

Michigan Journal of Political Science

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Letter from the Editors

Dear Readers,

Hello and welcome to Winter 2020 Edition of the Michigan Journal of Political Science. This year, our publication is especially excited to greet you with the inaugural edition of our journal since its relaunching. 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. In this Edition, we have brought that same commitment to pursuing diverse and intricate topics in the distinct fields of political science to make better sense of the world around us.

This particular issue is being released during a pivotal moment in history. Much has changed in the state of the world and political science since COVID-19's spread began in the United States in March. We believe that the seven pieces you will read highlight a snapshot of the state of politics prior to the coronavirus pandemic, and provide insights into the future state of the world. With pieces ranging from the comparison of Marxism and Universal Basic Income, to the relevance of electronic voting in the 21st century, our journal contextualizes modern issues by analyzing their ideological and political foundations from the past. With submissions from around the world, we hope you are able to take away how Political Science shapes our society here in Michigan and abroad. Whether it be through the connection between protests and hip-hop music or linguistics and political dominance, we hope these articles demonstrate how broad political issues have made way into our everyday lives.

We want to thank our section editors Charlotte, Claire, and Yousef for all of the work that they have put into making the Journal a reality. Without their ideas, leadership, and dedication this publication could not have been possible. 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.

Lastly, the spirit of this journal lies in the importance of keeping free discourse on the issues that matter most. It was Benjamin Franklin who once said "Without Freedom of Thought, there can be no such thing as Wisdom." We hope our Journal carries this philosophy forward, and that our readers are able to find wisdom from the thoughts of the passionate undergraduates who have contributed to this discourse.

Sincerely,

Ambika Sinha and Andres Ramos Salinas

Editors-in-Chief

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Section 1:

American Politics

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Featuring:

“The Case of the Pentagon Papers: Analyzing Presidential Power and the Free Press”

Written by Annabel Weinbach
University of Michigan, Political Science Major, Class of 2020

“The Failure of Representative Democracy”

Written by Kameron Owen
University of Michigan, Political Science Major, Class of 2020

American Politics

The Case of the Pentagon Papers: Analyzing Presidential Power and the Free Press

Annabel Weinbach

—

By attempting to prevent the New York Times from publishing top secret documents, or “Pentagon Papers,” pertaining to U.S. involvement in the Vietnam War, did the Nixon administration violate the freedom of the press guaranteed in the First Amendment of the United States Constitution?

Introduction

In 1971, the New York Times posted a series of front-page articles containing information from the “Pentagon Papers,” a top-secret document detailing U.S. involvement in Vietnam. The papers were leaked to the Times, and to other newspapers, by Daniel Ellsberg, a former U.S. Marine Corps Officer. After the third article was published, the U.S. Department of Justice obtained a temporary restraining order against further publication of the material, arguing that it posed a risk to national security. The New York Times and the Washington Post joined forces and a legal battle ensued, quickly reaching the U.S. Supreme Court. In *New York Times Co. vs. United States*, the news companies argued that the publication of the papers was clearly justified under the First Amendment’s protection of the freedom of the press, while the Nixon administration argued that their use of prior restraint was justified because the papers posed a so-called “security risk” to the nation if published. The court’s 6-3 decision held that the vague word “security” should not be used “to abrogate the fundamental law embodied in the First Amendment”¹ and did not necessitate prior restraint.

This paper will explore the legal basis for both parties and defend the Court’s holding that the Nixon administration did indeed violate the First Amendment’s guarantee of freedom of the press by attempting to use prior restraint to prevent news publication of the Pentagon Papers. Because these documents’ publication could not be proven to cause an “inevitable, direct, and immediate event imperiling the safety of American forces,”² the President’s attempted use of prior restraint was unjustified. In traditional First Amendment law, prior restraint is a “government action that prohibits speech or other expression before the speech happens.”³ The form of prior restraint that was used in the case of *New York Times Co. vs. United States* was a judicial injunction that prohibits certain speech.

In his book, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*, Alexander Bickel explains the American approach to protecting national security as an “unruly contest”⁴ between the government and the press. In his view, the

¹ *New York Times Co. v. United States*, 403 U.S. 713 (1971)

² *New York Times Co. v. United States*, 403 U.S. 713 (1971)

³ LII Staff. “Media.” Legal Information Institute, Legal Information Institute, 12 Nov. 2017.

⁴ Bickel, Alexander M. *The Least Dangerous Branch: the Supreme Court at the Bar of Politics*. Yale University Press, (1986).

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government's role is to classify information that ought to be kept secret, as it did with the Pentagon Papers, and to stop leaks at the source, which it failed to do with regard to the Pentagon Papers. The government's role is not, however, to take action against the media. The "presumptive duty of the press,"⁵ meanwhile, is to publish news. A news outlet that discovers a government secret should, in Bickel's view, decide on its own whether to publish that secret is in the public interest. In the case of *New York Times Co. vs. United States*, given that the government had failed to fully protect its classified information, the Times and the Post were each faced with a decision on whether or not to publish the leaked papers. The Harvard Law Review argues that in this scenario, the government and the press face "asymmetric incentives."⁶ The government risks public criticism when a policy, especially one dealing with a controversial subject like American involvement in Vietnam, is made public, but conversely, it risks little when it is secretive. Likewise, the press has much to gain from publishing a classified secret, and relatively little to lose.⁷

I. Details of the Pentagon Papers

The papers, which were compiled after U.S. Secretary of Defense, Robert McNamara, ordered an analysis of U.S. Vietnam Relations, contained classified information about the nation's involvement in Vietnam. In his book, *Inside the Pentagon Papers*, historian John Prados explains that the papers contained authoritative information and inside government deliberations which supported "beyond questioning"⁸ long-held antiwar activist claims, and provided proof that government authorities had been making similar claims within the Nixon administration and the Department of Defense.⁹

According to Jordan Moran, Nixon was so invested in the secrecy of the Pentagon Papers because in his eyes, the documents confirmed the existence of a "radical, left-wing conspiracy throughout the government and media, whose purpose was to delegitimize him and topple his administration."¹⁰ This was especially concerning for the administration given that Nixon was up for reelection the following year in 1972.

The papers were leaked by Daniel Ellsberg, a defense analyst, after his work for the military confirmed what he already suspected and what the antiwar movement fiercely believed: that U.S. involvement in Vietnam was based on systematic deception by the government.¹¹ Specifically, the Pentagon Papers revealed that the Truman administration gave military aid to France in its colonial war against the communist-led Vietnam, thus directly involving the United States. It also confirmed that President John F. Kennedy transformed the policy of "limited-risk gamble"¹² that he had inherited into a policy of "broad commitment"¹³ that President Lyndon Johnson used and intensified covert warfare against North Vietnam and thus transformed the conflict into a full-blown war.¹⁴ The release of the papers stirred existing domestic and international controversy

⁵ Bickel, Alexander M. *The Least Dangerous Branch*. (1986).

⁶ Media Incentives and National Security Secrets." *Harvard Law Review* 122, no. 8 (2009): 2228-249.

⁷ "Media Incentives and National Security Secrets." (2009)

⁸ Prados, John., ed. *Inside the Pentagon Papers*. Book. Modern War Studies. Lawrence, Kan. : University Press of Kansas, (2004).

⁹ Prados. *Inside the Pentagon Papers*, 2004.

¹⁰ Moran, Jordan. "Nixon and the Pentagon Papers." Miller Center, (2018).

¹¹ Moran, Jordan. "Nixon and the Pentagon Papers." (2018).

¹² United States. Department of Defense. Office of the Secretary of Defense. Vietnam Task Force., ed. "Pentagon Papers." Book. Washington, D.C. : National Archives, 2011.

¹³ United States. Department of Defense. "Pentagon Papers."

¹⁴ United States. Department of Defense. "Pentagon Papers."

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and fueled growing dissent over the legal and moral justification of intensifying U.S. actions in Vietnam, as was voiced by the antiwar movement.¹⁵

II. Text, History, and Purpose of the Free Press

To understand the case and the argument of the paper, and the dangers that come from restricting the very basic freedom of the press, it is important to understand the text, history, and purpose of the First Amendment. The First Amendment provides that "Congress shall make no law...abridging the freedom...of the press,"¹⁶ and, as Henkin explains in his article, "The Right to Know and the Duty to Withhold: The Case of the Pentagon Papers," there has been common disposition to extend the wording to apply the amendment to the Executive and Judiciary as well.¹⁷ In his concurring opinion in *New York Times Co. v. United States*, Justice Black offers a brief history of the Bill of Rights, pointing out that James Madison authored a series of amendments to the constitution to "satisfy citizens that these great liberties would remain safe and beyond the power of government to abridge."¹⁸ In his 1938 article, Oswald Garrison Villard explained that the "The safety and well-being of every republic, and particularly of this one, rests upon the freedom of the press. That freedom must be at all times without any limitation or restriction whatever, save only those imposed by the laws relating to obscenity, libel, and direct incitement of crime."¹⁹ By not only explaining the significance of the First Amendment in the context of the health of the American republic, but also laying a framework for the only exceptions that should be considered, Villard made clear that the Pentagon Papers should not be the subject of prior restraint given that their publication would not classify as obscenity, libel, nor would they directly incite crime. Villard continued on to warn against the dangers of limiting freedom of speech and the press, asserting that "in neither case can there be any 'buts.'"²⁰

With regard to purpose, Doris Graber outlines five major functions of the free press in her article "Press Freedom and the General Welfare."²¹ First, she argues, the free press allows for diverse opinions and a forum to discuss conflicting ideas. She explains that the press serves as a sort of filter or editor that reveals the strengths and weaknesses of various proposals and ultimately allows for the adoption of the soundest ideas. Second, a free press "furnishes citizens with the information that they need to perform the duties of citizenship adequately."²² These aforementioned functions are especially important with regard to our electoral system in which the press plays an important role in informing the public on the opinions and ideas of the various candidates for office. Third, Graber explains the importance of the role of the press as an agent that facilitates communication between the public and government officials and fourth, as an outlet for the expression of unpopular minority views. Fifth and finally, Graber argues that the press has a unique function as a check on government authority and acts as "citizens' eyes and ears to detect and report corruption, abuses of power, and other misconduct."²³

¹⁵ Prados. *Inside the Pentagon Papers*, 2004.

¹⁶ U.S. Const. Amend. I

¹⁷ Henkin, Louis. "The Right to Know and the Duty to Withhold: The Case of the Pentagon Papers." *University of Pennsylvania Law Review* 120, no. 2 (1971): 271-80.

¹⁸ *New York Times Co. v. United States*, 403 U.S. 713 (1971)

¹⁹ Villard, Oswald Garrison. "Freedom of the Press." *The Public Opinion Quarterly* 2, no. 1 (1938): 56-59.

²⁰ Villard, Oswald Garrison. "Freedom of the Press." *The Public Opinion Quarterly* 2, no. 1 (1938): 56-59.

²¹ Graber, Doris A. "Press Freedom and the General Welfare." *Political Science Quarterly* 101, no. 2 (1986): 257-75.

²² Graber. "Press Freedom and the General Welfare." (1986)

²³ Graber. "Press Freedom and the General Welfare." (1986)

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This outline of the purpose of the First Amendment's guarantee of freedom of the press can be helpful in discerning what the role of the President should have been with regard to the Pentagon Papers. Although the papers contained information that would likely produce unpopular views of the U.S. government's involvement in Vietnam,²⁴ exposing unfavorable government actions aligns with the press's responsibility to serve as a check on policy makers' decisions and to lift voices that conflict with the choices made by the government on behalf of the people.

Henkin refers to the "the right of the people to know,"²⁵ an idea that he claims may have appealed to the authors of the Declaration of Independence and the U.S. Constitution whose political theory and rhetoric asserted that sovereignty was in "the people" and that government should operate with the consent of the governed.²⁶ It is clear from the text, history, and purpose of the freedom of the press that it is truly a "cornerstone of American liberty"²⁷ and shall not be limited by the interests of a President, like Nixon and his administration attempted to do with regard to the publication of the Pentagon Papers.

III. *Supreme Court Precedent*

Given that the freedom of the press is such a central tenet of American democracy, it is interesting, as Henkin points out, that the courts have had far fewer occasions to define the freedom of the press than, say, freedom of speech.²⁸ Still, there are several supreme court cases that have dealt with issues of censorship, libel, and the free press that have set important precedent for cases like *New York Times Co. vs. United States*. Perhaps most notable was the 1931 case *Near v. Minnesota*, which was cited in Justice Douglas' concurring opinion in *New York Times Co. vs. United States*. In this case, a Minnesota newspaper accused local officials of being implicated with gangsters. The officials sought a permanent injunction against The Saturday Press on the grounds that it violated the Public Nuisance Law because it was "malicious, scandalous, and defamatory."²⁹

The Supreme Court held that the Public Nuisance Law violated the First Amendment and established that with some narrow exceptions, the government could not censor or otherwise prohibit a publication in advance, even though the communication might be punishable after publication in a criminal or other proceeding.³⁰ With respect to the Pentagon Papers, this would mean that Nixon could not use prior restraint to prevent their publication, even though Daniel Ellsberg or the New York Times itself could be subject to criminal prosecution or civil suit after the papers' publication. It is worth noting however, that no media outlet has ever been prosecuted for publishing a classified secret.³¹ Chief Justice Hughes, in the majority opinion of the court, reminded Minnesota, and thus the United States, that the "dominant purpose of the First Amendment was to prohibit the widespread practice of governmental suppression of embarrassing information."³² Similarly, the idea that the publication of the Pentagon Papers would embarrass or de-popularize the Nixon administration is not sufficient,

²⁴ United States. Department of Defense. "Pentagon Papers."

²⁵ Henkin. "The Right to Know..." (1971)

²⁶ Henkin. "The Right to Know..." (1971)

²⁷ Villard. "Freedom of the Press." (1938)

²⁸ Henkin. "The Right to Know..." (1971)

²⁹ *Near v. Minnesota*, 283 U.S. 697 (1931)

³⁰ *Near v. Minnesota*, 283 U.S. 697 (1931)

³¹ Geoffrey R. Stone, *Government Secrecy vs. Freedom of the Press*, Harvard Law Review 18s, i8<-86 (2007).

³² *Near v. Minnesota*, 283 U.S. 697 (1931)

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under neither the First Amendment nor Supreme Court jurisprudence to necessitate prior restraint. It is true that the papers presented a less-than-favorable view of the Nixon administration's history and decision making in Vietnam,³³ but that cannot preclude news outlets like the New York Times from publishing them, as is well within their First Amendment rights. In order to prevent their publication, the Executive instead made largely unsubstantiated claims that the publication of the Pentagon Papers would pose a grave national security risk.

The logic motivating elected officials to attempt to use prior restraint to limit the freedom of the press, Hughes argues, is “fundamentally anti-democratic.”³⁴ “Open debate and discussion of public issues are vital to our national health,”³⁵ he explains. Any law, therefore, like the Minnesota law in question, is antithetical to the purpose of the constitution and only serves to handicap our national health. Hughes also explains that our government has become increasingly complex and that “opportunities for malfeasance and corruption have multiplied,”³⁶ stressing the need for a vigilant and courageous press. Justice Hughes also invokes the Fourteenth Amendment, asserting that the freedom of the press is one of the liberties safeguarded from invasion by state action by the due process clause.³⁷

The question at issue in both *New York Times Co. vs. United States* and *Near v. Minnesota* is ultimately the same. Though one deals with sensitive and classified government documents and the other with a local scandal, in both cases the publication of such information would undoubtedly harm the officials involved, but in neither case is prior restraint appropriate. As the author of “Media Incentives and National Security Secrets” puts it, these decisions rest on the careful balance of the importance of public knowledge and the risk of undermining desirable policies or damaging national security.³⁸ In neither case could the defendant prove that the information contained such information that would damage national security. In both cases it was damage to the politicians’ reputation that was at issue. Though no case set such a fitting precedent for *New York Times Co. vs. United States* as *Near v. Minnesota*, the Supreme Court also ruled in favor of the First Amendment in the 1938 case *Lovell v. City of Griffin*.³⁹ In this case, plaintiff Alma Lovell was arrested for distributing literature as a Jehovah's Witness, pursuant to a Griffin City Ordinance that required obtaining written permission from the City Manager in order to distribute writings of any kind.⁴⁰

The Court held that the ordinance was unconstitutional in its violation of the First Amendment, and, by extension, the Fourteenth Amendment, which guaranteed the freedom of speech on the state level.⁴¹ In the Court’s opinion, Justice Hughes argued that the freedom of the press is not confined to newspapers and periodicals and extended to pamphlets and leaflets. He asserted that “these indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own history abundantly attest”⁴² and continued to define the press as “every sort of publication which

³³ United States. Department of Defense. Office of the Secretary of Defense. Vietnam Task Force., ed. “Pentagon Papers.” Book. Washington, D.C. : National Archives, 2011.

³⁴ *Near v. Minnesota*, 283 U.S. 697 (1931)

³⁵ *Near v. Minnesota*, 283 U.S. 697 (1931)

³⁶ *Near v. Minnesota*, 283 U.S. 697 (1931)

³⁷ *Near v. Minnesota*, 283 U.S. 697 (1931)

³⁸ "Media Incentives and National Security Secrets." Harvard Law Review 122, no. 8 (2009): 2228-249.

³⁹ *Lovell v. City of Griffin*, 303 U.S. 444 (1938)

⁴⁰ *Lovell v. City of Griffin*, 303 U.S. 444 (1938)

⁴¹ *Lovell v. City of Griffin*, 303 U.S. 444 (1938)

⁴² *Lovell v. City of Griffin*, 303 U.S. 444 (1938)

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affords a vehicle of information and opinion.”⁴³ By not only defending the freedom of the press, but expanding the scope of the liberty itself, *Lovell v. City of Griffin* serves as an important precedent in defending the decision of the court in *New York Times Co. v. United States*.

IV. Impact of *New York Times Co. v. United States*

Only three years after the landmark decision in *New York Times Co. vs. United States*, better known at this time as the “Pentagon Papers” case, the supreme court reaffirmed the constitutional principle of freedom of the press that is detailed in the First Amendment. In *Miami Herald Publishing Co. v. Tornillo*, Pat Tornillo, a candidate for the Florida House of Representatives, sued the Miami Herald when the newspaper refused to publish his response to a critical editorial under a Florida statute that granted political candidates the right to have their response to editorial criticism published. The Herald challenged the statute as a violation of the free press guarantee in the First Amendment. The Florida Supreme Court upheld the constitutionality of the statute, but in a unanimous decision, the U.S. Supreme Court overturned the Florida Court’s decision and held that the Florida “right to reply” statute was unconstitutional in requiring that the press publish these responses.

In the Court’s opinion, Justice Berger stated plainly that “press responsibility... cannot be legislated.”⁴⁴ By illustrating the statute as an “intrusion on the function of editors,”⁴⁵ he defended the role of the press in not only publishing information, but also in being the sole determinant of what is published. Though Justice Berger does not explicitly cite *New York Times Co. vs. United States*, both cases defend the role of the press in determining publications. Justice White, in his Concurring opinion, does cite the Pentagon Papers case. The first amendment, he argues, has never allowed for public officials to “dictate to the press the contents of its news columns or the slant of its editorials.”⁴⁶ This line of reasoning can be applied not only to Tornillo, but to Nixon’s 46 attempt to use prior restraint. The First Amendment, he explains, “erects a virtually insurmountable barrier between government and the print media.”⁴⁷

In the same decade as *New York Times Co. vs. United States*, the Court also ruled against the use of prior restraint in *Nebraska Press Association v. Stuart*. The 1976 case involved a debate over whether or not the press may be legally prevented from publishing information that was seen to be “strongly implicative of guilt”⁴⁸ related to the defendant in a highly publicized criminal prosecution. In his opinion, Justice Burger called prior restraint “the most serious and least tolerable infringement on First Amendment Rights”⁴⁹ and cited *New York Times Co. vs. United States*, reporting that “every member of the Court, tacitly or explicitly, accepted the Near and Keefe condemnation of prior restraint as presumptively unconstitutional.”⁵⁰ Like it with regard to Nixon’s attempt to prevent the publication of the Pentagon Papers, the Court did not find that the defendant in *Nebraska Press Association v. Stuart* had met the heavy burden of showing justification for prior restraint.

