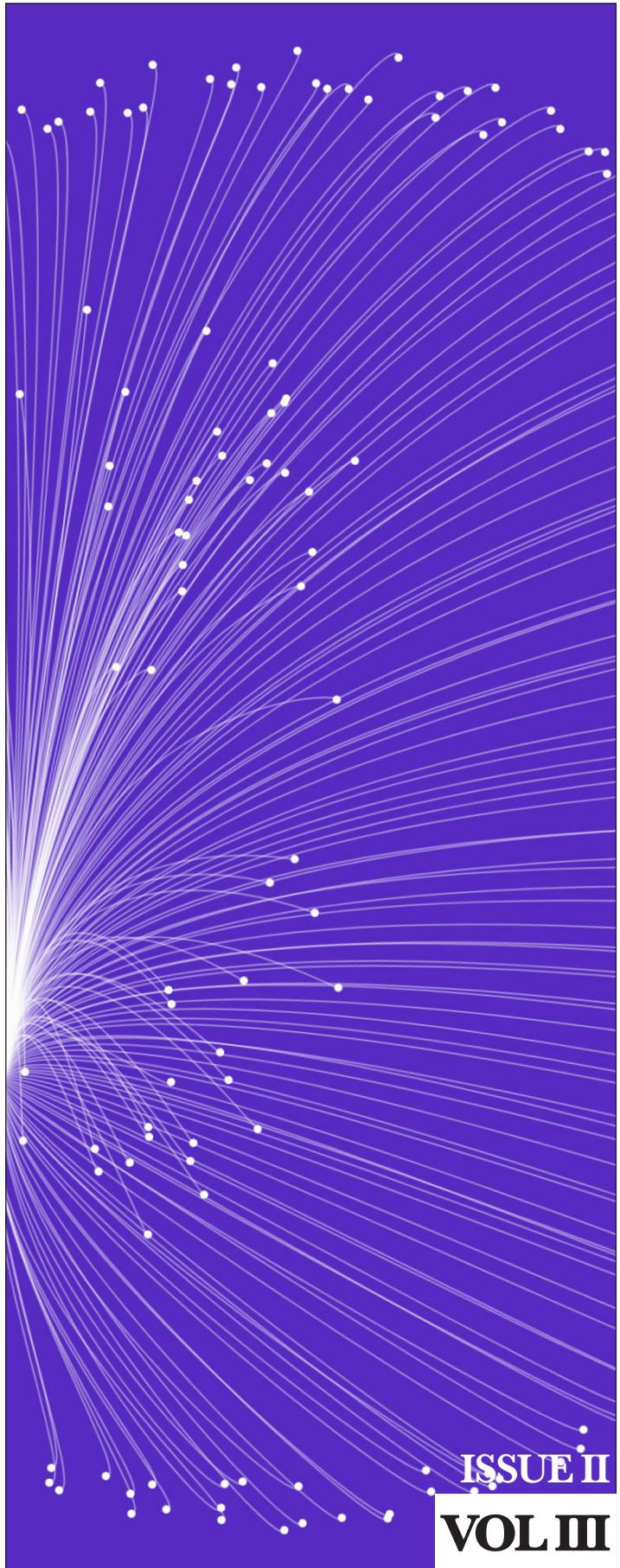


THE BROWN UNIVERSITY
**JOURNAL OF
PHILOSOPHY,
POLITICS &
ECONOMICS**

Special Feature:
**CLIMATE
CHANGE**

Extended Philosophy Edition
*Including contributions from
Mark Carney and Douglas Beal*

The Road to Glasgow is Paved with Data (Mark Carney)	15
The Financial Case for Nations and Cor- porations to Put People and the Planet First (Douglas Beal)	20
Philosophy	25
Politics	156
Economics	172



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CONTENTS

SPECIAL FEATURES

Mark Carney 15
The Road to Glasgow is Paved with Data

Douglas Beal 20
The Financial Case for Nations and Corporations to Put People and the Planet First

PHILOSOPHY

Margherita Pescarin 25
Kierkegaard’s advice on how to subjectively relate to the uncertainty of death: The “right” way is the pathless way

Richard Wu 36
Teotl vs. Tao: Comparing Tlamatinime and Taoist Thought

Ezekiel Vergara 53
Punishment: Human Nature, Order, and Power

Alexa Stanger 70
Happening on “Polished Society”: Towards a Theory of Progress and Corruption in the writings of Adam Ferguson and David Hume

Travis Harper 83
More Than Just a Thought Crime? A Retributivist View of Hate Crime Legislation

Ria Modak 95
Khadi Capitalism: Gandhian Neoliberalism and the Making of Modern India

Kyu-hyun Jo 114
Cause, Causation, and Multiplicity: A Critique of E. H. Carr’s “Causation in History”

Vance Kelley 135
Civil Disobedience and Desert Theory of Punishment

Jasmine Bacchus 141
Tribes and Tribulations: Character as Property in Survivor

POLITICS

Bess Markel 156
Rural Despair and Decline: How Trump Won Michigan in 2016

ECONOMICS

Will Matheson 172
Federal 5G Innovation Policy in the Context of Technological Competition between the United States and China

Sydney Bowen 205
A “Shot” Heard Around the World: The Fed made a deliberate choice to let Lehman fail. It was the right one.

Brooklyn Han, Patrick Leitloff, Sally Yang, Eddy Zou 222
Is a UK Government commitment to the Sustainable Development Goals good for the economy and business in general?

Adithya V. Raajkumar 242
“Victorian Holocausts”: The Long-Term Consequences of Famine in British India

FOREWORD

We are at a critical point in human history. This past year presented an opportunity to unite as a society against not only the common enemy of COVID-19, but the impending peril of our self destruction. Despite such possibility, IPCC reports continue sounding the alarm bells more urgently than ever before. While we have made progress in encouraging green innovation, we have yet to reach a critical mass and escape velocity. In this issue, interviews carried out with Douglas Beal and Mark Carney in the early days of the pandemic express optimism for the year ahead. Climate Change, like many other issues, requires the triad attention of Philosophy, Politics, and Economics. Only with a moral compass, the buffers of policies, and the exertion of financial institutions can we as a society tackle the climate crisis.

The Road to Glasgow is Paved with Data

Mark Carney

In a little over a year, the world will converge physically and virtually on Glasgow for COP26 hosted the United Kingdom in partnership with Italy. It will then be six years after the landmark Paris Accord, and the stakes could not be higher. Despite prolonged lockdowns of large swathes of the global economy, the earth's carbon budget continues to be rapidly depleted, the physical risks of climate change continue to mount, and the sixth mass extinction continues to progress.

