” was cited on the Party’s platform.

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democratic discussion. In addition, the design of these Groups reinforce this social mentality of isolation.⁴¹ So much, then, for a “public” sphere.

Perhaps one way of articulating this objection is to claim that Facebook Groups are, in essence, echo chambers. They might even be filter bubbles, a term coined by Eli Pariser.⁴² Those who maintain this view typically regard Facebook Groups as a betrayal of the very meaning of the public sphere.⁴³ The fundamental assumption driving this type of analysis is that the digital public sphere has lost touch with the very nature of deliberation, which is conceived as that type of communication—rational and critical—formative to public opinion. Yet the concern for this type of deliberation obscures the features I have been highlighting so far, and, moreover, the focus on this rationalistic type of deliberation has evaded the more basic fact that deliberation has to do essentially with communication.⁴⁴ At issue, then, is the framework within which we should evaluate online communication. The point is not so much that Facebook Groups should themselves be rejected as that online communication needs to be able to stand back from certain forms of action that alienate us.

So while it might seem as if Facebook Groups are nothing more than filter bubbles, there is an alternative interpretive framework. In her article entitled, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” Nancy Fraser argues that a public sphere involves multiple spheres; there is not just *one* public sphere.⁴⁵ In Fraser’s view, the public sphere, outlined by Habermas, required the bracketing of inequalities in order to mask domination. A single public sphere, a public sphere where one voice speaks for all, is not the ideal model since only those with power will be heard. Thus Fraser advocates for what she calls “subaltern counterpublics,” and her argument offers us a theoretical framework useful for thinking about Facebook Groups as these counterpublics, since the suggestion that we need multiple public spheres is made evident with Groups. The more public spheres we have, so the argument posits, the more power will be diffused, which thereby ensures that inclusiveness is upheld as more voices can join in the deliberative process.

Peter Dahlgren furthers this analysis, writing that “[t]here must exist spaces in which citizens belonging to different groups and cultures, or speaking in registers or even languages, will find participation meaningful.”⁴⁶ One can notice these spaces in operation with Facebook Groups, which, structurally, extend and limit the number of communicative spaces that users can have with one another on Facebook. According to Dahlgren, Facebook Groups can function in conjunction with a larger perspective, since participation can only make sense for an individual if they belong to different groups, like

⁴¹ For an insightful analysis of this phenomenon, see Greg Goldberg, “Rethinking the Public/Virtual Sphere: The Problem with Participation,” *New Media & Society* 13, no. 5 (2011): 739-54.

⁴² See, e.g., Eli Pariser, *The Filter Bubble: What the Internet is Hiding from You* (New York: Penguin Press, 2011); Dominic Spohr, “Fake News and Ideological Polarization: Filter Bubbles and Selective Exposure on Social Media,” *Business Information Review* 34, no. 3 (2017): 150-60; Huw C. Davies, “Redefining Filter Bubbles as (Escapable) Socio-Technical Recursion,” *Sociological Research Online* 23, no. 3 (2018): 637-54; Engin Bozdog and Jeroen van den Hoven, “Breaking the Filter Bubble: Democracy and Design,” *Ethics and Information Technology* 17, no. 1 (2015): 249-65.

⁴³ For more on this point, see Lisa M. Kruse et al., “Social Media as a Public Sphere? Politics on Social Media,” *The Sociological Quarterly* 59, no. 1 (2018): 62-84.

⁴⁴ That is, deliberation is, and should be, about communication and persuasion, not the rationalistic picture painted by many deliberative theorists. For a discussion that highlights this view, see John Gastil, “Communication as Deliberation,” in *Communication as ... : Perspectives on Theory*, ed. Gregory Shepherd, Jeffrey St. John, and Ted Striphas (Thousand Oaks, CA: Sage, 2005), 164-73.

⁴⁵ Nancy Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” *Social Text* 25/26 (1990): 56-80.

⁴⁶ Peter Dahlgren, “The Internet, Public Spheres, and Political Communication: Dispersion and Deliberation” *Political Communication* 22, no. 2 (2005): 152.

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Facebook Groups. Seen in this way, Groups do not necessarily have to be interpreted as echo chambers or filter bubbles. But even if they are to be interpreted as such, it does not follow that they cannot be used in tandem with this larger perspective, as both Fraser and Dahlgren note.

Alongside Reactions, users can engage with their fellow peers through the use of comments, sharing their perspectives on the relevant shared issue. Through reason-giving, users can respond to others, either by written communication or by Reactions, to provide reasons, justifications, and responses to others. Furthermore it might be more suitable for a user to employ a Reaction than a text-based comment in certain circumstances. This is because Reactions can render more nuanced responses than responses conveyed solely through text-based comments. Using the two together can also illuminate ideas and arguments in ways that are not conveyed by one of them alone. All the same, it is important to recognize that Reactions, though not the same as reason-giving, still depend on this more fundamental notion of communication. Perhaps we might ask if there are instances where users can accept or reject these options.

Indeed there can be. The impression that one must choose only between using a comment or using a Reaction disappears once it is acknowledged that no online communication, however novel and unique, can be universally accommodating. Clearly some users may see reasons of various sorts to engage in communication with their peers without Reactions. To the extent that they therefore impart their emotions, communication will be seen very differently. Some users, for instance, may fault the use of Reactions for lacking the substance and sufficient reason-giving component to accomplish the task of successful communication in a Group. Others may accuse Reactions as limiting what we can and cannot express to one another. Most significantly, there may be some who reject the idea that Reactions adequately express what we really want to say to each other. Of course, there is no easy way to handle these problems, but it is important that Reactions introduce us to new and unique ways to engage with one another on Facebook.

V. Conclusion

The COVID-19 pandemic that began in early 2020 has shown us the power of technology and the role that social media platforms have played in sustaining social connectivity. Democratic theorists especially, often critical of the efficacy of the digital public sphere, will benefit greatly from an alternative reading of online communication. Features such as Reactions and Groups allow Facebook, as a digital public sphere, to provide a Habermasian public sphere in a contemporary setting. This new public sphere thus comes closer to realizing Habermas's goal, functioning as an adaptation of Habermas's public sphere.

The fact that social media constitutes a large percentage of online activity may testify to the powerful role that digital technologies play in the modern political imagination. Though social media platforms may hint at greater deliberative activity online, we should still be cautious about potential dangers. In order to continue developing social media platforms that have democratic considerations in view, we must be attentive to the infrastructures that exist on these digital platforms, proceeding not with quixotic thinking but with deliberate caution. That could mean, for instance,

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devoting more resources to ensuring that the digital public sphere is not just a digital sphere, but, rather, a digital *public* sphere—public to all.⁴⁷

⁴⁷ I am grateful to Daniela Cammack for her extensive support on earlier drafts of this paper. I also would like to thank Scott Casleton, Niko Kolodny, Everardo Reyes, David Schraub, Hans Sluga, and the reviewers of *The Michigan Journal of Political Science*.

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References

- Barker, Derek, Noëlle McAfee, and David McIvor. *Democratizing Deliberation: A Political Theory Anthology*. Dayton, Ohio: Kettering Foundation Press, 2012.
- Barney, Darin. "Invasions of Publicity: Digital Networks and the Privatization of the Public Sphere." In *New Perspectives on the Public-Private Divide*, ed. by the Law Commission of Canada, 94-123. Vancouver, BC: UCB Press, 2003.
- Batorski, Dominik, and Ilona Grzywinska. "Three Dimensions of the Public Sphere on Face book." *Information, Communication & Society* 21, no. 3 (2017): 356-74.
- Bernstein, Richard. "The Normative Core of the Public Sphere." *Political Theory* 40, no. 6 (2012): 767-78.
- Bhattacharyya, Rituparna. "#Metoo Movement: An Awareness Campaign." *International Journal of Innovation, Creativity and Change* 3, no. 4 (2018): 1-12.
- Boreder, Pieter. "Habermas' Heritage: The Future of the Public Sphere in the Network Society." *First Monday* 10, no. 9 (2005): 13-27.
- Chambers, Simone. "Deliberative Democratic Theory." *Annual Review of Political Science* 6 (2003): 307-26.
- Chambers, Simone. "Discourse and Democratic Practices." In *The Cambridge Companion to Habermas*, ed. by Stephen White, 233-259. Cambridge, UK: Cambridge University Press, 1995.
- Chambers, Simone. "Truth, Deliberative Democracy, and the Virtues of Accuracy: Is Fake News Destroying the Public Sphere?" *Political Studies* 68, no. 1 (2020): 1-17.
- Chambers, Simone, and John Gastil. "Deliberation, Democracy, and the Digital Landscape." *Political Studies* 68, no. 1 (2020): 18-33.
- Dahlberg, Lincoln. "The Habermasian Public Sphere and Exclusion: An Engagement with Post structuralist-Influence Critics." *Communication Theory* 24, no. 1 (2014): 21-41.
- Dahlgren, Peter. "The Internet, Public Spheres, and Political Communication: Dispersion and Deliberation." *Political Communication* 22, no. 2 (2005): 147-162.
- Dahlgren, Peter. *The Political Web: Media Participation and Alternative Democracy*. London, UK: Palgrave Macmillian, 2013.
- Davis, Aeron. *Promotional Cultures: The Rise and Spread of Advertising, Public Relations, Marketing and Branding*. Malden, MA: Polity Press, 2013.

Political Theory

- Dean, Jodi. "Why the Net is Not a Public Sphere." *Constellations* 10, no. 1 (2003): 95-112.
- Dryzek, John. "Difference Democracy: The Consciousness-Raising Group Against the Gentle men's Club." In *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*, ed. by John Dryzek, 57-80. Oxford: Oxford University Press, 2002.
- Goldberg, Greg. "Rethinking the Public/Virtual Sphere: The Problem with Participation." *New Media & Society* 13, no. 5 (2011): 739-54.
- Gutmann, Amy, and Dennis Thompson. *Why Deliberative Democracy?*. Princeton, NJ: Princeton University Press, 2004.
- Farrell, Henry. "The Consequences of the Internet for Politics." *Annual Review of Political Science* 15 (2012): 35-52.
- Forestal, Jennifer. "Constructing Digital Democracies: Facebook, Arendt, and the Politics of De sign." *Political Studies* 68, no. 1 (2020): 37-52.
- Fraser, Nancy. "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy." *Social Text*, no. 25/26 (1990): 56-80.
- Fung, Archon, Hollie Russon Gilman, and Jennifer Shkabatur. "Six Models for the Internet + Politics." *International Studies Review* 15 (2013): 30-47.
- Garnham, Nicholas. "Habermas and the Public Sphere." *Global Media and Communication* 3, no. 2 (2007): 201-14.
- Gastil, John, and Michael Broghammer. "Linking Theories of Motivation, Game Mechanics, and Public Deliberation to Design an Online System for Participatory Budgeting." *Political Studies* 68, no. 1 (2020): 53-72.
- Habermas, Jürgen. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. Cambridge, MA: MIT Press, 1989.
- Hohendahl, Peter. "Critical Theory, Public Sphere, and Culture: Jürgen Habermas and His Critics." In *The Institution of Criticism*. Ithaca: Cornell University Press, 1982.
- Kellner, Douglas. "Habermas, The Public Sphere, and Democracy." In *Re-Imagining Public Space: The Frankfurt School in the 21st Century*, ed. by Diana Boros and James Glass, 19-43. US: Palgrave Macmillan, 2014.
- Kruse, Lisa et al. "Social Media as a Public Sphere? Politics on Social Media." *The Sociological Quarterly* 59, no. 1 (2018): 62-84.
- Landemore, Hélène. "Beyond the Fact of Disagreement? The Epistemic Turn in Deliberative Democracy." *Social Epistemology* 31, no. 3 (2017): 277-95.

Political Theory

- Landemore, Hélène. "Inclusive Constitution-Making: The Icelandic Experiment." *Journal of Political Philosophy* 23, no. 2 (2014): 166-91.
- Mahlouly, Dounia. "Rethinking the Public Sphere in a Digital Environment: Similarities between the Eighteenth and the Twenty-First Centuries." *Esharp* 20, no. 6 (2013): 109-24.
- Margetts, Helen et al. *Political Turbulence: How Social Media Shape Collective Action*. Princeton, NJ: Princeton University Press, 2016.
- May, Vanessa. *Connecting Self to Society: Belonging in a Changing World*. New York: Palgrave Macmillan, 2013.
- Mazzoleni, Gianpietro. "Towards an Inclusive Digital Public Sphere." In *Can Media Save Democracy?*, ed. by Stephen Coleman, Giles Moss, and Katy Parry, 174-83. London, UK: Palgrave Macmillan, 2016.
- McAfee, Noëlle. "Acting Political in a Digital Age." In *From Voice to Influence: Understanding Citizenship in a Digital Age*, ed. by Danielle Allen and Jennifer Light, 273-92. Chicago: University of Chicago Press, 2015.
- Miller, Patrick et al. "Talking Politics on Facebook: Network Centrality and Political Discussion Practices in Social Media." *Political Research Quarterly* 68, no. 2 (2015): 377-91.
- Minar, David. "Public Opinion in the Perspective of Political Theory." *The Western Political Quarterly* 13, no. 1 (1960): 31-44.
- Oz, Mustafa. "Facebook as a Public Deliberative Space: Social Media, Deliberation and Public Sphere." *Social Media Studies* 3, no. 1 (2016): 41-50.
- Papacharissi, Zizi. *A Private Sphere: Democracy in a Digital Age*. Malden, MA: Polity Press, 2010.
- Pariser, Eli. *The Filter Bubble: What the Internet is Hiding from You*. New York: Penguin Press, 2011.
- Pew Research Center. "Key Findings about the Online News Landscape in America," September 11, 2019. <https://www.pewresearch.org/fact-tank/2019/09/11/key-findings-about-the-online-news-landscape-in-america/>.
- Rasmussen, Terje. "Internet and the Political Public Sphere." *Sociology Compass* 8 (2014): 1315- 1329.
- Salikov, Alexey. "Hannah Arendt, Jürgen Habermas, and Rethinking the Public Sphere in the Age of Social Media." *Russian Sociological Review* 17, no. 4 (2018): 88-102.
- Schäfer, M.S. "Digital Public Sphere." In *The International Encyclopedia of Political Communication*, ed. by Gianpietro Mazzoleni. 1st ed. vol. 3. Hoboken, NJ: Wiley, 2015.

Political Theory

Spohr, Dominic. "Fake News and Ideological Polarization: Filter Bubbles and Selective Exposure on Social Media." *Business Information Review* 34, no. 3 (2017): 150-60.

Sunstein, Cass. *#Republic: Divided Democracy in the Age of Social Media*. Princeton, NJ: Princeton University Press, 2017.

Wilhelm, Anthony. *Democracy in the Digital Age: Challenges to Political Life in Cyberspace*. New York: Routledge, 2000.

Young, Iris Marion. "Activist Challenges to Deliberative Democracy." *Political Theory* 29, no. 5 (2001): 670-90.

Young, Iris Marion. "Communication and the Other: Beyond Deliberative Democracy" In *Democracy and Difference: Contesting the Boundaries of the Political*, ed. by Seyla Benhabib, 120-36. Princeton, NJ: Princeton University Press, 1996.

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Contextualizing the Diceyan Rule of Law: Structuring Queries on Legality, Illegality and Everything in Between

Madhav Singh

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Introduction

When navigating the murky territories of the rule of law caught in between the notion of legality on the one hand and illegality on the other, philosopher John Gardner drew reference to the idea of ‘legal black holes’—geographical places that are deliberately made lawless by regimes otherwise professing to govern by law for the sake of achieving political or economic results.¹ Around 132 years before Gardner penned his article, however, another philosopher of jurisprudence described a phenomenon eerily similar in outcomes but vastly different in scope. Indeed, in an admirable display of reflexivity towards the dwindling respect for the rule of law in England during the late 19th and early 20th century, professor A.V. Dicey inculcated the ‘doctrine of lawlessness’—“[the] marked tendency towards the use of lawless methods for the attainment of social and political ends”—as one of the leading contributors.² Herein, keen observers would notice a common concern for legal black holes, albeit of a different nature, readily reflected in the doctrine of lawlessness; sociological places that are deliberately made lawless by individuals otherwise existing under the rule of law for the fulfillment of social, political, or even economic ends. The question thus remains: what were the mechanisms that made it possible for lawlessness to exist and possibly even thrive under the Diceyan rule of law? Subsequently, was the rule of law successful in upholding its predominance when confronted with the barrage of lawlessness, or did it have to undergo a significant reconceptualization?

To give substance to my inquiry, I begin by formally reviewing the literature necessary to operationalize the notions of the ‘rule of law’ and ‘lawlessness.’ Next, I present a brief literature review to segue into my thesis, which proposes a critical reassessment of the Diceyan rule of law by situating it in an interactive socio-legal environment of lawlessness characterized as the economy of illegality. After formalizing my thesis as a novel theoretical paradigm, I use it to qualitatively investigate the interplay between the rule of law and the economy of illegality in the legal biosphere of 19th and 20th century England. In the end, I furnish my findings and acknowledge the scope and utility of my essay in constructing inquiries about the contemporary development of the rule of law.