⁴³ *Lovell v. City of Griffin*, 303 U.S. 444 (1938)

⁴⁴ *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974)

⁴⁵ *New York Times Co. v. Sullivan* 376 U.S. 254 (1964)

⁴⁶ *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974)

⁴⁷ *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974)

⁴⁸ *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976)

⁴⁹ *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976)

⁵⁰ *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976)

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V. Counterargument

In his article, "The Right to Know and the Duty to Withhold: The Case of the Pentagon Papers," Louis Henkin argues that the Government has always maintained the right to conceal and classify information, and in doing so, has kept this information from the people and the press.⁵¹ From a historical perspective, he asserts that "secrecy governed the deliberations in Philadelphia in 1787."⁵² This defense of secrecy may be valid, but begs the question of who should bear the responsibility of stopping leaks, a responsibility that Bickel maintains belongs to the government and not the press.⁵³ Henkin also questions exactly what kinds of public interests will be protected against Press publication and asks, "Do the interests of the Press also weigh differently in different cases? How are weights of interests to be determined? What kinds of evidence would meet the Government's burden?"⁵⁴ These questions can be partially answered with an explanation of the "clear and present danger" test and the precedent set in cases *Schenck v. United States* and *Abrams v. United States*.

While the decision in *New York Times Co. vs. United States* was reaffirmed with unanimous decisions in defense of the freedom of the press in both *Miami Herald Publishing Co. v. Tornillo* and *Nebraska Press Association v. Stuart*, the Pentagon Papers contained the unique element of a supposed national security risk. John Calvin Jeffries Jr. notes in "Rethinking Prior Restraint," that *New York Times Co. vs. United States* marked the first and only "head-on collision" between national security and First Amendment liberties.⁵⁵ In this decision, the case against the Freedom of the Press was unique and provided the opportunity for the argument that national security should be of utmost importance, and if need be, should abrogate fundamental civil liberties like that of the free press.

In the 1919 case *Schenck v. United States*, Justice Oliver Wendell Holmes, writing for a unanimous Court, concluded that courts owed greater deference to the government during wartime, even when constitutional rights were at stake.⁵⁶ Although in this case, Schenck was charged with conspiracy to violate the Espionage Act of 1917 by attempting to cause insubordination, it is reasonable that scholars may apply the argument that protections on speech are lower during wartime to the Pentagon Papers with regard to the press, given that the papers were primarily concerned with involvement in the Vietnam War. Schenck is also noteworthy because it is in this opinion that Justice Holmes articulated the "clear and present danger test."⁵⁷ Though Justice Holmes concluded by way of this test that the First Amendment does not protect speech that creates a clear and present danger of a "significant evil" that Congress has power to prevent, he did create a strong basis on which to base the decision in *New York Times Co. vs. United States*, when there was no proof of any "clear and present danger." As Justice Brennan wrote, the papers' publication would not cause an "inevitable, direct, and immediate event imperiling the safety of American forces."⁵⁸

⁵¹ Henkin. "The Right to Know..." (1971)

⁵² Henkin. "The Right to Know..." (1971)

⁵³ Bickel, Alexander M. *The Least Dangerous Branch*. (1986).

⁵⁴ Henkin. "The Right to Know..." (1971)

⁵⁵ Jeffries, John Calvin. "Rethinking Prior Restraint." *The Yale Law Journal* 92, no. 3 (1983): 409-37.

⁵⁶ *Schenck v. United States* 249 US 47 (1919)

⁵⁷ *Schenck v. United States* 249 US 47 (1919)

⁵⁸ *New York Times Co. v. United States*, 403 U.S. 713 (1971)

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In *Abrams v. United States*, argued later the same year, the court ruled that anti war propaganda posed a “clear and present danger”⁵⁹ to the war effort. Justice Holmes, however, dissenting, reiterated that protections on speech should not be curtailed unless there is a present danger of immediate evil. In his opinion, this propaganda did not constitute a clear and present danger.⁶⁰

VI. Conclusion

Though it is logically implied that the protections and limitations on the freedom of speech could be extended to the press, Doris Graber explains that “the importance of a free press has been so axiomatic that its presumed benefits have seldom been questioned.”⁶¹ In many cases, free speech has the subject of blame for inciting violence and causing harm, but, as Jeffries points out, there have been far fewer cases wherein the press has been the subject of such legal controversy.⁶²

Still, the existing legal framework surrounding the freedom of the press and other First Amendment liberties allows for the reasonable conclusion that President Nixon did indeed violate the First Amendment’s guarantee of a free press by attempting to use prior restraint to prevent the New York Times from publishing the Pentagon Papers. Because the publication of these documents could not be proven to cause an “inevitable, direct, and immediate event imperiling the safety of American forces,”⁶³ the President’s attempted use of prior restraint was unjustified and unconstitutional.

⁵⁹ *Abrams v. United States*, 250 US 616 (1919)

⁶⁰ *Abrams v. United States*, 250 US 616 (1919)

⁶¹ Graber. "Press Freedom and the General Welfare." (1986)

⁶² Jeffries, John Calvin. "Rethinking Prior Restraint." *The Yale Law Journal* 92, no. 3 (1983): 409-37.

⁶³ *New York Times Co. v. United States*, 403 U.S. 713 (1971)

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The Failure of Representative Democracy

Kameron Owen

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Introduction

On April 25, 2014, the City of Flint was poisoned; this continued for 18 months. On October 16, 2015, Flint switched back to Detroit's water, but the damage continued. Using the same pipes as before, it would take another year for the anticorrosion treatment to effectively reduce lead levels in Flint's tap water. For a total of 30 months, the residents of Flint were subjected to poisonous tap water, unless they could afford bottled water or countless water filters. For a city that saw a large population decline due to urban sprawl, many of its residents could not afford this luxury. Residents of Flint repeatedly contacted city, state, and federal officials stating that the water coming out of their taps was not safe for any use, yet officials consistently refused to listen. The Flint water crisis was preventable, so why did it happen, and why did it continue to happen despite the city's residents' concerns? The story of the Flint water crisis is a story of the failure of representative democracy.

I. History of Flint

To start, a discussion on the financial standing of the City of Flint needs to occur. Flint, like many cities around the mid-20th century, was booming. Known as "Vehicle City," Flint was home to General Motors, a company that employed 77,000 people in the local area. However, the boom had to end at some point.¹ In the second half of the 20th century, Flint saw a decline in population, businesses, and economic activity due in part to their own racist policies. GM, in an effort to entice new workers in the 1920s, built housing for prospective white workers. African Americans, however, due to restrictive covenants and redlining, were forced to live in two neighborhoods—St. John and Floral Park.² It is important to note that the federal government allowed the use of redlining and restrictive covenants to maintain segregation in order to create unequal living conditions for people of different races and to pass them down through the generations.³ With the racist structures in place, and GM building eight new manufacturing plants between 1947 and 1960 outside of Flint's borders, white residents began abandoning the city in favor of the suburbs.⁴ The city, despite not being home to the new plants, still offered a discount to them. By allowing the companies and residents that left Flint to continue using the city's infrastructure in the suburbs and getting little in return, Flint essentially backed its own divestment.

The story of Flint prior to the water crisis draws parallels to those of Detroit, St. Louis, and other industrial powerhouses during the mid-20th century. Much like these other cities, Flint needed money due to a large population decrease, which led to an increase in the city's poverty rate. Between 1970 and 2009, the poverty rate in Flint grew

¹ Clark, Anna. *The Poisoned City: Flint's Water and the American Urban Tragedy*. Picador, 2019. 43.

² Clark, 45.

³ Clark, 47.

⁴ Clark, 49.

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from 12.4% to 34.9%, while the population dropped from 193,317 people to 102,434.⁵ With an impoverished tax base living in a city with a crumbling infrastructure built for twice the number of residents, Flint was desperate for money. Starting with Michael Brown in December, 2011, the City of Flint was under the control of four different emergency managers until April, 2015, effectively making the emergency manager “the sole person with the authority to make decisions for the city.”⁶ Therefore, over almost four years, the residents of Flint were being led by a non-elected, state-appointed official that lacked accountability. Under the direction of an emergency manager, the Karegnondi Water Authority (KWA) was drafted as an opportunity for Flint to leave the Detroit Water and Sewage Department (DWSD), which had been price-gouging Flint for clean water while the city lacked the resources to pay. The KWA was essentially a negotiating tactic for Flint to pressure the DWSD for better rates, but then the not-yet-existent KWA received a permit from the Michigan Department of Environmental Quality to pull 85 million gallons of water per day out of the Great Lakes⁷ What happened next would become the tipping point in the Flint water crisis.

II. Switch to KWA

Darnell Earley, Flint’s emergency manager from October 2013 to January 2015, was in favor of switching suppliers of water, but knew that there was a pending lawsuit which threatened to overturn Michigan’s emergency manager law. Because of this, he wanted to have Flint’s elected officials—i.e. Mayor and Council—to make the decision to switch to KWA rather than himself in order to safeguard the decision from being challenged in court.⁸ Flint’s council voted 7-1 in favor of joining the KWA. The one member who voted no, Bryant Nolden, explained his reasoning following the vote: “It was just the process in which it was done, and having people wanting you to vote on something without having all of the information. And I just wasn’t going to be a party to that.”⁹ In a representative democracy, the elected officials should have access to all the necessary information needed when making a decision that will impact their constituents. The decision-making process in Flint leading to a switch to the KWA was a significant failure in representative democracy. If one of the eight councilmembers deemed the information provided to them was not enough to make a well-informed decision, the other seven councilmembers should have viewed this as a red flag that they were about to fail their constituents if they approved the switch. With Flint ready to join the KWA, the only thing left to do was build the system—this would take a few years. In the meantime, unlike other cities in Genesee County that were going to switch to the KWA, Flint made the unusual decision to turn to the Flint River for its water supply rather than sticking with the DWSD until the switch.

III. Switch to Flint River Water

A year prior to the switch to Flint River water, Stephen Busch, a Michigan Department of Environment Quality (MDEQ) employee, expressed concern over what would happen if Flint treated its own river for water— “bacterial problems, exposure to dangerous chemicals, additional regulatory requirements.”¹⁰ The Flint River was known

⁵ Scorson, Eric, and Nicolette Bateson. Rep. Long-Term Crisis and Systemic Failure: Taking the Fiscal Stress of America’s Older Cities Seriously, September 2011. 3, 7.

⁶ Clark, 15.

⁷ See note 6 above.

⁸ Clark, 16.

⁹ Clark, 16

¹⁰ Clark, 18.

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to contain unsafe water. This is acceptable in most cases given that water plants clean the water and make it safe for consumption, but Flint's water plant on Dort Highway was not adequate for large-scale water treatment. Michael Glasgow, Flint's utilities administrator, emailed three people at the MDEQ stating that the plant was not ready to filter Flint River water— "still, other decision makers gave the treatment plant their vote of confidence."¹¹ The "decision makers" Glasgow mentions were not Mayor Walling or any other elected official, but rather, according to the court case coming out of the United States Court of Appeals 6th Circuit, *Guertin v. Michigan*, were Darnell Earley, Jerry Ambrose, and Howard Croft. These individuals, against the advice of the state's environmental agency and official in charge of the city's water cleaning plant, decided that flipping the switch on April 25, 2014 to Flint River water was a good idea. "There is no doubt that the lead-contamination inflicted upon the people of Flint was a predictable harm striking at the core of plaintiffs' bodily integrity, and this known risk cannot be excused on the basis of split-second decision making."¹² If the citizens or elected officials of Flint were charged with being informed decision makers in this process, evidence of bacterial problems and dangerous chemicals in their potential water source would have deterred them from choosing Flint river water. What happened in Flint was a failure of representative democracy, because the only ones granted the decision-making power were state-appointed officials who could not be punished at the ballot box.

IV. Expensive Dirty Water

The decision to switch to Flint River water was made in order to help a struggling city. After being price-gouged for water by the DWSD, Flint saw leaving this department as an opportunity to become self-sufficient, something that would benefit the city financially. While the water from the Flint River may not have been cleaner than water from Detroit's system, providing their own water was a way for them to improve the city's financial situation. The plan for the KWA was that Flint would get untreated Lake Huron water and then treat it themselves, rather than receiving treated water as they had been from DWSD. This self-sufficiency was supposed to be cheaper in the long run than staying with DWSD. Before the water KWA was set up though, Flint would need a temporary alternative water source, and so they chose the Flint River to be that source. The switch to Flint River water was temporary in order to avoid an attempt by the DWSD to increase rates to make up for future lost revenue due to Flint's switch to the KWA. The emergency manager's decision to temporarily switch Flint's water source was an economic one. In *Guertin v. Michigan*, the court notes that while reducing cost is a legitimate government purpose, the situation in Flint was different. "The decision to temporarily switch Flint's water source was an economic one and there is no doubt that reducing cost is a legitimate government purpose," but "acting merely upon a government interest does not remove an actor's decision from the realm of unconstitutional arbitrariness."¹³ In the court's view, yes, reducing costs is a legitimate state interest, but in order to achieve that state interest, the state must take other factors into consideration, including providing the residents of Flint unsafe tap water in failing to use corrosion control on the water pipes. To add insult to injury for the residents of Flint, the water that they received from the Flint River was even more expensive than the water they would get from DWSD.

¹¹ Clark, 17.

¹² *Guertin v. State of Michigan*. (United States Court of Appeals 6th Circuit January 4, 2019). 16-17.

¹³ *Guertin v. Michigan*, 17-18.

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The infrastructure required to support the switch to Flint River water was absent, so the residents of Flint had to pay for the development of the temporary water system infrastructure. This called for a “6.5 percent hike in water and sewer rates for the first year and another 6 percent increase the following year.”¹⁴ This problem was exacerbated by the fact that Flint residents were solely responsible for paying for the infrastructure given that the Genesee County suburbs stuck with the DWSD before switching to KWA. Surprisingly, Earley allowed citizens, the City Council, and mayor to speak their minds regarding the price hike. There was backlash towards the new budget at the community meeting, with the council president noting that senior citizens on a fixed income are essentially prisoners of the city because they cannot move out. After neglecting to address Flint citizens’ concerns, Earley signed the budget anyway. It was as if Earley was flaunting his unaccountability to the city by holding this meeting and not listening to the residents’ complaints about “monthly bills [that] could now reach an average of \$149, compared to the average in neighboring Burton of less than \$58.”¹⁵ The argument put forth by the state that the decision to temporarily switch the city’s water source to the Flint River would benefit the city financially is false. In another undemocratic act, Darnell Earley chose to ignore the concerns of Flint’s residents, undermining the representative democracy in place in Flint, and putting its impoverished citizens through even more financial stress.

V. Conclusion

The story of the Flint water crisis is a story of the failure of representative democracy. In this case, representation was undermined by the state’s use of emergency managers in the city. The decision to switch to the KWA was not well-thought-out, it instead was rushed by Darnell Earley’s pressure to join the new water authority. While this decision was the most democratically made decision throughout the beginning of the water crisis, it was still heavily flawed given that the representatives charged with making the decision did not have sufficient information for safe decision making. Earley’s decision to temporarily switch Flint’s water supply to the Flint River was another example of the failure of representative democracy, with one man making the decision without proper constituent representation in mind. The decision to join the KWA and temporarily switch to Flint River water was deemed a wise choice economically by Earley, but in reality, water prices increased, and the citizens of Flint were undermined by those they elected to office. We cannot take back the decisions made by the appointed state officials, but we can point out the obvious flaw in the role of emergency managers—these officials are granted an enormous amount of power, and the systems we have in place make it hard for the citizens to hold them accountable. In order to prevent another situation as catastrophic as the Flint water crisis, it is necessary to reevaluate the powers granted to emergency managers; they should be given the capacity to help but not make decisions independently. The hardest thing to grasp is how easily this could have been avoided if local, state, and federal officials just listened to the residents of Flint, rather than undermining their city’s government by placing an emergency manager at the center of it. In the future, officials at all levels of government, appointed or elected, should prioritize listening to citizens’ concerns regarding all matters, because that is the purpose of a representative democracy.

¹⁴ Clark, 36.

¹⁵ Clark, 37.

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Section 2:

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Featuring:

“Fight The Powers That Be:’ Hip-Hop and the Globalization of Dissent”

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

*“The Politicization of Language: “Foreign” Words and Conservatism in German
and Austrian Politics”*

Written by Konrat Pekkip
University of Michigan, Political Science Major, Class of 2020

International Politics

*'Fight The Powers That Be:'***Hip-Hop and the Globalization of Dissent**

Madhav Singh

Introduction

What once originated as an underground musical movement for people of color in a small pocket of the Bronx, initially characterized by its modest assortment of casual break-dancers, graffiti artists, and MCs, has matured as the transnational cultural phenomenon that is hip-hop. However, the music or the 'rap' is only a subset of the movement itself, and going beyond traditional stereotypes, it is evident that the expressive culture of hip-hop has quickly shed its American niche to transcend territories, language, and even race. In the process, hip-hop has emerged as a *lingua franca*¹ that carries the potential to radically transform the political identity of individuals, communities, and states, while enabling its patrons to alter it with their distinctive national identity. From Shanghai to Kharkiv to Dakar, the new stakeholders of hip-hop are united by the shared desire to articulate a vital progressive agenda that aims to normatively challenge a repressive status quo — in order to make compelling, truth-telling art that reflects the lives, histories, hopes, and fears of this generation.

This essay aims to conceptually analyze the processes through which the culture of hip-hop has globalized an innovative form of dissent amongst individuals and communities of different nations, while examining its political ramifications on the behavior of individual and state actors in the process. In particular, I will explore a novel theoretical paradigm that hypothesizes the disciplinary relevance of hip-hop in international politics as a significant soft power phenomenon, characterized by its ability to be simultaneously 'global' and 'powerful.' Later, I will analyze the case studies of Thailand and Senegal — two states where hip-hop culture has played an instrumental role in empowering a grassroots protest movement against an otherwise orthodox authoritarian regime. Finally, I conclude by comparatively illustrating the similarities in the utilization of hip-hop in both the earlier examples and predicting the potential for hip-hop as a language of dissent in an increasingly interconnected world.