Paris was a triumph of commitment and process. Commitment by [193] governments to limit temperature rises to below 2 degrees, with a stretch target of 1.5 degrees. Process in the innovation of Nationally Determined Contributions, whereby countries set their own pledges, and the world transparently added them up to see whether those efforts did the job. That calculation, 2.8 degrees of warming even if all countries fulfilled their pledges, was as sobering as it was disciplined. And it set the tone on the road to Glasgow: climate policy in the public and private spheres would be driven by data and data analytics because slogans won't solve an existential crisis.

In the event, many countries have fallen short of their pledges, and the IPCC estimates that the world is on course for up to 4 degree warming by the end of the century. At current rates of emissions, we have less than a decade left to stay within the carbon budget that keeps temperature rises below 1.5 degrees with 50% probability.

Getting back on track will require a redoubling of public efforts and a quantum change in private investment. The IEA estimates that the low-carbon transition could require \$3.5trn in energy sector investments every year for decades – twice the rate at present. Under their scenario, in order for carbon to stabilise by 2050, nearly 95% of electricity supply will need to be low carbon, 70% of new cars elec-

tric, and the CO₂ intensity of the building sector will need to fall by 80%.

For private markets to anticipate and smooth the transition to a net zero world, they need the right reporting, risk management, return optimisation. Our objective for Glasgow is to build these frameworks so that there is a new financial system in which every decision takes climate change into account. This requires a fundamental reordering of the financial system so that all aspects of finance—investments, loans, derivatives, insurance products, whole markets—view climate change as much a determinant of value as creditworthiness, interest rates or technology. A world in which the impact of an activity on climate change is a new vector, a new determinant, of value.

Doing so requires new data sets and new analytic techniques. The challenges are enormous and the timescales tight, but the prize are protecting the planet while seizing the greatest commercial opportunity of our time.

In order to bring climate risks and resilience into the heart of financial decision making, climate disclosure (**reporting**) must become comprehensive; climate **risk** management must be transformed, and sustainable investing (**returns**) must go mainstream.

Reporting

Catalysed by the G20 and created by the private sector, the Task Force on Climate-related Financial Disclosures (TCFD) is a comprehensive, practical and flexible framework for corporate disclosure of climate-related risks and opportunities.

Since the TCFD set out its recommendations for climate-related disclosures, there has been a step change in both demand and supply of climate reporting.

The demand for TCFD disclosure is now enormous. Current supporters control balance sheets totalling \$140 trillion and include the world's top banks, asset managers, pension funds, insurers, credit rating agencies, accounting firms and shareholder advisory services. The supply of disclosure is responding, with four fifths of the top 1100 G20 companies now disclosing climate-related financial risks in line with some of the TCFD recommendations.

Suitable for use by all companies that raise capital, the TCFD recommendations include a mixture of objective, subjective and forward-looking metrics:

- Include disclosure of **governance, strategy and risk management**;
- Establish consistent and **comparable metrics** applicable across all sectors, as well as specific metrics for the most carbon-intensive sectors; and
- Encourage use of **scenario analysis** so as to consider dynamically the potential impact of the risks and opportunities of the transition to a low carbon economy on strategy and financial planning.

The TCFD will call on new skills from measuring Scope 3 emissions to assessing strategy, risk and performance under different climate pathways.

The next step is to make these disclosures mandatory through initiatives by national authorities, regulators and international standard setters. Understanding and using such forward-looking impact disclosure will become a core skill across the private financial sector.

Risk management

The providers of capital—banks, insurers, asset managers—and those who supervise them all need to improve their understanding and management of climate-related financial risks.

Changes in climate policies, new technologies and growing physical risks will prompt a reassessment of the value of virtually every financial asset. Firms that align their business models to the transition to a net zero world will be rewarded handsomely. Those that fail to adapt will cease to exist. The longer meaningful adjustment is delayed, the greater the disruption will be.

Climate risks differ from conventional risks in several critical respects, including:

Their **unprecedented** nature. Past experience and historical data are not good predictors of the probabilities in the future. Indeed, as the insurance industry has learned, yesterday's tail event is becoming today's central scenario.

Their **breadth and magnitude**. They will affect every customer, in every sector in every country. Their impact will likely be correlated, non-linear, irreversible, and subject to tipping points. They will therefore occur on a much greater scale than the other risks financial institutions are used to managing.

That they are both **foreseeable**, in the sense that we know some combination of physical and transition risk will occur, **and uncertain**, in that the timing and scale is path dependent.

Although the time horizons for physical risks are long - not the usual 3-5-year business planning horizon, but over decades—**addressing major climate risks tomorrow requires action today**. Indeed, actions over the next decade—probably in the next three to five years—will be critical to determining the size and balance of future risks.¹

It is self-evident that the financial system cannot diversify its way out of this risk. As the pandemic has revealed, the interconnections between the real economy and the financial system run deep. And just like Covid-19, climate change is a far-reaching, system-wide risk that affects the whole economy, from which the financial system is not immune and indeed cannot hide. As the CEO of Morgan Stanley remarked to Congress, "It's hard to have financial stability if you don't have a planet."

So if financial risk is to be reduced, then the underlying climate risks in the real

1 UNEP Emissions Gap Report, 2019.

economy must be managed. And fixing this collective action problem is a shared responsibility across financial institutions and regulators. The public and private sectors need to work together to solve it, and that means developing the necessary risk management expertise rapidly.

That expertise is needed because it is challenging to assess financial risks in the normal way. As emphasised by the TCFD, it means that **disclosures need to go beyond the static** (what a company's emissions are today) **to the strategic** (what their plans are for their emissions tomorrow). That means assessing the resilience of firms' strategies to transition risks. This will be the principle focus of the new climate **stress testing regime** of central banks. At present, led by the Banque de France, the Nederlands Bank and the Bank of England, 16 central banks and supervisors will stress test their systems against different climate scenarios for a smooth transition to net zero to business-as-usual hothouse earth.

Returns

Financial participants increasingly recognise that sustainable investment brings enormous opportunities ranging from transforming energy to reinventing protein.

While green investment products, such as green, sustainable and transition bonds are important catalysts to developing a new financial system, they will not be sufficient to finance the transition to a low carbon future. We need to mobilise mainstream finance to help support all companies in the economy to adjust business models to align with net zero pathways. Value will be driven by identifying the leaders and laggards, as well as the most important general-purpose technologies that will overcome choke points in the transition.