I. Literature Review

Only a handful of concepts in the domain of social sciences can effectively lay claim to being as discursive, yet pervasive, as the rule of law. From Aristotle to Locke and Hayek to Raz, numerous philosophers have attempted to demystify the notion of the rule

¹ John Gardner, “The Twilight of Legality,” *Oxford Legal Studies Research Paper*, no. 4 (September 23, 2017): pp. 1-1, <https://doi.org/10.2139/ssrn.3109517>.

² Albert Venn Dicey, “Introduction to the Study of the Law of the Constitution,” in *Introduction to the Study of the Law of the Constitution*, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), p. lv-lv, <https://doi.org/https://oll.libertyfund.org/titles/1714>.

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of law and supply resolutions to the enduring contentions regarding its formal versus substantive definition. Still, most idioms deployed in conversations about the rule of law are taken for granted and would likely not exist if not for the seminal *Introduction to the Study of the Law of the Constitution* by Albert Venn Dicey—the prominent nineteenth-century English jurist who articulated the theoretical foundation for much of the modern discourse on the origins, principles, and ramifications of the rule of law. To advance a comprehensive understanding of the rule of law, especially as it emerged in England, Dicey promulgated three vital principles in his book. First, in the absence of arbitrary power on the part of the government, no person is punishable or can be lawfully made to suffer in either body or goods except for in the case of “[a] distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.”³ Second is the conviction that every person—regardless of their rank or condition—is “subject to the ordinary laws of the realm and amenable to the jurisdiction of ordinary tribunals.”⁴ Third is the belief that each person’s rights are the consequence of judicial decisions in particular cases presented before the courts—which subsequently ensures better protection of rights in England than under foreign constitutions where “the security given to the rights of the individuals results, or appears to result, from the general principles of their constitution” and is thus susceptible to unanticipated revocation.^{5, 6}

The Diceyan principles of the rule of law are straightforward in their legal scope but practicing fidelity to them in the social and political climate of 19th and 20th century England was far more complicated. In one such instance, Dicey lamented what he called the “decline in the reverence for the rule of law” in England from the time of the initial publication of his book in 1885 to the publication of the eighth edition in 1915.⁷ Citing ‘lawlessness’ as one of the primary predictors of the decline, he remarked in the new introduction:

Within the last thirty years, however, there has grown up in England, and indeed in many other civilised countries, a new doctrine as to lawlessness. This novel phenomenon, which perplexes moralists and statesmen, is that large classes of otherwise respectable persons now hold the belief and act on the conviction that it is not only allowable, but even highly praiseworthy, to break the law of the land if the law-breaker is pursuing some end which to him or to her seems to be just and desirable.⁸

While the moral questions of whether it is right or wrong for someone to break the law in pursuit of seemingly just or desirable ends are open to contestation, they neither command the attention of Dicey nor this essay. Instead, the crux of his introduction consisted of a simple, empirical observation—the growth in the exercise of lawlessness—and the numerous reasons supplied by various people as a justification for it. Thus, studying this increasing tolerance afforded to lawless activities became important because

³ Albert Venn Dicey, “The Rule of Law: Its Nature and General Applications,” in *Introduction to the Study of the Law of the Constitution*, ed. Albert Venn Dicey, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), pp. 110-110.

⁴ *Ibid.*, pp. 114-114

⁵ *Ibid.*, pp. 115-115

⁶ *Ibid.*, pp. 115-115

⁷ Albert Venn Dicey, “Introduction to the Study of the Law of the Constitution,” in *Introduction to the Study of the Law of the Constitution*, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), p. lv-lv, <https://doi.org/https://oll.libertyfund.org/titles/1714>.

⁸ Albert Venn Dicey, “Introduction to the Study of the Law of the Constitution,” in *Introduction to the Study of the Law of the Constitution*, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), p. lix-lix, <https://doi.org/https://oll.libertyfund.org/titles/1714>.

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it not only complicated the rule of law as Dicey understood it but also raised important questions regarding the problems in its application and its utility as a template for guiding one's behavior and freedom.

In order to supplement the characterization of lawlessness purported by Dicey, I turn towards the notion of 'the economy of illegality' as described by Michel Foucault in his book *Discipline and Punish*. Foucault defined the term in reference to the margin of *tolerated* illegality of different social strata, ranging from the kinds of lawlessness such as "the non-application of the rule [or] the non-observance of the innumerable edicts and ordinances" to even the "matter of laws gradually falling into abeyance."^{9, 10} This space of the tolerance, situated within the perimeters of the law and custom but "gained by force or obstinacy," was deemed to have its own coherence and economy because it benefitted certain seams of the population, particularly those bereft of more traditional forms of legalistic privilege, thereby becoming "so indispensable a condition of [their] existence that they were often ready to rise up to defend it."^{11, 12} As such, sometimes, especially in its lower regions, the economy of illegality took the form of spectacular criminality—from fiscal illegality to smuggling, looting, "armed struggle against the government's taxation agents," and even waves of mass rebellion. Foucault added that lawlessness, when performed by the marginalized criminal and at no visible cost to the society, benefitted from a "spontaneous wave of sympathy"—wherein acts of popular illegality or even violence were seen as excusable and descending directly from old struggles.^{13, 14} However, lawlessness also resulted in neglect, or even the impossibility of implementing the law and apprehending its offenders, which often implied "silent consent on the part of authorities."¹⁵ Foucault thus concluded that "[...] penal reform was born at the point of junction between the struggle against the power of the sovereign and that against the infra-power of acquired and tolerated illegalities."¹⁶

II. *Thesis and Research Design*

Having delineated the literature that I will build upon, I propose the following thesis: The Diceyan Rule of Law and the Economy of Illegality in a rapidly industrializing England existed in conflict and conversation with each other—which can be conceptualized to take the form of a socio-legal core-periphery structure, wherein certain elements under the rule of law, such as the increased enforcement of remedies and the diminution of the arbitrary, were sustained by an upheaval in the traditional understanding of lawlessness and a rigorous application of legal strength to maintain its new adjustments. In short, the notion of the rule of law in England, as promulgated by Dicey, was not merely an abstract idealization of legal philosophy; rather, it was situated in a dynamic socio-legal context of growing lawlessness to which it was continuously responding.

Motivating my thesis is the belief that it not only serves as a novel historical investigation into the vastly influential social and legal climate of 19th and 20th century England, but it also contextualizes and analyzes Dicey by assessing the empirical dissonance (or harmony) between his principles of the rule of law and actual legal and

⁹ Ibid.,

¹⁰ Michel Foucault and Michel Foucault, "Generalized Punishment," in *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (London, England: Penguin Books, 1991), pp. 82-82.

¹¹ Ibid.,

¹² Ibid.,

¹³ Ibid., pp.83-83

¹⁴ Ibid.,

¹⁵ Ibid., pp. 82-82

¹⁶ Ibid., pp. 87-87

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administrative practice in England. Herein, the underlying assertion is that while Dicey's conceptualization of the rule of law has been (for better or worse) subjected to multiple schools of contemporary legal criticism, there exists an overt gap in literature that can scrutinize the veracity of his arguments without betraying the context of his writing or incurring the grave oversight of anachronism.

As for the research design employed by this essay, I formalize my thesis as a neoteric theoretical framework (Fig. 1) whose primary function is to act as an instrument for structuring explanatory investigations rather than defending a testable hypothesis. The theoretical paradigm utilized is a stripped-down rendition of the 'core-periphery' structure, wherein the core (Diceyan Rule of Law) and the peripheral (Economy of Illegality) are suggested to exist and interact in the following manner: The Diceyan core consists of a twofold composition of the set of social institutions, agencies, and subjects that pledge fidelity to the rule of law, and also the discourses, norms, and identities that simultaneously create and reinforce the objects of its knowledge. On the other hand, the peripheral makes legible the set of actors whose intentionality is not actively governed by any moral or legal consideration for the rule of law; their utterances and behavior instead revolve around the discourse of lawless means at their disposal. The core and the peripheral have incongruous outcomes by the nature of teleology. The peripheral is constantly engaged in the process of exerting a 'force of subversion' on the core, in an attempt to evade or bypass the core's pervasive authority for furthering its own idiosyncratic ends. Meanwhile, the core—aimed at preserving and expanding its authority from the barrage of peripheral subversion—responds by exerting a counter-force in the form of 'legal application,' which tries to minimize the lawless subversion by improving the implementation and internalization of the rule of law. Therefore, these twin forces of lawless subversion and legal application are ultimately oppositional, though not necessarily equal, in nature.

It is imperative to append here that the core and the peripheral are not static or monolithic entities; this essay expects the boundaries of both the core and the peripheral to constantly be changing in accordance with time. This would mean that at any given point in time, due to various often unknown reasons, the influence of either the economy of illegality or the Diceyan rule of law could be greater than the other. As a consequence, two scenarios arise in the case that the force of subversion (F_S) is not equal to the force of legal application (F_A):

1. $F_A > F_S$: The core gradually expands to subsume the peripheral within itself. Qualitatively, this expansion of the Diceyan rule of law would reflect a marked increase in the internalization of the principles of law that guide state-subject and subject-subject interactions, and reinforced security to access forms of legal remedy through emphasized enforcement.
2. $F_S > F_A$: The peripheral gradually engulfs the core within itself. Qualitatively, this contraction of the core would imply that in pursuing certain ends—political, social, economic—subjects increasingly find themselves reliant upon lawless means, thereby diminishing the instrumentality and ascendancy of the rule of law.

Both cases provide a crucial entry point into studying the interactions between the Diceyan rule of law and the surrounding economy of illegality.

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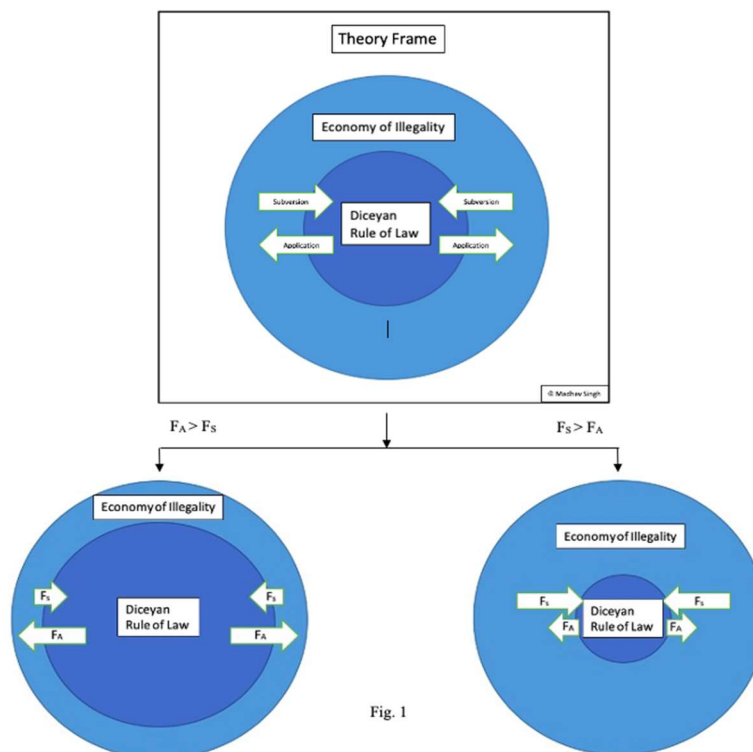


Fig. 1

III. Analysis and Assessment

From where did the economy of illegality derive the force necessary to subvert the rule of law, if at all? Correspondingly, in what ways can we critically evaluate the force of application exerted by the rule of law with respect to the surrounding economy of illegality? Through this section, I answer these questions, and in doing so, hope to reveal the broader operation of the Diceyan rule of law and the significance behind situating a concept in the domain of its context.

Starting with the investigation of the peripheral, or the economy of illegality, it is necessary to examine the underlying apparatuses behind the zeal for lawlessness in Victorian England. Resonating Dicey's postulation on the declining reverence for the rule of law, I argue that the existing paradigm at the time was one which qualitatively afforded greater force of subversion to the peripheral over the core. For Dicey, the single greatest explanation for the functioning of lawlessness was the conflation of the rule of law with the court of public opinion. Claiming that individuals could not fully comprehend the risk and ruin that a departure from the rule of law would entail, he asserted that an 'ambiguity in action' is created when the masses are not only opposed to some law but are also involved in questioning "the moral right of the state to impose or maintain a given law."¹⁷ This ambiguity is further exacerbated when people start to believe that any law that is contrary to the actual conviction of the majority is unjust in nature; it is this belief which ultimately feeds into the idea that "any kind of injustice may, under a democratic government, be rightly opposed by the use of force."¹⁸ In sum, the rule of law and its

¹⁷ Albert Venn Dicey, "Introduction to the Study of the Law of the Constitution," in *Introduction to the Study of the Law of the Constitution*, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), p. lix-lix, <https://doi.org/https://oll.libertyfund.org/titles/1714>.

¹⁸ *Ibid.*, p. lx-lx

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subjects find themselves ill-equipped to deal with lawlessness that is based upon a fundamental difference in public opinion.

However, I further suggest that the representation of lawlessness, or its characterization as the economy of illegality, was much more complicated than what was purported by Dicey. His analysis of the diminishing respect for the rule of law is altogether silent on the vital role played by uncertain (or selective) enforcement of the law by authorities in disorienting the state-subject knowledge relations under the rule of law, thereby contributing to its unpredictability. Take, for instance, the case of *Habeas Corpus*: the legal recourse available for contesting unlawful detention or imprisonment to a court, which, at least for Dicey, was situated at the very heart of the ‘right to personal freedom’ afforded by the rule of law. Even when contemplating the suspension of the *Habeas Corpus*, along with the often added “Act of Indemnity,” he remained firm on the importance of the writ as a guarantor of the right to personal freedom, reasoning that while such a scenario may arm the executive with arbitrary powers, it is constrained in practicality due to the numerous considerations that must be undertaken before its implementation.^{19, 20} Nevertheless, Dicey’s account remains susceptible to a small but salient oversight. Even if one’s access to the writ of *Habeas Corpus* is contingent on the duality of oscillation between its frequent enforcement and rare suspension, they will still find themselves unable to plan their future behavior or conduct in accordance with the rule of law precisely because of the indeterminate nature of this duality—regardless of the actual rarity of the outcome of suspension stacked with indemnity. In short, the people of England may very well have enjoyed a sense of relief in knowing that they had the necessary reactive legal recourse to challenge unlawful detention or imprisonment; however, even the abstract possibility of its suspension would have prevented them from prospectively realizing the true freedom of planning their behavior following the rule of law. Therefore, more generally, the uncertainty surrounding the observance and application of certain crucial laws distorted the security in the knowledge of the rule of law. This prompted people to fill the void by finding their own meaning, even if it meant intentionally or unintentionally venturing into the ambit of lawlessness. Clearly, it is imperative to at least re-think certain aspects of the core in response to these new insights into the functioning of the peripheral.

Before one attempts to answer what could be adopted as a possible reconceptualization of the Diceyan rule of law in 19th and 20th century England, we need to eliminate what it was not. At first glance, it may seem intuitive that the Diceyan core could have responded to the growing peripheral of the economy of illegality by enlarging its legal scope through increased legislation and enactment to combat the novelty of lawlessness. However, this phenomenon of juridification, which John Gardner described as a shorthand for “the proliferation of regulation by law and through law, both the growing volume of such regulation and the way in which it is insinuated into ever more corners of our lives,” is not the answer.²¹ Why? Simply put, juridification shares an inversely proportional relationship with the rule of law, or even legality in general—which is to say that increased legislation in and of itself harms the rule of law more than it helps it. Two reasons justify this puzzling relationship: first, an excess of law makes it more difficult for subjects to either grasp or follow it, and second, it creates conditions of

¹⁹ Albert Venn Dicey, “The Right to Personal Freedom,” in *Introduction to the Study of the Law of the Constitution*, ed. Albert Venn Dicey, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), pp. 142-144.

²⁰ *Ibid.*, pp. 144-145

²¹ John Gardner, “The Twilight of Legality,” *Oxford Legal Studies Research Paper*, no. 4 (September 23, 2017): pp. 2-2, <https://doi.org/10.2139/ssrn.3109517>.