I. *Hip-Hop and Soft Power Politics: A Theory of Globally Powerful Rhymes*

First, consider the conceptualization of hip-hop as a 'global' phenomenon: which is the qualitative measure of the processes that helped transform a once localized music genre to a transnational movement of dissent and rebellion. These processes are compartmentalized as (1) a borderless, cultural grassroots globalization from below (bottom-up), and (2) a commercial, economic globalization from above (top-down). The bottom-up globalization of hip-hop can be understood through the concept of 'connective marginalities,' which Halifu Osumare defines as the "social resonances between black expressive culture within its contextual political history and similar dynamics in other

¹ *Lingua Franca* is translated from French to English as "Global Language"

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nations.”² This is to say that there are some aspects of the hip-hop culture, deeply rooted within the socio-political history of people of color that transcend national barriers in their ability to unify people that have been similarly marginalized by an oppressive status-quo — based on different identity markers like class, caste, gender, race, or sexuality. For instance, at the heart of hip-hop’s African bardic traditions is the idea of *nommo* — which is the animative ability of words and their delivery to act upon objects, giving them life.³ In discussing the socio-political efficacy of *nommo*, ethnomusicologist Cheryl Keyes quotes Ceola Baber, who asserts that “*nommo* generates the energy needed to deal with life’s twists and turns; sustains our spirits in the face of insurmountable odds [and] transforms psychological suffering into external denouncements...and verbal recognition of self-worth and personal attributes.”⁴ It is, therefore, from the history of *nommo* that certain political elements like advocacy first find their place within the hip-hop culture, and subsequently, in the transnational context by serving as a medium of collective expression for the marginalized.

On the other hand, the top-down commercial globalization of hip-hop is a consequence of the telecommunications revolution which has situated us in an age proliferated with new media capable of disseminating information and data at unprecedented speeds across even the remotest corners of the world. Osumare asserts that not only has hip-hop become a part of this ‘technology-mediated’ global youth culture, but it is essential to it as its cultural epicenter.⁵ For instance, the internet hosts countless sites internationally, allowing one to travel to diverse hip-hop performances at the click of a mouse. Moreover, new media free streaming services like YouTube have revolutionized the reach of hip-hop on the global stage by giving the working-class a platform of representation that is unrestricted from the traditional constraints of capital and seed money. Therefore, the forms of black music and dances that depict the changing afro-sonic styles have ultimately emerged as commodities “bought and sold in the exigencies of a global supply-and-demand capitalist marketplace on a daily basis.”⁶

Second, consider the conceptualization of hip-hop as a ‘powerful’ phenomenon. Although the conventional definition of hard power in politics and international relations has often been formulated in easily quantifiable terms, such as military and economic coercion, I use power as the qualitative assessment of hip-hop’s ‘soft power’ potential: the currency of its culture, political values, and foreign policy implications. Soft power, as defined by Joseph Nye, is the power to attract, co-opt, or persuade the preferences of others through appeal and attraction; rather than through traditionally coercive means.⁷ The “proof of power”⁸ under Nye’s paradigm is derived from measuring the ability of an entity to influence the behavior of states. Similarly, we can illustrate the soft power significance of hip-hop culture by deliberating its policy implications for state behavior in the transnational context, through the evolution of ‘hip-hop diplomacy.’

The United States of America spends millions of dollars on so-called hip-hop diplomacy to capture the hearts and minds of Europe’s estranged Muslim communities;

² Osumare, Halifu. 2009. "Beat Streets in the Global Hood: Connective Marginalities of the Hip Hop Globe." *The Journal of American Culture* 24 (1-2): 172-172.

³ Blanchard, Becky. 1999. *The Social Significance of Rap & Hip-Hop Culture*. July 26. Accessed May 24, 2020. https://web.stanford.edu/class/e297c/poverty_prejudice/mediarace/socialsignificance.htm.

⁴ Keyes, Cheryl L. "At the Crossroads: Rap Music and Its African Nexus." *Ethnomusicology* 40, no. 2 (1996): 234-234.

⁵ Osumare, Halifu. 2009. "Beat Streets in the Global Hood: Connective Marginalities of the Hip Hop Globe." *The Journal of American Culture* 24 (1-2): 171-171.

⁶ *Ibid.*,

⁷ Nye, Joseph S. 1990. "Soft Power." *Foreign Policy* 80: 166-167. Accessed May 24, 2020.

doi:10.2307/1148580.

⁸ *Ibid.*, 155.

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often competing against European domestic programs. For instance, as the 2005 French Riots raged through the Paris suburbs, the Washington State Department started sending 'hip-hop envoys' — consisting of rappers, dancers, DJs — to perform and speak about minority empowerment in Europe; as well as in parts of Africa, Asia, and the Middle East.⁹ The first such hip-hop ambassador was Toni Blackman, a spoken-word artist who agreed to perform at embassy-sponsored events everywhere from Senegal to Indonesia.¹⁰ As a consequence of these diplomatic efforts, many Muslim activists became optimistic that their ties with U.S. embassies could help them pressure their domestic governments to acknowledge their social and political concerns. Even outside the U.S., thousands of politically motivated activists from Cape Town to Paris are utilizing the power of hip-hop in their communities to tackle issues pertaining to environmental justice, incarceration, and education. For instance, non-governmental organizations in Gothenburg are incorporating hip-hop's distinctive graffiti and dance styles to better engage with the disaffected immigrant and working-class youths of Sweden.¹¹ Therefore, the soft power potential of hip-hop appears to be especially profound when articulating the political preferences of an otherwise alienated minority.

The following two sections study the contemporary examples of Thailand and Senegal in order to comprehend the socio-political mechanisms through which hip-hop has globalized as a leading form of dissent in either state. It explores how hip-hop was powerful enough to invite a reaction from the "powers that be," thereby altering the field of revolution through its political appeal.

II. *'Which is my Country': Thailand's Rap Against the Dictatorship*

To instantiate the niche hip-hop has carved for itself as a form of dissent in Thailand, it is first necessary to understand the nature of the establishment it is dissenting. It was on May 22, 2014, that the Royal Thai Armed Forces, led by General Prayut Chan-o-cha, overthrew the caretaker government of Thailand through a coup d'état and came to power by establishing itself as the National Council for Peace and Order (also commonly known as the junta). In a country otherwise famous for its rich biodiversity and sprawling architecture, the junta soon made a name for itself as a militaristic regime that repressed basic human rights, outlawed dissent, and abused laborers. For instance, it is infamous for extrajudicially arresting and even killing thousands of Thai citizens that dare threaten its legitimacy: including, but not restricted to, student protestors, oppositional politicians, independent journalists, and even academics.¹²¹³¹⁴ However, while such reports have occasionally invited international pressure from organizations such as the U.N. or Amnesty International, the junta simply responds by saving face in the court of global opinion by promising tokenistic reforms. In its annual report, the Human Rights Watch found that the junta contradicted its promise of implementing the national human rights agenda in 2017, as it did not effectively end

⁹ Aidi, Hisham. 2014. Hip-Hop Diplomacy | Foreign Affairs. April 16. Accessed May 24, 2020. https://www.foreignaffairs.com/articles/united-states/2014-04-16/hip-hop-diplomacy?utm_campaign=subscriber_shares&utm_medium=promo_email&utm_source.

¹⁰ Ibid.

¹¹ Chang, Jeff. 2007. "It's a Hip-Hop World." *Foreign Policy*, no. 163: 60-60. Accessed May 24, 2020. www.jstor.org/stable/25462232.

¹² Mydans, Seth. "Thai Protesters Are Detained After Using 'Hunger Games' Salute." *The New York Times*. *The New York Times*, November 20, 2014. <https://www.nytimes.com/2014/11/21/world/asia/thailand-protesters-hunger-games-salute.html>

¹³ Gomez, James. "Thailand: End Escalating Crackdown on Peaceful Protests," January 31, 2018. <https://www.amnesty.org/en/latest/news/2018/01/thailand-end-escalating-crackdown-on-peaceful-protests/>.

¹⁴ "Police Arrest Protesters Marking Fourth Year of Thai Junta Rule." *The Straits Times*, May 22, 2018. <https://www.straitstimes.com/asia/se-asia/protest-greets-fourth-year-of-thai-junta-rule>.

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the repression of civil and political liberties, imprisonment of dissidents, and the military impunity from torture and other abuses.¹⁵

Although it has become abundantly clear that international pressure has done little to counteract the junta's oppressive status-quo, an arguably more potent form of dissent has taken the shape of a domestic musical revolution supported on the back of hip-hop. Rap Against Dictatorship, or RAD, is a hip-hop collective that was formed in 2017 by a group of artists who shared among themselves a common desire to transform the political field in Thailand, and it has since emerged as the unlikely embodiment of the raging struggle between the country's marginalized and elites. The group made their musical and political debut in the form of a song titled *Prathet Ku Mee*,¹⁶ which was released on YouTube to instant virality, and soon became instrumental in single-handedly ushering in a novel paradigm of soft power dissent in Thailand. By combining the trademark elements of politically conscious raps such as anti-establishment lyricism and gritty aestheticism, the artists of RAD utilize the connective marginalities of hip-hop to subvert the status-quo of the authoritarian government and challenge bureaucrats to answer for issues like corruption, judicial unfairness, regulatory high-handedness, censorship, and institutional oppression.¹⁷ The rebellious motif of their raps is further supplemented through a locally deployed variety of political symbolism — wherein the artists recreate violent spectacles, such as the Thammasat University Massacre, to establish the urgency of resisting a tyrannical junta.

Unsurprisingly, the junta reacted furiously to this unprecedented display of 'hip-hop dissent,' and the several artists involved in the making of the video were summoned to testify before Thailand's National Council for Peace and Order on the charges of defamation.¹⁸ However, the legacy of RAD has since conceived an active anti-establishment hip-hop 'scene' in Thailand — and with the country holding its first general elections since the coup on March 24, 2019, one can infer that the struggle for democratization is being met with cautiously optimistic victories. Although the artists strictly maintain that the fight is far from being over, they wish to address other pervasive issues like income inequality and capital redistribution in the country through their new songs such as *Capitalism*.

III. *'Rhythm, Rhymes, and Elections': The Rap Revolution in Senegal*

In Senegal, an authoritarian leader shuddered in anticipation at the prospective rise of a political revolution curated by the young and marginalized citizens of Senegal — armed with oversized clothes, loud colors, and the power of their rhymes. As Senegalese voters prepared to head to the general elections in February 2012, a notable controversy surrounding the incumbent president, Abdoulaye Wade, ignited when he was found to be seeking a third term in the presidential office, a decision in direct violation to the country's constitution. For context, a year after coming to power in April 2000, Wade had amended the constitution to impose a two-term limit for the presidential office;¹⁹ which was initially received positively by the citizens. However, dissent soon actualized when he departed from his previous promises to adhere to the constitutional two-term limit and

¹⁵ Country Summary: Thailand. 2018. World Report 2018: Thailand | Human Rights Watch. January. Accessed May 24, 2020. <https://www.hrw.org/world-report/2018/country-chapters/thailand>.

¹⁶ *Prathet Ku Mee* or ประเทศไทย is translated from Thai to English as "Which is My Country."

¹⁷ Garg, Priyeshu. 2018. The Future of Political Dissent? Thai Activists Use Blockchain in "Rap Against Dictatorship". November 19. Accessed May 24, 2020. <https://unblock.net/the-future-of-political-dissent-thai-activists-use-blockchain-in-rap-against-dictatorship/>.

¹⁸ *Ibid.*,

¹⁹ Jahateh, Lamin. 2012. Controversy of Abdoulaye Wade's presidential bid | Senegal | Al Jazeera. January 28. Accessed May 24, 2020. <https://www.aljazeera.com/indepth/opinion/2012/01/201212712295177724.html>.

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announced his plans to stand as president for a third term. Not to mention that Wade routinely attempted to exploit the state's constitution to increasingly centralize power in his hands, which frequently resulted in self-serving amendments that were more in line with an autocracy than a democracy.²⁰

The citizens of Senegal did not react kindly to Wade's totalitarian nature, and volatile protests engulfed the country's capital Dakar — ranging from peaceful sit-ins to incessant street clashes with the riot police. The demonstrations truly came into their own in the form of a movement known as *Y'En A Marre*,²¹ which was championed by a group of rappers and journalists who mobilized to protest against Wade's presidency.²² Hip-hop artists in Senegal soon released a collaborative album titled *You can't force it* in English, filled with politically charged songs such as *Free the People* that urged citizens to resist the onset of a draconian regime. Accompanying this album was a music video that went viral on YouTube, depicting crowds of young Dakarais pouring out of their crumbling tenements to join the rappers in forming a line and crossing their arms together to make an "X"²³ — which symbolized the rejection of President Wade. Such political metaphors of Senegalese hip-hop were ultimately also embraced as part of the conventional protests, and the symbolism encapsulated within the expressive art of hip-hop depicted became a potent way to portray a unified stand against the constitutionally illegitimate and repressive president.

The president responded in a typical authoritarian manner: which included brutally squashing protests through riot control protocols and extrajudicially detaining two of the leading hip-hop artists in Senegal, Kilifeu and Simon, from the venue of a peaceful demonstration.²⁴ However, the spark of rebellion had already been kindled, and the soft power potential of the *Y'En a Marre* movement was ultimately crucial in ensuring Wade's defeat in 2012, following which Macky Sall occupied his position.²⁵ When particularly influential hip-hop group Keur Gui was offered a share in the spoils of a new regime, by being invited to produce music for the new government, they refused; insisting that their vision of a democratic transformation beyond the ballot box remained unfulfilled and that the movement's intention was never to merely change elected leaders.²⁶ Thus, the broader and incessant quest of truly democratizing the state of Senegal has served as the locus of inspiration for budding new-wave hip-hop artists, such as Fou Malade and his crew Armored Battalion, who are now utilizing the political lyricism of hip-hop to denounce incumbent politicians as "robbers of cash" and "liars."²⁷

IV. Conclusion

The examples of Thailand and Senegal illustrate that despite their geopolitical and lingual differences, there are conspicuous similarities in the way the citizens of a state collectivize to demonstrate resistance against an authoritarian regime through the avenue

²⁰ Ibid.,

²¹ French for "Fed Up"

²² Howden, Daniel. 2012. Rap revolution: Voices of dissent in Senegal | The Independent. February 20. Accessed May 24, 2020. <https://www.independent.co.uk/news/world/africa/rap-revolution-voices-of-dissent-in-senegal-7218932.html>.

²³ Ibid.,

²⁴ Ibid.,

²⁵ Mampilly, Zachariah. "Senegal's Rappers Continue to 'Cry from the Heart' for a More Just Society." The Conversation, May 18, 2019. <https://theconversation.com/senegals-rappers-continue-to-cry-from-the-heart-for-a-more-just-society-91263>.

²⁶ Ibid.,

²⁷ Howden, Daniel. 2012. Rap revolution: Voices of dissent in Senegal | The Independent. February 20. Accessed May 24, 2020. <https://www.independent.co.uk/news/world/africa/rap-revolution-voices-of-dissent-in-senegal-7218932.html>.

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of hip-hop. In both cases, a locally contextualized version of hip-hop culture served as the backbone of a generational consciousness, which manifested itself in a subversive youth art style threatening to disrupt the otherwise adult status quo of persecution and exploitation. The “us vs. them” mentality is also similarly prevalent in either study, with the insider group consisting of urban working-class citizens, who find themselves alienated at the hands of the elite outsider, with the latter unwilling to relinquish its power to the former. Dissemination of information through modern technological channels helped globalize dissent in both the cases, with new media such as YouTube serving as the virtual battlefield for protestors to rebel against an entity that may be impervious to more traditional forms of dissent. Finally, in both cases, the hip-hop counterculture was met with attempts of a violent assassination by people in positions of power; however, the spirit of resistance ultimately prevailed in some manner — either in the form of artistic legacy or even reforms to the existing paradigm.

What is the future of hip-hop as an artistic medium of dissent in an increasingly interconnected world? Although the scope of this essay limits the potential to provide an applied prediction, one can safely assert that the cross-cultural movement is still in its infancy and holds even more drastic implications for the study of international relations upon its maturation. A prospective area of research could expand upon this essay by acknowledging a reverse soft power perspective on how some authorities have co-opted hip-hop as an instrument of indoctrinating the very classes it was birthed from — as we are now seeing in the case of China.

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The Politicization of Language: “Foreign” Words and Conservatism in German and Austrian Politics

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Language has always been political. For centuries, language has been instrumentalized by some to exclude certain groups from the political process, for example through literacy tests. At the same time, language has served as the glue that binds together groups of marginalized people and allowed them to fight for equal rights: some of the most powerful responses to literacy tests used to justify the disenfranchisement of Black voters in the United States were Rev. Dr. Martin Luther King’s eloquent speeches, through which he mobilized thousands to support the civil rights movement and electoral reforms.

Yet, while language has been used as a political tool throughout human history, the mechanisms in which this instrumentalization took place are ever-changing. Recently, large parts of the Western political world witnessed populists, who pride themselves on propagating simple solutions, rise to power by conveying their ideas using simple language. Not only do they often use simplistic language, but they emphasize doing so. One example of this is right-wing populists’ staunch opposition to the so-called “Gender-Star” in Germany, introduced by the Greens to indicate gender inclusivity when using words that have both a male and a female form.¹ Populists are against employing a more inclusive language, asserting that doing so unnecessarily complicates the language on purely ideological grounds.

One important characteristic of European right-wing populists is their nationalism. Promoting policies that favor the racial and ethnic majorities of a country and ostracize minorities, populists present themselves as the true representatives of “the people.” One of the ways in which they indicate this is by using a more local language rather than foreign loan words. In an effort to appeal to a less-educated subset of the electorate, right-wing populists instrumentalize the usage of colloquial language to establish a difference between them and ‘mainstream’ politicians they deem elitist for their tendency to employ anglicisms and/or teutonisms.

This paper serves to analyze this claim by examining two cases. The first case pertains to Austrian politics, where right-wing politicians often underscore their Austrian identity by opting for Austriacisms, or words that are “variants typical for Austria,”² rather than Teutonisms, a term used to describe “variants typical for Germany.”³ The second case pertains to German politics, where right-wing populists defy the increasing use of anglicisms in politics and appeal to certain voters by standing decidedly against the “Anglification” of German politics. The *Alternative für Deutschland* (AfD), the most prominent far-right extremist party in German politics is particularly successful in East Germany, where most people who grew up in the German Democratic Republic learned

¹ Schuetze, Christopher F. “‘Gender Star’ Stirs Linguistic Conservatives to Battle in Germany.” *The New York Times*, The New York Times, 7 Mar. 2019.

² Pfrehm, James. “The Role of Age in Austrians Perceptions of the Frequency of Use and Likeability of Lexical Teutonisms and Austriacisms.” *Folia Linguistica* 44, no. 2 (2010), 444.

³ *Ibid.*

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Russian, not English, as a second language. As a result, large parts of the East German population are rather unfamiliar with the English language.⁴

Before examining the ways in which both cases serve as examples for the instrumentalization of language for political gains, it is important to understand the history of the German language and how different dialects emerged as national variants over the course of history. Subsequently, this paper will explore the two cases from a lens of some key concepts in linguistics, before diving into a discussion of the broader impact of the findings.

As it is the case with many, if not most, languages, the history of German dialects dates back centuries. Many people view Germany as the natural center of the German language,⁵ which is understandable considering the name as well as the sheer number of German speakers that live in Germany today. This imagining of Germany as the center of the German language usually coincides with an imagining of “Germany” as a continuous social and political unit dating back to Hermann the Cherusci and his opposition to the Roman Empire millennia ago.⁶

However, politically, socially, and linguistically, the history of Germany as well as that of the German language is not a continuous one, let alone a centralized one. Rather, linguists now refer to German as a pluricentric language, which is defined as one with “several interacting centres, each providing a national variety with at least some of its own (codified) norms.”⁷ These centers do not necessarily correspond with either nations or nation-states. Some varieties of German exist without the institutional backing of a political unit, as it is the case with Plattdeutsch (Low German), and some do not even correspond with a geographic unit. Yiddish, for example, is a variety of German that is centered around Jewish people across the globe.⁸

Thus, the German language rests on a variety of different centers. Some places are full centers, such as Germany and Austria for German. Others are half centers, such as Luxembourg or South Tyrol, and scholars even identified quarter centers, such as the former German colony Namibia or certain communities in North America.⁹ Because of this, some scholars assert that the term pluri-areality reflects the geographic diversity of the German language better, whereas others contend that pluri-areality does not account for the political factors in language standardization and therefore does not accurately reflect the history of the German language.¹⁰ However, this discussion goes beyond the scope of this paper.