That means having a more sophisticated understanding of how companies are working to transition from brown to green, not just where they are at a single point in time. Thus far, the approaches to doing so have been inadequate. Scores that combine E, S and G to give a single ESG metric—while worthy—are dominated by the S and the G. Carbon footprints are not forward-looking. And the impact of shareholder engagement is hard to measure. Moreover, a whole economy transition isn't about funding only deep green activities or blacklisting dark brown ones. We need **fifty shades of green** to catalyse and support all companies towards net zero and be able to assess collectively whether we're "Paris aligned".

That means investors must be able to assess the credibility of company transition plans. Transition planning is nascent and of varying quality among companies. Some have a stated net zero objective, but are yet to set out a credible strategy or tactics to achieving it. Others have fully integrated climate strategies, governance and investments. Emerging best practice transition plans include:

- Defining net zero objective in terms of Scope 1, 2 and 3 emissions;
- Outlining clear short term milestones and metrics that senior management

uses to monitor progress and gauge success;

- Board level governance; and
- Embedding metrics in executive compensation.

Schemes such as the *Science Based Targets Initiative* and *Transition Pathway Initiative* are already supporting companies to develop transition plans and certifying them when they meet appropriate thresholds. An emerging differentiator in the investment community will need to make these critical judgments.

Over time, investors will not just judge company transition plans, they too shall be judged. Investors should be obliged to alignment of their portfolios with the transition and disclose their position in a readily understandable and impactful manner. There are several ways to do this. At the most basic end of the spectrum, investors could calculate the percentage of assets that have a net zero target. However, as disclosures improve in the real economy, a more sophisticated option is to calculate the degree warming potential of assets in a portfolio. A “warming potential” calculation – or ***Implied Temperature Rise*** – estimates the global temperature rise associated with emissions by the companies in an investment portfolio. For example, one of the world’s largest insurers, AXA, estimates that its assets are currently consistent with a 3.1 degree path, and it has developed an innovative climate Value-at-Risk model to measure the opportunities as well as risks from the climate-related exposures of its investments.

Rating the warming potential of assets and portfolios has a number of ancillary benefits, including signalling to governments the transition path of the economy, and therefore the effectiveness of their policies; and empowering consumers to give them more choice in how to invest to support the transition. After all, with our citizens, particularly the young, demanding climate action, it is becoming essential for asset owners to disclose the extent to which their clients’ money is being invested in line with their values.

Conclusion

A financial market in the transition to a 1.5 degree world is being built, but we need to accelerate the pace on the road to Glasgow.

Now is the time for a step change to bring the reporting, risk management and return optimisation of sustainable finance into everyday financial decision making.

This will require new data sets from scope 3 emissions to exposures to climate transition risk, and new financial skills from scenario analysis to assessing implied temperature warming. The common theme will be determining who is on the right and wrong side of climate history.

In that way, private finance can bend the arc of that history towards climate justice.

The Financial Case for Nations and Corporations to Put People and the Planet First

Douglas Beal

We are in a period of increasing societal disruption. Pressure is mounting to address the climate crisis. Racial equity issues have moved to the forefront. And the COVID-19 pandemic has caused untold suffering and death and upended economies around the globe. In the past, addressing such issues has been seen primarily as the responsibility of government. But increasingly, there are expectations that the private sector must play a leading role in driving progress on major societal challenges.

I, along with my colleagues at Boston Consulting Group, have spent the last decade supporting nations and corporations in addressing social and environmental issues—and measuring how their efforts impact country GDP and company financial performance. My work in this area began with economic development, helping nations to advance in a way that improved the living standards of citizens. More recently I refocused on private sector work, helping companies and investors create strategies to deliver both business and societal value.

The research and client work I've done in both areas reveal a powerful insight: whether one is talking about a country's economic growth or a company's profits or returns for shareholders, performance is not degraded by focusing on how decisions impact people and the planet. Rather, the evidence is mounting that integrating such factors into strategy enhances financial performance.

Putting Well-Being at the Heart of a Nation's Strategy

BCG's insight on these dynamics started with our work in the area of economic development. As we supported presidents and prime ministers around the world in honing their development strategies, it became clear they were looking for a way to measure their progress beyond the purely financial benchmark of GDP. This

reflected their acknowledgement that robust GDP per capita growth in the short term means little if living standards are undermined in the long term (by poor health, underinvestment in education, a degraded environment, and a widening gap between rich and poor).

The Sustainable Development Goals had not yet been put in place at this time, meaning a globally-recognized holistic framework for measuring country progress did not exist. We set out to create one. This led to some deep conversations about what really matters for a society. As Robert F. Kennedy said, GDP “measures everything in short, except that which makes life worthwhile.” We had to ask ourselves: What actually makes life worthwhile? We thought about general measures of happiness, for example, and whether levels of citizen happiness would be a good barometer for a nation’s performance. Ultimately, we decided that happiness would be too subjective for what we wanted to achieve. Instead we decided to focus on *well-being*, the conditions and quality of life people experience.

We then asked ourselves: how do you measure well-being—and how can a government contribute to it? We spoke with numerous experts and dug into the research on well-being to determine what factors should comprise our measure. We eventually zeroed in on 10 dimensions: income, economic stability, employment, health, education, infrastructure, equality, civil society, governance, and environment. We identified a series of indicators for each—a total of 40 in all. The result was the Sustainable Economic Development Assessment, a diagnostic tool and measurement framework launched in 2012. SEDA allows us to track how a country’s well-being compares to that of other nations, determine the pace of progress over time, and identify areas in which countries are performing well or need to improve.

SEDA revealed valuable insights. First, not surprisingly, countries with higher levels of wealth tended to have higher well-being. Norway, for example, has had the highest level of well-being relative to the rest of the world every year since we launched SEDA. Second, not all countries convert their wealth (GDP per capita) into well-being at equal rates. Some deliver well-being levels that are beyond what one would expect given the country’s wealth—and others deliver well-being far below what would be expected. In recent years Vietnam has been among the leading countries in terms of converting wealth into well-being—outpacing countries such as Germany, France, and the US on this metric. Third, inequality—and not just income inequality—has a major impact on well-being. Certainly, income inequality gets significant attention in political and media circles. But SEDA captures a broader view, assessing not only income inequality but also the lack of equity in access to health care and education as well. And our analysis last year found, somewhat surprisingly, that high levels of social inequality are a greater drag on well-being than high levels of income equality.

Over the years, as we continued to assess country levels of well-being, public sector clients, journalists, and others often raised a similar question. While it was clear that countries with higher levels of wealth or growth had more resources to advance well-being, we were frequently asked if the reverse was true. So, was there evidence that countries with a better record on well-being ultimately posted more robust GDP growth?