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dependency on the discretion of officials whose enforcement is guided by “fear or favour.”^{22, 23}

Instead, the need of the hour was better implementation and internalization of the already existing discourses, norms, and identities surrounding the rule of law. To illustrate how the core (somewhat) achieved this, I turn towards a proviso of the rule of law which Dicey himself hinted at several occasions but did not attempt to develop in detail. Indeed, I am referring to an asymmetrical conception of the Diceyan rule of law, wherein those whose authority is directly associated with the legal system, such as the police or the judges, are expected to command a disproportionately higher fidelity to the rule of law. When discussing the governance of officials under “official law” and its consistency with the rule of law, Dicey invoked this asymmetrical conception—without terming it such—by asserting that rather than escaping from the duties of the ordinary citizen, the official “incurs from his position legal liabilities from which other men [persons] are exempt.”²⁴ But how exactly does this notion of asymmetry of the Diceyan rule of law enhance our understanding of the core’s response to the economy of illegality? The answer can be best represented through the emergence of professional police in the 19th century, which completely replaced private prosecution, by tracing the qualitative changes in the internalization and implementation of the rule of law core. First, the officials and their newly sanctioned process of police prosecution now epitomized for many Englishmen “the virtues of the Victorian society.”²⁵ More importantly, they began to be viewed as the formal extension of the law. Second, a much more concrete sense of accountability was now built into the police officials’ position, which acted as a stimulus to curb what Foucault called “silent consent on the part of the authorities”—an important aspect which had earlier encouraged lawlessness as discussed. Therefore, the police’s fidelity to the rule of law and their revised enforcement of it emerged as a formal and standardized template on which individuals could now internalize and implement their expectations of freedom concerning future behavior, a task which Dicey once thought to be only robustly satisfied by a remedy like the *Habeas Corpus*.

IV. Conclusion

While it may not be necessarily wrong to say that the doctrine of lawlessness was growing in the later years of the 19th century and throughout the early years of the 20th century, our exploration of the socio-legal plane in England revealed that it would certainly be reductive to conclude from it that the rule of law was correspondingly in decline; the two shared a complicated, non-linear relationship that interacted across a dynamic range of magnitude, direction, and ambivalence. Lawlessness, in its manifestation as the economy of illegality, was often able to powerfully subvert the rule of law—particularly when it derived force from the support of public opinion or harnessed the uncertainty endemic to the legal systems of the time. However, the rule of law also actively responded by introducing asymmetrical grammars of legal application, which obtained force from various implementations such as the formalization of public prosecution and its responsibility for promoting the internalization of fidelity to the rule

²² Ibid., pp. 4-4

²³ Ibid., pp. 5-5

²⁴ Albert Venn Dicey, “The Rule of Law: Its Nature and General Applications,” in *Introduction to the Study of the Law of the Constitution*, ed. Albert Venn Dicey, 8th ed. (Indianapolis, Indiana: Liberty Fund, 1982), pp. 115-115.

²⁵ Douglas Hay, “Crime and Justice in Eighteenth- and Nineteenth-Century England,” *Crime and Justice 2* (1980): pp. 49-49, <https://doi.org/10.1086/449067>.

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of law. What remains to be seen, especially in the contemporary context, is how the canons of this relationship have evolved with changes in the history, discourse, and practice of the rule of law. Suffice to say, my theoretical framework provides merely an entry point into the vast potential for structuring inquiries about legality, illegality, and everything in between.

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References

- Dicey, Albert Venn. *Introduction to the Law of the Constitution*. 8th ed. Indianapolis, Indiana: Liberty Fund, 1982.
- Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. Translated by Alan Sheridan. London, England: Penguin Books, 1991.
- Gardner, John. "The Twilight of Legality." *Oxford Legal Studies Research Paper*, 2018, no. 4 (September 23, 2017). <https://doi.org/10.2139/ssrn.3109517>.
- Hay, Douglas. "Crime and Justice in Eighteenth- and Nineteenth-Century England." *Crime and Justice* 2 (1980): 45–84. <https://doi.org/10.1086/44906>

Section 4:

Comparative Politics

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Featuring:

“To Build a State: A Comparison of Chinese and Japanese Nationalism from 1840-1945”

Written by Vicky Chin
University of California, Santa Cruz, History and Political Science Majors, Class of 2021

“CEDAW and the UN: Addressing Governmental Efforts to Eradicate Discrimination and Violence against Women”

Written by Italia Messina
Temple University, Political Science and Global Studies Majors, Class of 2021

“An Imperfect Union: Dissecting the EU’s Democratic Deficit”

Written by Zack Blumberg
University of Michigan, Political Science Major, Class of 2022

To Build a State: A Comparison of Chinese and Japanese Nationalism from 1840-1945

Vicky Chin

Introduction

In the mid-1800s, Western imperialism stretched to countries across Asia. Some countries like Vietnam and the Philippines were colonized while others existed in a semi-colonial state. Two such semi-colonial countries were China and Japan. These two countries pose an interesting case study on how a state responds to an external threat. Both faced Western threats in the 1850s, had similar systems of government, and used Confucian philosophy to guide their society and culture. However, while Japan modernized quickly, China succumbed to a series of internal and external conflicts that impeded their progress. Multiple factors contributed to their differences. China is significantly larger in terms of population, landmass, and ethnic variation. China also had a longer history interacting with the West through trade, while Japan was mostly isolationist. China served as a battleground for multiple domestic and international military conflicts while the Japanese home islands were relatively peaceful. These variants all played a significant role in why Japan modernized and China floundered. However, there lies another major contributing factor: how the state built and harnessed nationalism.

Nationalism unites a population under a single identity and allows for a government to mobilize its population quickly and effectively. In Japan, the state created a powerful national identity through Shintoism and promoted loyalty to the state, emphasizing the importance of the emperor above all else. This created an important unifying force that allowed the Japanese state to successfully mobilize their population. Meanwhile, China's nationalism centered around sovereignty—which generated multiple interpretations on state building. This was followed by a series of internal and external conflicts that weakened the state and failed to facilitate a national identity.

I. Nationalism, a Brief Overview

According to John Breuilly, nationalism is a fairly modern concept, acting as a political movement which seeks to justify and exercise state power. Although ideas of national sovereignty existed before the 1800s, it was not until the late 18th century that a modern nationalistic movement under a nation-state appeared. There are three main assertions with nationalistic movements: there exists a nation with an explicit and peculiar character, the interest and values of this nation take priority, and the nation must be independent. These three characteristics all contribute to a national identity and how a population mobilizes its forces.¹ Building a national identity can vary from a shared language, religion, culture, ethnic identity, or social movements. In the Japanese and Chinese cases, the state took an active role in promoting nationalism to increase state presence.

Breuilly notes that nationalistic movements tend to oppose the established state. This is true in both China and Japan. Both countries used a national movement to

¹ John Breuilly, *Nationalism and the State*, (Manchester: Manchester University Press, 1993) 2-3

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overthrow their governments. In Japan, the pro-Imperial faction overthrew the Tokugawa Shogunate by rallying behind Emperor Meiji.² The Qing Dynasty fell in China due to a nationalistic movement touting anti-Qing sentiment. However, after changing the regime, both states had to figure out how to set up a new system of government. They faced the challenge of creating a powerful state, maintaining their cultural identity, and mobilizing their population to modernize quickly against the West. In order to meet these challenges, both states relied on rallying nationalism to increase state presence.

Nationalism plays a key role in mobilizing a population. By creating a strong national identity, states are able to effectively unite their country. Building a national identity often revolves around how to face conflict. In Asia, this conflict was the threat of Western encroachment. Perhaps the best example to show the importance of nationalism is the Brazilian case. In the 1960s and 70s, Brazil tried to emulate the East Asian economic miracle with little success. According to Miguel Centeno, Brazil lacked an all-encompassing external conflict to unite the population. Their “limited war” as opposed to “total war” meant the state could not create a strong state presence through infrastructure, military mobilization, or facilitate an “us versus them” mentality needed to create a national identity. As a result, the government was unable to rally their population to work together and overcome a threat. Other factors such as their multiethnic population and colonial legacies also contribute to the state's inability to create a strong national identity. A weak Brazilian identity continues to persist today, and acts as one factor in why the country remains divided along class, race, and ethnic lines.³ There are many other elements such as ethnic homogeneity, economic stability, authoritarians, and colonization that play a role in state-building. But without nationalism, a state cannot unify people under one identity and mobilize effectively.

II. *Japan and Religious Superiority*

Japanese nationalism stems from a foundation of religious and cultural identity. Japanese nationalism promotes the uniqueness of the Japanese identity through Shinto. During the Meiji Restoration, the state underwent a vast reorganization and education reform centered around Shinto. The Japanese state used Shinto as its main vehicle to drive nationalism and modernization efforts.

The Tokugawa Shogunate

Before the arrival of Western imperialists, the Tokugawa Shogunate ruled the islands for over two hundred years. The government, or *bakufu*, acted as an umbrella government over a series of warlords and territories. This feudal system incorporated a decentralized government overlooking independent territories controlled by warlords. However, because of the decentralization, the *bakufu* failed to unite the country and deal with the American threat in the 1850s.⁴

In 1854, Commodore Matthew Perry arrived in Japan to force trade relations between the United States and Japan. The Tokugawa Shogunate, unable to cope with the overwhelming military power of the Americans, signed the Kanagawa Accords. This treaty gave the Americans trading rights and subjugated the Japanese to American laws. In 1868, a number of smaller clans under the imperial banner overthrew the ineffective Tokugawa Shogunate and gave power back to the Emperor Meiji. The new government

² Brueilly, *Nationalism and the State* 240-244

³ Miguel Centeno, *Blood and Debt: War and the Nation-State in Latin America* (Pennsylvania: Penn State University Press, 2003) 1-31

⁴ Louis D. Hayes, *Introduction to Japanese Politics 6th ed.*, (New York: Routledge Press, 2017) 9-13

radically transformed Japan and quickly established an authoritarian state in hopes of modernizing quickly to catch up with the West, thereby marking a turning point for Japanese nationalism.⁵ In order to modernize quickly, the government had to unite the island under one common goal and identity.

The new state faced a problem: how could it modernize without losing the Japanese identity? Part of the reason why the Tokugawa Shogunate failed to cope with the Americans lies within Confucianism. At the time, Confucianism heavily influenced Japanese culture and structured their society. One of its main teachings involves looking to the past to find wisdom. However, when the Tokugawa Shogunate failed to repel the Westerners, many Japanese viewed it as a failing of Confucian principles. However, if Japan got rid of Confucian teachings, it would also lose a fundamental part of its identity. How would Japan “expel the barbarians,” modernize, and still maintain its cultural uniqueness?⁶

The Meiji Restoration

The Meiji Era was a period of industrial growth and Japanese unification.⁷ In 1871, the new Meiji government implemented a series of major government reforms. The new state underwent a bloodless transfer of land from the warlords back to the Crown. The government then divided up the country into prefectures and set up a bureaucracy.⁸ This massive land reorganization only happened due to the perceived Imperial power. Under the feudal system, the Emperor owned all land in Japan and loaned it to warlords. When the Emperor ordered for all territory to be returned and reorganized, the warlords cooperated.⁹ Although the Meiji Restoration and reestablishment of imperial power was done under his name, the Emperor effectively had no real power. The Emperor’s main political role during the Tokugawa shogunate was to legitimize the military government by giving them his blessing to rule. This trend continued in the new Meiji Republic as the government drew its legitimacy from the Emperor’s blessing. The pervasive need for the emperor to legitimize the government shows how tightly the role of the emperor was tied to the state.

While the state was implementing land reform, half of the government under the leadership of Iwakura Tomomi departed on an eighteen-month tour of Europe and America. Their original goal was to try and overturn the unequal treaties. However, Western nations required Japan to develop a legal and political system up to Western standards before they could consider revising the treaty.¹⁰ As a result, the mission’s purpose shifted to learning from the West and gaining ideas on how to develop a modern state by observing different political systems and industrial techniques. One of the most important ideas they came across was the role of Christianity. The Iwakura mission noticed how Christianity acted as a spiritual pillar holding up Western civilization. Religion encouraged diligence, promoted ethics, and increased state presence. As a result,

⁵ Hayes, *Introduction to Japanese Politics*, 14-16

⁶ Brueilly, *Nationalism and the State*, 240-244

⁷ Kawai, Atsushi, “The Meiji Restoration: The End of the Shogunate and the Building of a Modern Japanese State,” nippon.com, November 29, 2018, <https://www.nippon.com/en/views/b06902/the-meiji-restoration-the-end-of-the-shogunate-and-the-building-of-a-modern-japanese-state.html>

⁸ Izumi, Saburo, “The Iwakura Mission: Japan’s 1871 Voyage to Discover the Western World,” nippon.com, June 7, 2019, https://www.nippon.com/en/japan-topics/g00680/the-iwakura-mission-japan%e2%80%99s-1871-voyage-to-discover-the-western-world.html?cx_recs_click=true#

⁹ Brueilly, *Nationalism and the State*, 240-244

¹⁰ Andrew Gordon, *A Modern History of Japan: From Tokugawa Times to the Present*, (New York: Oxford University Press, 2003) 73

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members of the Iwakura mission also wondered how to create that same spiritual pillar in Japan.¹¹

In 1889, the government passed the Meiji Constitution. This Constitution served two purposes: creating a codified system of government, and showing the rest of the world that Japan was a modern, powerful state. The Constitution also codified the importance of the Emperor and stressed the need for nationalism. In the preamble, the Constitution outlines the role of the citizen to “forever assume the duty of allegiance to the present Constitution.”¹² Two sections explicitly state the prominent role of the emperor. Article One of the Constitution states, “The Empire of Japan shall be reigned over and governed by a line of emperors unbroken for ages eternal” while Article Three claims “The Emperor is sacred and inviolable.”¹³ All these factors in the Constitution point to the same narrative: the Emperor was the highest authority in Japan with the divine right to rule. Loyalty to him (and by proxy the state) was a subject's highest priority.¹⁴ Because the Emperor's role was directly tied to the state, the Constitution called for the start of a Japanese nationalistic movement. Building nationalism and Japanese identity became integral to the state's strategy of mobilization and modernization. Perhaps best described by Fukuzawa Yukichi, the father of Japanese nationalism, “*Tenka wa tenka no tenka nari*” or “society is for the good of all.” A good government promotes civilization, and the people must rally behind the government in order to progress.¹⁵

Shinto and the State

Shinto became the most effective tool for the Japanese state and served multiple functions: preserving the Japanese culture, promoting nationalism, and acting as a spiritual pillar. Shinto is a uniquely Japanese belief system with the Emperor at the core. The government pushed hard for it to be incorporated into state functions. This “State Shinto,” as described by Helen Hardacre, was a series of state-sponsored ideological campaigns promoting and using Shinto.¹⁶ During the period between 1889 to 1945, the state used the religion as an ideological foundation to promote the Japanese identity, increase state control, and mobilize their population.

Shinto began around 3000-500 BCE on the Japanese islands by the indigenous population. This created a unique Japanese religion as opposed to Confucianism and Buddhism, which were brought to Japan through China and Korea.¹⁷ Like other polytheistic religions, Shinto had a pantheon of gods and a series of myths that developed the belief system. Two such myths were the *Kojiki* and *Nihon Shoki* which outlined the emperor's divine origins and unending rule. These myths in particular legitimize the absolute authority of the Emperor and highlight his importance. The Emperor was thought to be descended from the Sun Goddess *Amaterasu-Okami* and he maintained spiritual balance between humans, nature, and *kami* (minor nature deities).¹⁸ By placing the emperor as the head of Shinto, he serves two functions: legitimizing the government's divine right to rule and acting as a spiritual leader.

¹¹ Saburo, “The Iwakura Mission”

¹² *The Constitution of the Empire of Japan (1889)*, hanover.edu, Hanover Historical Texts Project, <https://history.hanover.edu/texts/1889con.html>

¹³ *The Constitution of the Empire of Japan*

¹⁴ *The Constitution of the Empire of Japan*

¹⁵ Robert E. Ward, *Political Development in Modern Japan: Studies in the Modernization of Japan*, (New Jersey: Princeton University Press, 1968) 107

¹⁶ Helen Hardacre, *Shinto, A History*, (Oxford: Oxford University Press, 2017) 404

¹⁷ Hardacre, *Shinto a History*, 17-19

¹⁸ Hardacre, *Shinto a History*, 17-19

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During the Meiji Restoration, the state underwent a series of reforms to liberalize and implement a government-controlled Shinto. State Shinto's primary goal was to create the idea of a nation with the Emperor at the core of worship. The state promoted these ideas through three main avenues: shrines, rituals, and education.

Before the Meiji Restoration, Shinto shrines were mostly independent places of worship that trained their own priests and held local rituals. Many shrines also incorporated ideas from Confucianism and Buddhism in their practices. During the Meiji Restoration, the state began separating Buddhism from Shinto. The state required shrines to stop Buddhist practices and worship in Shinto shrines, and stop Shinto practices in Buddhist temples.¹⁹ The state also began financially supporting the shrines and organizing them around the *Ise Jingu* (First Shrine) which was directly controlled by the state. The state passed doctrines on how to train priests and pushed *kokutai* thought, emperor worship, and nationalism. In 1900, the government created the Bureau of Shrines and turned the Bureau of Shrines and Temples into the Bureau of Religions.²⁰ By doing so, the state directly incorporated Shinto worship into the state bureaucracy and essentially created a state-sponsored religion.