Rather, an important takeaway here is that the pluricentric history of the German language corresponds with the multi-polar political history of states consisting of and representing German speakers. To gain an understanding of German and Austrian variants of German as well as the politicization of Austriacisms and Teutonisms, one has to consider the political history of the various German states and the hostilities surrounding their competition in the past.

⁴ Bruen, Jennifer, and Vera Sheridan. “The Impact of the Collapse of Communism and EU Accession on Language Education Policy and Practice in Central and Eastern Europe: Two Case-Studies Focussing on English and Russian as Foreign Languages in Hungary and Eastern Germany.” *Current Issues in Language Planning* 17, no. 2 (October 2015), 147.

⁵ Ammon, Ulrich. *Die Deutsche Sprache in Deutschland, Österreich Und Der Schweiz: Das Problem Der Nationalen Varietäten*. Berlin: W. de Gruyter, 1995, 317.

⁶ *Ibid.*

⁷ Clyne, Michael G. *The German Language in a Changing Europe*. Cambridge: Cambridge University Press, 1995, 22.

⁸ Dollinger, Stefan. *The Pluricentricity Debate: on Austrian German and Other Germanic Standard Varieties*. New York; London: Routledge Taylor et Francis Group, 2019, 7.

⁹ *Ibid.*

¹⁰ *Ibid.*, 62.

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Ammon argues that history forbids an appropriation of the German language by the German state or the German nation.¹¹ The Holy Roman Empire, which is popularly often considered the predecessor of contemporary Germany, consisted of hundreds of individual principalities and kingdoms spread across modern-day Germany, France, Austria, Switzerland (until 1648), Poland, and others.¹² The Holy Roman Empire effectively ceased to exist under Napoleonic rule; after Napoleon was defeated, the German language remained politically distributed across a whole variety of states, although they were largely contained in the loosely organized German Confederation, later the North German Confederation.

It was under the impression of this Napoleonic legacy that a rivalry between the Habsburg and Hohenzollern dynasties became formative for German speakers and their sense of national identity. This rivalry, by scholars referred to as “German dualism”, emphasized the significance of what might have been the most important political question of 19th century central European politics, namely the “German Question.”¹³ Essentially, the question was about the different prospects of creating a German nation-state. Unifying “Germans” in a nation-state was a goal shared by large parts of the population; nationalists like J.G. Fichte prominently believed that the compartmentalized character of the German Confederation hurt the interests of its people. It was also in the interest of the two powerful dynasties Habsburg and Hohenzollern, as they envisioned increased influence over a larger territory in a unified Germany.¹⁴

The argument was about the scope of the soon-to-be German nation-state. Whereas the Habsburgs of Austria favored a “Greater German solution” that included Prussia, smaller German states and Austria under a Habsburg rule, the Hohenzollern rulers of Prussia preferred the “Lesser German solution.” This included Prussia and the smaller German states, but excluded Austria (Sondhaus 1991, 1),¹⁵ allowing the Hohenzollern dynasty to rule over the country without the Habsburg dynasty interfering. Eventually, Prussia solidified its claim to the Lesser German solution after winning the decisive battle of Königgrätz in the Austro-Prussian War, consolidating the German Empire only five years later following the Franco-Prussian War.¹⁶

Ammon asserts that only after the events of 1866 and 1871 did the new construct, Germany, become a national center for the German language, diverging from other centers such as Austria and German-speaking Switzerland.¹⁷ Beginning in 1871, he identifies a socio-linguistic continuity relevant to the relationship of German German, Austrian German, and Swiss German.¹⁸ Yet, even within the German Empire, there had been no agreed-upon standard language. Rather, different dictionaries existed in different states. Subsequently, there was a wave of language standardization of German that occurred during the imperial years, which laid the foundation for major differences between the German and Austrian variants of the language.¹⁹

The differences between High German, which is the term I choose to refer to the variant of German considered standard in Germany, and Austrian German are three-fold:

¹¹ Ammon, *Die Deutsche Sprache in Deutschland, Österreich Und Der Schweiz: Das Problem Der Nationalen Varietäten*, 317.

¹² *Ibid.*, 318.

¹³ Sondhaus, Lawrence. "Schwarzenberg, Austria, and the German Question, 1848-1851." *The International History Review* 13, no. 1 (1991), 1.

¹⁴ *Ibid.*, 4.

¹⁵ *Ibid.*, 1.

¹⁶ Ammon, *Die Deutsche Sprache in Deutschland, Österreich Und Der Schweiz: Das Problem Der Nationalen Varietäten*, 318.

¹⁷ *Ibid.*

¹⁸ *Ibid.*, 319.

¹⁹ *Ibid.*, 320-321.

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There are orthographic, orthophonic, and ortholexic differences between the two. The underlying hypothesis of this paper claims that populists in Austria are more likely to employ austriacisms in their political language in order to emphasize their connection to “the people”, invoking a sense of in-group identity among Austrians and othering their political opponents whose usage of Teutonisms they criticize. In fact, primary sources from the 2019 campaign for the federal election in Austria suggest that this trend does not only apply to right-wing populists (in Austria organized in the *Freiheitliche Partei Österreichs*, or FPÖ), but to the more established conservatives from the *Österreichische Volkspartei*, or ÖVP, as well.

An example is the parties’ central campaign slogans in the campaigns leading up to the federal elections of 2019. The center-left SPÖ with its slogan “humanity wins,” the environmentalist *Die Grünen* with its slogan “clean environment - clean politics” and the economically liberal *NEOS* with its slogan “connecting the economy and the environment,” all focused on the content of their respective electoral platforms in the framing of their central campaign slogans.^{20,21,22} Both FPÖ and ÖVP on the other hand used the slogan “the one who speaks our language”²³ advertise their leading candidates to voters, heavily emphasizing the proximity to citizens their main candidates allegedly exhibit by “speaking our language.” Politicians of both parties subsequently accused one another of espionage; while those accusations were never settled, the fact that both conservative parties in the race focused on the Austrian language as a mobilizing factor for voters speaks volumes.

Another interesting example to consider is the campaign of former member of the federal parliament Renate Kanovsky-Wintermann. The FPÖ politician, a right-wing populist, advertised herself demanding more compassion (German: “Gefühl”) and intuition (German: “Gespür”). What stands out is that the campaign intentionally misspelled both words to more closely resemble the Austrian dialect: Rather than calling for “Mehr Gefühl & Gespür für unser Klagenfurt”, the slogan reads “Mehr G’fühl & G’spür für unser Klagefurt”. This is not an isolated incident: A candidate for the FPÖ in Kärnten claimed he had “Mehr G’fühl für die Leut”, spelling both “Gefühl” and “Leute” in a more phonetically Austrian way.²⁴ In addition to this, “Leute” (or “Leut”) is an austriacism in itself when referring to common people in campaigns; in High German, it would be more appropriate to refer to the electorate as “Menschen”, or “Bürger.”

Within Austrian politics, Vienna plays a particularly important role. The country’s capital and largest city, Vienna is its own state and makes up about one fifth of the entire population of Austria. Language becomes increasingly politicized in Viennese politics, as the younger generations increasingly intentionally (try to) speak High German as opposed to the regional variant.²⁵ This trend transcends socioeconomic status and can be found across young people of all backgrounds in the city, much to the disdain of older people, who often pride themselves on their Viennese dialect.²⁶

²⁰ “Plakate Für Die SPÖ-Wahlkampagne 2019.” SPÖ. Sozialdemokratische Partei Österreichs, September 2, 2019.

²¹ “Grüne Kampagnen.” Nationalratswahlkampf 2019. Die Grünen Österreich. 2019.

²² “NR-Wahl: NEOS Präsentieren Erste Plakatkampagne.” Vienna Online. Vienna.at. 2019.

²³ Schillat, Florian. “Österreich Sieht Doppelt: Welche Partei Spricht Denn Jetzt ‘Unsere Sprache?’” stern.de. Stern Magazin, August 28, 2019.

²⁴ “Viel ‘G’spür’ in Den Wahlkämpfen.” Der Standard.at. Der Standard, April 26, 2015.

²⁵ Glauning, Manfred Michael. “Zur Metasoziose des ‘Wienerischen’. Aspekte einer Funktionalen Sprachvariationstheorie.” *Zeitschrift für Literaturwissenschaft und Linguistik* 166, no. 2 (2012), 114.

²⁶ Ibid.

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The disdain for this phenomenon transcends political ideologies and is expressed by bourgeois-conservatives, left-liberals and left-alternatives alike.²⁷ Yet, it is mostly conservative parties who take up this issue and further politicize it in their electoral campaigns. One example is the conservative ÖVP handing out gimmick dictionaries of the Viennese dialect to voters, substantiating the gift by showing that the party understands them: “Weil wir sie verstehen” - “Because we understand you.”²⁸ Once again, conservatives frame themselves as closer to the people by emphasizing that they speak “their” language: the Viennese dialect.

The second case pertains to the usage of anglicisms in German politics. Most linguists are not concerned with English “taking over” the German language, as some people have repeatedly claimed for decades. Only about 3% of words in the German language are anglicisms; other languages, French and Latin, for example, have historically had larger impacts on the German language.²⁹ Moreover, linguists assert that many German-speakers engage creatively with the English language, thereby creating pseudo-English neologisms such as “Handy” for cell phones and “Oldtimer” to describe vintage cars.³⁰

Yet, many find the increasing number of anglicisms used in the German language concerning, an attitude that is mirrored and amplified by the media’s sensationalization of this phenomenon. In many cases, media outlets misrepresent the academic consensus on the matter by emphasizing interviewee’s subjective opinions over the empirical evidence of the same interviewees present in the same articles, for example by choosing a controversial snippet of an interview as the article’s headline.³¹ In return, people with no background in linguistics might believe these misrepresentations and subsequently form harmful opinions about language preservation.

As a result, language, and particularly the discussion surrounding anglicisms in the German language, has increasingly become a politicized topic in societal discourse. The right-wing populist *Alternative für Deutschland* (AfD) took up the “issue” as one of their own, framing anglicisms in the German language as one of many signs of the alleged decay of German culture. Ignoring the fact that even the Brothers Grimm, of incredible importance for the German cultural heritage, were staunch opponents of language purism,³² the party seeks to “protect” the German language through a variety of proposed policies. The party insists on establishing German as the official language of Germany in the Basic Law,³³ demands its recognition as a cultural heritage,³⁴ and frequently criticizes dynamic changes to the German language, such as the aforementioned “Gender-Star” or gender-inclusive language more generally.³⁵ Alice Weidel, co-chair of the AfD faction in the German *Bundestag*, even referred to gender-inclusive language as an Orwellian dogma.³⁶

The AfD and its politicians frequently work with bold and simple imagery in their speeches, which is then used to further propagate the party’s goals on their social media

²⁷ Ibid., 115.

²⁸ Beer, Romana. “Wahlkampf „Auf Gut Wienerisch.” ORF.at. Österreichischer Rundfunk, October 8, 2015.

²⁹ Rocco, Goranka. “Anglizismen im Öffentlich-Medialen und Sprachwissenschaftlichen Diskurs über die Deutsche Sprache und in den Einstellungen der Sprecher.” *Linguistik Online* 67, no. 5 (2014), 138.

³⁰ Ibid.

³¹ Ibid., 139

³² Ibid., 138

³³ Königer, Steffen. “Rede zum Antrag der AfD Fraktion” *Landtag Brandenburg*. February 21, 2017.

³⁴ Kersten, Andrea. “AfD-Gesetzentwurf: Deutsche Sprache Als Kulturgut Schützen.” AfD Fraktion Sachsen. *Alternative für Deutschland Sachsen*, December 16, 2016.

³⁵ Weidel, Alice. “Die Sogenannte ‘Gendergerechte’ Sprache Ist Ein Orwell-Projekt.” AfD.de. *Alternative für Deutschland*, June 21, 2019.

³⁶ Ibid.

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channels online. Because some anglicisms have become quite commonly used in the German language,³⁷ the party often attacks its political opponents on the grounds of using language they view as out of touch with “the people”. Anglicisms have thus become a readily available dog-whistle AfD politicians often use to signal their nationalist ideology to the electorate.

A prime example of AfD politicians instrumentalizing anglicisms to ridicule their political opponents is a speech given by Steffen Königer to the Brandenburg state parliament in 2017. Königer, speaking out in support of the AfD proposal to recognize German as the official language of Brandenburg, used 200 anglicisms in his speech in order to emphasize the alleged decay of the German language.³⁸ However, over the course of his five minute speech, Königer failed to address the benefits of linguistic diversity in Germany, where Frisian, Sorbian, Danish, Romani and others are officially recognized as minority languages. Moreover, he does not address the beneficial effects of modernizing language, and, perhaps most importantly, fails to recognize his ideological forefathers supporting language purity, the national socialists.³⁹

However, this is not to say that the AfD remains the only political force to instrumentalize language to emphasize its political agenda. For better or worse, democratic politicians engage in this behavior as well, albeit often in response to the proposals from the extreme right. For instance, in 2018, one member of parliament for the Social Democratic Party (SPD), East Frisian Johann Saathoff, gave a captivating response to yet another AfD proposal to establish German as the only official language of the country.

In his speech, Saathoff began by explaining that the proposal only serves the purpose of national isolation rather than protection of the German language, and asserted that linguistic diversity is important for a thriving society. Following this introduction, he stated that he himself benefits from being multilingual, and continued his speech not in High German, but Plattdeutsch, a variety of German spoken in his native East Frisia.⁴⁰ Although his speech was a remarkable counter to the AfD’s populist instrumentalization of the German language, one might ask whether it is beneficial for the democratic cause to reply by instrumentalizing another language as a reaction, or if it validates the populists’ act of doing so in the first place.

One question that deserves our attention pertains to the concept of language community. Silverstein defines language communities as having an allegiance to a particular language.⁴¹ Yet, in the example of Austrian German, one might wonder what the language community consists of. On one hand, both Austrians and Germans speak the German language; thus, one could make the argument that all German-speakers belong to one language community. On the other hand, it appears to be of special importance to Austrians to distinguish themselves from German-speakers based in Germany, which complicates simply declaring every German-speaker a member of the same language community.

Can an individual be a part of multiple language communities, and how do these overlap? Alternatively, is there a discrete Austrian language community that does not extend to German German-speakers? How do we understand those who live in Bavaria

³⁷ Cannon, Garland, and J. Alan Pfeiffer. “English Loans in a Current Modern High German Periodical.” *Dictionaries: Journal of the Dictionary Society of North America* 24, no. 1 (2003): 98.

³⁸ Königer, “Rede zum Antrag der AfD Fraktion” 2017.

³⁹ Cannon and Pfeiffer, “English Loans in a Current Modern High German Periodical.” 2003, 107.

⁴⁰ Saathoff, Johann. “Rede zum Antrag der AfD Fraktion” *Deutscher Bundestag*. March 2, 2018.

⁴¹ Silverstein, Michael. “Whorfianism and the Linguistic Imagination of Nationality” in Paul Kroskrity, ed., *Regimes of Language*. Santa Fe: School of Advanced Research. 2000, 121.

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and speak the Austro-Bavarian variant of German? Would they be included in the Austrian language community over the German one? And, lastly, do we further contribute to the problem by engaging in boundary-making in the first place simply by asking these questions?

One might also want to inquire about the consequences of the described phenomenon on the linguistic repertoire of German-speakers. Are Austrians able to code-switch between High German and Austrian German? If so, do they exhibit a richer linguistic repertoire than the average German person who “only” speaks High German? How does this relate to Bourdieu’s idea of a linguistic marketplace?⁴² Does a speaker of Austrian German have more linguistic capital to “spend” on the linguistic market, given that they have access to both Austrian and High German?

Furthermore, certain political questions arise as well. If those who feel alienated by foreign loan words used in a local language are those with less access to education facing more systemic barriers to personal success, then why is it not the political left, historically concerned with lifting up marginalized classes of society, that opposes this trend? Do attitudes towards linguistic policies follow the typical distribution of the political spectrum, or might we only be able to explain this trend by looking beyond the political patterns we tend to think in?

As globalization progresses, many languages and dialects across the globe are subject to increasing pressure for a variety of reasons. In recent years, resisting language change has become somewhat synonymous with resisting globalization, and politicians are exploring new ways of engaging with voters by exhibiting a certain language. However, there are limits to the linguistic knowledge of certain actors, in addition to some degree of willful ignorance on the matter. The German language in particular has not changed at an exponential rate, as some might suspect. Yet, certain politicians choose to promote fear-mongering disinformation campaigns, insinuating that globalization and the influence of foreign languages and dialects has a detrimental effect on the local language.

It is important to understand these phenomena, especially the two examples described above, as explicitly politically motivated. The German language will not decay in the foreseeable future, and proposed policies, such as lifting one specific dialect of German to a constitutionally protected pedestal, would hurt the German language as a whole, with all of its variants, more than it would be beneficial. Overall, the conservative and right-wing populist reactions to language change are a case of nationalist opportunism on linguistic grounds and need to be resisted.

⁴² Bourdieu, Pierre "The production and reproduction of legitimate language," in *Language and Symbolic Power*. Cambridge MA: Harvard U. Press. pp. 43-65. First published 1982 in *Ce que parler veut dire*. Paris: Fayard (1991 [1982]).

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Section 3:

Political Theory

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Featuring:

“A Marxian Analysis of Universal Basic Income”

Written by Konrat Pekkip
University of Michigan, Political Science Major, Class of 2020

“The Limits of the Law”

Written by Brian Zharov
University of Michigan, Class of 2022

Political Theory

A Marxian Analysis of Universal Basic Income

Konrat Pekkip

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An economist, philosopher, and most importantly a revolutionary, Karl Marx is widely seen as one of the most influential thinkers of all time. In the 20th century, Marxists all over worked to establish a socialist world order following the ideas laid out most prominently in his and Engels' *Communist Manifesto* of 1848. However, with the fall of the Iron Curtain, Marxian ideas also appeared to lose their relevance in modern-day leftist politics. For instance, in his home country of Germany, the Social Democratic Party (SPD) together with The Greens gave in to neoliberalism under the Schröder-Fischer government of 1998-2005 with its Agenda 2010. Because this year marks the 200th birthday of the great thinker, it is prudent to analyze how much of a role Marxian thought plays in leftist politics today. By looking at one specific policy through a Marxian lens, the Universal Basic Income (UBI) as proposed by Die Linke, the following will evaluate the impact of Marxian thought on modern-day leftist politics in Germany. Although UBI contradicts many of the stances taken by Marx in his work, it fits very well into another Marxist ideology, that of evolutionary socialism.

Die Linke, the major party most closely aligned with socialism in Germany, is the main advocate for UBI in the Bundestag. Before it merged with WASG in 2005,¹ Die Linke was known as the Party of Democratic Socialism (PDS), which was the successor of the Socialist Unity Party of Germany (SED) in the German Democratic Republic.² The SED itself was founded in a merger of the East German branches of the SPD and the Communist Party of Germany (KPD). Based on this history, it is not far-fetched to assume that policies proposed by a party with strong roots in communism could conform to Marxian ideology.