In 2018 we decided to take a stab at answering that question. By then we could access ten years' worth of SEDA data—enough time to give us confidence we could identify a long-term trend if it existed. Drawing on data for all 152 countries in our data set, we looked at a country's initial well-being performance relative to its wealth in the period leading up to and including the financial crisis (from 2007 through 2009)—and its growth rate in the decade that followed. We found that on average, countries that produced better well-being for their population given their level of wealth did in fact have a higher GDP growth rate in the future. Our analysis also found that countries that had a better record at delivering well-being for citizens were more resilient during the financial crisis, taking fewer months to recover to pre-crisis GDP levels than countries with weaker records on well-being. It turns out that taking care of people and the planet is good economics.

Focusing on Total Societal Impact

As we worked with nations on development strategies, we urged them to think strategically about integrating the private sector into those efforts. This included understanding where the country's most pressing needs existed and identifying the industries and companies that could play a role in addressing those needs. Banks, for example, can be key partners in expanding access to capital for entrepreneurs. Food manufacturers that expand their supply chain to include small-holder farmers can help raise incomes for those individuals and reduce poverty rates overall. And biopharmaceutical companies that move to expand access to medicine can play a vital role in improving health outcomes.

Time and time again my economic development work in the *public sector* reinforced the importance of the *private sector* in advancing important societal issues. In 2016, I started focusing more on working directly with large multinational corporations to find ways to improve both business returns and their positive impact on society.

At that time, academic research had shown that integrating environmental, social, and governance (ESG) performance into investment decisions led to better returns from a portfolio perspective. What that meant for individual businesses was not quite as clear. Most of our clients are large corporations—and they had a lot of questions. First, CEOs and CFOs were grappling with whether they should think of good ESG performance as a cost or an opportunity. They also wanted to

understand what specific ESG topics were most important for their industry.

So, we set out to prove that in fact ESG is an opportunity—not a cost—and to identify those topics that matter for specific industries.

In 2017, I joined a group of colleagues in the Social Impact practice to conduct a detailed study of ESG performance in four industries: biopharmaceuticals, oil and gas, consumer packaged goods, and retail and business banking. We assessed company performance in dozens of ESG topics, such as ensuring a responsible environmental footprint or promoting equal opportunity. We looked for any correlation with market valuation multiples and margins. Our goal was to determine whether companies that excelled in those areas, enhancing what we call Total Societal Impact (TSI), saw a difference in financial performance versus companies that lagged in those ESG areas.

Now, as members of the Social Impact practice, we were of course hoping we'd find a link. In fact, the results exceeded our expectations. Nonfinancial performance (as captured by the ESG metrics) has a statistically significant positive correlation with the valuation multiples of companies in all the industries we analyzed. In each industry, investors rewarded the top performers in specific ESG topics with valuation multiples 3% to 19% higher, all else being equal, than those of the median performers in those topics. And top performers in certain ESG topics had margins that were up to 12.4 percentage points higher, all else being equal, than those of the median performers in those topics. The bottom line: not only was there no penalty for focusing on ESG, but companies that performed well in critical ESG areas were rewarded in the market.

The Moment of Truth

Our work in SEDA and TSI were completely different—looking at different players, using different methodologies, and conducted at different times. Yet the results yielded strikingly parallel insights: putting people and the planet at the center of strategy improves financial performance. Those insights have major implications for nations and companies as they navigate the current period of turbulence and disruption.

Certainly, it is too early to know which countries around the world will prove more resilient in the face of the pandemic. However, our research does support the view that those nations that design recovery strategies that support citizen well-being are likely to fare best. In particular, governments should design economic revitalization programs that don't just position their nation for economic success in the future, but also ensure the benefits of any gains are equally shared among citizens. And those that created massive stimulus programs must leverage them as an opportunity to accelerate progress in fighting climate change.

For companies, the imperative to transform in ways that create positive societal

impact is equally strong. Companies should protect employees by ensuring workplace safety, while also reskilling workers and accelerating hiring where feasible. And as they transform their business in the face of the pandemic, they should integrate a societal impact lens into the effort. They can, for example, improve the resiliency of supply chains while also reducing carbon emissions and environmental impact. They can look for new product opportunities that yield real societal benefits. And they can partner with other companies or organizations to maximize impact. There are early indications that companies with a strong focus on their impact on society are faring better right now. Some key MSCI ESG indices, for example, have outperformed non-ESG benchmarks since the start of COVID - 19.

The challenges facing society today are grave—and daunting. But nations and corporations have massive leverage to move the needle against climate threat, racial inequity, and the devastating pandemic. Without their leadership, it is hard to see how we can make progress in any of these areas. Lucky for us, the evidence shows it is in their economic interest to do so.

Kierkegaard's advice on how to subjectively relate to the uncertainty of death: The "right" way is the pathless way

Margherita Pescarin

In Tolstoy's *The Death of Ivan Ilych*, Ivan Ilych, struck by a terminal illness, comes "face to face with his own *mortality* and realizes that, although he knows of it, he does not truly grasp it,"¹ since "death is always *uncertain*."² For the purposes of this essay, I will show how Ivan Ilych can effectively grasp the uncertainty of his own death.

Firstly, I will illustrate how, according to Kierkegaard's pseudonym, Climacus, in *Concluding Unscientific Postscript*, one can *subjectively seek knowledge* of what it is to die by using the concept of *essential knowing*—that is, by asking what death "means to you" as an individual whose essence is existence. Secondly, I will apply Climacus' teachings to clarify how Ivan Ilych managed to *subjectively relate* to the uncertainty of death by *seizing the moment in passion* at the end of his life. I draw from the model of the servant Gerasim, a character in Tolstoy's novella. Lastly, I will consider a problematic contradiction in Kierkegaard's philosophy that might arise when one attempts to subjectively relate to the uncertainty of death. Yet, I argue that one needs to be *charitable* in criticizing Kierkegaard's philosophical project. His *works*, because he wrote under pseudonyms, and his *life*, because he failed to become a knight of Christian faith, are merely suggestions for becoming subjective: the "highest task set for human beings."³ Therefore, I advise Ivan Ilych that the "right" way to grasp the objective uncertainty of death is to seize the moment in passion for the infinite by taking the *pathless way*.

To understand how Ivan Ilych can subjectively seek knowledge of what it is

1 Tolstoy, Leo, *The Death of Ivan Ilych: Annotated (English Edition)*, 262.

2 Kierkegaard, Soren, *Concluding Unscientific Postscript (Cambridge Texts in the History of Philosophy)* (Cambridge: Cambridge University Press, 2009), 139.