Hand in hand with shrine reorganization was the implementation of a series of national rituals. These rituals centered around the emperor and the state used them as a strategy for national unity. Tokyo emulated Kyoto and constructed large ritual spaces for demonstrations of national rituals. Major cities held large public pageants and ceremonies while shrines all over Japan held nation-wide events. All these rituals helped promote the publicity of Shinto and the emperor. Shrines and rituals were understood as places to realize the power of the Emperor and urge subjects to be loyal to him.

Education and Indoctrination

The most important avenue of promoting Shinto was education. The Iwakura Mission found that having an educated population was one of the most effective strategies to modernize a state.²¹ As a result, the state prioritized education reform as one of their modernization goals. Enrollment in elementary schools increased from 30% in 1870 to over 90% by 1900.²² In 1890, the Imperial Rescript on Education was distributed to every school in the Empire and required students to recite it everyday. The Rescript called for:

Subjects...[to] pursue learning and cultivate arts, and thereby develop intellectual facilities and perfect moral powers; furthermore advance public good and promote common interests; always respect the Constitution and observe the laws; should emergency arise, offer yourself courageously to the state; and thus guard and maintain the prosperity of our imperial throne coeval with heaven and earth.²³

Ironically, the Rescript uses Confucianist principles of social hierarchy to call for subjects to defer to the Constitution and government. More importantly, the Rescript highlights the main goal of the education system: subjects must live and die for the Emperor and the state.

¹⁹ Hardacre, *Shinto a History*, 368-372

²⁰ Shimazono, Susumu "State Shinto in the Lives of People: The Establishment of Emperor Worship, Modern Nationalism, and Shrine Shinto in Late Meiji" trans. Regan E. Murphy, *Japanese Journal of Religious Studies* Vol. 36, no. 1 (2009) 96-97

²¹ Gordon, *A Modern History*, 67

²² Gordon, *A Modern History*, 68

²³ *Imperial Rescript on Education*, japanpitt.pitt.edu, University of Pittsburgh, <https://www.japanpitt.pitt.edu/glossary/imperial-rescript-education>

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Schools were not only a place to introduce modern concepts, but a vehicle for promoting the state agenda. For example, ethics were taught in accordance to reverence of the Emperor and Shinto. Schools often perform rituals centered around reverence of the Emperor, and many made trips to visit shrines. These ethics classes promoted *kokutai* thought, a concept that encapsulates the unique Japanese governmental body, state structure, system of government, national identity, and Emperor worship. Elementary schools in particular emphasized the importance of *kokutai* thought in their ethics education.²⁴ In order to be a good subject of Japan, one must live their life in accordance with state policy and with total loyalty to the Emperor. Through elementary schools, the state sought to “instill loyalty and filial piety through storytelling and discussions about the nation.”²⁵ In Imperial Japan, education acted as the starting point for indoctrinating young people and formed the foundation for future militarism in the 20th century.

Conclusion - Japan

When Japan restored Emperor Meiji to the imperial throne and reformed the government, the new state faced a challenge. How would they mobilize their population quickly in order to modernize and catch up to the West? The state heavily relied on Shinto to create a strong national identity in order to unify their people. The state consolidated shrines, performed public rituals, and used the education system to instill the principles of emperor worship and increase the presence of the state. Japanese nationalism was essential in the modernization efforts. While Japanese nationalism came as a response to the threat of the West, the Japanese state redirected their nationalism to create a solid foundation based around Shinto and the Japanese culture.

III. China and Political Autonomy

China has long stood as the pillar of Asian culture. In Chinese, China is called *Zhongguo* —Middle Kingdom. This self-proclamation of being in the “middle” shows the centrality and importance of the Chinese culture among the rest of Asia. Yet, during the mid to late 1800s, the Qing Dynasty found themselves unable to cope with the Western threat. Like Japan, Chinese nationalism was born from opposing the West. Unlike Japan, however, China did not have a separate belief system to replace Confucianism. Instead, Chinese nationalism centered around the idea of political and territorial autonomy. Chinese nationalists believed that in order to regain their sovereignty, they must fight off the invaders and reestablish their political control. China still faced the same issue of preserving their culture in their quest for political autonomy. Chinese nationalism and the search for national sovereignty went hand-in-hand. Yet, because China lacked a unifying umbrella like Shinto, multiple interpretations of how to achieve political and territorial autonomy rose, leading to decades of weak state presence, violence, and chaos.

The Fall of the Qing

Like Japan, the beginning of the modern Chinese nationalist movement came from Western encroachment in the 1850s. At the time, the Qing empire had been ruling China for nearly four hundred years. The Qing were ethnically Manchu and originated from Manchuria, while the majority of the population they governed were Han.²⁶ Additionally, China did not have the notion of a Chinese nation, as they viewed their

²⁴ Shimazono, “State Shinto,” 107-108

²⁵ Shimazono, “State Shinto,” 108

²⁶ Keith R. Schoppa, “Chapter 2: From Empire to People’s Republic” in *Politics in China: An Introduction Third Edition*, edited by William A. Joseph (Oxford: Oxford University Press, 2019) 46-47

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identity mainly through a lens of universalism. The general self-image of Chinese people was culture-centric, driven by Confucianism. The Chinese often fused the concept of a nation with a concept of humankind— they considered the nation to be merely a cultural identity. Instead of a culture driving a nation, the nation existed to serve the culture.²⁷ Culturalism's main idea revolves around a *datong shijie* (universal world) based on Chinese culture. Confucianism did not admit there was a cultural equality with the “barbarians,” rather, they and all other conquerors turned to Chinese culture in order to rule. When the Manchus took over and established the Qing Dynasty, Manchu elites adopted Han customs and cultural practices. Culture acted as a great, lasting power that bridged the gap between “barbarians” and the Chinese, allowing for the Chinese civilization to endure.²⁸

In the 1840s, encroachment of the West signaled the downfall of the Qing Dynasty and Chinese culturalism. The Qing were ill-equipped and ill-prepared to deal with the threat of Westernization. The two Opium Wars (1839-1842 and 1856-1860) significantly weakened confidence in the Qing's ability to protect and maintain Chinese borders. In the aftermath of the Opium Wars came the unequal treaties. Western powers established port cities, practiced extraterritoriality (an accused foreigner was tried in a Western court instead of a Chinese one), abolished Chinese tariffs, sent Christian missionaries, and controlled the inland waterways.²⁹ Coupled with multiple internal rebellions such as the Taiping Rebellion (1851-1864), and the Panthay Rebellion (1855-1873), the Qing's ability to rule China was brought into question by scholars and revolutionary leaders.³⁰ Anti-Qing and anti-Manchu sentiment continued to grow, and the loss of the Sino-Japanese War in 1895 further cast doubt on the enduring quality of Chinese culture.

Losing the Sino-Japanese War was a significant blow. From the view of the Chinese, the “dwarf bandits” in Japan humiliated the Chinese empire and betrayed the Asian race. It was a blatant sign of the weakness of the Chinese culture. The Chinese understood the greater Asian sphere to be a race of “yellow people” against the “whites.” The Japanese victory against the Russians in the Russo-Japanese War in 1905 was celebrated as an achievement of the “yellow race,” only to have that perspective quashed when the Japanese turned around and forcefully acquired Taiwan, Korea, and the Liaodong Peninsula into their empire.³¹ Clearly, the Qing were failing to modernize and face the Western and Japanese threat. Especially when comparing the lackluster performance of the Qing Dynasty in relation to the rapid developments of Meiji Restoration, Chinese Revolutionaries began considering other options. The cumulative loss of the Opium Wars, Sino-Japanese War, and multiple rebellions pointed to the Qing's inability to rule effectively. Anti-Qing sentiment formed the early basis of Chinese nationalism. Slogans such as “Revolution to expel the Manchu” and “Throw out the Tartar Caitiffs” appeared in the early 1900s. Early revolutionaries had three important objectives: a revival of China, establishing a republic, and equalization of land rights.³² In the midst of all this, the Qing court faced a similar challenge to the

²⁷ Suisheng, Zhao *A Nation-state by Construction: Dynamics of Modern Chinese Nationalism*, (Stanford: Stanford University Press, 2004) 41

²⁸ Zhao, *Nation-State by Construction*, 41-42

²⁹ Schoppa, *Politics in China*, 48

³⁰ Schoppa, *Politics in China*, 49-50

³¹ Zhao, *Nation-State by Construction*, 62-63

³² Edward J.M. Rhoads, *Manchus and Han: Ethnic Relations and Political Power in Late Qing and Early Republican China, 1861-1928*, (Seattle: University of Washington Press, 2000) hosted on: <https://uw.manifoldapp.org/read/untitled-88783134-3ba9-49ab-95e5-0b51ee6d035b/section/3622c09f-14c9-41ab-92ce-43dbf65db15a#ch1>

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Japanese: how to modernize without losing their identity. Unlike Japan, China did not have a backup philosophy or religion to use as a central pillar to the modern nation-state. Confucianism propped up Chinese culture, and rejecting Confucianism meant giving up fundamental aspects of their identity. Fierce debates occurred in the Qing court, further contributing to their inability to act. The Qing made the dire mistake of backing up the anti-imperialist, anti-western, Boxer Rebellion in 1900. However, despite the Boxer's pro-China movement, many revolutionaries saw the Boxers as backwards and superstitious—wanting to return to a more feudal society.³³ The Qing siding with the backwards Boxers further proved their inability to adapt and modernize with the rest of the world.

There lies some major differences between the Chinese emperor and the Japanese emperor. Unlike the Japanese dynasty, which has remained unbroken since its founding, the Chinese emperor was empowered under the rule of the Mandate of Heaven. The Mandate of Heaven acted as a political and religious teaching to justify the rise and fall of dynasties. Essentially, the life of a dynasty relies on Heaven's will. A failing dynasty meant losing Heaven's blessing and would eventually fall to a new dynasty better suited to rule. This justified the constant change of dynasties throughout Chinese history.³⁴ Consequently, revolutionaries used the Mandate of Heaven to overthrow the Qing. Japan did not have this system. The Japanese emperor's unbroken line was codified in *Kojiki* and *Nihon Shoki*, and later written into the Meiji Constitution. As a result, the Japanese emperor could act as a divine symbol whereas the Chinese emperor could not.

Multiple factors contributed to the fall of the Qing and the rise of the Chinese nationalist movement. Unlike Japan, which had replaced Confucianism with Shinto as its guiding philosophy, the Chinese cultural identity remained tied to Confucianism. Confucianism emphasized the importance of looking to the past to find wisdom, yet the Qing demonstrated that looking to the past made them unable to adapt to threats and modernize quickly.³⁵ Culturalism failed to unite the Chinese people. Instead, revolutionaries turned to other intellectual debates to regain their political and territorial autonomy.

A Weak Republic

In 1911, the Revolutionary Alliance, the predecessor of the Guomindang (GMD), overthrew the Qing Dynasty in the Xinhai Rebellion.³⁶ Founded and led by Dr. Sun Yat-Sen, the party based itself on Sun's Three Principles of the People: nationalism, democracy, and social welfare. Both the Chinese Communist Party (CCP) and the GMD based much of their ideology on his ideas.³⁷

The first principle, *minzhu* (nationalism) delineated a state of mind, where an individual identifies themselves as a part of a group and solely gives that group loyalty. The failure of the Qing Dynasty and anti-Qing sentiment greatly influenced Sun's ideas of nationalism. In order to save China, people must establish and band under this nationalistic feeling to modernize. Like many revolutionaries, Sun viewed the Manchus as a corrupt, foreign people unfit to rule the Han majority. Confucianism also formed a basis for his ideas. Like Japan, Sun sought to emphasize the hierarchical relationship between

³³ Zhao, *Nation-State by Construction*, 54-55

³⁴ Kallie Szczepanski, "What is China's Mandate of Heaven?" thoughtco.com, ThoughtCo, August 1, 2019, <https://www.thoughtco.com/the-mandate-of-heaven-195113>

³⁵ Zhao, *Nation-State by Construction*, 54-55

³⁶ Schoppa, *Politics in China*, 57

³⁷ Yu-long Ling, "Dr. Sun Yat-sen's Doctrine and the Impact on the Modern World" in *American Journal of Chinese Studies* Vol. 19, no. 1 (April 2012) 1

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ruler and subject. During the Qing dynasty, the family unit and familial relationship was prioritized. Sun wanted to shift that prioritization to society as a whole over the family.³⁸ This nationalism helped propel the anti-Qing movement and eventually formed the foundations of the GMD and CCP.

The second principle, *chu-i* (democracy) formed the foundation for the Republic of China. Sun believed a democratic system creates a strong, viable state. However, instead of blindly following the West's ideas of democracy, China needed to come up with their own version that suited Chinese customs and values. Sun harnessed nationalism and pushed for the idea that politics belongs to everyone. Sun's democracy emphasizes the role of the masses in decision making and implies a form of equality among all people. However, democracy would only work if people had enough national identity and worked for the good of the whole.³⁹ Note that this democracy does not mean democratic elections, nor a democratic government. Sun helped establish the Republic of China as a democratically elected government. However, the CCP also used the idea of people's involvement in politics to bolster their own legitimacy by arguing that support of the masses meant support of the Communist regime.

The final principle, *minsheng* (social welfare) was based on how to provide a good life. In order for people to have a prosperous life, they must be rich in both spiritual and material wealth. The government is responsible for material security. This includes access to education, protection, food, and a stable economy. Having material wealth will provide people with spiritual wealth, which in turn will create good citizens and a strong country.⁴⁰ All three principles work together in order to create a strong country. However, the first principle, nationalism, is the core of creating a strong state. Without a strong national identity, the government cannot gain legitimacy since it will not reflect the will of the people. Without a strong government, the state will be unable to provide social services and increase state presence.

The Early Republic attempted to establish itself using the Three Principles. In 1912, the new state held elections to appoint a democratic republic. However, the national government immediately stumbled when Yuan Shikai was elected president. Yuan believed the republican government was too unwieldy and too slow to modernize rapidly. Instead, he turned to authoritarianism and even went as far to abolish the representative assemblies and establish himself as the "Grand Constitutional Emperor."⁴¹

Yuan Shikai died in 1916 and left a power vacuum. Generals that commanded the New Army rapidly split off and the country fell into warlordism. During the "Warlord Era" of 1916 to 1926, the Republic of China had six different presidents and twenty-five cabinets.⁴² The early hope for a new, strong, modernizing state fell apart. Additionally, the Twenty-One Demands issued by Japan in 1915 cut deeply into Chinese sovereignty, the most egregious of these demands requiring the state to install Japanese advisers in key government positions.⁴³ As a response to the failure of the new government, the May Fourth Movement and the New Culture Movement sprang up in the cities. From the period between 1915 to 1924, China entered a series of anti-traditionalist nationalism. Revolutionaries understood that the past failings of the Qing and the current failings of the Republic were facilitated by feudal Chinese culture.⁴⁴ Meaningful political change

³⁸Ling, "Dr. Sun Yat-Sen's Doctrine," 3-4

³⁹Ling, "Dr. Sun Yat-Sen's Doctrine," 5-6

⁴⁰Ling, "Dr. Sun Yat-Sen's Doctrine," 6-7

⁴¹Schoppa, *Politics in China*, 57-58

⁴²Schoppa, *Politics in China*, 57-58

⁴³Schoppa, *Politics in China*, 67

⁴⁴Zhao, *Nation-State by Construction*, 55-57

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could only occur with cultural change. If culture did not change, then even democratically elected officials would fall to backwards, traditional ideas. Various interpretations on how to change culture began appearing, such as violent struggle, political action, and different ideologies like Marxism.⁴⁵ Although many ideas were tossed around with respect to creating a new culture, the main theme remained the same: rebelling against the mainstream, backwards cultural tradition was necessary to create national prosperity and strength.⁴⁶ This marks a main difference between Chinese and Japanese nationalism. Japanese nationalism centered around their culture and the importance of the Emperor and Shinto. Chinese nationalism came to revolve around rejecting their old culture and finding new ways to regain control of their weak state. However, because multiple ideas were floated about, there was no clear ideology to unite under. Rather, the unifying force was having multiple ideas which rejected traditional culture.

The Chinese Communist Party and the Rural Masses

In the midst of the Warlord Era and the May Fourth movement, the Chinese Communist Party established itself in 1921 with help from the Soviet Comintern. In their early years, the party operated in cities. The real strength of the party, however, lay with the peasantry.