As proposed by Die Linke, UBI represents an individually guaranteed, fully unconditional right to an income sufficient to live above the poverty line. By paying every individual in the country a fixed amount of money every month, the UBI's purpose is to ensure every person's right to participation in the German liberal democracy.³ It is important to note that, upon implementation of the UBI, most other forms of social welfare benefits would be cut. This includes federal student loans (BAföG), child benefits, and unemployment benefits.⁴

One of the main goals Die Linke attempts to accomplish through implementing the UBI is to give everyone a right to self-determination, as well as free laborers from the compulsion to work.⁵ The resulting freedom to choose what activities someone wants to engage in mirrors what Marx envisioned in *The German Ideology*: "In communist society (...) society regulates the general production and thus makes it possible for me to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon."⁶

However, in Marxian thought, this scenario cannot be accomplished through a policy measure like UBI because it does not challenge the alienation of the worker under

¹ David F. Patton, *Out of the East: From PDS to Left Party in Unified Germany* (State University of New York Press, 2011): 5.

² *Ibid.*, 1.

³ Ronald Blaschke and Stefan Wolf, "Unser Konzept Eines Bedingungslosen Grundeinkommens," *Bundesarbeitsgemeinschaft Grundeinkommen in und bei der Partei DIE LINKE*, 2016: 8.

⁴ *Ibid.*, 34

⁵ *Ibid.*, 26

⁶ Karl Marx, *The German Ideology: Part I*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 160.

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capitalism. Marx argues that, by selling their labor power, workers alienate themselves from the process and product of their labor. Consequently, “the more objects a worker produces, the fewer can he possess and the more he falls under the dominion of his product, capital.”⁷ Together with Engels in the *Communist Manifesto*, Marx asserts that the only way to prevent the alienation of workers is to eliminate all private property; this cannot be achieved solely through the implementation of UBI.⁸ To Marx, private property is the main cause for both the alienation of the worker and the existence of all class antagonisms.⁹ Accordingly, as explained in the *Communist Manifesto*, he views bourgeois private property as “the final and most complete expression of the system,”¹⁰ which needs to be abolished. Once that is achieved, there would be a new, classless society without any form of political power, because “political power is precisely the official expression of antagonism in civil society.”¹¹ This relates to his idea that political power is derived from private property and that property of scarce resources translates to political power.¹² Given that communism, as the synthesis of all class antagonisms, heavily relies on the abolishment of private property and not the redistribution thereof, the UBI stands in direct contrast to Marx’s vision. Die Linke responds to this by recognizing that a society without private property would be ideal, but simultaneously stating that currently, its abolition is not feasible.¹³

Instead, Die Linke attempts to use its UBI policy as a way to achieve a redistribution of wealth in the German capitalist society instead of abolishing all private property.¹⁴ This idea can be traced back to the first party platform of the SPD, the Gotha Program. In this platform, the party envisions a “fair distribution of the proceeds of labor”¹⁵ something that is very close to the goal Die Linke tries to accomplish through the UBI.

In *Critique of the Gotha Program*, Marx asserts that such a right to equal distribution would be “an unequal right for unequal labor,”¹⁶ under which those who work would be compensated the same as those who do not work. The policy would create further inequalities, since, for example, some workers have families to support while others do not. Hence, treating “unequal individuals”¹⁷ as equal while upholding the capitalist system does not lead to equality of all people. This problem would cease to exist in a communist society, where everybody would be treated “from each according to his ability, to each according to his needs.”¹⁸

Thus, following Marxian logic, UBI stands as another unequal right contributing to overall inequality, especially considering the fact that UBI would replace other social welfare benefits such as child benefits, further increasing the disparity between those who are able to pay for their families and those who are not. For Marx, redistribution cannot be the sole answer to the inequalities created under capitalism. He believes that those

⁷ Karl Marx, *Economic and Philosophic Manuscripts of 1844*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 72.

⁸ Karl Marx and Friedrich Engels, *The Communist Manifesto*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 484.

⁹ Karl Marx, *Economic and Philosophic Manuscripts of 1844*, 152.

¹⁰ Karl Marx and Friedrich Engels, *The Communist Manifesto*, 484.

¹¹ Karl Marx, *The Coming Upheaval*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 219.

¹² Karl Marx, *The German Ideology: Part I*, 162.

¹³ Ronald Blaschke and Stefan Wolf, “Unser Konzept Eines Bedingungslosen Grundeinkommens”: 22.

¹⁴ *Ibid.*, 30.

¹⁵ qtd. in Karl Marx, *Critique of the Gotha Program*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 528.

¹⁶ *Ibid.*, 530.

¹⁷ *Ibid.*

¹⁸ *Ibid.*, 531.

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who redistribute do nothing but bolster the legitimacy of a state with the sole purpose of protecting private property.

This leads to the discussion of the state in Marxian thought. One can find two contradicting views on the state in his works: On one hand, the younger Marx proposes an instrumental view on the state, in which it only serves to protect the bourgeoisie's private property and is defined by economic power. Because those in power of the state always come from the class that is economically superior, it exclusively serves the ruling class.¹⁹ In short, as described in the *Communist Manifesto*: "The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie,"²⁰ which is why it needs to be abolished in the proletarian revolution.

On the other hand, the more mature Marx proposes a structural view on the state instead, as described in *The Eighteenth Brumaire of Louis Bonaparte*. This interpretation of the state may not intend to serve the bourgeoisie, but still upholds capitalism.²¹ In essence, throughout his life, Marx believed that the state in a capitalist society will always defend the system, whether intentionally or not. Thus, anything that upholds the state likewise upholds capitalism and consequently the oppression of the working class. Because the UBI does not challenge the capitalist state, it cannot conform with Marx's visions.

Not only does the UBI support the state in a capitalist society, but it also fails to challenge a major component of capitalism to Marx: the concept of surplus value. In *Capital*, Marx differentiates between use value, exchange value and surplus value. Use value is the value provided by a good produced for oneself's use, the "utility of a thing,"²² while exchange value describes the value provided by a good traded with another person.²³ Surplus value, which is a concept specific to capitalism, is created when a capitalist pays a worker a certain wage to create a product, which he then sells for a price higher than the wage paid to the worker. The difference between the price of the product and the wage paid to the worker is the surplus value of the good.²⁴

As a consequence, Marx defines the relationship between the capitalist and the worker as exploitative, since the capitalist makes profits solely because he underpays the worker. In fact, Marx argues that the aim of all capitalist production is to "exploit labour-power to the greatest possible extent."²⁵ Because the UBI does not challenge the current production relations of capitalism, it essentially allows the concept of surplus value to remain unchecked. Hence, the implementation of UBI does not change the fact that capitalists, according to Marx, exploit workers in order to create more surplus value.

Marx also places a special emphasis on the internationalist dimensions of socialism. Most famously, his and Engels' final call to action in the *Communist Manifesto* is directed toward united proletarians "of all countries."²⁶ In fact, they view united action of leading civilized countries to be "one of the first conditions for the emancipation of the proletariat."²⁷ However, within the *Communist Manifesto*, Marx and Engels contradict themselves and retract from this view in their response to criticism of their alleged desire

¹⁹ Karl Marx, *The German Ideology: Part I*, 187.

²⁰ Karl Marx and Friedrich Engels, *The Communist Manifesto*, 475.

²¹ Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 607.

²² Karl Marx, *Capital, Volume I*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 303.

²³ *Ibid.*, 304.

²⁴ *Ibid.*, 357-358.

²⁵ *Ibid.*, 385.

²⁶ Karl Marx and Friedrich Engels, *The Communist Manifesto*, 500.

²⁷ *Ibid.*, 488.

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“to abolish countries and nationality.”²⁸ They assert that the proletariat is “so far, itself national, though not in the bourgeois sense of the word,”²⁹ making their internationalist claim sound like a rather transnationalist one. Nonetheless, they predict that together with capitalism, nations will vanish.³⁰

With its special emphasis on universality, the UBI initially appears to apply to this internationalist stance taken by Marx and Engels; especially considering that Die Linke views UBI as a “global social and political right and a human right.”³¹ However, even though Die Linke presents its idea of a basic income as universal, it does not plan to realize it on a global scale.³² Emancipating only the working class in Germany without advancing the rights of the global proletariat fails to meet how Marx wanted socialism to be realized. In this regard too, Die Linke’s UBI is not Marxian.

One aspect of UBI that conservative opponents criticize is that it could lead to a form of socialism. Since socialism is what Marx wanted to achieve, the question whether he viewed policies like UBI as a measure to get society a step closer to a socialist state arises. Based on most of Marx’s writings, the answer to that question is no. For instance, in *The German Ideology*, Marx outlines his theory of historical materialism: To him, human history is full of antagonisms and defined by a constant struggle between the ruling class and the ruled, the product of which being revolution and social progress.³³ Under Marx, it is always the disenfranchised group in such class struggles that ends up being superior. Following this logic, he argues that in order to establish socialism and to resolve all antagonisms, a revolution will happen in which the proletariat will abolish labor and the state.³⁴

However, socialism cannot be achieved by implementing some socialist policies without a revolution. Therefore, according to historical materialism, it is impossible for the implementation of UBI to result in a socialist society, since that can only be achieved through a communist revolution carried out by the disenfranchised working class. Yet, in the *Communist Manifesto*, Marx and Engels contradict the notion of policies not being sufficient: In section II, they present various short-term policies as an advancement of socialism, including ones such as a progressive income tax or the confiscation of emigrants’ and rebels’ property.³⁵

In conclusion, it can be determined that UBI does not fall into line with Marx’s ideas. However, this is not necessarily the case for Marxism in its many forms. To Geoff Eley, the transition from Marx to Marxism begins with Friedrich Engels, who saw it as his mission to explain and popularize Marx. More specifically, Marxism begins with the publication of Engels’ *Anti-Dühring* in 1877-1878.³⁶ In this sense, Marxism can be understood as a broad spectrum of interpretations of Marx’s writings, ranging from Leninist Communism on the one side to Evolutionary Socialism à la Bernstein, and Social Democracy more broadly, on the other.

It is important to note that Marxisms of all kinds not only popularized Marx’s ideas, but also altered them. For instance, Vladimir Lenin’s Marxism, also known as Leninism, places emphasis on an elite vanguard party as the main agent of socialism as

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid., 489.

³¹ Ronald Blaschke and Stefan Wolf, “Unser Konzept Eines Bedingungslosen Grundeinkommens”: 22.

³² Ibid.

³³ Karl Marx, *The German Ideology: Part I*, 193.

³⁴ Ibid., 199-200.

³⁵ Karl Marx and Friedrich Engels, *The Communist Manifesto*, 490.

³⁶ Geoff Eley, *Forging Democracy: the History of the Left in Europe, 1850-2000* (New York: Oxford University Press, 2002). 41-42.

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opposed to direct action taken by the proletariat.³⁷ This would lead to a dictatorship of the elites of a vanguard party rather than the proletariat as Marx suggested.³⁸ Leninism, thus, is a more suitable approach to communism specific to Russia, where, at the time of the October Revolution, there simply was not a big enough proletariat to carry out a systemic socialist revolution by itself.

Considering that Leninism differs severely from Marx in some respects, UBI seems more feasible under the former than the latter because the abolition of private property was not as much of a concern to Lenin as to Marx. Furthermore, he prioritized the fair distribution of wealth to the lower classes, as outlined in his *April Theses of 1917*.³⁹ However, he still believed in the nationalization of all property as a primary goal, which stands in opposition to the principle of UBI.

Another popular form of Marxism is revisionism, which is closely linked to the idea of evolutionary socialism. This concept was introduced by Eduard Bernstein in the late 19th century, at a time where the material conditions had changed significantly compared to when Marx and Engels wrote the *Communist Manifesto* in 1848. Bernstein argued that socialism and capitalism can coexist,⁴⁰ and proposed achieving socialism through democratic reforms rather than through revolution. He also argued that the state as the sole protector of the bourgeoisie no longer existed, and that even in a socialist society there would still be need for the state to act as an administrative entity.⁴¹ Moreover, he asserts that Marx's pauperization theory is wrong, which claims that under capitalism, the gap between the rich and the poor always continues to grow.⁴² Instead, the capitalist state has already contributed to better living conditions and, in evolutionary socialism, must continue to do so instead of being abolished.⁴³

UBI, as proposed by Die Linke, seems to correspond more to the pragmatic evolutionary socialism of Bernstein than to Marx's original ideas about socialism or Lenin's interpretation thereof. As explained above, UBI, if implemented, would not contribute to the establishment of a socialist society, but rather improve the situation of the disenfranchised under capitalism. This would happen through redistribution of wealth rather than its abolition, in an effort to give proletarians more to lose than just their chains.

After carefully analyzing the UBI through a Marxian lens, one can conclude that the policy is very much in contrast with Marx's ideology. It either contradicts or disregards concepts crucial to Marx's thought, such as the abolition of private property, surplus value, the alienation of workers and, above all, the abolition of capitalism. However, while in opposition to Marxian socialism, it is not in opposition to socialism altogether. In fact, it is a policy in accordance with the principles of evolutionary socialism as introduced by Eduard Bernstein. This makes sense, given that the policy is proposed by a party in the Federal Republic of Germany, where Marxian communism is regarded unconstitutional and where communist parties are outlawed. Thus, one could argue that Marx's intellectual heritage in Germany perseveres today through evolutionary socialism.

³⁷ *Ibid.*, 26-27.

³⁸ Karl Marx, *Class Struggle and Mode of Production*, edited by Robert C. Tucker. *The Marx-Engels Reader*. (New York: W. W. Norton & Company, 1978): 220.

³⁹ Geoff Eley, *Forging Democracy: the History of the Left in Europe, 1850-2000*, 141.

⁴⁰ Henry Tudor and J. M. Tudor, *Marxism and Social Democracy: the Revisionist Debate 1896-1898* (Cambridge: Cambridge University Press, 1988): 14.

⁴¹ *Ibid.*, 16.

⁴² Geoff Eley, *Forging Democracy: the History of the Left in Europe, 1850-2000*, 90.

⁴³ *Ibid.*

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Political Theory

The Limits of the Law

Brian Zharov

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Introduction

What, if anything, would be morally objectionable about the criminalization of ordinary lying and ordinary promise-breaking? Through understanding when the law should and should not interfere with the ordinary lives of its citizens, this paper's thesis proposes that it is morally objectionable to criminalize ordinary lying and ordinary promise-breaking, as doing so goes beyond law's scope; it does not contribute to the well-being of society, and it undermines key concepts of individual autonomy. To underscore this thesis, this paper first explains when criminalizing individual acts ought to be allowed [I], with an emphasis on Mill's Harm Principle⁴⁴ and Raz's Autonomy Principle and Perfectionism⁴⁵, and will ultimately merge the two. Finally, this paper explores an example of an ordinary lie, which serves to illustrate what is morally wrong with criminalizing ordinary lying and ordinary promise breaking [II].

I. Harm Principle Extended

Mill

It would not be morally objectionable to criminalize individual actions, if doing so can stop individuals from hurting others. In his work *On Liberty*, John Stuart Mill stresses a form of liberalism whereby people should be able to live their lives free from interference, so long as they are not harming others. According to Mill's core thesis, the Harm Principle, individuals should be free to do things society would deem bad for them—smoking, gambling, not wearing a seatbelt, etc.—but should not be free to act in ways that would negatively affect those around them, such as acts of violence, polluting, and destroying others' property. Mill defines his Harm Principle through a narrow lens, which defines harm as harm to others. Any harm to oneself ought not to apply, since Mill's liberalism stresses the importance of individual autonomy: "Over himself, over his own body and mind, the individual is sovereign"⁴⁶. As such, the importance of individual autonomy is an "appropriate region of human liberty," as it provides people with the ability to think and choose for themselves and the freedom to live truly free lives⁴⁷. So long as this freedom doesn't interfere with others' freedoms, the government has no role in interfering, as doing so only hinders the individual's liberty.

Raz

Similarly to H.L.A. Hart, who stressed other "grounds [for] justifying the legal coercion of the individual other than the prevention of harm to others," Joseph Raz too extends Mill's Harm Principle to include more than harm to others⁴⁸. Raz claims that Mill's Harm Principle gains its moral validity from the "autonomy-based principle of

⁴⁴ Mill, John Stuart, *On Liberty*. (Great Books in Philosophy. Buffalo, N.Y.: Prometheus, 1986).

⁴⁵ Raz, Joseph, *The Morality of Freedom*. (Oxford University Press, 1988).

⁴⁶ Mill, John Stuart, *On Liberty*, 69.

⁴⁷ Ibid, 71.

⁴⁸ Hart, H. L. A, *Law, Liberty and Morality* (1968), 5.

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freedom,” because it is “spent in the pursuit of acceptable and valuable projects and relationships”; thus, it is a “perfectionist principle”⁴⁹. Therefore, Raz’s perfectionism extends Mill’s Harm Principle to allow the government the right to provide its citizens with options, while establishing limits to when a government can interfere through the Autonomy-based Principle of Freedom. In other words, although the government has a duty to implement laws that foster its citizens’ well-being, legal paternalism, this duty is greatly limited by the need to promote individual autonomy and liberty.

Merging Mill and Raz

Understanding both Mill’s and Raz’s theses supports the idea that the government may interfere with individual autonomy under two conditions. It may take action either to prevent harm or to promote the flourishing of society, so long as it outweighs the limitations on liberty. Therefore, while it would benefit society to comply with Mill’s Harm Principle, legal paternalism must be balanced with Raz’s Autonomy Principle. Furthermore, it is up to the legal system, through its legitimate authority, to make this decision. As such, in contrast to Mill’s complete rejection of all forms of paternalism, Raz creates an exemption as it can sometimes help society. Although paternalism should be assessed on a case-by-case basis on how it affects autonomous rights, this balancing test is one of utility in the broadest sense, whereby society’s well-being is maximized when the government acknowledges those autonomous rights. Any government action that interferes with individual autonomy beyond preventing harm to others would always fail the test. As such, the standard for the government would be a very heightened analysis, in the sense that the government ought to prove without doubt or exception that the limitation of human autonomy would guarantee a better society; this guarantee is more important than the autonomous right of that situation.

II. Ordinary Lying and Ordinary Promise-Keeping

Through understanding the utility balancing test, which uses aspects of both Mill’s Harm Principle and Raz’s Perfectionism, it would be morally objectionable for the government to criminalize ordinary lying and ordinary promise-breaking, as doing so contributes no benefit to the overall well-being of society. Furthermore, it overly generalizes the legal rule, which makes compliance unattainable and undermines individual autonomy to the point where the government is unable to meet its threshold.

Example

For the purposes of this essay, lying does not include tortious acts like defamation or other types of federal crimes such as lying to a federal government official. Rather, this paper defines “ordinary lying” and “ordinary promise-breaking” as being between two private, average, and reasonable individuals who have some sort of relationship. For the purpose of clarity, ordinary lying is exemplified in this scenario:

Rebecca asks her boyfriend, John, if the dress she is wearing makes her look fat. Rebecca has a very important interview with a major pharmaceutical company, and she has been stress-eating as a result of it for weeks. John, who noticed her weight gain, hasn’t said anything about it and instead replies that the dress doesn’t make her look fat, even though it does. John does not want to make her upset or flustered because that could hurt her chances with the interview.

⁴⁹ Raz, Joseph, *The Morality of Freedom*, 417.