3 *Ibid.*, 132.

to die, I will clarify the distinction between the *objective* and *subjective* search for knowledge. Granted that there are significant objective truths “out there” in the world—say, mathematical laws, for example—Climacus claims that what matters is not the objective truth itself, but how human beings as existing in the world *relate* to these objective truths. Individuals can relate to them either by *objective reflection* or *subjective reflection*.⁴

Early modern epistemologists, such as Descartes, took the path of *objective reflection* to tackle the fundamental question of how to gain knowledge. They chose to mirror truth as an object disconnected from the individual human being. This objective mode of reflection creates an impersonal relation between subject and object, which philosopher Rick Furtak calls “the scandal of modern philosophy,” because it over-theorizes truth, remaining indifferent to the subject’s existence.⁵ Suppose I, an epistemic agent, relate to the physical law “water boils at 100°C” by objective reflection, meaning I come to know the law *abstractly*. There is no interest for me in knowing that “water boils at 100°C,” unless I can make it personal to my own life by understanding—hence knowing—*how* to use this law. For example, by *concretely* applying the law to my everyday life because I want to boil rice, I’ve come to make this law personal to my life. What matters to me, as an individual who exists in the world, is how I can relate to the objective truth that “water boils at 100°C” by *subjective reflection*, or better, by *subjectively seeking knowledge*. Simply put, if the law sits in a textbook, I might learn it by memory, relating to it objectively as an abstract piece of knowledge in my mind. Only when I relate to it subjectively, by applying it in a concrete situation of life, do I come to know the law by heart.

Conversely, the path of subjective reflection implies that knowledge belongs to the individual who essentially exists in the world, someone whose existence is the fundamental and first feature of being alive in the world. Thus, the knower is the one who exists because existing is what is essential. Climacus refers to this knowledge acquired by subjective reflection as *essential knowing*. This is also known as the ethical knowledge “that relates to the knower, who is essentially someone existing.”⁶ Ethical knowledge is the most important kind of knowledge for Climacus because it forces us to think about our own existence, the fundamental feature of being human.

To demonstrate the importance of ethical knowledge, Climacus recalls the figure of Socrates, whose merit was “to be an existing thinker, not a speculator

4 Ibid., 138.

5 Furtak, Rick, “Chapter 5: The Kierkegaardian Ideal of ‘Essential Knowing’ and the Scandal of Modern Philosophy,” *Kierkegaard’s Concluding Unscientific Postscript: A Critical Guide* (Cambridge: Cambridge University Press, 210), 87.

6 Kierkegaard, Soren, *Concluding Unscientific Postscript*, 166.

who forgets what it is to exist.”⁷ Socrates was concerned with obtaining practical wisdom rather than acquiring items of theoretical knowledge simply for the sake of knowing. As someone who existed, Socrates was interested in what existence meant to him and how he ought to live a “good” life as an “active” moral *agent* rather than a “passive” *observer*.⁸ On this line of thought, Climacus asserts that “the ethical [i.e. becoming subjective] is [...] the highest task for human beings,”⁹ which is “over only when life itself is over.”¹⁰ As a result, the ethical question humans cannot dismiss is *what it is to die*.¹¹

To grasp what it is to die, Climacus lists ordinary beliefs people hold about death.¹² For instance, people believe there are different kinds of deaths. Science states that with death comes *rigor mortis*: post-mortem rigidity. That is an instance of understanding death by objective reflection. However, Climacus argues that when one inquires into death by objective reflection one can learn countless objective facts about death and yet remain “very far from having grasped death.”¹³ As a result, Climacus says that death is *objectively uncertain*. The problem with death being so uncertain is that the fear associated with this uncertainty spreads “into every thought.”¹⁴ Especially, “[i]f death is always uncertain, if I am mortal, then this uncertainty cannot be understood in general terms,” because someone living cannot approach death without dying.¹⁵

Hence, the *solution* Climacus proposes is to undertake *subjective appropriation* of objective uncertainty. Firstly, to grasp death, one must think about it in every moment of his life, “for since [the uncertainty of death] is there at every moment, it can only be overcome by [one’s] overcoming it at every moment.”¹⁶ Again, since the fear associated with not knowing what to expect of death in objective terms is always there, one must always confront this fear in order to overcome it. Moreover, one should not simply ask what it is to die, but rather what death “means to me.” This suggests there is an *ethical* question involved in how to give meaning to the uncertainty of death by actively thinking about it—that is, in forming an intention of how to live a “good” and meaningful life before death comes. As Climacus articulates it, in thinking about the objective uncertainty of death in every moment

7 Ibid., 173.

8 Furtak, Rick, “Chapter 5: The Kierkegaardian Ideal of ‘Essential Knowing’ and the Scandal of Modern Philosophy,” 110.

9 Ibid., 136.

10 Ibid., 132.

11 Ibid., 108.

12 Kierkegaard, Soren, *Concluding Unscientific Postscript*, 139.

13 Ibid., 142.

14 Ibid., 139.

15 Ibid.

16 Ibid., 140.

of one's life, the living individual prepares himself to die and alters his perspective on how he ought to live.¹⁷

Above all, stated by Climacus, the single best way to subjectively relate to the objective uncertainty of death is to *seize the moment in passion*.¹⁸ In *The Concept of Anxiety*, another Kierkegaardian pseudonym, Vigilius, argues that the *moment* is the eternal figurative place in which "time and eternity touch each other, and with this the concept of *temporality* is posited."¹⁹ That is, when the finite time and the infinite eternity clash, they produce the present moment. When a present moment adds to another present moment and so on, temporality is created. Furthermore, as Mark Bernier highlights, this temporality is "neither determined by the future nor the past, but remains open," which means that the moments which make up temporality are always present.²⁰ And, in their being always present, they are *eternal*. However, paraphrasing the Latin poet Horace: while we speak, the present moment will already have fled.²¹ To make the present moment the eternal moment, one has to seize it in *passion for the infinite*. Let me explain what I mean by using another passage by Horace. When I say that one has to seize the present moment in passion for the infinite to make it eternal, I am referring to an analogous meaning to Horace's quote *carpe diem*. That means to grab the present moment: to make it eternal before it is too late. Similarly, to seize the moment in passion for the infinite is to turn the present moment into eternity before death comes.