Going to the country and mobilizing peasants was not a mainstream strategy, even for the CCP. During the Revolutionary Era, rural areas were not involved with any of the revolutionary movements. When the Republic of China formed, peasants had no idea what was happening. The revolutionary movements were run and mobilized by educated, urban elites concerned with imperialism and the unequal treaties. However, this created a situation where the revolutionary movement had a “head with no body.”⁴⁷ Since 80% of the population was not involved in the movement, it contributed to a weak Chinese state. Rural areas were all but ignored until Mao Zedong began mobilizing and nationalizing the peasantry. Mobilizing the peasantry became vital to the CCP strategy, especially after the CCP was wiped out in the cities during the White Terror in 1927-1928.⁴⁸

This “peasant nationalism,” as described by Chalmers Johnson, formed the foundation for the CCP’s success and rise to power. Like early revolutionaries, the threat of encroachment on their territory and political autonomy awoke rural masses. However, this threat came from the Japanese, not the Westerners. Events such as the Nanjing Massacre in 1937 presented a very real danger to the rural people.⁴⁹ Throughout the 1930s, Mao began implementing a series of propaganda campaigns primarily aimed against the Japanese.⁵⁰ Peasants were especially attracted to the CCP’s rhetoric of social reform and the defense of China. The movement was also rather decentralized, with villages spread far and wide. However, the decentralization allowed for the CCP to survive since there was no centralized point of power to target.⁵¹ The CCP made effective use of propaganda, and like the Japanese, they pushed for education reform. At the center of their doctrine: national salvation from the Japanese.

The invasion of the Japanese catalyzed the mobilization of the masses. It briefly united the CCP and GMD during WWII against Japan. But more importantly for the CCP,

⁴⁵ Schoppa, *Politics in China*, 60

⁴⁶ Zhao, *Nation-State by Construction*, 57

⁴⁷ Chalmers A. Johnson, *Peasant Nationalism and Communist Power: The Emergence of Revolutionary China 1937-1945*, (Stanford: Stanford University Press, 1962) 23-25

⁴⁸ Schoppa, *Politics in China*, 65

⁴⁹ Johnson, *Peasant Nationalism*, 24

⁵⁰ Schoppa, *Politics in China*, 66

⁵¹ Johnson, *Peasant Nationalism*, 2

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it allowed them to introduce a new spectrum of ideas, identities, and purposes to the peasantry. Just like the early revolutionaries, the Chinese identity was born from fighting against the Japanese invaders and retaking their country. However, this time, it included the rural masses and Communist ideals.⁵² With the help of the peasants, the CCP would eventually win the Chinese Civil War and establish themselves as the government of the People's Republic of China in 1950.⁵³

The idea of nationalism coexisting with communism goes against Stalinist communist beliefs. Joseph Stalin believed that communism was in direct conflict with nationalism because being a communist meant one was an agent working to overthrow a state. Communism meant being antagonistic to the current regime with the intent of replacing it with a state run by the masses.⁵⁴ However in China, communism was synonymous with nationalism. Both the communist and nationalistic movements in China were equated with progressing and modernizing the country.⁵⁵ The CCP used nationalist rhetoric effectively to spread communist ideology; they mobilized people in the cities and the countryside to their cause. Sun Yat-Sen identified the need for people to belong to a group in order to build national identity. Communism became the unifying banner that China sorely needed in order to unite their country.

Conclusion - China under Mao

Under Mao, China entered a period of national unity. Although the 1950s and 60s were plagued by violence, poverty, and chaos, the people all acted under Mao's doctrine. The Great Leap Forward and Cultural Revolution were all done under Mao's ideas, even though they resulted in destructive consequences. Underlying the chaotic 50s and 60s, Mao led the masses under his banner. His rule was marked by a period of the strongest national unity under the communist regime. After a century of fighting, and chaos, China finally found their political autonomy through communism.

IV. Conclusion

In the mid-1800s, China and Japan faced similar issues with the threat of Western encroachment. Both countries also had to solve the problem of how to preserve their culture and modernize simultaneously. Japan was able to mobilize and modernize quickly due to their effective use of nationalism, using Shinto and the emperor to create a strong imperial identity and unite the people under one banner. China on the other hand, struggled to find their identity and floundered in their development for a century.

There are multiple factors that contributed to why China failed. China's conflict shifted constantly from anti-imperialism, to anti-Qing, to anti-traditionalism, and eventually to civil war. China also served as a battleground during WWI and WWII while the Japanese home islands were never invaded. Additionally, China's huge territory made mobilization difficult outside of the major cities. Unlike Japan, China did not have an additional belief system to back up their culture. Instead, the country turned to trying to find political autonomy. Chinese nationalism became associated with regaining control over the territory with multiple ideas springing up from all over the place. Eventually, the CCP was able to unite the country by combining nationalism and communism to mobilize the masses.

⁵² Johnson, *Peasant Nationalism*, 4

⁵³ Schoppa, *Politics in China*, 73

⁵⁴ Johnson, *Peasant Nationalism*, 178

⁵⁵ Johnson, *Peasant Nationalism*, 179

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Nationalism and state creation go hand in hand. Japan shows how the state can use nationalism to increase their power and presence in the lives of people. China displays how weak nationalism creates a weak state. It was not until the state unified under one identity that the country managed to stabilize. Ultimately, a powerful modern state cannot exist without a strong national identity uniting the people.

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References

- Breuilly, John, *Nationalism and the State*, Manchester: Manchester University Press, 1993.
- Centeno, Miguel, *Blood and Debt: War and the Nation-State in Latin America* Pennsylvania: Penn State University Press, 2003.
- Gordon, Andrew, *A Modern History of Japan: From Tokugawa Times to the Present*, (New York: Oxford University Press, 2003).
- Hardacre, Helen, *Shinto, A History*, Oxford: Oxford University Press, 2017.
- Hayes, D. Louis, *Introduction to Japanese Politics 6th ed*, New York: Routledge Press, 2017.
- Imperial Rescript on Education*, japanpitt.pitt.edu, University of Pittsburgh, <https://www.japanpitt.pitt.edu/glossary/imperial-rescript-education>
- Izumi, Saburo, "The Iwakura Mission: Japan's 1871 Voyage to Discover the Western World," nippon.com, June 7, 2019, https://www.nippon.com/en/japan-topics/g00680/the-iwakura-mission-japan%e2%80%99s-1871-voyage-to-discover-the-western-world.html?cx_recs_click=true#
- Johnson, A. Chalmers, *Peasant Nationalism and Communist Power: The Emergence of Revolutionary China 1937-1945*, Stanford: Stanford University Press, 1962.
- Kawai, Atsushi, "The Meiji Restoration: The End of the Shogunate and the Building of a Modern Japanese State," nippon.com, November 29, 2018, <https://www.nippon.com/en/views/b06902/the-meiji-restoration-the-end-of-the-shogunate-and-the-building-of-a-modern-japanese-state.html>
- Ling, Yu-long "Dr. Sun Yat-sen's Doctrine and the Impact on the Modern World" in *American Journal of Chinese Studies* Vol. 19, no, 1 (April 2012)
- Rhoads, J.M. Edward, *Manchus and Han: Ethnic Relations and Political Power in Late Qing and Early Republican China, 1861-1928*, (Seattle: University of Washington Press, 2000) hosted on: <https://uw.manifoldapp.org/read/untitled-88783134-3ba9-49ab-95e5-0b51ee6d035b/section/3622c09f-14c9-41ab-92ce-43dbf65db15a#ch1>
- Schoppa, R. Keith "Chapter 2: From Empire to People's Republic" in *Politics in China: An Introduction Third Edition*, edited by William A. Joseph (Oxford: Oxford University Press, 2019)
- Shimazono, Susumu "State Shinto in the Lives of People: The Establishment of Emperor Worship, Modern Nationalism, and Shrine Shinto in Late Meiji" translated by Regan E. Murphy, 1993. *Japanese Journal of Religious Studies* Vol. 36, no. 1 (2009)
- Szczepanski, Kallie "What is China's Mandate of Heaven?" thoughtco.com, ThoughtCo, August 1, 2019, <https://www.thoughtco.com/the-mandate-of-heaven-195113>
- The Constitution of the Empire of Japan (1889)*, hanover.edu, Hanover Historical Texts Project, <https://history.hanover.edu/texts/1889con.html>

Comparative Politics

Ward, E. Robert, *Political Development in Modern Japan: Studies in the Modernization of Japan*, New Jersey: Princeton University Press, 1968

Zhao, Suisheng, Zhao *A Nation-state by Construction: Dynamics of Modern Chinese Nationalism*, (Stanford: Stanford University Press, 2004)

CEDAW and the UN: Addressing Governmental Efforts to Eradicate Discrimination and Violence against Women

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Abstract: The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has served as a powerful tool for women and girls to influence domestic policies, constitutions, and judicial decisions. Despite the Convention's near-universal ratification, countries continue to struggle with violence against women and gender inequality. How significant has CEDAW been in advancing women's rights and security? In narrowing the scope of this evaluation, this paper focuses predominantly on women's rights in Latin America and explores factors that contribute to high levels of violence against women in the region. This research also provides a brief analysis of whether the UN has reached gridlock in its attempt to promote international women's rights and security via CEDAW, and provides several recommendations for preventing further gridlock and eradicating violence against women.

Introduction

Since its adoption by the United Nations General Assembly (UNGA) in 1979, 189 member states have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Consisting of a preamble and thirty articles, CEDAW has been described as an international bill of rights for women that sets an agenda for national and domestic action.¹ States that have ratified the Convention commit themselves to ending legal discrimination against women, establishing tribunals and other modes of protection for women, and eliminating all acts of discrimination against women by people, organizations, or enterprises.² Despite the progress made by the near-universal ratification and implementation of CEDAW around the world, women continue to face serious barriers to equality and remain subject to sexual and gender-based violence. The COVID-19 pandemic has also served to expose and exacerbate institutional discrimination and violence against women on a global scale.

The state of gender parity and women's security varies significantly across regions. This paper will focus on Latin America to evaluate certain factors contributing to high levels of violence against women in the region. According to a 2016 report by the Small Arms Survey, "among 25 countries with the highest rates of femicide in the world, 14 are from Latin America and the Caribbean."³ To further evaluate factors contributing to gender-based violence in Latin America and CEDAW's impact on domestic legal and social conditions, Argentina and Honduras will be utilized as case studies. Honduras holds particularly high rates of female homicides, or "femicides," and violence against

¹ UN Women, "Short History of CEDAW Convention," last accessed December 7, 2020, <https://www.un.org/womenwatch/daw/cedaw/history.htm>.

² UN Women, "Short History of CEDAW."

³ Global Americans, "Femicide and International Women's Rights," published July 13, 2017, theglobalamericans.org/reports/femicide-international-womens-rights.

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women, standing out with a rate of over 10 femicides per 100,000 women.⁴ Accordingly, the Georgetown Institute for Women, Peace and Security has ranked Honduras number 91 (and 16th in the Latin American region) in the 2019/2020 Women, Peace and Security Index.⁵ Argentina's ranking of number 48 (and second in the Latin American region) demonstrates the vast difference in women's rights and security across regions.⁶ What explains this difference in ranking between the two countries, and how significant has CEDAW been in the advancement of women's rights and security there?

A variety of factors can explain the gender inequality and discrepancy in women's security across regions. Scholars in the fields of political science, gender studies, and economics have pointed to economic development, legal and justice system capacities, organized crime, and institutional sexism in societies. Additionally, there is international debate surrounding the impact of CEDAW's ratification on the state of women's rights and security. In *Women's Human Rights*, Anne Hellum and Henriette Aasen find that CEDAW's ratification and the reporting process contribute to women's rights and security only if they are combined with domestic policy-making and NGO advocacy processes.⁷ They also find that ambiguous language within CEDAW and a lack of enforcement makes the Convention less successful in holding states accountable and implementing provisions for women and girls.

Furthermore, research conducted by Anne Bayefsky, Denesha Reid, and Kathryn Balmforth also shows that CEDAW has been a key factor in advancing women's rights and security, but that a variety of logistical and functional limitations stand in the way of the Convention realizing its full potential. Bayefsky et al. argue that impediments to CEDAW efficacy may be attributed to delayed country reports and backlogged processes for reviewing and analyzing the reports.⁸ Both Hellum and Bayefsky et al.'s explanations for CEDAW's limitations remain relevant, and special attention should be paid to the logistical and structural issues raised by each author to prevent UN gridlock in women's rights and security advancement.

This paper will begin with an overview of the UN women's rights regime along with CEDAW's history and a summary of the Convention's text. This background information will be followed by a second section analyzing CEDAW's strengths and weaknesses, along with alternative explanations for CEDAW's shortcomings and ongoing violence against women in domestic legal and social contexts. The subsequent section will analyze the contemporary situation of women's rights and security in a global context defined by the COVID-19 pandemic, leading to an overview of women's rights and security in Argentina and Honduras. This will contribute to a summary of both countries' most recent reports to the CEDAW Committee, followed by an analysis of the reports and potential explanations for the difference in ranking of Argentina and Honduras on the Women, Peace and Security Index. This paper will conclude with a set of suggestions and recommendations for advancing women's rights and preventing further UN gridlock regarding CEDAW.

⁴ Global Americans, "Femicide and International Women's Rights."

⁵ Georgetown Institute for Women, Peace and Security, and the Peace Research Institute Oslo, *Women, Peace and Security Index 2019/20* (Washington, DC: GIWPS and PRIO, 2019).

⁶ GIWPS and PRIO, *Women, Peace, and Security Index*.

⁷ Anne Hellum and Henriette Sinding Aasen, *Women's Human Rights: CEDAW in International, Regional, and National Law* (Cambridge: Cambridge University Press, 2014), 633.

⁸ Anne F. Bayefsky, Denesha Reid, and Kathryn Balmforth, "The CEDAW Convention: Its Contribution Today," *American Society of International Law*, (2000): 199.

I. The History of CEDAW and the UN Women's Rights Regime

Published in 1945, the preamble to the Charter of the UN was the “first international instrument to refer specifically to human rights and to the equal rights of women and men.”⁹ The 1945 founding conference of the UN included a small group of feminists from various countries who looked to women’s experiences during World War II to emphasize the notion that women were essential to the creation of a more peaceful world.¹⁰ With pressure from women’s rights activists, the UN established the Commission on the Status of Women (CSW) in 1946. Throughout its first operating decade, CSW elaborated on existing documents such as the Convention on the Political Rights of Women, the Convention on the Nationality of Married Women, and the Convention on Consent to Marriage. These documents reflected a growing UN women’s rights regime, but there remained concern that a general human rights approach would not suffice to fully promote women’s rights and security. Disagreement about whether CSW should address women’s issues separately from general human rights rendered the Commission less effective than its initial supporters had hoped.¹¹

In the early 1960s, the UNGA invited CSW and the UN Economic and Social Council (ECOSOC) to draft a declaration for gender equality titled the “Declaration on the Elimination of Discrimination against Women.” The Declaration, adopted by the UNGA in 1967, lacked the contractual force of a treaty and amounted only to a statement of moral and political intent.¹² It was widely considered ineffective, leading CSW and ECOSOC to create CEDAW, a comprehensive and internationally binding document to eliminate discrimination against women in 1974. CEDAW was adopted by the UNGA in 1979 by a vote of 130 to 0. On September 3, 1981, the Convention went into effect and became the first international treaty to comprehensively organize international legal standards for women.¹³ Today, 189 member states are part of CEDAW.

According to Article 1 of CEDAW, discrimination against women is defined as “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹⁴ Article 2 requires state parties to embody the principle of gender equality in their national constitutions and to adopt appropriate legislative measures to prohibit all discrimination against women.¹⁵ State parties are also bound to establish legal protection of women’s rights through competent national tribunals and other institutions and “to repeal all national penal provisions which constitute discrimination against women.”¹⁶

State parties are also bound to take appropriate measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”¹⁷ CEDAW also advocates for education that includes “a proper understanding of

⁹ UN Women, “Short History of CEDAW.”

¹⁰ UN Chronicle, “A Brief Survey of Women’s Rights,” last accessed December 7, 2020, <https://www.un.org/en/chronicle/article/brief-survey-womens-rights>.

¹¹ Lisa Baldez, *Defying Convention: US Resistance to the U.N. Treaty on Women’s Rights* (Cambridge: Cambridge University Press, 2014), 33.

¹² UN Women, “Short History of CEDAW.”

¹³ UN Women, “Short History of CEDAW.”

¹⁴ United Nations General Assembly, “The Convention on the Elimination of All Forms of Discrimination against Women,” published December 18, 1979, <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

¹⁵ UNGA, “CEDAW.”

¹⁶ UNGA, “CEDAW.”

¹⁷ UNGA, “CEDAW.”

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maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children.”¹⁸ According to Hellum and Aasen in *Women’s Human Rights*, “the purpose of the CEDAW is threefold: (1) to guarantee women’s individual rights, (2) to give social support to women and (3) to enhance social and cultural change.”¹⁹ This substantive approach to women’s rights and security differs from other equal rights declarations as it moves beyond formal equality, which often neglects systemic and institutional sexism prohibiting equal treatment of both genders.