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This situation illustrates a private conversation between two individuals, in which one harmlessly lies to the other. If the government were to criminalize ordinary lying, like in the example provided above, it would be completely inappropriate. To answer the question of whether the government would be justified in intervening with individual autonomy, in this case ordinary lying, it would be important to ask if doing so would prevent someone from harming another. In this scenario, John is not physically harming Rebecca with his lie, so this does not fulfil Mill's Harm Principle threshold. Next, with regard to Raz's Perfectionism, consider: does government interference with John's liberty outweigh the intrusion on his autonomy to lie? To answer this, the government's action must be examined with a heightened threshold, which would only be permissible if the intrusion would benefit society as a whole vis-à-vis a utility test. This is where the government's interference extends beyond its scope: *ordinary* lying is quite trivial with regard to society's utility. As such, John's lying would have no detriment on society's utility. As society flourishes with Raz's Autonomy Principle, it allows individuals the ability to have different options and opportunities to engage with others, whereas prohibiting ordinary lies would hinder this ability. Additionally, John's lying to Rebecca could have direct or indirect benefits, such as Rebecca gaining the confidence she needed to obtain the job, increasing her self-esteem and therefore mental health, or perhaps after working at the pharmaceutical company, she could develop a vaccine for the coronavirus. Although the latter benefit is exaggerated, the point remains the same: criminalizing ordinary lying is morally objectionable because it provides no exceptions. As analyzed in the scenario above, it is unable to specifically show how the benefit of criminalization outweighs the deprivation of autonomy. Likewise, ordinary lying occurs in the private realm of society, in that the act has no bearing on the public life. It would be nearly impossible to identify a lie from an honest mistake or an opinion: for example, John could say that he genuinely thought Rebecca looked good in the dress. Hence, the criminalization of ordinary lying lacks an element of certainty, which would make enforcement and conviction nearly impossible. The lack of enforcement or conviction leads to a lack of compliance, making the law impractical and inoperable.

Although criminalizing ordinary lying and ordinary promise-breaking could have moral benefits—no one denies that lying in general is morally wrong—criminalizing it in every situation is morally objectionable, as it does not take harmless lies into account that would benefit the person being lied to. This factor explains why there are laws that criminalize certain types of lying: for example, the United States has the False Statements Act, which prohibits knowingly and wilfully lying to a government official in the interest of national security. This criminalization of lying is an extreme scenario, and unlike ordinary lying or promise-breaking, it could have a potential effect on society. Unlike ordinary lying or ordinary promise-breaking, the law involves the public domain of government.

III. Conclusion

The criminalization of ordinary lying and ordinary promise-breaking is morally objectionable. To understand why, this paper first explored when it would be morally correct for a government to interfere with individual liberties, particularly, autonomy. Combining Mill's Harm Principle with Raz's Autonomy Principle and Perfectionism, this paper answered that the government has a moral right to interfere when doing so would halt any harm. When this is not the case, the threshold is must higher, in which the government ought to prove to a high degree of certainty why the benefit of interfering in

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individual autonomy would necessarily outweigh the need to preserve the right. Accordingly, through providing an example of an ordinary lie, this paper showed why the government would never be able to justify the criminalization of ordinary lying and ordinary promise-breaking. Through emphasising the “ordinary” part of the question, it would be impractical and useless to prohibit such actions, as it has no benefit to society’s utility. Not only does it have no benefit to society’s utility, but it also decreases society’s utility through undermining individual autonomy upon which society flourishes. Criminalizing ordinary lying or ordinary promise-breaking results in a grey area that is nearly impossible to prove or enforce, resulting in an inefficient law.

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Section 4:

Comparative Politics

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Featuring:

“The Future of Voting in a Technological Era”

An extended research paper written by Anne Mummery
Pepperdine University, Political Science Major, Class of 2020

Comparative Politics

The Future of Voting in a Technological Era

Anne Mummery

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Introduction

Around 137 million Americans voted in the 2016 presidential election; however, these voters only comprise 55.7% of the total eligible voting population, placing the U.S. 28th out of 35 countries that are a part of the *Organization for Economic Cooperation (OECD)*.¹ For years, researchers have been searching for ways to increase low voter turnout. As daily and civic life continues to move online, some countries and localities have experimented with online voting platforms that would align with 21st century technology and capabilities.

The United States has never implemented an internet voting mechanism in a national election. Many people argue that such a system will never be feasible because of vulnerabilities created for election meddling. Given evidence found by special counsel Robert Mueller that Russia used cyberattacks to meddle in the 2016 election, the security threat of a remote internet voting mechanism seems higher than ever.² Pursuits to hack U.S. elections still remain a high threat as a Russian-owned firm attempted a cyberattack into the Ohio 2019 election.³ Although this cyberattack was unsuccessful, there is a possibility that votes would not have been safe if the election machines were connected to the internet. Despite concern about an increased security threat, several U.S. jurisdictions such as West Virginia and a county in Utah have recently enacted laws allowing internet voting in the future for disabled citizens and military or overseas voters.⁴ Most monumental in this regard is a plan for Seattle and neighboring cities to enable all registered voters to cast their ballot from a mobile device or computer in the King County Conservation District election this year, the first ever online election for all eligible voters in a given district in the U.S.⁵

Aside from internet voting potentially increasing voter turnout, states are faced with the reality of how a worldwide pandemic will alter precinct ballot methods.⁶ As fifteen states have postponed their primary elections due to Coronavirus (Severe Acute Respiratory Syndrome Coronavirus 2), the question of an internet voting mechanism as a voting alternative to in person precinct voting may be more relevant than ever. As the world continues to digitize, countries may be forced to develop a secure internet voting mechanism. The current debate about whether to adopt alternative voting methods in the 2020 general election raises the question of how such methods affect turnout. This paper contributes to that discussion and the larger political science literature by asking *to what extent would a remote electronic voting mechanism affect voter turnout?* Analysis of electronic voting in three different countries (Estonia, Australia, and Canada) and various election types finds that voter turnout on average does increase when electronic voting is available.

I. Literature Review

¹ Drew Desilver, "U.S. Trails Most Developed Countries in Voter Turnout," Pew Research Center (2017). <https://static1.squarespace.com/static/58706fbb29687f06dd219990/t/5b108a8d70a6ad1221aa63c1/1527810701921/U.S.+voter+turnout+lower+than+most+countries++Pew+May+2017.pdf>.

² Robert Mueller, *The Mueller Report*, 1st ed. (Brooklyn, NY: Melville House Publishing, 2019).

³ Marty Johnson, "Russian Firm's Attempt to Hack Ohio Voting Systems Thwarted," The Hill (2019). <https://thehill.com/homenews/state-watch/472496-russian-firms-attempt-to-hack-ohio-voting-systems-thwarted>

⁴ Jay Greene, "Voting by Smartphone in Seattle Area Pushes the Limits of Electronic Balloting," The Washington Post (2020). <https://www.washingtonpost.com/technology/2020/02/11/seattle-smartphone-voting/>

⁵ *Ibid.*

⁶ Nick Corasaniti and Stephanie Saul, "15 States Have Postponed Their Primaries Because of Coronavirus. Here's a List," The New York Times (2020). <https://www.nytimes.com/article/2020-campaign-primary-calendar-coronavirus.html>

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As the United States lags behind most developed democracies in voter turnout rates, researchers and activists of various stripes are eager to find a solution to boost voter turnout. The literature on, and potential answers to why voter turnout is low and how to increase it, are virtually endless. Countries have implemented various convenience voting measures in hopes of increasing voter turnout, including internet voting, or the practice of voting via an internet enabled device like a computer or smartphone that is not under physical control of election officials.⁷ A rising number of adults who own an internet enabled device has left many curious about the possibility of an internet voting mechanism for local and national elections. While over twenty countries have piloted or implemented some form of internet voting in an election, Estonia is the only country to currently offer the option to its entire eligible voting population in its national election.⁸ While it theoretically makes sense that an internet voting mechanism would increase voter turnout, the literature on whether internet voting increases turnout presents mixed results.

Convenience voting is any measure that allows citizens to cast their ballot other than by arriving in person at precinct-polling places on election day.⁹ For example, some convenience voting measures include mail-in-ballots, early voting, call-in ballots, and remote internet voting. Studies have shown a positive increase in turnout when using convenience methods, ranging from a 5% to 10% increase when vote by mail was an option and approximately a 5% increase with early voting.¹⁰

The main idea behind convenience voting is to increase political participation by making voting more convenient. To understand why convenience voting would theoretically increase voter turnout, it is imperative to understand the rational choice model of voting proposed by economist Anthony Downs. This model consists of a cost-benefit analysis on behalf of the voter, in which an individual votes if the benefits outweigh the costs.¹¹ Here, the marginal return is the benefit a voter receives from casting a vote and the marginal cost is all the actions undergone by the actor in order to cast their vote.¹² This includes factors like the cost of collecting information about candidates, processing it in order to decide whom to vote for, registering for the election, and physically going to the polls on election day.¹³ Characteristically, these factors act as opportunity costs, where undertaking them limits time one spends on other choice activities.¹⁴ Ultimately, “the higher the cost of voting, the lower the probability of voting,” so that the “easier it is for a person to cast a ballot, the more likely he is to vote.”¹⁵ This explanation sheds light on how an internet voting mechanism could make voting more convenient, thereby increasing turnout.

⁷ Michael R. Alvarez and Thad E. Hall, *Point, Click, and Vote: The Future of Internet Voting*, 1st ed. (Washington, D.C.: The Brookings Institution, 2004) 4.

⁸ Nicole Goodman and Rodney Smith, “Internet Voting in Sub-national Elections: Policy Learning in Canada and Australia,” *The International Conference on Electronic Voting* (2016). https://www.researchgate.net/profile/Robert_Krimmer/publication/311101401_Proceedings_of_the_International_Conference_for_Electronic_Voting_E-Vote-ID_2016/links/583d933108ae61f75dc461de/Proceedings-of-the-International-Conference-for-Electronic-Voting-E-Vote-ID-2016.pdf#page=299

⁹ Paul Gronke, Eva Galanes-Rosenbaum, Peter Miller, and Daniel Toffey, “Convenience Voting,” *Annual Review of Political Science* (2008): 438. doi:10.1146/annurev.polisci.11.053006.190912

¹⁰ Ibid.

¹¹ Anthony Downs, *An Economic Theory of Democracy*, 1st ed. (New York, NY: HarperCollins, 1957), 146-148.

¹² Ibid.

¹³ John H. Aldrich, “Rational Choice and Turnout,” *American Journal of Political Science* 37, no. 1 (1993): 248. doi:10.2307/2111531.

¹⁴ Raymond E. Wolfinger and Steven Rosenstone, *Who Votes?*, 1st ed. (New Haven, CT: Yale University Press, 1980) 8.

¹⁵ Wolfinger, 8.

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According to the rational choice model, implementing an internet voting system would increase voter turnout by lowering the cost of voting. The cost of physically going to the polling booth would be eliminated because people could vote via any remote device that is connected to the internet. Other factors that affect the magnitude of costs such as inclement weather, distance from a polling station, and missing school or work would not play any role in determining whether a person votes or not.¹⁶ According to *American Community Survey Reports*, as of 2017, 86.8% of households in the U.S. own some form of a computer, whether that is a laptop, desktop computer, or handheld device, like a smartphone.¹⁷ This percentage has been rising in recent years and is likely to continue to do so. Therefore, this data suggests that a majority of Americans would have immediate access to an internet voting platform if the option were available. However, elderly and poorer people account for less of this total.¹⁸ If the system of voting were set up to allow both an internet voting mechanism and the traditional polling booth option, then the elderly and socioeconomically disadvantaged individuals who do not own an internet-enabled device would not be prevented from casting a ballot. Consequently, internet voting would decrease the costs of voting for some and leave the costs of voting unchanged for everyone else.

Internet voting may increase turnout among groups that traditionally turn out at lower rates, namely younger voters.¹⁹ Voters aged 18-34 have a much lower turnout rate compared to older voters. However, they are more likely to prefer an online voting system, whereas older people are more likely to prefer voting at the polling booth.²⁰ While 94.3% of people ages 18-34 own either a computer or handheld smartphone, only 70.9% of people ages 65 and up own them.²¹

Providing an online voting method would possibly increase voter turnout of young voters for a variety of reasons. First, because younger people are more likely to regularly use the internet, the cost of casting a vote on election day via an already frequently used device would be far less than making the trip to an unfamiliar polling station, especially for those without access to a car or other transportation. Second, since younger voters frequently move, providing a remote voting system would reduce the cost associated with figuring out states' bureaucratic voting systems, assuming the system was universal across all states. Third, an internet voting system would limit the cost of missing school or other important obligations that make voting difficult for younger citizens. Additionally, people who are temporarily traveling out of the state or the country would also be able to vote remotely at the time of the election. Furthermore, encouraging young people to vote will likely pay dividends in the future since voting tends to be habitual; people who have voted a few times when they were young tend to be life-long voters.²² However, it could be argued that there will be an increase in overall turnout when an internet voting option is first made available because of people's curiosity for

¹⁶ Moshe Haspel and Gibbs Knotts, "Location, Location, Location: Precinct Placement and the Costs of Voting," *Journal of Politics* 67, no. 2 (2005): 560-73. doi:10.1111/j.1468-2508.2005.00329.x.

¹⁷ Camille Ryan and Jamie M. Lewis, "Computer and Internet Use in the United States: 2015," *American Community Survey Reports*, United States Census Bureau (2015).
<https://www.census.gov/content/dam/Census/library/publications/2017/acs/acs-37.pdf>

¹⁸ *Ibid.*, 7.

¹⁹ John M. Strate, Charles J. Parrish, Charles D. Elder, and Coit Ford, "Life Span Civic Development and Voting Participation," *American Political Science Review* 83, no. 2 (1989): 443-64. doi:10.2307/1962399.

²⁰ Jennifer Stromer-Galley, *Society Online*, 1st ed (Thousand Oaks, CA: Sage Publications, 2004), 97-98.

²¹ Ryan and Lewis, 4.

²² Benny Geys, "Rational' Theories of Voter Turnout: A Review," *Political Studies Review* 4, no. 1 (2006) 16-35. doi.org/10.1111/j.1478-9299.2006.00034.x.

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new technologies, thereby increasing voter turnout in the first election where internet voting is made an option and decrease in subsequent elections.²³

At the same time, internet voting may decrease turnout. Trust in the government is correlated with voter turnout, and a decline in trust leads to a decline in voter turnout.²⁴ Many people believe that an online voting system presents a high potential for cyber-attack from outside actors, or coercion outside the typical private voting booth from others that would force them to vote a particular way. As voter turnout decreases from a decline in trust in government, an online voting system might intensify people's distrust in the system, and as a result, voter turnout would also decrease.

Estonia is the first and thus far the only country that allows remote internet voting in national and local elections for all citizens. The decision to incorporate internet voting in the civic participation process received broad based political support in an attempt to develop the information and communications sector of the economy and to include the internet in intra-governmental activities.²⁵ In 2005, Estonia used an internet enabled voting mechanism in all of their local elections. In 2007, they held the first ever Parliamentary election with the option for all citizens to vote via the internet.²⁶ Since then, twenty other countries have experimented with internet voting and fifteen have implemented it in a particular election, however, several have discontinued its use.²⁷ These programs were largely canceled because of marginal and unclear impacts on voter turnout, security concerns, and lack of budget resources to implement the mechanisms.²⁸

Ten countries still use some form of remote internet voting including Australia, Armenia, France, India, Mexico, Panama, United States, Estonia, Switzerland and Canada.²⁹ Of these, Armenia, France, Mexico, Panama and the United States have restricted remote internet voting in national elections to citizens living abroad or active military personnel living abroad, instead of the entire voting population.³⁰ For example, in 2000 and 2008, the United States piloted remote internet voting for active military personnel overseas and other citizens living abroad.³¹ In an effort to increase the participation of military and overseas voters, the MOVE (Military and Overseas Voter Empowerment) Act was passed in 2009, mandating that all states provide military and overseas voters the opportunity to request and receive ballots online.³² This act provided a gateway for certain states to pilot and adopt mechanisms for these voters to return their ballots electronically as well, serving as the only form of remote online voting in the United States. It is possible that states can use these pilot programs for future local or national elections. In 2008, Okaloosa County in Florida piloted a distance balloting voting mechanism via internet enabled kiosks in several locations such as Germany,

²³ Anne-Marie Oostveen and Peter Van Den Besselaar, "Internet Voting Technologies and Civic Participation: The Users' Perspective," *Journal of the European Institute for Communications and Culture* 11, no.1 (2014): 71. doi.org/10.1080/13183222.2004.11008847

²⁴ Eric Belanger and Richard Nadeau, "Political Trust and the Vote in Multiparty Elections: The Canadian Case," *European Journal of Political Research* 44, no. 1 (2005): 136. doi.org/10.1111/j.1475-6765.2005.00221.x.

²⁵ Michael Alvarez, Thad Hall, and Alexander Trechsel, "Internet Voting in Comparative Perspectives: The Case of Estonia," *Political Science and Politics* 42, no.3 (2009): 500. doi:10.1017/S1049096509090787

²⁶ *Ibid.*, 498.

²⁷ Nicole Goodman and Leah C. Stokes, "Reducing the Costs of Voting: An Evaluation of Internet Voting's Effect on Turnout," *Cambridge University Press* (2018): 2. doi:10.1017/S0007123417000849.

²⁸ Goodman and Stokes, 2.

²⁹ Goodman and Smith.

³⁰ *Ibid.*

³¹ Jordi Barrat Esteve, Ben Goldsmith, and John Turner, "International Experience with E-Voting," *International Foundation for Electoral Systems* (2012): 13.

³² Charles Stewart III, "Voting Technologies," *Annual Review of Political Science* 14, (2011): 360. doi: 10.1146/annurev.polisci.12.053007.145205

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Japan and the United Kingdom.³³ Votes were marked at the kiosk locations and sent via the internet back to Okaloosa County. In France, electronic voting was available for electing representatives for the elections to the Assembly of French Citizens Living Abroad.³⁴

Australia, India, Switzerland, and Canada have implemented internet voting in subnational, local, or national referenda elections, excluding national parliamentary elections. In India, the state of Gujarat piloted and started offering the option of online voting in the 2015 municipal election, however data on voter turnout for these municipal elections and prior elections without internet voting is unavailable.³⁵ Switzerland offers an advanced internet voting system for municipal, cantonal, and federal referenda elections.³⁶ Because Swiss elections include referenda, some elections may have greater turnout because salient policy proposals are on the ballot, while other elections may not have salient proposals. Without knowing which elections included referenda that would likely generate a boost in turnout, it is difficult to control for these effects and generate a valid estimate of the effects of electronic voting on turnout; therefore, I did not investigate Switzerland in this study.

The literature on whether the implementation of internet voting increases voter turnout presents an array of possible positive and negative results. It is important to recognize that virtually all studies are solely based on a single country; therefore, the mixed results may be due to the variation in political factors in each country. My goal is to evaluate voter turnout in a variety of countries that have implemented internet voting to better understand its effect on turnout. Some studies show that internet voting has a small or null effect on voter turnout. Studies have shown that internet voting did not attract voters who would have otherwise not voted; instead the method merely acted as a substitute for votes at a traditional polling location.³⁷ In addition, some studies have found that implementing internet voting does not appeal to social groups that normally abstain from voting; rather it attracts the same politically motivated groups.³⁸ One study conducted in Switzerland for a referendum election found that where traditional precinct voting and mail-in-ballots were an option, internet voting did not increase turnout as people relied more heavily on mail-in-ballots and those who voted online would have voted anyway if the option was not available.³⁹ Similarly, in another study internet voting provided modest gains in turnout for the younger generation; however, a majority of the increase in turnout was a result of the mail-in-ballot option as it increased turnout for the elderly generation at a higher percentage than the percentage gain from younger generation internet voters.⁴⁰ Thus, numerous studies concluded that internet voting perhaps made voting more convenient, but this convenience was overshadowed by mail-in-ballot measures and individuals who would have voted regardless of voting mode.