Seizing the moment in passion for the infinite is, according to Climacus, "the highest truth [...] for someone existing."²² That is because, for Climacus, it corresponds to the highest subjective stage of existence: the ethico-religious stage. The other two existential stages in order correspond to the aesthetic and the ethical stage. In the aesthetic stage the individual is immersed in sensorial experiences and exposed to the infinite possibilities of imagination that give him short-term pleasure. In the ethical stage the individual needs to choose one of these possibilities, in order to have a meaningful and particular existence. That is, to subjectively relate to the uncertainty of death. Finally, in the ethico-religious stage, the objective uncertainty of death is overcome by having *faith*: in Climacus' words, trusting in God's will that whatever happens will be good for you.²³

17 Ibid., 141.

18 Ibid.

19 Kierkegaard, Soren, "The Concept of Anxiety: A Simple Psychologically Orienting Deliberation on the Dogmatic Issue of Hereditary Sin" (Princeton: Princeton University Press, 1980), 152.

20 Bernier, Mark, "Chapter 2: The Kierkegaardian Self," *The Task of Hope in Kierkegaard* (Chicago: University of Chicago Press, 2015), 18.

21 Horace, *The Odes and Carmen Saeculare of Horace* (London 1882), Ode 1.11.

22 Kierkegaard, Soren, *Concluding Unscientific Postscript*, 171.

23 Ibid., 141.

For Kierkegaard personally, seizing the moment in passion for the infinite meant overcoming this uncertainty with Christian *faith*—a blind faith in God—to reach the ethico-religious stage of existence. However, Bernier rightly points out that, although it is not immediately clear, Climacus could seize the moment in passion for the infinite at the ethical stage of existence too. For Bernier, “the highest rational stage, [...] is to make a *wholehearted commitment* to something” more general: to choose a passion that allows the individual to make sense of their own life.²⁴ This choice, though, does not need to be the commitment to God that Kierkegaard tried to make in his life. Again, Bernier notices that it all depends on “the *attitude* one takes with respect to” the *task* of living a “good” life, independently of faith in God.²⁵ Overall, Bernier thinks that Climacus allows for different ways to seize the moment in passion for the infinite, as long as one makes a wholehearted commitment to something.

In *The Death of Ivan Ilych*, as an imminent death approaches, the protagonist Ivan Ilych realizes he did not have the “right” attitude towards life. During his life, Ilych worked as a functionary of the Russian state in the nineteenth century. From the outside it looks like Ilych had the most decent life: a respectable job, a loving family, and a close group of friends. However, we soon learn this is all a façade. Ilych’s main goal is to be accepted by the members of the Russian aristocratic society and to constantly increase his wage. We also learn how few and superficial Ilych’s interests are, including drinking and betting. One day, though, Ilych suffers a terrible accident that radically changes his life. After falling from a chair, he begins to suffer from an invisible pain that no doctor can cure, and soon this pain turns into a terminal illness. A few days away from his death, the delirious Ilych starts thinking about death and realizes his life has been a failure. His friends do not care about him; they only care to gossip about his illness. He will not be remembered by anyone for his dull and average career. He cannot even take pride in a loving relationship with his closest relatives because they only care about his inheritance.

When the illness strikes him, Ilych knows he has to die, having learned from a textbook that “Caius is a man, men are mortal, therefore Caius is mortal,” but he is not able to grasp this *abstract* item of knowledge.²⁶ The way he relates to the fact of death is utterly objective. It seems impossible to him, a *concrete* human, that death could concern him too. Similarly, his family and friends deceive themselves by believing death does not concern them. In facing the reality of his imminent death, a desperate Ilych asks himself general questions such as, “[W]hen I am

24 Bernier, Mark, “Chapter 2: The Kierkegaardian Self,” 23.

25 Ibid., 24.

26 Tolstoy, Leo, *The Death of Ivan Ilych: Annotated (English Edition)*, 854.

not, what will there be?"²⁷ But, as Climacus demonstrated, there is no objective answer to Ilych's question of what happens when one is dead, as no one survives to witness it.²⁸

Eventually, the attitude of *love*, *compassion*, and *pity* Gerasim, his servant, shows to him forces Ilych to understand that his life was a waste because he did not live as he should have. By taking care of him as his death approaches, Gerasim shows Ilyich what he lacked in his life. Indeed, Ilyich never took care of others with genuine concern, but only cared about himself and his business. He never committed to responsibilities or tried to do anything more than what was required of him at work or in familial contexts. Ivan was receiving, never giving; he never actively worked towards an objective, but always felt entitled to ask for more—a raise at work or more respect from his family.

Most importantly, Gerasim teaches him how to approach the uncertainty of death with passion, even if Ivan has only a few days left to live. Indeed, Gerasim's joyous and sage approach to death's uncertainty—he utters, "We shall all of us die, so why should I grudge?"—inspires Ivan Ilych to embrace the right way to live by welcoming death at his deathbed with sheer joy.²⁹ He finally makes a wholehearted commitment to the present moment and its uncertainty. Krishek & Furtak call this joyous acceptance of the objective uncertainty of death "trust in uncertainty."³⁰ That is how human beings "discover the meaning of life: by being [...] *receptive* and *accepting* whatever happens."³¹ In other words, being receptive is a matter of listening in silence without complaining. This is what Ivan Ilych eventually does at the end of his life, without complaining about his pain and his fear of death. Instead, his acceptance is a matter of avoiding resistance to change and welcoming death.³²

Having applied Climacus' teachings to Ivan Ilych's case, I argue that Ivan Ilych should have lived his life by taking the *pathless way*. The pathless way is not an objective way equal for everyone, but a shapeless way that Ivan should have shaped according to his own subjective experience of life and death. Therefore, the "right way" to subjectively relate to the objective uncertainty of death for Ivan is to *trust* this *uncertainty* without necessarily having faith in God, as Climacus' emphasis on the ethico-religious stage of existence suggests. The right way means seizing the moment in passion for the infinite, welcoming this uncertainty, joyfully accepting whatever happens, and making a wholehearted commitment to the inevitability of

27 Ibid., 827.

28 Brombert, Victor, "Tolstoy: 'Caius is Mortal,'" *Musings on Mortality: From Tolstoy to Primo Levi* (Chicago: University of Chicago, 2013), 19.

29 Tolstoy, Leo, *The Death of Ivan Ilych: Annotated (English Edition)*, 953.

30 Krishek, Sharon and Rick Furtak, "A Cure for Worry? Kierkegaardian Faith and the Insecurity of Human Existence," *International Journal for the Philosophy of Religion* no. 72 (2012), 171.

31 Ibid., 168.

32 Ibid., 171.

death in order to appreciate life's surprises, as Gerasim did.