II. CEDAW’s Strengths and Weaknesses: Alternative Explanations for the Convention’s Limitations

CEDAW is highly valuable in promoting substantive equality and changing the way that women’s interests are understood over time.²⁰ While ratification of CEDAW by a member state does not instantly lead to changes in the status of women’s rights and progressive politics, it does push governments to recognize how women can suffer discrimination and violence due to their identity.²¹ According to Lisa Baldez in *Defying Convention*, “ratification of CEDAW precipitates a dynamic process by which domestic political actors can work to bring about change.”²² When states publicly commit themselves to advancing and protecting women’s rights by ratifying the Convention, citizens and NGOs are further empowered to demand change and progress from their government.²³ Perhaps even more significant than the process of ratification is the reporting process among government officials, NGO leaders, and CEDAW experts. This process educates governments about women’s rights and gender norms while simultaneously informing CEDAW Committee experts about specific women’s rights and security situations in particular countries.²⁴ Further, “the process of gathering information on the status of women and demonstrating compliance with the Committee engages state parties in a process by which they come to value ‘doing a good job’ when it comes to women’s rights.”²⁵ It is important to note that the reporting process is likely to impact domestic women’s rights and security situations only if it “...is linked into domestic processes of policy-making and NGO advocacy.”²⁶ In *Women’s Human Rights*, Hellum and Aasen assert that CEDAW contributes to the overall rights of women, but that the nature of CEDAW state obligations “...vary from being quite general (take ‘appropriate’ or ‘necessary’ steps or measures) to more specific (replace discriminatory laws, ensure women’s right to vote).”²⁷ This ambiguity hinders the ability of the CEDAW Committee to evaluate the member state’s actions following CEDAW and the promotion of women’s rights, “since there may be a range of options available for the State Party.”²⁸ This ambiguity prevents effective implementation of CEDAW obligations and accountability for women’s rights violations committed by the state.²⁹

In “The CEDAW Convention: Its Contribution Today,” Bayefsky et al. find that CEDAW contributes to the international human rights legal system and the actual

¹⁸ UNGA, “CEDAW.”

¹⁹ Hellum et al., *Women’s Human Rights*, 626.

²⁰ Lisa Baldez, “CEDAW: A New Way to Measure Women’s Interests,” *Politics & Gender* 7, no. 3 (2011): 422.

²¹ Baldez, “Measure Women’s Interests,” 422.

²² Baldez, *Defying Convention*, 131.

²³ Baldez, *Defying Convention*, 131.

²⁴ Baldez, *Defying Convention*, 132.

²⁵ Baldez, *Defying Convention*, 132.

²⁶ Hellum et al., *Women’s Human Rights*, 633.

²⁷ Hellum et al., *Women’s Human Rights*, 633.

²⁸ Hellum et al., *Women’s Human Rights*, 633.

²⁹ Hellum et al., *Women’s Human Rights*, 634.

enjoyment of women's human rights in two key ways. First, CEDAW helps expand the understanding of modern international human rights standards in general, while also mainstreaming a gender analysis by integrating women's rights into the broader human rights regime. Secondly, it prompts domestic implementation efforts and employs women around the world with a powerful advocacy tool. In a legal context, "domestic courts have used CEDAW on occasion to improve the legal rights of women. There are examples of domestic laws or regulations, and government policies which are in part a direct result of CEDAW."³⁰ However, there is ongoing debate about the best approach to overcoming institutional impediments to CEDAW, mirroring the early debates and internal struggles of the CSW.³¹ CEDAW faces further struggles in the form of state party reservations to the Convention, overdue country reports, and years-long backlogs of state reports.³² An increase of sufficient resources for processing country reports and follow-up techniques are essential to the intended operation of the CEDAW reporting process.

III. Overview of Contemporary Women's Rights and Security in a Global Context

Defined by the COVID-19 pandemic, the present crisis has revealed how health emergencies and their responses can exacerbate gender inequality and derail hard-won progress in women's empowerment, domestic and sexual violence eradication, poverty alleviation, access to decent employment opportunities, and schooling.³³ The economic and social impacts of the pandemic are heavily gendered and are predicted to cause greater harm to women and girls.³⁴ Previous public health crises have shown that gendered components of outbreaks are largely ignored until they become unavoidable problems. Despite this grim fact, experts tend to be excluded from public health interventions and conversations.³⁵ Previous crises have also shown that burdens are placed on women for multiple reasons, as they are "often the focal point of community responses, the targets of interventions to curtail spread, and they often take part in front-line delivery or behavior change initiatives, and take on additional care burdens within the family."³⁶ In addition to these burdens, women also face risks of increased maternal mortality and limited access to sexual or reproductive health services.³⁷ The risks posed by the COVID-19 pandemic have the potential to create long-term effects that may stall and reverse women's progress.

In addition to health and economic risks, the COVID-19 pandemic has led to increased rates of domestic and sexual violence around the world. In 2019, the UN reported that 243 million women and girls suffered sexual and/or physical violence by their partners or family members.³⁸ Experts estimate that these figures have likely increased with stay-at-home orders and quarantine measures. Data from 2020 show that domestic violence helpline calls in Lebanon and Malaysia doubled in March 2020 compared to March 2019 and rose 32% in France.³⁹ Unfortunately, "these figures reflect reporting, not incidence, and it has long been known that domestic violence is grossly underreported," especially when women are unable to utilize hotlines and shelters or

³⁰ Bayefsky et al., "CEDAW: Its Contribution Today," 198.

³¹ Bayefsky et al., "CEDAW: Its Contribution Today," 197.

³² Bayefsky et al., "CEDAW: Its Contribution Today," 199.

³³ UN Women, "Spotlight on Gender, Covid-19 and the SDGs," published July 2020, 1.

³⁴ UN Women, "Spotlight on Gender," 1.

³⁵ UN Women, "Spotlight on Gender," 3.

³⁶ UN Women, "Spotlight on Gender," 3.

³⁷ UN Women, "Spotlight on Gender," 3.

³⁸ UN Women, "Spotlight on Gender," 4.

³⁹ UN Women, "Spotlight on Gender," 21.

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receive support from friends, family, or support networks.⁴⁰ Violence against women is “the most widespread human rights violation in the world,” and the World Health Organization has described it as “a global public health problem of epidemic proportions.”⁴¹ Despite the statistics, facts, and urgency of the issues at hand, domestic policies are rarely geared towards protecting women and eliminating factors that lead to gender-based violence during crises. In particular, women’s rights and security situations are actually worsening in Latin America, “the only region in the world where child pregnancy is increasing.”⁴² This is attributable to high rates of sexual and domestic violence, lack of access to female and reproductive health services, abortion bans, current stay-at-home orders, and overwhelmed healthcare systems.⁴³

IV. Overview of Women’s Rights and Security in Argentina and Honduras

For this research, Argentina and Honduras will be analyzed to compare the situation of women’s rights, security, and gender-based violence in Latin America and how this may vary across regions. This section will closely study violence against women and femicide in Argentina and Honduras, while reviewing CEDAW and other existing legal measures in place to protect women and girls. In Argentina, femicide is considered aggravated homicide, with no special distinction for gendered aspects of murder.⁴⁴ Honduran legislation specifically codifies femicide as its own crime separate from homicide, carrying with it various prison sentences.⁴⁵ In Latin America, violence against women, femicide, and other gendered hate crimes are typically poorly investigated, and “...prosecutions have not followed specific protocols.”⁴⁶ Scholars and activists have argued that the lack of consistent definitions, standards, and procedures have contributed to outstandingly high rates of violence against women in the Latin American region.⁴⁷ Additional factors of gender-based violence and femicide overlap in both Argentina and Honduras, with organized crime and gang violence playing an especially significant role in Honduras.

V. Case Study: Argentina

Argentina, ranking 48th in the world and second in Latin America per the Women, Peace and Security Index, lacks a specific definition and criminal code for femicide. According to Argentine law, “perpetrators can be tried for aggravated homicide when the murder of a woman or trans-person was due to gender or when the murderer is the spouse,” and punishment sentences may run between 8 to 25 years for cases of common homicide.⁴⁸ Throughout the past decade, Argentina’s feminist movement “#NiUnaMenos” (Not One Woman Less) has grown and worked to fight femicide and violence against woman, while also highlighting abortion rights, sexual harassment, gender pay gaps, sex workers’ rights, and transgender rights.⁴⁹ Despite a 2009 law that set

⁴⁰ UN Women, “Spotlight on Gender,” 21.

⁴¹ Amnesty International, “Americas: Guidelines for Protecting the Rights of Women and Girls During the COVID-19 Pandemic,” published April 15, 2020, 2.

⁴² Amnesty International, “Guidelines,” 2.

⁴³ Amnesty International, “Guidelines,” 2.

⁴⁴ Global Americans, “Femicide and International Women’s Rights.”

⁴⁵ Global Americans, “Femicide and International Women’s Rights.”

⁴⁶ Global Americans, “Femicide and International Women’s Rights.”

⁴⁷ Global Americans, “Femicide and International Women’s Rights.”

⁴⁸ Global Americans, “Femicide and International Women’s Rights.”

⁴⁹ Marina Durano, “The Women’s Movement Is Leading Reform in Argentina,” *Open Society Foundations*, March 6, 2020, <https://www.opensocietyfoundations.org/voices/the-womens-movement-is-leading-reform-in-argentina>.

forth comprehensive measures to punish gender-based violence, unpunished femicide and violence against women remains a prominent concern in Argentina.⁵⁰ Argentina's National Registry of Femicides reported 251 femicides but only 12 convictions in 2017, prompting the Attorney General's office to adopt a special protocol for investigating and prosecuting femicides.⁵¹ It is too early for the results of the special protocol to be known, and many gender and public health experts worry that stay-at-home measures implemented due to the pandemic may have contributed to increasing rates of femicide and violence against women. Abortion restriction also remains a serious concern. According to Human Rights Watch, Argentina's Senate rejected a bill in 2018 "intended to decriminalize abortion completely during the first 14 weeks of pregnancy and, after that period, to allow women and girls to end pregnancies when they are the result of rape, when the life or health of the woman or girl is at risk, or when the fetus suffers from severe conditions not compatible with life outside the womb" passed by the House of Representatives following massive protests.⁵²

Additionally, Argentina's #NiUnaMenos movement is calling for policies supporting women working in domestic care or whose work is unpaid in hopes of reducing poverty levels among women and girls. The World Justice Project reports, "Even though Argentina is a medium-income country that has undergone a period of relative prosperity, economic recovery has not reached everyone."⁵³ Women are more likely to work in the informal sector without any social security, benefits, or protection while expected to perform unpaid care for their families.⁵⁴ These unstable economic conditions, combined with a weak justice system in a generally oppressive patriarchal society, place women in incredibly precarious positions. Argentina's main challenge is to strengthen the rule of law pertaining to crimes against women and girls while simultaneously establishing networks "that can act upon rights violations to assist individual victims" in cases where the government cannot.⁵⁵

VI. Case Study: Honduras

Honduras has similar struggles to Argentina in women's rights, security, and gender-based violence in addition to issues of organized crime and gang violence. The Honduran criminal code "recognizes femicide as a man killing a woman for reasons of gender, with hatred and contempt for her status as a woman" with punishment ranging from 30 to 40 years.⁵⁶ However, femicides and violence against women are rarely investigated and punished. Young Honduran women between the ages of 20 to 24 face the highest risk of femicide in urban areas, especially in San Pedro Sula and Tegucigalpa, where 40% of all Honduran femicides were concentrated in 2013.⁵⁷ Disappearances of women and girls are also common, and probable subjection to sexual abuse and torture can be inferred when the location of the crime is unknown.⁵⁸ The number of violent femicides rose by about 263% from 2005 to 2013, which implies that one woman is murdered every 13.8 hours.⁵⁹ While high levels of gender-based violence are often a

⁵⁰ Human Rights Watch, "World Report 2019: Argentina," last accessed December 7, 2020, <https://www.hrw.org/world-report/2019/country-chapters/argentina#>.

⁵¹ Human Rights Watch, "World Report 2019: Argentina."

⁵² Human Rights Watch, "World Report 2019: Argentina."

⁵³ World Justice Project, "Rights in Action: Access to Justice for Women in Argentina," last accessed December 7, 2020, <https://worldjusticeproject.org/our-work/programs/rights-action-access-justice-women-argentina>.

⁵⁴ World Justice Project, "Rights in Action."

⁵⁵ World Justice Project, "Rights in Action."

⁵⁶ Global Americans, "Femicide and International Women's Rights."

⁵⁷ Protection International, "Status of Violence against Women in Honduras," published January 6, 2014, 2.

⁵⁸ Protection International, "Status of VAW in Honduras," 2.

⁵⁹ Protection International, "Status of VAW in Honduras," 2.

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result of organized crime and gang violence, women are equally vulnerable to violence in their own homes. According to the Honduran Courts of Peace and Letters, there was a 390% increase in cases of domestic violence between 2008 and 2015; “54 percent of the complaints expired before they received any response from officials.”⁶⁰ Reported cases of domestic violence remained high throughout 2017, as the National Inter-Institutional Security Force detained over 3,700 aggressors of domestic violence.⁶¹

The Center for Women’s Rights in Honduras reported that 95% of femicides committed in 2017 were never punished, and only 15 of over 400 cases of femicide were investigated.⁶² Only two of those cases received guilty verdicts.⁶³ Activists, scholars, and gender experts attribute this epidemic of impunity not to governmental regulations themselves, “but in their inadequate application by justice operators.”⁶⁴ Despite a plethora of data on femicides and violence against women, the state and criminal justice system have failed to address these issues due to discrimination and sexist prejudices.

In addition to sexual violence and femicide, Honduran women struggle with political representation, health, and employment. In 2018, a UN Working Group on discrimination against women in law and practice for Honduras noted that the “proportion of women in national political leadership has actually gone down in recent years,” and that the rules on equal gender representation in politics were distorted so that fewer women were elected.⁶⁵ Women running for public and political offices in Honduras often face discouragement and even violence.⁶⁶ Honduran activists also voice concerns about the lack of respect and collaboration between the government and NGOs or social movements.⁶⁷ Women’s organizations and NGOs have criticized the Honduran government’s exorbitant spending on police militarization and armed forces, “thereby leaving fundamental education and health rights unprotected and abandoning actions for the prevention, sanctioning and eradication of violence against women.”⁶⁸ Increases in government spending on police and armed forces are especially unjust when such institutions fail to protect the rights and dignity of 50% of the population.

VII. Summary of Argentina and Honduras Country Reports

Member states that ratify CEDAW are required to submit periodic country reports on the progress they have made toward implementing the Convention and improving women’s situations in their country. The reporting process for member states entails gathering data, compiling the report, and presenting it to the CEDAW Committee. Country reports must be filed every four years and should address “the legislative, judicial, administrative or other measures which they have adopted . . . and on the progress made in this respect.”⁶⁹ Country reports contain sections providing an overview on the de facto status of women in the country and the de jure status of women regarding “legislation, public policy, and court action taken to bring about the expansion of

⁶⁰ Andrea Fernandez Aponte, “Left in the Dark: Violence Against Women and LGBTI Persons in Honduras and El Salvador,” Latin America Working Group Education Fund, published March 7, 2018, 3.

⁶¹ Aponte, “Left in the Dark,” 3.

⁶² Aponte, “Left in the Dark,” 3.

⁶³ Aponte, “Left in the Dark,” 3.

⁶⁴ Protection International, “Status of VAW in Honduras,” 6.

⁶⁵ United Nations Human Rights Office of the High Commissioner, “Honduras: Results from Women’s Rights Progress Long Overdue, Say Experts,” published November 14, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23875&LangID=E>.

⁶⁶ UN Human Rights, “Honduras: Results from Women’s Rights Progress.”

⁶⁷ Amelie Lustenberger, “Honduras - Women’s Rights in a Country Marked by Violence,” Swiss Peace, published September 2019, <https://www.swisspeace.ch/apropos/honduras-frauenrechte-in-einem-von-gewalt-gepraegten-land/>.

⁶⁸ Protection International, “Status of VAW in Honduras,” 5.

⁶⁹ Baldez, *Defying Convention*, 134.

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women's rights in the way envisioned by the Convention."⁷⁰ The reporting process is considered to be highly valuable in itself, making large amounts of data about women's status available and disproving claims that gender equality has already been achieved.

After reviewing an individual country report, the CEDAW Committee provides a set of concluding observations and recommendations. These observations "provide a focus for NGO work and supply information that legislators can use in formulating legislation or asking pointed questions of government officials in oversight hearings."⁷¹ Generally, concluding observations and recommendations lay the groundwork for a strong partnership and collaboration between the government and NGOs working in areas of women's rights, security, and eradication of gender-based violence. Yet, this collaboration is ultimately not reflected in the relationships between government officials and NGOs in Argentina and Honduras.