³³ Michael Alvarez, Thad Hall, Kinsey Gimbel, and Brian Griepentrog, "The 2008 Okaloosa Distance Balloting Pilot Project," Fors Marsh Group (2012).

https://www.fvap.gov/uploads/FVAP/OkaloosaPilotProject_20151228.pdf

³⁴ Esteve, Goldsmith, Turner, 13.

³⁵ Hiral Devrajbhai, "After Compulsory Voting, Gujarat Now Offers the Online Option," *The Indian Express* (2015). <https://indianexpress.com/article/india/india-others/after-compulsory-voting-gujarat-now-offers-the-online-option/> and "Online Voting," Scytl. <https://www.scytl.com/en/online-voting/>

³⁶ Esteve, Goldsmith, Turner, 13.

³⁷ Daniel Bochsler, "Can the Internet Increase Political Participation?," *Central European University* (2010). And Micha Germann and Uwe Serdült, "Internet Voting and Turnout: Evidence from Switzerland," *Electoral Studies* 47, no.1 (2017): doi.org/10.1016/j.electstud.2017.03.001.

³⁸ Bochsler.

³⁹ Germann and Serdült.

⁴⁰ Pippa Norris, "Will New Technology Boost Turnout?," *Electronic Voting and Democracy* (2004): 193-194.

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Other studies, by contrast, have found voter turnout to increase with the implementation of internet voting. Studies in Switzerland and Brazil for referenda elections have found an increase in voter turnout between 2 percentage points to as high as 9 percentage points in Switzerland⁴¹ and an 8.2 percentage point increase in Brazil.⁴² While other studies show a null impact of internet voting on voter turnout in Switzerland,⁴³ it is important to recognize that in cases like Switzerland and Brazil, any given referenda election can have dramatically higher or lower voter participation depending on what issue is on the ballot.

Other studies find internet voting brings modest increases in turnout in other types of elections. Those marginal increases were found in Ontario municipal elections with an increase of 3.5 percentage points when internet voting is an option; however, internet voting generates larger increases in turnout when mail-in-ballots are not adopted.⁴⁴ This suggests that convenience voting increases voter turnout, however, internet voting competes for turnout with other convenience voting methods. Thus, the amount of increase in turnout will presumably depend in large part on what voting options a country is currently using. A larger increase in turnout will likely be found in elections with little or no convenience voting options and smaller gains in elections that are more accommodating. A study in Estonia found that voter turnout increased in several elections when internet voting was an option.⁴⁵ Although many internet voters were already politically engaged, a few ‘peripheral citizens’ or those that are not politically engaged, choose to vote via internet voting because of fascination with the technology.⁴⁶ Therefore, while few in number, disengaged citizens turnout increased with internet voting, potentially acting as a stepping stone for political participation among marginal groups.

Based on these studies, I hypothesize that implementing an online voting method will increase voter turnout by lowering the costs associated with in person voting on election day. Lowering the costs of voting will likely boost turnout for those who do not normally vote such as younger generations, those who live far from polling centers, and physically impaired voters. My hypothesis assumes that traditional polling booth voting would still be an option for those who might be unable to vote on the internet such as lower-income Americans and senior citizens.

II. Methods

I examined turnout in Estonia, Canada, and Australia. I selected these countries because they offer multiple types of elections to examine, including national legislative, European Union, sub-national, and local elections and because data are available for time periods prior to and after the implementation of internet voting.

Estonia is an ideal case to study internet voting and voter turnout because it has offered the option in three different election types and over the course of several elections. Prior to internet voting, Estonia relied solely on paper-based precinct voting

⁴¹ Jan Gerlach and Urs Gasser, “Three Case Studies from Switzerland: E-Voting,” *Berkman Center Research Publication*, no. 2009-03.1 (2009).

⁴² Paolo Spada, Jonathan Mellon, Tiago Peixoto, and Fredrik Sjoberg, “Effects of the Internet on Participation: Study of a Public Policy Referendum in Brazil,” *Journal of Information Technology & Politics* 13, no.3 (2016): 187-207. <https://doi.org/10.1080/19331681.2016.1162250>.

⁴³ Germann and Serdult.

⁴⁴ Goodman and Stokes, 1.

⁴⁵ Kristjan Vassil and Till Weber, “A Bottleneck Model of E-Voting: Why Technology Fails to Boost Turnout,” *New Media and Society* 13, no. 8 (2011): 1336-54. DOI: 10.1177/1461444811405807

⁴⁶ Ibid.

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with early voting as well.⁴⁷ In order to vote online, a voter needs to authenticate themselves using an ID card which is a standard identification mechanism in Estonia.⁴⁸ The voter then selects a candidate and the vote is sent to the online server. The electronic ballots are kept in the signed and encrypted version until the voting period is over, whereby signatures are dropped and anonymous ballots are tallied in order to ensure voter anonymity.⁴⁹ It is also important to recognize that this system allows re-voting measures where voters can recast their votes several times so that the last vote is counted in order to prevent coercion.⁵⁰ For the purpose of my study, I collected data on voter turnout in all three types of elections prior to and after internet voting was implemented.⁵¹ From there, I calculated the average turnout in each election prior to internet voting and after its implementation in order to compare the effect on voter turnout across each election type separately.

Australia has not implemented an internet voting mechanism for national elections; however, New South Wales adopted remote online voting for state elections in 2011. There are two interesting factors about New South Wales that make it useful to study. First, voting in New South Wales is mandatory. Second, the online voting mechanism can only be used by disabled citizens, those who live in remote rural areas away from a polling location, and citizens residing out of state. These factors severely limit the capacity of internet voting to boost turnout. Prior to internet voting in 2011, New South Wales offered traditional precinct-voting, early voting, and vote-by-mail methods as options.⁵² As with the Estonia case, I conducted my analysis of New South Wales by comparing average voter turnout in all of the elections prior to the implementation of an internet voting system with turnout averages after.⁵³

Canada is similar to Australia in that remote internet voting has not been used in a national election; however, starting in 2003, some municipalities allowed internet voting and others did not. Over the subsequent elections, some municipalities adopted internet voting while some that had instituted internet voting later decided to discontinue its use. However, unlike New South Wales, remote internet voting is not limited to certain demographic groups, rather the entire eligible voting population can vote online in certain Ontario municipalities that have chosen to adopt the method. Data collection and analysis for Ontario municipal elections will take a slightly different approach.

First, using Stokes and Goodman's dataset of Ontario municipalities that have adopted internet voting on or before 2014, I calculated the average voter turnout of each municipality before it implemented internet voting compared to the years after internet voting was implemented.⁵⁴ Each municipality has voter turnout data starting in 2000, when no municipality had internet voting, and spans six elections to 2014, when all 98 municipalities in this dataset had internet voting. From there, I calculated the total number of municipalities where voter turnout increased with the implementation of

⁴⁷ Alvarez, Hall, and Trechsel, 498.

⁴⁸ Sven Heiberg and Jan Willemson, "Verifiable Internet Voting in Estonia," Estonian Research Council. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.691.7457&rep=rep1&type=pdf>

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ "Voter Turnout Database," International Institute for Democracy and Electoral Assistance. <https://www.idea.int/data-tools/country-view/99/40>

⁵² "Report on the 2007 State Election," New South Wales Electoral Commission. [https://www.elections.nsw.gov.au/NSWEC/media/NSWEC/Reports/Election%20reports/2007-State-election-report-\(PDF-3.6MB\).pdf](https://www.elections.nsw.gov.au/NSWEC/media/NSWEC/Reports/Election%20reports/2007-State-election-report-(PDF-3.6MB).pdf)

⁵³ "Electoral Statistics," New South Wales Electoral Commission. <https://www.elections.nsw.gov.au/About-us/Reports/Electoral-Statistics>

⁵⁴ Leah Stokes and Nicole Goodman, "Replication Data for: Reducing the Cost of Voting: An Evaluation of Internet Voting's Effect on Turnout," Harvard Dataverse. <https://doi.org/10.7910/DVN/KMMN1B>.

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internet voting compared to the number of municipalities where voter turnout decreased. In addition, I calculated the average voter turnout for all elections with internet voting compared to the average turnout in all elections without internet voting. Lastly, I evaluated voter turnout each year by comparing the average turnout for municipalities that had internet voting and those that did not for each year starting in 2000 and ending in 2014. However, it is important to note that for 2000 there are no data on voter turnout with internet voting as no municipalities had it in that year and similarly in 2014 there are no data on average voter turnout without internet voting as the dataset only has values for municipalities that have implemented online voting on or before 2014.

Second, I gathered turnout data on all 444 Ontario municipalities for the 2018 municipal elections.⁵⁵ Of the 444 municipalities, 175 of them allowed internet voting and 214 of them did not. It is important to note that 55 municipalities either did not report information on the types of voting mechanisms used or data on turnout for that given year.⁵⁶ I calculated the average voter turnout in all the municipalities that had internet voting in the 2018 municipal elections compared to the average of those that did not. This two-part study of Ontario municipal elections is informative as it paints a picture of voter turnout from multiple angles within a given province.

I relied on the data from the Goodman and Stokes study of internet voting for my own study.⁵⁷ Goodman and Stokes found a 3.5 percentage point increase with internet voting. However, their data only included municipalities that had adopted internet voting on or sometime before 2014 and excluded the hundreds of municipalities that did not have internet voting in 2014. I added to their study by calculating the total number of municipalities where voter turnout increased or decreased with the implementation of internet voting. Additionally, I calculated the effects of internet voting over time by calculating turnout with and without internet voting for each year with an election up to 2014. My biggest addition to their study was that I found turnout data for almost all of Ontario's municipalities in 2018, not just the municipalities that adopted internet voting, which allowed me to see the effect of internet voting on turnout for an entire state. Ontario municipal elections are rather progressive in the types of convenience voting methods offered ranging from early voting, vote-by-mail, braille ballots, vote by phone call, and even rides to and from precinct polling locations. However, each of the 444 municipalities is different in terms of what voting options they offer and when they started offering them.

III. Results

In this section I describe the results from Estonia's three election types first, followed by results from New South Wales, Australia and Ontario, Canada.

Estonia

Estonia adopted internet voting in three types of elections: Parliamentary elections, European Union (EU) Parliamentary elections, and local elections. The percentage of voters who used internet voting in the Parliamentary election when it was first instituted in 2007 was 3.4%, and has gradually increased to 27.9% by 2019.⁵⁸ For EU Parliamentary elections the percentage of voters using internet voting grew from 6.5% in

⁵⁵ "List of Ontario Municipalities," Government of Ontario. <https://www.ontario.ca/page/government-ontario>

⁵⁶ "2018 Ontario Municipal Elections: Ontario Votes," Association of Municipalities Ontario. <https://elections.amo.on.ca/web/en/municipal/19411>

⁵⁷ Goodman and Stokes.

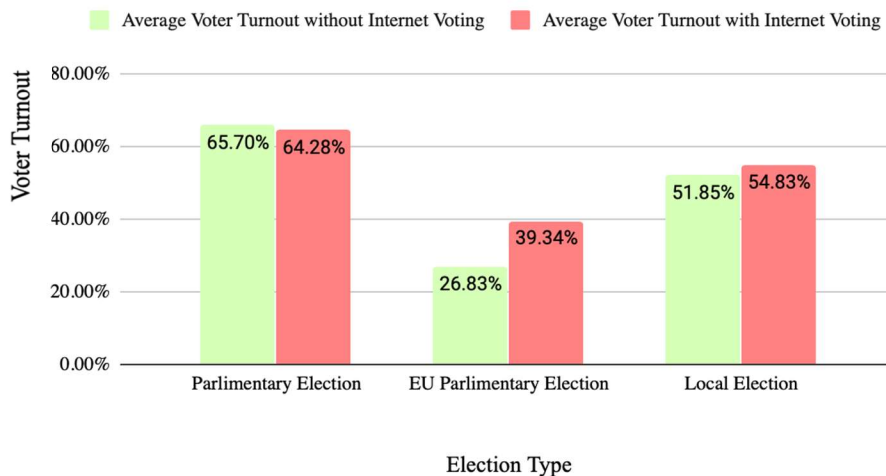
⁵⁸ "Statistics about Internet Voting in Estonia," Valimised (2019). <https://www.valimised.ee/en/archive/statistics-about-internet-voting-estonia>

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2009 to 17.6% in 2019.⁵⁹ Finally, in local Estonian elections the percentage of internet voting increased from .9% in 2009 to 16.9% in 2017.⁶⁰ Thus, the percentage of voters utilizing internet voting is reasonably high and growing rapidly, suggesting that an increasing amount of people are becoming familiar with online technology.

An increasing percentage of voters opted to cast their ballot via the internet, but did more citizens vote overall or did citizens who were already voting merely switch their voting method? Overall, voter turnout increased on average after the introduction of internet voting for the EU Parliamentary elections and the local elections but decreased slightly for the Parliamentary elections in Estonia (see Figure 1).

Figure 1: Comparing Turnout in Elections with Internet Voting to Elections without Internet Voting

*Parliamentary Elections*

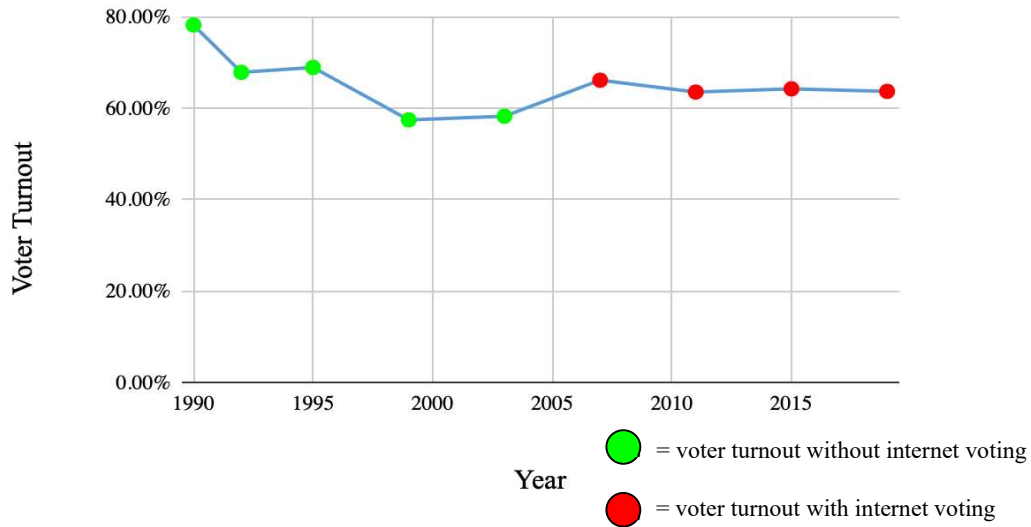
The average voter turnout in the five parliamentary elections before Estonia implemented internet voting was 65.7% (see Figure 2). When internet voting was introduced in 2007, the average voter turnout for the subsequent years was 64.3% (see Figure 2). Voter turnout was lower on average when internet voting was implemented by 1.4 percentage points. However, these averages may mask an increase in turnout after the introduction of internet voting. The highest turnout was 78.2% in 1990, which is roughly 10 percentage points higher than the next highest year (see Figure 2). Estonia gained its independence in 1990. The high turnout in 1990 was presumably due to the excitement of being able to participate in a democratic election for the first time. After the first election, turnout declined in the subsequent two elections to about 70% (see Figure 2). The following two elections, the two elections before internet voting was adopted, turnout fell to 57.8% (see Figure 2). If the two elections just prior to the adoption of internet voting are taken as the baseline, turnout increased with the availability of internet voting. Thus, viewed in the most positive light, voter turnout increased from about 58% to about 64% when internet voting was made an option.

⁵⁹ Ibid.

⁶⁰ Ibid.

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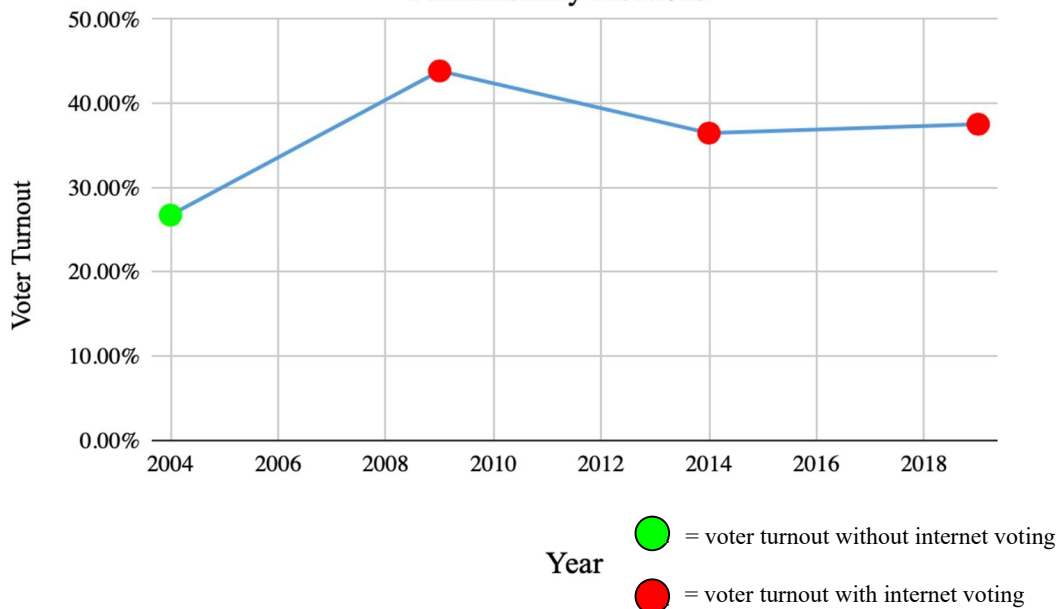
Figure 2: Comparing Voter Turnout with and without Internet Voting in Estonia's Parliamentary Election



European Union Parliamentary Elections

Voter turnout prior to the implementation of an internet voting system for the EU parliamentary election was 26.8% in 2004 (see Figure 3). This was the first and only year Estonia had an EU election without an internet voting mechanism. In the subsequent years when internet voting was made an option, average voter turnout was 39.3%, 12.5 percentage points higher than before internet voting was allowed (see Figure 3). However, this jump in turnout may not be exclusively due to the implementation of internet voting. It is possible that turnout in this type of election would increase over time as people learn more about the EU and consequently think it is important to vote in this election.