Admittedly, there is a problematic contradiction for Climacus in claiming that there is a *single best way* to subjectively relate to the uncertainty of death. As I said earlier when discussing Bernier, I argue that Climacus allows for other ways of equal worth to make a wholehearted commitment to life and the uncertainty of death. In more detail, I argue that we should be *charitable* when criticizing Kierkegaard's philosophical project of defending *subjectivity* as an authoritarian project that falls into *objectivity*. The contradiction is apparent for two main reasons.³³

Firstly, the contradiction enters Kierkegaard's *works*. Indeed, advocating for a single best way to subjectively relate to the uncertainty of death is to make an *objective*—almost *authoritarian*—ethical claim of how one should live his life³⁴. It is important to highlight that Climacus is not simply concerned with a metaphorical faith, such as trusting uncertainty in the place of trusting God, but “precisely with the problem of becoming a *Christian subject*.”³⁵ Nonetheless, Climacus insightfully asserts that “[i]t is the passion of the infinite and not its content that is decisive.”³⁶ This alludes to the fact that seizing the moment in passion for the infinite merely provides a “how,” a form—a *pathless way*—whose “what,” whose content, changes for every distinct individual. Furthermore, although Climacus seems to be mainly interested in Christian faith, he also claims that “he has no opinion of his own,” as the constant use of pseudonyms in Kierkegaard's works are all subjective.³⁷ This points to the fact that his works neither equal Kierkegaard's subjective point of view, nor do they refer to a possible objective take on what the absolute truth is. They offer mere *suggestions*, not orders, of how to seize the moment in passion for the infinite in the most personal way. Again, a striking example of this is the *trust in uncertainty* shown by Gerasim, who, in his appreciation of life's simplest pleasures, in his humility and in his exercise of love, pity and compassion, accepts mortality with joy.

Secondly, the contradiction enters Kierkegaard's *life*. Worryingly, it seems that “[i]f we are to understand Kierkegaard and not simply make use of certain of his insights—we must keep in mind that he was throughout his life concerned with what it meant for him to become a Christian.”³⁸ This implies that Kierkegaard's existential philosophy *cannot be separated* from his endorsement of Christian faith in his life, which has led many philosophers to define Kierkegaard's project as an

33 McLane, Earl, “Kierkegaard and Subjectivity,” *International Journal for the Philosophy of Religion* no. 8 (1977), 231.

34 Ibid.

35 Ibid., 216.

36 Kierkegaard, Soren, *Concluding Unscientific Postscript*, 171.

37 McLane, Earl, “Kierkegaard and Subjectivity,” 216.

38 Ibid., 218.

archetype of *Christian existentialism*: a type of existentialism whose fundamental features include faith in God.³⁹ Nevertheless, I support Holmer's interpretation of the Kierkegaardian narrative of the *stages of existence*, which separates Kierkegaard's faith from his philosophy. Indeed, it aligns with my previous interpretation of Climacus who, I have argued, allows for different ways to seize the moment in passion without implying there is a single best way to do this. For instance, by either making a wholehearted commitment to life at the ethical (non-religious) stage of existence or at the ethico-religious stage by having faith in God.⁴⁰ Similarly, Holmer argues that Kierkegaard's works "are a presentation of kinds of possibilities, [hence the stages of existence, specifically the ethical and the ethico-religious] which are neither true or false."⁴¹ That is, again, whatever possibility the individual chooses, whatever stage of existence to seize the moment in passion for the infinite, he is not making the wrong choice, as long as this individual is showing the right attitude to relate to the uncertainty of death, hence by subjective reflection.

Thus, an individual like Ivan Ilych can choose to become subjective by simply becoming ethical. That is, by trusting death's uncertainty, without necessarily trusting a Christian God, as Kierkegaard aimed to do. Furthermore, even if one grants Kierkegaard's faith is inseparable from his philosophy, Kierkegaard's attempt at becoming a knight of Christian faith, meaning a devoted believer in God, was a failure. According to his extensive personal journals, he struggled all his life to find something for which to live and die. As he was never convinced that faith was the answer to his questions, he never became a devoted, fully committed believer.⁴² Moreover, any other attempt at becoming ethical was not successful. For example, he once fell in love with a Danish aristocrat and he proposed to her. However, before marrying her he changed his mind and left to pursue the path of faith.⁴³ Insightfully, McLane emphasizes that Kierkegaard presumably took the path of Christian faith only out of *existential frustration*. This does not necessarily prove that Christian faith is not the "right" way to live a good life for anyone, but it was not the case for Kierkegaard. As McLane concludes: "Whether Kierkegaard is correct in thinking that man's true need is for God and that Christianity satisfies this need—these are questions that can only be decided by each individual for him."⁴⁴

In conclusion, I have argued that Kierkegaard's works, since he used pseud-

39 La Vergata, Antonello and Franco Trabattoni, *Filosofia, cultura, cittadinanza 3: Da Shopenhauer a oggi* (Milan: RCS Libri S.p.A, 2011), 49.

40 McLane, Earl, "Kierkegaard and Subjectivity," 215.

41 Ibid.

42 Ibid., 217.

43 Ibid., 227.

44 Ibid.

onyms, and his life, since he failed at becoming a knight of Christian faith, show that there is no single best way to seize the moment in passion. Therefore, we should be *charitable* when criticizing Kierkegaard's authoritarianism in advocating for subjectivity, since he was also trying to make sense of death—and life—in his own way. Eventually then, I, Young Climacus, argue that in order to grasp the uncertainty of his own death Ivan Ilych should have taken the *pathless way*, trusting this uncertainty: accepting whatever happens, hence living a caring and meaningful life as someone who essentially exists in the world. As Lorenzo de' Medici proclaimed: "Chi vuol essere lieto, sia:/Di doman non v'è certezza."⁴⁵

⁴⁵ In English: "Be happy if you want to, / For tomorrow is not certain." (Getto, Giovanni, "L'enigmatico Lorenzo," *Lettere Italiane* 31, no. 1 (1979): 78).

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Teotl vs. Tao: Comparing Tlamatinime and Taoist Thought

Richard Wu

Today, academic scholars and the general public primarily remember the Aztecs for their bloody human sacrifices, towering pyramid temples, and glittering gold wealth. However, lesser-known about the Mexica (Aztecs) is their rich tradition of philosophy, which flourished in isolation from its Old World counterparts. This research paper examines Mexica philosophy, drawing comparisons to another similar school of thought: Taoism in ancient China. Though separated by thousands of miles, Aztec thinkers in Mesoamerica and Taoist sages in China both independently arrived at the idea that the universe exists as a dialectical monism (a unified whole manifested through opposing forces). To the Mexica, the universe was infused with Teotl, a divine life-force analogous to the notion of Tao in Taoism. Like the Taoist conception of opposing-yet-interconnected yin and yang forces, Teotl was seen as a unified, interdependent duality. This common perception of the universe's existence as a dialectical monism prompted both Mexica and Taoist philosophers to ponder the question: How should people live in a world permeated by duality? Interestingly, the two different philosophies reached the same conclusion: a moral, virtuous life is a life of balance. Thus, for Aztecs and Taoists alike, philosophy was not solely confined to the realm of intellectual inquiry; rather, philosophy became an integral part of everyday life.