Fifth Country Report on Argentina (2002)

According to Argentina's most recent country report, the national mechanism for the advancement of women created in 1983, the National Women's Council (CNM), was transferred to the Executive Office of the Cabinet of Ministers in 1999 and had been significantly underfunded.⁷² CNM, currently known as the National Women's Institute (INAM), is the agency responsible for the implementation of CEDAW and was charged with justifying the importance of gender equality for the consolidation of democracy, promoting public policies with a gender perspective, and strengthening local and provincial women's provinces, amongst other reasons.⁷³ In 2000, CNM established the issue of violence against women as a policy-making priority, publishing numerous publications after a seminar on discrimination and violence against women.⁷⁴ However, Argentina continues to struggle with high rates of domestic and sexual violence against women and girls. CNM had also announced intentions "to implement a programme for the training of lawyers as domestic violence specialists through the Federation's member colleges. There are 73 such colleges located throughout the country, with a total membership of over 70,000 lawyers," though it is unclear whether this program still exists and operates.⁷⁵ Today, INAM remains significantly underfunded with most of its shortcomings attributed to budgetary constraints and limited governmental support.

In 2004, Argentina submitted a follow-up report to the fourth and fifth country reports at the request of the CEDAW Committee. This report discusses initiatives undertaken in 2003 to strengthen resources for domestic violence victims, such as a 24-hour hotline dealing with violence control and providing counseling. The hotline operated under an office that offered shelter for teenage mothers and women with children in high-risk situations as well.⁷⁶ Argentina additionally launched a domestic violence program called "New Life" in 2003 that disbursed subsidies of \$200 over six months to assist victims in high-risk situations.⁷⁷ Given that the government has not submitted a country report since 2004, no new information about Argentina's efforts to comply with CEDAW and curb violence against women has surfaced. The efforts noted in the previous reports

⁷⁰ Baldez, *Defying Convention*, 134-135.

⁷¹ Baldez, *Defying Convention*, 139.

⁷² United Nations General Assembly, "Fifth Periodic Reports of States Parties: Argentina," published February 11, 2002, 5.

⁷³ UNGA, "Fifth Periodic Reports: Argentina," 5.

⁷⁴ UNGA, "Fifth Periodic Reports: Argentina," 32.

⁷⁵ UNGA, "Fifth Periodic Reports: Argentina," 33.

⁷⁶ United Nations General Assembly, "Follow-up to the Fourth and Fifth Periodic Reports of States Parties: Argentina," published January 29, 2004, 24.

⁷⁷ UNGA, "Follow-up: Argentina," 24.

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are also geared toward damage-control rather than progressive and preventative measures.

Combined Fourth, Fifth, and Sixth Country Reports on Honduras (2006)

The 2006 combined country report of Honduras describes the changes made by the Honduran government to implement the provisions outlined in CEDAW and obstacles the country would face going forward. Before submission of the 2006 combined report, the CEDAW Committee expressed concern “about the existence of national mechanisms or similar arrangements to promote the advancement of women, and to disseminate and apply the Convention.”⁷⁸ They were also concerned about the distribution of received foreign aid, “which was often done by men’s committees and consequently did not cater to the needs of women.”⁷⁹ The CEDAW Committee did express positive support for the government’s efforts in interagency coordination that led to a steady increase in the number of reported offenses of violence against women.⁸⁰ They also noted that Tegucigalpa and San Pedro Sula face particularly heavy demands as the country’s largest urban centers, and that “this factor is not reflected in the human, logistical and financial resources assigned them, and this frustrates the achievement of better results.”⁸¹

Several obstacles hinder the Honduran government’s progress in implementing CEDAW. Primarily, there is a lack of human and logistical resources to implement the Convention, “which reflects the lack of awareness of this issue among senior officials who decide budgetary applications.”⁸² There is also a lack of specialized courts for dealing with domestic violence, and crimes against women tend to be slowly investigated “because of human resources constraints and bureaucratic red tape.”⁸³ The country report also noted that steps have been taken to eliminate discriminatory and sexist language in the government’s penal code, “but this is a cultural problem that will require a long time to change; in the meanwhile, certain laws, procedural codes, regulations and other legal instruments as well as educational and informative publications still contain discriminatory language.”⁸⁴ Overall, the Honduran country report notes that women’s proposals and ideas are not taken into consideration during the formulation of plans, programs, and projects, which remains an enormous obstacle to policies that could work toward the eradication of discrimination and violence against women.

VIII. Analysis of Country Reports

Determining Differences in Ranking

Both Argentina and Honduras must focus on improving access to justice for women and girls who have been impacted by femicide and gender-based violence. The overarching issue in each country is institutionalized sexism combined with machismo culture, which prevents women and girls from attaining justice and security in their daily lives. While both countries need to increase their capacity for the rule of law, judicial systems, and investigative services for violence against women, Honduras must also focus on organized crime and gang violence as equally pressing issues. Drug trafficking and

⁷⁸ United Nations General Assembly “Combined Fourth, Fifth and Sixth Periodic Report of States Parties: Honduras,” published August 1, 2006, 2.

⁷⁹ UNGA, “Combined Report: Honduras,” 2.

⁸⁰ UNGA, “Combined Report: Honduras,” 14.

⁸¹ UNGA, “Combined Report: Honduras,” 16.

⁸² UNGA, “Combined Report: Honduras,” 16.

⁸³ UNGA, “Combined Report: Honduras,” 16.

⁸⁴ UNGA, “Combined Report: Honduras,” 16.

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cartels along with poorer economic conditions in Honduras are attributable to the vast difference in ranking on the Women, Peace and Security Index between Argentina and Honduras.

Organized crime and gang violence have caused notable increases in crime levels and corruption in judicial and police services, while spurring increased levels of female migration out of Honduras in recent years.⁸⁵ According to the UNDP, about 70% of Hondurans live in poverty, and “non-state armed actors, including *maras*, gangs, and other organized crime groups, control residents and local economies in many low-income urban neighborhoods.”⁸⁶ The Global Report on Internal Displacement found that 174,000 women, children, and men were internally displaced in Honduras in 2015 due to gang-induced gender-based violence.⁸⁷ The report also found, “in one year (2014-15), the number of internally displaced persons in Honduras increased six times.”⁸⁸ In *Gender, Race, and the Cycle of Violence of Female Asylum Seekers from Honduras*, Lirio Gutierrez Rivera provides an interesting explanation for persisting gang-induced violence and displacement in Honduras, along with poverty and inequality. Rivera claims, “the difficult conditions that characterize the lives of many Hondurans in their home country and abroad intersect with race, gender, and class differences that have roots in colonialism and US foreign policy in the Central American region.”⁸⁹ The inherently unequal social structures established by colonialism and U.S. influence pose interesting questions for future research on contemporary violence against women in Honduras and surrounding Latin American countries.

Determining Gridlock and Significance of CEDAW

Concerning institutional sexism, organized crime, and corruption, the UN and CEDAW cannot take further action to protect and promote women’s rights and security without stronger punitive mechanisms that would force governments to act on the CEDAW Committee’s recommendations. In this sense, the UN is gridlocked regarding CEDAW and its international efforts to promote gender equality and women’s security. It is also important to note that country reports have not been submitted to the CEDAW Committee since the early to mid-2000s, thus making it difficult to assess current governmental efforts to improve women’s rights and security in Argentina and Honduras. This is largely attributable to CEDAW Committee backlog in conducting, receiving, and reviewing country reports.⁹⁰ The lack of recent documentation of governmental efforts to eradicate discrimination and violence against women per CEDAW has contributed to additional gridlock in this regard.

Despite the inefficiency of enforcement mechanisms and reporting processes, CEDAW has still made significant improvements in the state of women’s rights and security in Argentina and Honduras. The Convention and its reporting process have pushed government officials to learn about women’s rights and norms while increasing the amount of data regarding women’s situations available to NGOs, activists, and researchers. CEDAW and the reporting process have also pressured governments to show accountability and take some initiative to implement new practices and reform or eradicate inefficient ones. The reporting process between governments and the CEDAW

⁸⁵ Protection International, “Status of VAW in Honduras,” 4.

⁸⁶ Lirio Gutierrez Rivera, “Gender, Race, and the Cycle of Violence of Female Asylum Seekers from Honduras,” *Race, Criminal Justice, and Migration Control: Enforcing the Boundaries of Belonging* (2018): 43.

⁸⁷ Rivera, “Gender, Race, and the Cycle of Violence,” 43.

⁸⁸ Rivera, “Gender, Race, and the Cycle of Violence,” 43.

⁸⁹ Rivera, “Gender, Race, and the Cycle of Violence,” 44.

⁹⁰ Bayefsky et al., “CEDAW: Its Contribution Today,” 199.

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Committee is not without flaws but does lay a path for change. According to Baldez in *Defying Convention*, “The three-week sessions provide insufficient time to delve into complex issues. Often, neither the CEDAW experts nor the government officials have enough expertise to discuss particular problems in depth.”⁹¹

CEDAW has shown a positive impact in the above ways, but its ambiguity and lack of enforcement mechanisms as noted in Hellum and Aasen’s *Women’s Human Rights* allow governments to skirt around certain provisions and stall progress in reducing drastically high rates of femicide and violence against women. For example, CEDAW requires governments to provide women with equal opportunities to participate in budget decision processes and to perform public functions.⁹² However, women in Honduras have been losing positions in public offices and actively facing discrimination and violence when they seek to participate in public life. According to Elson in *Budgeting for Women’s Rights*, “these processes are often structured in ways that make effective participation in key decisions difficult for more than a few powerful men (Ministers of Finance, chairs of Budget Committees, leaders of missions from the World Bank and IMF, etc.). The absence of women is significant as there is accumulating evidence that a critical mass of women affects the content of public decisions.”⁹³ This example highlights just one issue area in which the UN and CEDAW would be able to intervene more effectively if it possessed stronger enforcement mechanisms and a more efficient and functional reporting process.

IX. Recommendations and Potential Solutions

Practical solutions to advance and promote women’s rights and security in Argentina and Honduras should be tailored to police and investigative services, community education surrounding social norms to break down patriarchal “machismo” culture, and resources to protect victims of domestic and sexual violence. Both governments should seriously consider recruiting more female police officers in local law enforcement offices or implementing Women’s Police Stations (WPS). Research has shown that female investigative authorities and WPS actively contribute to raising awareness of violence against women in law enforcement, and they should be routinely assigned to cases of femicide and violence against women.⁹⁴ The presence of female investigative authorities and WPS would also likely increase the number of women and girls who report cases of domestic or sexual violence and seek justice. WPS serve to destigmatize gender-based violence and decrease fears around reporting by validating and legitimizing claims of abuse.

Both governments should also consider methods of community education surrounding social norms and justice to break down “machismo” culture and conceptualize women’s peace and security as a collective goal. This could entail cash transfer programs in both rural and urban areas for families who attend community meetings, forums, or women-led discussions on domestic or sexual violence and the harmful impacts of “machismo” on all genders. This could also include an inclusive approach to sexual education in Argentina and Honduras to be modeled across Latin America, where child pregnancy rates are increasing. Such community education programs would empower women and girls to discuss gender, religious, and other

⁹¹ Baldez, *Defying Convention*, 129.

⁹² Diane Elson, *Budgeting for Women’s Rights: Monitoring Government Budgets for Compliance with CEDAW* (New York: United Nations Development Fund for Women, 2006), 137.

⁹³ Elson, *Budgeting for Women’s Rights*, 137.

⁹⁴ UN Women, “Women’s Police Stations in Latin America Case Study,” published December 2011, 4.

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cultural norms with the male figures of their families and communities. Argentina and Honduras should consider partnering with NGOs on such an initiative.

Additionally, both countries should increase resources to support shelters, hotlines, and online counseling services, especially for women and girls living in remote or rural areas. The Honduran National Institute of Women (INAM) began an initiative called “Ciudad Mujer” in 2016, “which aims to improve the lives of Honduran women in terms of violence prevention—as well as, economic autonomy, sexual and reproductive health, and collective education—through a network of services offered by the relevant agencies.”⁹⁵ The first program was instituted in Tegucigalpa in 2017 along with several others, but “it is too early to determine the impact of this initiative.”⁹⁶ Similar initiatives in Honduras along with NGOs and women’s organizations should also consider lobbying for the regulation of possession and sale of firearms and ammunition in hopes of limiting organized crime and gang violence throughout the country.

Apart from undertaking logistical and functional reforms to improve the reporting process, the UN and CEDAW will not be able to do much more in the fight for women’s rights and security unless the UN becomes better equipped to implement enforcement mechanisms within the Convention. It is in the hands of individual governments and communities to combat machismo culture, patriarchal social norms, and entrenched systemic violence and discrimination against women. These aspects of society combined with codes of silence and intimidation inhibit UN instruments like CEDAW from reaching its full potential. In the meantime, greater numbers of gender experts and women must be included in conversations and decision-making roles at senior governmental levels to avoid gridlock in the advancement of women’s rights and security.

X. Conclusion

Issues of discrimination and violence against women necessitate greater attention and action, especially under the current circumstances of the COVID-19 pandemic. Despite the progress implemented by CEDAW and other accomplishments of women’s organizations and NGOs, serious challenges still exist. The crisis of femicide and violence against women in both Argentina and Honduras highlights the critical amount of work left to be done in achieving gender parity in the Latin American region. Honduras must also grapple with serious challenges related to organized crime, gang violence, and poor economic conditions that have fostered rampant gender-based violence and subsequent internal displacement. If Argentina and Honduras tackle these issues in the near future, surrounding Latin American countries will likely follow their lead. While CEDAW has been integral in fostering awareness of women’s rights and security and teaching governments about such norms, it remains limited by its ambiguity and lack of enforcement mechanisms. Without reform, the UN remains gridlocked in its attempt to promote international women’s rights and security via CEDAW. It is up to individual governments to break down harmful patriarchal culture and institutionalized sexism through improved police and investigative services, community education, resources for women and girls, and other initiatives.

Despite its shortcomings, CEDAW has grown to be a powerful tool for women and girls to influence domestic policies, constitutions, and judicial decisions that impact their daily lives. According to Baldez in *Defying Convention*, “CEDAW has gained significance as a central point of reference for women’s rights policy worldwide...The

⁹⁵ Aponte, “Left in the Dark,” 4.

⁹⁶ Aponte, “Left in the Dark,” 4.

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more frequently CEDAW is mentioned in domestic policy, the stronger the Convention becomes.”⁹⁷ As CEDAW becomes stronger in this regard, the UN and individual governments must ensure that gender experts and women are included in decision-making roles and conversations for all critical issues affecting humanity.

⁹⁷ Baldez, *Defying Convention*, 128.

Comparative Politics

References

- Amnesty International. "Americas: Guidelines for Protecting the Rights of Women and Girls During the COVID-19 Pandemic." Published April 15, 2020. <https://www.amnesty.org/en/documents/amr01/2141/2020/en/>.
- Aponte, Andrea Fernandez. "Left in the Dark: Violence Against Women and LGBTI Persons in Honduras and El Salvador." Latin America Working Group Education Fund. Published March 7, 2018. <https://www.lawg.org/left-in-the-dark-violence-against-women-and-lgbti-persons-in-honduras-and-el-salvador/>.
- Baldez, Lisa. *Defying Convention: US Resistance to the U.N. Treaty on Women's Rights*. Cambridge: Cambridge University Press, 2014.
- Baldez, Lisa. "The U.N. Convention to Eliminate All Forms of Discrimination against Women (CEDAW): A New Way to Measure Women's Interests." *Politics & Gender* 7, no. 3 (2011): 419-423.
- Bayefsky, Anne F., Denesha Reid, and Kathryn Balmforth. "The CEDAW Convention: Its Contribution Today." *American Society of International Law* (2000): 197-203.
- Durano, Marina. "The Women's Movement Is Leading Reform in Argentina." *Open Society Foundations*, March 6, 2020. <https://www.opensocietyfoundations.org/voices/the-womens-movement-is-leading-reform-in-argentina>.
- Elson, Diane. *Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW*. New York: United Nations Development Fund for Women, 2006.
- Georgetown Institute for Women, Peace and Security, and the Peace Research Institute Oslo. *Women, Peace and Security Index 2019/20: Tracking Sustainable Peace Through Inclusion, Justice, and Security for Women*. Washington, DC: GIWPS and PRIO, 2019.
- Global Americans. "Femicide and International Women's Rights." Published July 13, 2017. theglobalamericans.org/reports/femicide-international-womens-rights.
- Hellum, Anne, and Henriette Sinding Aasen. *Women's Human Rights: CEDAW in International, Regional, and National Law*. Cambridge: Cambridge University Press, 2014.
- Human Rights Watch. "World Report 2019: Argentina." Last accessed December 7, 2020. <https://www.hrw.org/world-report/2019/country-chapters/argentina#>.
- Lustenberger, Amelie. "Honduras – Women's Rights in a Country Marked by Violence." Swiss Peace. Published September 2019. <https://www.swisspeace.ch/apropos/honduras-frauenrechte-in-einem-von-gewalt-gepraegten-land/>.
- Protection International. "Status of Violence against Women in Honduras." Published January 6, 2014. <https://www.protectioninternational.org/wp-content/uploads/2014/07/Violence-Women-Honduras-RapporteurONU-June2014final.pdf>.