Figure 3: Comparing Voter Turnout with and without Internet Voting in Estonia's EU Parliamentary Elections

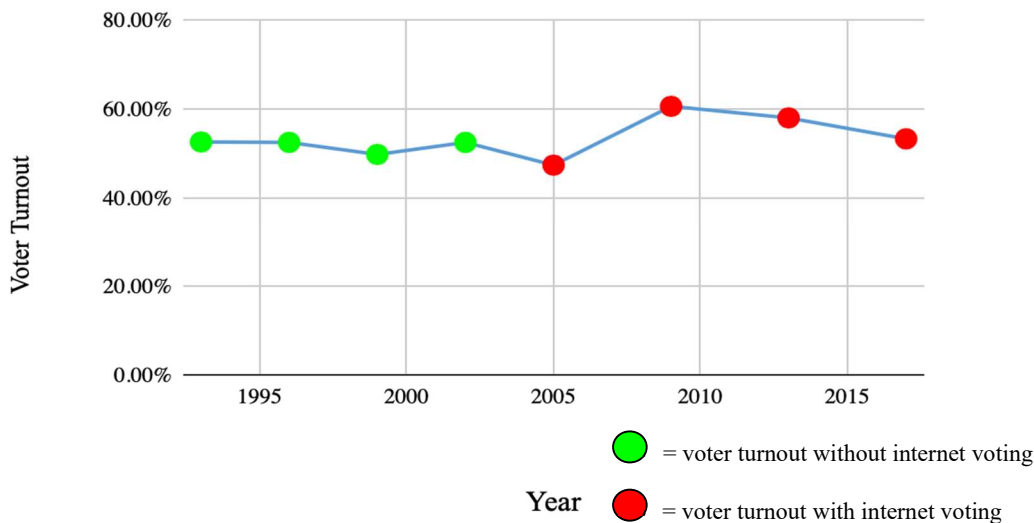


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Local Elections

The first four free and fair elections in Estonia (1993-2004) did not have internet voting. In the elections without internet voting, the average turnout was 51.9% (see Figure 4). In 2005, internet voting was used with an average voter turnout of 54.8% over the next subsequent elections, a 2.98 percentage point increase in average turnout in the year's internet voting was an option. The highest turnout was 60.6% in 2009 with internet voting and the lowest was 47.4% in 2005, the first year internet voting was made an

Figure 4: Comparing Voter Turnout with and without Internet Voting in Estonia's Local Elections



option. However, after the first election with internet voting, voter turnout sharply increased.

New South Wales State Elections

New South Wales did not have internet voting from 1995 to 2007, and in those years the average voter turnout was 91.5%. Figure 5 presents turnout in New South Wales elections over time (see Figure 5 —note that the scale in the graph below starts at 80% voter turnout in order to see the difference between turnout in subsequent years easier).⁶¹ Since voting is mandatory in New South Wales, the turnout rate was already high. Beginning in 2011, New South Wales implemented remote internet voting for citizens who are blind or visually impaired, have a disability, live in remote rural areas, or for residents currently outside of the state.⁶² In 2011, 51,103 eligible citizens registered to vote using this method, and of this group 46,864 (92%) eligible citizens voted via internet voting on election day.⁶³ In the years that internet voting was made an option for this group, overall voter turnout on average was 92.9%. Therefore, voter turnout increased on average by 1.5 percentage points. This is a notable increase due to the fact that New South Wales elections are mandatory, meaning that there is little room to grow an already high voter turnout rate. In addition, only specific groups could vote by internet, not the

⁶¹ "Electoral Statistics," New South Wales Electoral Commission. <https://www.elections.nsw.gov.au/About-us/Reports/Electoral-Statistics>

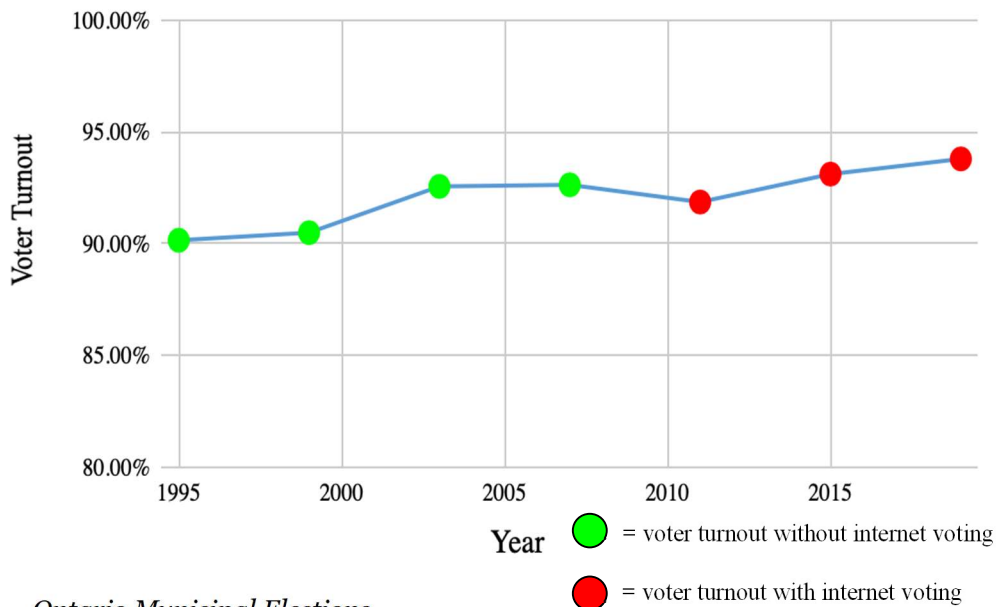
⁶² "Evaluation of Technology Assisted Voting Provided at the New South Wales State General Election March 2011," The Allen Consulting Group (2011).

⁶³ Ibid.

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entire eligible voting population. New South Wales is unique in its attempt to increase voter turnout from marginalized groups that are at a disadvantage from in person voting on election day, while not offering this method to the entire population. While this reduces their costs of implementing a new system for their entire eligible voting population, it is possible that voter turnout would further increase if they made the option available for their entire electorate. In New South Wales, turnout increased among populations that traditionally had lower turnout. Perhaps internet voting would do the same for other relatively low turnout groups like young voters.

Figure 5: Comparing Voter Turnout with and without Internet Voting in New South Wales State Election



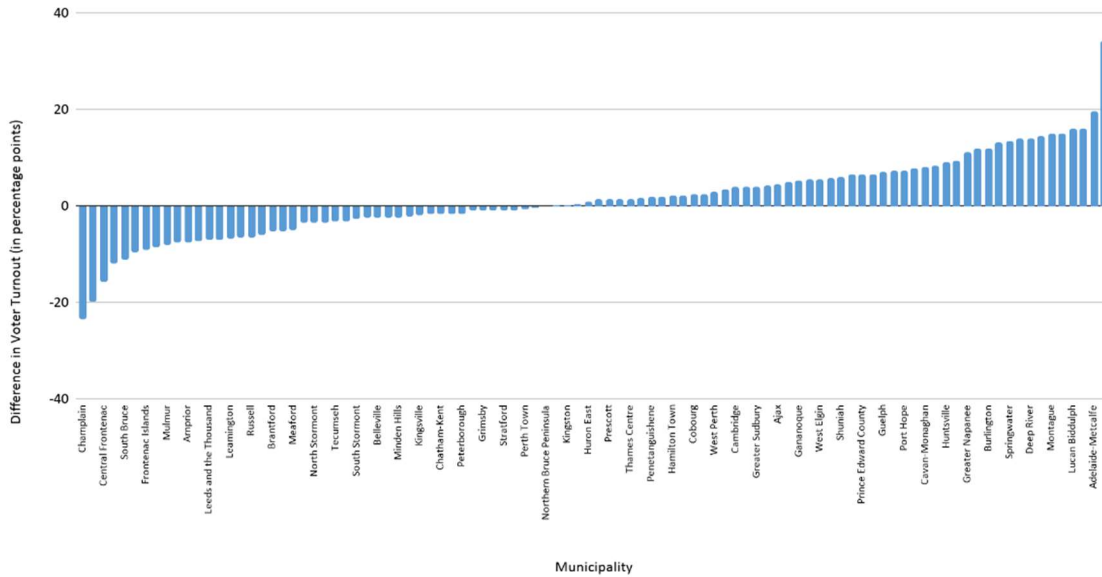
Ontario Municipal Elections

Certain municipalities in Ontario offered internet voting starting as early as 2003. In 2003, 12 municipalities enabled internet voting, increasing every year until 2018 when 178 municipalities had internet voting. For each municipality that adopted internet voting sometime between 2003 and 2014, I compared average turnout in elections prior to the implementation of internet voting and after the implementation. In certain cases, a municipality had implemented internet voting and then went back to other voting methods in subsequent years. In these cases, I took the average voter turnout in the years that internet voting was made an option in a specific municipality and compared that to the average turnout in the same municipality in years without internet voting. Turnout was higher on average after internet voting was adopted in 53 of the 98 (54%) municipalities that adopted it. However, turnout was lower on average in 45 of the 98 municipalities when internet voting was an option. Across all 98 municipalities, average turnout when internet voting was an option was 44.2% compared to 42.6% when internet voting was not an option, a difference of 1.57 percentage points. Figure 6 portrays the vast variation in voter turnout rates across all municipalities with a high of 34.4

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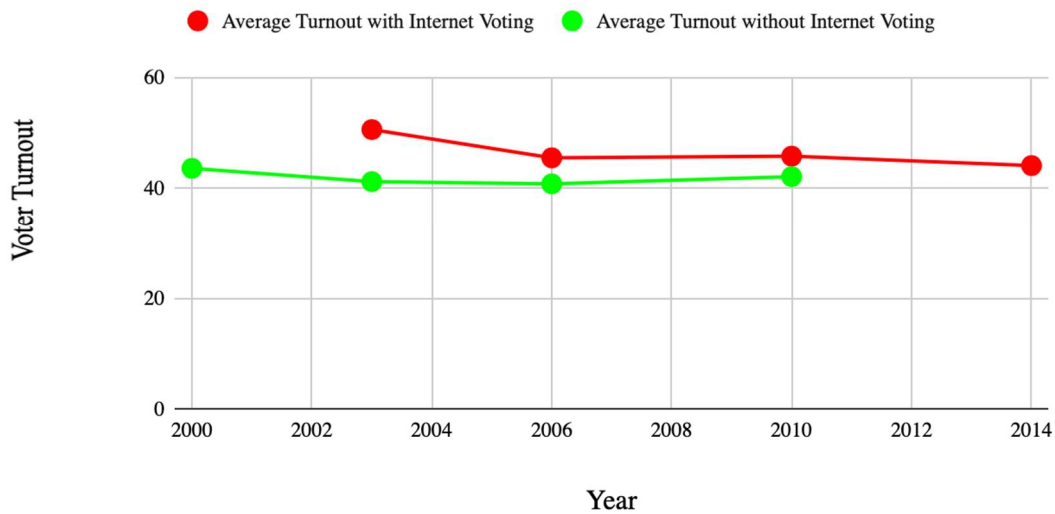
percentage point increase and low of 23.4 percentage point decrease in turnout when an internet voting mechanism was used (see Figure 6).

Figure 6: Difference in Voter Turnout with the Implementation of Internet Voting in Ontario Municipalities on or before 2014



The line graph below represents the average voter turnout per year in all the municipalities that had implemented internet voting for that year and all the municipalities that did not for that year, among the 98 municipalities that had adopted internet voting by 2014 (see Figure 7). Every year, voter turnout is higher on average in the municipalities that implemented voter turnout versus those who did not. However, voter turnout decreased in a linear fashion on average for municipalities that implemented internet voting after it was first adopted in 2003. On the other hand, voter turnout slightly increased for municipalities that did not implement internet voting.

Figure 7: Comparing Ontario Municipalities Average Voter Turnout with and without Internet Voting



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Note that in 2000, no municipalities had implemented internet voting yet and all of these municipalities had adopted internet voting by 2014.

The data from Ontario only represents the municipalities that had some form of internet voting on or before 2014. The limitation of this set of data is that it only consists of municipalities that adopted internet voting at some point on or before 2014. There is a possibility that this set of municipalities is systematically different from the remaining municipalities that did not implement internet voting some time before 2014. For example, it is possible that municipalities that implemented internet voting had a history of low voter turnout, therefore, implementing such technology was an attempt to increase voter turnout. On the other hand, it is possible that municipalities that did not implement internet voting had other ways to make voting easier like mail in or telephone ballots.

Although turnout data for the municipalities that had not adopted internet voting through 2014 were not readily available for earlier elections, I collected turnout data for all 444 of Ontario's municipalities for the 2018 election, some of which allowed internet voting, and some did not. The official returns for Ontario did not report turnout for the methods of voting for 55 municipalities, leaving 389 municipalities for analysis. Overall, the average voter turnout in municipalities without internet voting in 2018 was 40.9%. Where internet voting was made an option, voter turnout was 42.2%. Therefore, average turnout was higher by 1.3 percentage points where internet voting was made an option in the 2018 municipal elections, a difference statistically significant at the .10 level ($p=.09$).

To sum up the Canadian cases, voter turnout was marginally higher when internet voting was an option.

IV. Summary of Results

What do these results across three different countries and various types of elections tell us? These results can be read in a range of ways. One conclusion is that turnout increased in all the countries and all the election types examined except one (Estonia's parliamentary elections—see table 2) that adopted internet voting. Even in that one instance if we use the two elections prior to the adoption of internet voting as the benchmark instead of all pre-internet voting elections, turnout increased by about 6 percentage points. Turnout even increased where it was least likely to—in Australia, where turnout was already high and only a small group of people could take advantage of internet voting.

However, one might argue that the results show internet voting offers a minimal turnout boost of between 1 to 3 points, a boost that varies so much that in many instances, such as almost half of Ontario's municipal districts, turnout actually declines. While average voter turnout was 1.3 percentage points higher for municipalities that offered internet voting in the 2018 Ontario election, each municipality differed in terms of various voting methods offered to make voting easier which could have had a bigger effect on turnout rather than just internet voting. The highest increase in voter turnout after the implementation of internet voting was in the Estonia EU election (12.5 percent). The smallest increase in voter turnout was in the 2018 Ontario Municipal election (1.4 percent). This large variance in voter turnout increase can likely be attributed to a multitude of factors, such as each country having very different political institutions and climates, which can affect voter turnout in any given year with and without internet voting as an option. Additionally, larger gains in turnout can be seen in places like Estonia where the convenience voting options prior to internet voting were non-existent

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compared to smaller gains in turnout in places like certain Ontario municipalities that offer much more progressive voting options.

Table 2: Voter Turnout with and without Internet Voting in Estonia, New South Wales, and Ontario

Elections:	Average Turnout in Elections with Internet Voting	Average Turnout in Elections without Internet Voting	Difference (in percentage points)
Estonia Parliamentary Election	64.3%	65.7%	-1.4
Estonia EU Parliamentary Election	39.3%	26.8%	+12.5
Estonia Local Election	54.8%	51.9%	+2.9
New South Wales State Election	92.9%	91.5%	+1.4
Ontario Municipal Elections (2018)	42.2%	40.9%	+1.3

Note: - equates to a lower percentage when internet voting is made an option and + equates to a positive difference when internet voting is an option.

V. Conclusion

Based on my analysis of voter turnout from three different countries and four different election types, I found that voter turnout does generally increase when an internet voting mechanism is adopted (the Estonia Parliamentary election is the one exception). Voter turnout increased anywhere between 1.3 and 12.5 percentage points; however, in most cases the average increase was around 1.5 to 6 percentage points. These estimates are similar to earlier studies of internet voting and other methods of making voting more convenient (e.g. mail in ballots, early voting). For example, Goodman and Stokes⁶⁴ found internet voting increased voter turnout by about 3.5 percentage points, while other studies of convenience voting typically find a 2-4 percentage point increase in voter turnout.⁶⁵

Some may see this as an important effect on voter turnout, while others could see these gains in turnout rather trivial. I argue that such an increase in voter turnout is worth the cost of implementing an internet voting system. In elections where the margin of votes between two candidates is between 1.5 and 6 percentage points, a turnout boost of this magnitude that skewed towards one party could change the outcome of that election. For example, in the 2016 presidential election, the national popular vote margin between Clinton and Trump was 2.1 percentage points. The vote difference in swing states was 1.2 percentage points in Florida, .7 percentage points in Pennsylvania, .8 percentage points Wisconsin, and .2 percentage points in Michigan.⁶⁶ That said, while it

⁶⁴ Goodman and Stokes.

⁶⁵ Gronke, Galanes-Rosenbaum, Miller, and Toffey, 437-55.

⁶⁶ Rob Griffin, Ruy Teixeira, and John Halpin, "Voter Trends in 2016," Center for American Progress (2017). <https://www.americanprogress.org/issues/democracy/reports/2017/11/01/441926/voter-trends-in-2016/>

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is difficult to know what the partisan implications of a boost in turnout would be, a potential boost in turnout from implementing an internet voting system could nonetheless affect a close election. However, internet voting as a matter of policy does not need to be outcome determinative, rather the goal is to increase voter engagement in the political process. If a particular country wants to make voting easier for younger citizens, citizens with busy lives who would otherwise not be able to miss work or other obligations to vote, or citizens temporarily residing or vacationing in locations away from their voting district, then implementing an internet voting system could help achieve this goal. Here, we can turn to the case in New South Wales where the state made internet voting an option for groups of people with historically low voter turnout, such as people with disabilities or those residing out of state during a particular election. When these groups could vote via the internet, overall turnout went up, suggesting that an internet voting system can increase voter turnout of those people that are least likely to vote.

Furthermore, countries may implement an internet voting system not simply to increase voter turnout; rather voters might come to expect this mechanism since technology is so prevalent in our lives, which in turn might boost civic participation. While the argument could be made that certain demographic groups would be limited to vote by the implementation of online voting, such as the elderly or those who do not have an internet enabled device, offering internet voting as an additional option to civic participation would not deter voters who prefer traditional voting methods rather than implementing an internet voting system as the only option to vote. Additionally, the fact that the number of Americans that own an internet enabled device is already presumably high and growing, suggests that a majority of adults will be comfortable using this technology.

It is possible that implementing an internet voting system does not significantly boost turnout, rather voters are merely switching their voting methods from traditional means to internet voting. This situation was highlighted in the Estonia case, where each year significantly more people voted via the internet, but overall turnout only increased by a few percentage points subsequently. The argument could be made that although implementing internet voting does not significantly gain voters who would have otherwise not voted, the mechanism makes voting easier and therefore is preferred by voters who do vote in elections.

A multiple of variables can affect voter turnout, from the weather on election day to the political climate around an election. I am unable to hold all factors constant, meaning that any deviation in an election's circumstance could affect voter turnout, instead of just the factor of internet voting. However, having found voter turnout to increase in three different countries across several election types, the variety of circumstances suggests a consistent effect that voter turnout does increase when internet voting is made an option.

There are several potential limitations in my analysis, such as not being able to hold account for other factors that could have made voting easier in a given election. For example, Ontario's municipalities vary in terms of the voting methods available, with some municipalities offering mail in ballots, phone ballots, braille ballots, magnified text, and rides to and from a polling station, or any mix of these options. This could affect the estimated impact of internet voting on turnout in a variety of ways. First, in elections where there are a multitude of options for voting, a higher voter turnout could be attributed to another voting method instead of just internet voting. Second, in areas where internet voting was not made an option, but other options were, voter turnout could be higher due to these alternative modes of voting compared to areas where only

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paper only ballots were an option. One study that tested the effects of internet voting in all 98 municipalities that have adopted it since 2014 controlled for some of the factors such as eliminating paper ballots, whether vote by mail was an option, and whether there were additional registration costs associated with internet voting.⁶⁷ They found internet voting still increases turnout where municipalities offer other convenience voting options, though the increase is significantly smaller than municipalities that do not offer other types of convenience voting.⁶⁸ This evidence suggests that in any given municipality, the implementation of internet voting is affected by multiple factors. Furthermore, there is a possibility that some regions that have implemented internet voting are systematically different from other regions that did not, which could affect overall turnout and therefore the estimated impact of internet voting on turnout.

My research has found that in almost all cases tested, internet voting has increased voter turnout. In deciding whether or not to implement an internet voting system, it is vitally important that states consider the tradeoffs between increases in voter turnout and the security implications with such a mechanism. As we continue further into the technological revolution and more daily and civic life moves online, states may be forced to adapt to internet voting. In this case, it is important for states to research and implement voting mechanisms such as blockchain which will reduce the security threat of internet voting. In the future, we will have to ask ourselves whether internet voting enhances democratic participation or erodes it due to potential threats to the system.

⁶⁷ Goodman and Stokes, 9-10.

⁶⁸ *Ibid.*

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