Comparative Politics

- Rivera, Lirio Gutierrez. "Gender, Race, and the Cycle of Violence of Female Asylum Seekers from Honduras." *Race, Criminal Justice, and Migration Control: Enforcing the Boundaries of Belonging* (2018): 43-57.
- UN Chronicle. "A Brief Survey of Women's Rights." Last accessed December 7, 2020. <https://www.un.org/en/chronicle/article/brief-survey-womens-rights>.
- United Nations General Assembly. "Combined Fourth, Fifth and Sixth Periodic Report of States Parties: Honduras." Published August 1, 2006. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/461/00/PDF/N0646100.pdf?OpenElement>.
- United Nations General Assembly. "Fifth Periodic Reports of States Parties: Argentina." Published February 11, 2002. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N02/249/12/PDF/N0224912.pdf?OpenElement>.
- United Nations General Assembly. "Follow-up to the Fourth and Fifth Periodic Reports of States Parties: Argentina." Published January 29, 2004. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N04/230/51/PDF/N0423051.pdf?OpenElement>.
- United Nations General Assembly. "The Convention on the Elimination of All Forms of Discrimination against Women." Published December 18, 1979. <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.
- United Nations Human Rights Office of the High Commissioner. "Honduras: Results from Women's Rights Progress Long Overdue, Say Experts." Published November 14, 2018. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23875&LangID=E>.
- UN Women. "Short History of CEDAW Convention." Last accessed December 7, 2020. <https://www.un.org/womenwatch/daw/cedaw/history.htm>.
- UN Women. "Spotlight on Gender, COVID-19 and the SDGs: Will the Pandemic Derail Hard-won Progress on Gender Equality?" Published July 2020. <https://www.unwomen.org/en/digital-library/publications/2020/07/spotlight-on-gender-covid-19-and-the-sdgs>.
- UN Women. "Women's Police Stations in Latin America Case Study: An Entry Point for Stopping Violence and Gaining Access to Justice." Published December 2011. https://www.endvawnow.org/uploads/browser/files/security_wps_case_study.pdf.
- World Justice Project. "Rights in Action: Access to Justice for Women in Argentina." Last accessed December 7, 2020. <https://worldjusticeproject.org/our-work/programs/rights-action-access-justice-women-argentina>.

An Imperfect Union: Dissecting the EU's Democratic Deficit

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Following the conclusion of World War II, the European continent began one of the most ambitious political exercises in history: it attempted to buttress the nation-state by creating a cooperative supranational government body. Since the initial creation of the six-member European Coal and Steel Community, this supranational entity has blossomed, leading to the development of the modern European Union (EU). While the contemporary EU stands as a testament to the value of political cohesion, it is far from perfect. Today, many scholars argue that the EU suffers from a 'democratic deficit'. In attempting to bring its constituent countries together, it has limited the decision-making power of its citizens and inhibited democracy. While certain characteristics of the bloc, such as the unique basis for its democratic legitimacy and its inherently integrationist tilt naturally limit how democratic it can be, the EU must still aim to eliminate this deficit. Going forward, the EU can and should work to further democratize itself by expanding democratic practices in EU procedures, making its institutions more accessible, and clearly delineating between its technocratic and political functions.

Before discussing the specifics of the EU's democratic deficit, it is important to contextualize and define the phenomenon, since even its existence is not universally agreed upon. In evaluating the idea of the democratic deficit, it is essential to note that the quality or representativeness of a democracy includes factors beyond simply whether the government manifests its constituents' views. As Follesdal and Hix acknowledge, "if democracy is only about matching the present preferences of voters to policy outputs, it is difficult to explain what is wrong with the EU." They continue, "what matters are institutions that reliably ensure that policies are responsive to these [voter's] preferences, rather than matching by happy coincidence."¹ In this context, the EU's representative nature cannot be judged solely on the basis of democratic outcomes, namely how well EU policies align with the beliefs of its citizens. Instead, the quality of democracy must be judged based on the democratic process itself, with a focus on both the level of power EU citizens have over their governing institutions and the broader the relationship between European citizens and the EU.

Using the criterion of political responsiveness and representation reveals the extent of the EU's democratic deficit, as the popular will is not particularly accounted for in the EU. Currently, the EU comprises four major institutions: the European Commission, the European Parliament, the European Council, and the Council of the European Union. However, only the European Parliament includes representatives picked by voters and devoted to the goal of popular sovereignty. Meanwhile, the other three uphold more amorphous objectives such as advancing the "general interest of the EU," "coordinating EU policies," defining "the general political direction and priorities of the European Union," and include representatives picked by and from national governments without popular input.² While the aforementioned goals are not unsound,

¹ Follesdal, Andreas, and Simon Hix. "Why there is a democratic deficit in the EU: A response to Majone and Moravcsik." *JCMS: Journal of Common Market Studies* 44, no. 3 (2006): 533-562. (p 557)

² European Union, ed. "Institutions and Bodies." https://europa.eu/european-union/about-eu/institutions-bodies_en

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the current distribution of power results in European citizens not determining the EU's directions or interests. Unsurprisingly, this leads to precisely the situation Follesdal and Hix warned about: a recent study of European elections found that the EU includes "a good institutional representation of the position of the average European voter," but "low pluralism."³ Collectively, this serves to demonstrate how little sway citizens have over the EU and how poorly represented they are within its institutions; this is the central component of the bloc's democratic deficit.

When critiquing the EU's shortcomings, it is important to acknowledge that the bloc will never be able to earnestly address some of the root causes of its democratic deficit because of its unique structure as a supranational political union. The EU inevitably suffers from a lack of political legitimacy, which is the product of socio-psychological issues and concrete technical factors, both of which contribute to the deficit and are relatively intransient. From a psychological perspective, the EU's lack of democratic legitimacy weakens its ties to its constituents, preventing it from ever being truly representative. Generally, democracies are legitimized through shared values, a sense of belonging, and the concept of a national identity.⁴ However, as a supranational body which is deliberately designed to supplement, not replace, nationality, the EU does not have a shared national identity to build on. People who live in EU countries are not primarily "European," but rather members of their national community first and European citizens second. Although the EU has tried to create and promote a "European" identity based on civic values, this effort cannot compare to a true national identity. As scholar Kübra Azman asserts, the idea of a European Union community is a modern and highly technical construct, and includes none of the innate values essential for creating a shared sense of belonging.⁵ Lacking a national identity, the basis for the EU's power is the consent of its member states, who have agreed to cede some authority and sovereignty to it, instead of being derived from its constituents' shared values and collective identity. Consequently, the EU cannot achieve the same level of acceptance and legitimacy as a national government and its decisions will always be seen as somewhat undemocratic, since they are the product of an institution which people consider less authoritative than a conventional government.

On a technical level, the EU's democratic deficit is tied to its inherently pro-integrationist stance. There is no specific remedy for this problem because the very existence of the EU promotes integration and represents continental cooperation. By merely meeting and deliberating, national representatives legitimize political integration and the EU regardless of citizens' support. Additionally, many of the EU's tasks involve creating integrationist policy, from harmonizing economic regulations across the continent to introducing new standards for imported products. This means that on a basic level, "the Parliament is more supportive of EU integration than citizens."⁶ This reflects the EU's intention to help advance European integration, thus its institutions are deliberately and systematically biased towards this goal. Owing to its design, EU institutions have numerous tools for furthering integration but not many for limiting or

³ Sorace, Miriam. "The European Union Democratic Deficit: Substantive Representation in the European Parliament at the Input Stage." *European Union Politics* 19, no. 1 (March 2018): 3–24. (p 19)

⁴ Azman, Kübra Dilek. "The Problem of "Democratic Deficit" in the European Union." *International Journal of Humanities and Social Science* 1 (5); May 2011

⁵ Ibid

⁶ Vitkovitch, Stephen. 2015. "Assessing the European Parliament's Democratic Credentials." *Romanian Journal of European Affairs* 15 (4) (p 5)

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reversing it. Unfortunately, the EU's implicit bias prompts no clear solution due to the integrationist approach of its institutional design.⁷

While acknowledging both the existence of the democratic deficit and the ways in which it is unavoidable, there are several ways in which the EU can still work to become more democratic and representative. First, the EU can help offset the democratic deficit by placing an increased focus on using democratic practices wherever reasonable. According to scholars such as Basile Ridard, adopting these practices is essential, because citizen participation undergirds the EU as a political entity and must be expanded upon in order to enhance the bloc.⁸ On a technical level this largely includes modifying existing institutions and practices in order to improve their mechanics to ensure they better represent the will of the people.

Directly electing members of the European Commission on a national level is one of the most natural and important reforms the EU can adopt, especially considering the European Commission (EC) is the EU's most powerful body and is tasked with drawing up legislation for the bloc. Conceptually, a logical first step towards democratization is ensuring that the people who develop the EU's laws are held accountable to their citizens and not just to the governing officials who appoint them. On a political level, scholar and former EU parliament member Jens-Peter Bonde argues that "parties and movements would put forward their best candidates for the post instead of a worn-out politician," which would "enhance the quality of the Commissioners and their legitimacy." Additionally, electing EC members would increase the stakes for European elections, potentially increasing voter turnout and eliminating the idea that European elections are not worthwhile or meaningful.⁹ Ultimately, democratizing the EC is perhaps the first and most fundamental component of reducing the EU's democratic deficit and enhancing political representation.

The second way in which the EU can increase its focus on democratic practices is by making its institutions more accessible to individuals. To accomplish this, the EU can expand the European Citizens' Initiative (ECI). Democratizing the policymaking process in this way would incentivize people to participate in EU politics by directly empowering citizens to influence policy. In its current form, the ECI has limited utility and is symbolic of the EU's democratic shortcomings as a whole—it is a seemingly progressive and well-meaning idea trapped in layers of stifling bureaucracy. The program requires petitioners to garner over a million total signatures, including a minimum number from at least seven different EU countries, followed by statements of support and verification from each country, which must be certified by the respective national government within three months (furthermore, all of this does not guarantee an initiative is actually implemented, merely that it is introduced to the EC).¹⁰ However, only six initiatives have been successfully brought to the EC since the program was introduced in 2007.¹¹ Going forward, the process should be revised to be more accessible to EU citizens. To do this, scholars have proposed including more time to collect signatures and providing an

⁷ Ibid

⁸Ridard, Basile. *The European Citizens' Initiative, a Sufficient Tool to Bring Europe Closer to Its Citizens?* Report. Egmont Institute, 2018. 13-15. doi:10.2307/resrep21449.8. (p 13)

⁹ Bonde, Jens-Peter. "The European Union's Democratic Deficit: How to Fix It." *The Brown Journal of World Affairs* 17, no. 2 (2011): 147-62. (p 156)

¹⁰ European Union, ed. "How It Works." *European citizens' initiative - portal*, n.d. https://europa.eu/citizens-initiative/how-it-works_en

¹¹ European Union, ed. "Want to Learn and Collaborate?" *Home | European citizens' initiative - portal*, n.d. https://europa.eu/citizens-initiative/home_en.

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opportunity for initiatives proposing treaty amendments.¹² Through these changes, the EU would create a more useful and representative ECI, improving itself as a democracy and helping alleviate its current shortcomings.

Beyond working to implement democratic reforms wherever possible, the EU can also mitigate its democratic deficit by distinctly separating its political and technocratic functions, thus ensuring that its bureaucratic apparatus does not encroach on democratic politics. This issue is largely a product of how the EU has developed: European integration was initially conceived of as an almost exclusively economic exercise, so European institutions were highly bureaucratic in nature. However, as the European project has expanded, both through conscious efforts and due to the spillover effect, European institutions have failed to sufficiently adapt to the EU's increasingly political role. Because of this, "more and more centralization and harmonization were imposed through a web of new rules and regulations," while "local, national and regional specificities and needs are frequently ignored."¹³ Today, the EU has an overpowering reliance on bureaucracy, which often constrains democracy. This problem is reflected by the EU's technocracy-first approach and failure to adequately differentiate between issues which experts should handle and issues which should be decided through popular sovereignty.

To best separate these two functions, the EU should divide its institutions into democratic and technocratic categories, while outlining which responsibilities lie where. Legislative institutions such as the EC, the European Council, and the European Parliament should be clearly and distinctly separate from bureaucratic institutions such as the European Central Bank (ECB) and the Court of Justice of the European Union (CJEU). Alongside that distinction, scholars have suggested that the EU refine the powers held by each of these categories and institutions in such a way that legislative decisions are as independent as possible from bureaucratic intrusion.¹⁴ For instance, it is sensible that the ECB is a technocratic institution removed from the political sphere. However, it is unreasonable that "representative democracy has been weakened due to the imperatives of economic integration," a concern which numerous scholars have raised.¹⁵ This approach to economics as a whole is bureaucratically-focused, subjecting democracies across Europe to technocracy. Implementing these reforms would secure legislative bodies unencumbered power over certain issues, ensure that citizens are aware of which sectors of EU policy they have influence over and help eliminate the bloc's reputation as an apolitical institution run by Brussels technocrats. Ultimately, while the EU's democratic deficit exists and is insurmountable in some regards, this does not mean that the bloc cannot make meaningful reforms to improve itself as a democracy and increase representation.

In recent years, the EU has struggled. Moving forward, the EU must earnestly reflect on the consequences of its undemocratic approach and develop a plan to enact meaningful reform. Although the EU's unique structure creates certain unavoidable problems, the bloc can and should do more to address its democratic deficit. In order to protect Europe's future and create a more perfect union, the EU must expand democracy through corrective adjustments to further integrate its own constituents.

¹² Lee, Dexter Jiunn Heng. "The European Union's Democratic Deficit and Options for EU Democracy in the 21st Century. EU Centre Singapore Working Paper No. 22, August 2014." (2014). (p 12)

¹³ Michael, Prince of Liechtenstein. "How to destroy the European Union." *Geopolitical Intelligence Services*, 4 November 2019.

¹⁴ Lee, "The European Union's Democratic Deficit"

¹⁵ Sánchez-Cuenca, Ignacio. "From a Deficit of Democracy to a Technocratic Order: The Postcrisis Debate on Europe." *Annual Review of Political Science* 20 (2017) (p 351)

Comparative Politics

References

- Azman, Kübra Dilek. "The Problem of "Democratic Deficit" in the European Union." *International Journal of Humanities and Social Science* 1 (5); May 2011: 242-50
- Bonde, Jens-Peter. "The European Union's Democratic Deficit: How to Fix It." *The Brown Journal of World Affairs* 17, no. 2 (2011): 147-62.
<http://www.jstor.org/stable/24590804>. (p 156)
- European Union, ed. "How It Works." European citizens' initiative - portal, n.d.
https://europa.eu/citizens-initiative/how-it-works_en
- European Union, ed. "Institutions and Bodies."
https://europa.eu/european-union/about-eu/institutions-bodies_en
- European Union, ed. "Want to Learn and Collaborate?" Home | European citizens' initiative - portal, n.d. https://europa.eu/citizens-initiative/home_en.
- Follesdal, Andreas, and Simon Hix. "Why there is a democratic deficit in the EU: A response to Majone and Moravcsik." *JCMS: Journal of Common Market Studies* 44, no. 3 (2006): 533-562.
- Lee, Dexter Jiunn Heng. "The European Union's Democratic Deficit and Options for EU Democracy in the 21st Century." *EU Centre Singapore Working Paper No. 22*, August 2014. (2014).
- Michael, Prince of Liechtenstein. "How to destroy the European Union." *Geopolitical Intelligence Services*, 4 November 2019.
- Ridard, Basile. The European Citizens' Initiative, a Sufficient Tool to Bring Europe Closer to Its Citizens? Report. *Egmont Institute*, 2018. 13-15.
 doi:10.2307/resrep21449.8.
- Sánchez-Cuenca, Ignacio. "From a Deficit of Democracy to a Technocratic Order: The Postcrisis Debate on Europe." *Annual Review of Political Science* 20 (2017): 351-69. doi:10.1146/annurev-polisci-061915-110623
- Sorace, Miriam. "The European Union Democratic Deficit: Substantive Representation in the European Parliament at the Input Stage." *European Union Politics* 19, no. 1 (March 2018): 3–24. <https://doi.org/10.1177/1465116517741562>.
- Vitkovitch, Stephen. 2015. "Assessing the European Parliament's Democratic Credentials." *Romanian Journal of European Affairs* 15 (4): 5-25.
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