When Spanish conquistadors arrived at the Mexica (Aztec) capital of Tenochtitlan in 1519, they were astounded to encounter one of the world's largest cities of the period. In fact, Tenochtitlan's canals, markets, gardens, and temples so impressed the Spaniards that the conquistador Bernal Diaz del Castillo would later compare the Mexica capital city to an enchanting dream.¹

¹ Castillo Bernal Diaz del, and John Ingram Lockhart, *The Memoirs of the Conquistador Bernal Diaz Del Castillo*, (London: J. Hatchard and Son, 1844), 219.

However, within the next two years, this enchanting dream would be destroyed, both physically and ideologically. The Spanish razed Tenochtitlan to the ground during their conquest of Mexico, covering the ruins of Aztec buildings with what would become Mexico City. Accompanying the conquest was the substantial destruction of Mexica cultural heritage—zealous Spanish clergy members replaced Aztec gods with Jesus and the Virgin Mary, ended the use of the Mesoamerican calendar, and burned countless codices.

Further, the Spanish conquest erased another essential facet of Mexica culture: the Aztec school of philosophy. Mexica philosophers, called *tlamatinime* (literally ‘knowers of things’ in the Aztec language, Nahuatl), developed a rich intellectual tradition in complete isolation from Pythagoreanism in Greece, Confucianism in China, or any other philosophy of the Old World.²

In regards to philosophy at large, much of Western academia has historically dismissed non-Western philosophical inquiry, including Mexica thought. However, newer works of the past few decades—such as Ben-Ami Scharfstein’s paper “The Western Blindness to Non-Western Philosophies”—argue against this Eurocentric view of philosophy, validating the rich history of philosophical engagement in non-Western cultures.³ In this context of wider philosophical discussion, this work intends to shed light on a topic that has received relatively little academic attention, thereby adding to recognition of non-Western thought.

This paper seeks to compare and contrast Mexica *tlamatinime* thought with another non-Western school of philosophy: Taoism in ancient China. The first half of this paper examines the historical context, metaphysics, ethics, and societal implications of Aztec philosophy. The second half includes a comparative examination of Taoism and its historical context, metaphysics, ethics, and societal implications. Though seemingly irrelevant to one another, these two philosophies share many similar ideas regarding metaphysics and ethics—notably, the concept of the universe as a dialectical polar monism, as well as an emphasis on balance. Despite the ideological resemblance, however, these philosophies also developed within different sociopolitical contexts, leading the *tlamatinime* and the Taoists to diverge in their views on the applications of philosophy.

I. Aztec Philosophy

Note: Though the Spanish destroyed most of the pre-Columbian Aztec codices following the conquest of Mexico, many post-conquest era documents from both native and Spanish sources exist today. In addition, poems composed prior to the conquest survived through oral

² Mann, Charles C., *1491: New Revelations of the Americas Before Columbus*, (New York: Alfred A. Knopf, 2005), 121-123.

³ Scharfstein, Ben-Ami, “The Western Blindness to Non-Western Philosophies,” *The Paideia Archive: Twentieth World Congress of Philosophy*, No. 1 (1998): 102-108, DOI: 10.5840/wcp20-paideia19985122.

transmission. From these remaining sources and archaeological studies, scholars can glean an understanding of Mexica thought today.

A. Origins and Context of Aztec Philosophy

Although Aztec philosophy may have had precedents in the earlier Teotihuacano or Toltec civilizations, the scarcity of written documents from these older civilizations precludes historiographic study of pre-Mexica thought in central Mexico.

However, philosophical inquiry blossomed in Mesoamerica by the time of the Aztecs. In his book *1491: New Revelations of the Americas Before Columbus*, historian and writer Charles C. Mann references many surviving Nahuatl manuscripts that describe Mexica *tlataminime* meetings in cities like Tenochtitlan.⁴ The fact that the *tlataminime* frequently met for intellectual exchanges and discussions indicates that the Aztecs already had a flourishing philosophical tradition prior to the Spaniards' arrival.

Interestingly, this philosophical tradition emerged from the Aztecs' obsession with a central problem: the transience of existence. Mortality and impermanence permeated many aspects of Mexica culture, from religion to society to intellectual thought. In religion, human sacrifices sought to prolong the universe's existence by sustaining the gods with human blood.⁵ In everyday society, annual death celebrations—which have survived to this day in the form of Día de Muertos (Day of the Dead) festivities—reminded all of the inevitability of mortality.⁶ Finally, in intellectual circles, the *tlataminime* grappled with the philosophical implications of life in a transitory world.⁷

A poem ascribed to Nezahualcoyotl, a *tlatamini* (the singular of *tlataminime*) and *tlatoani* (ruler) of Texcoco, serves as a *memento mori* in its contemplation on the ephemeral nature of existence:

I, Nezahualcoyotl, ask this:
Do we truly live on earth?
Not forever here,
only a little while.
Even jade breaks,
golden things fall apart,

4 Mann, Charles C., *1491: New Revelations of the Americas Before Columbus*, 123.

5 Phillips, Charles M., and David M. Jones, "Many Types of Blood Offering," in *The Illustrated Encyclopedia of Aztec & Maya: The History, Legend, Myth and Culture of the Ancient Native Peoples of Mexico and Central America*, (London: Hermes House, an imprint of Anness Publishing, 2010), 58-59.

6 Morgan, John D., Pittu Laungani, and Stephen Palmer, *Death and Bereavement Around the World: Death and Bereavement in the Americas*, Vol. 2, (Amityville: Baywood Publishing, 2003), 75-76.

7 Maffie, James, "Aztec Philosophy," in *Internet Encyclopedia of Philosophy*, (Martin: University of Tennessee at Martin, 2005), <https://www.iep.utm.edu/aztec/>. Accessed May 2019.

precious feathers fade;
not forever on earth,
only a moment here.⁸

The question presented at the beginning of Nezahualcoyotl's poem is one that Mexica thinkers contemplated: "Do we truly live on earth?"⁹ When analyzing this question, the words 'truly' and 'earth' should be emphasized for their nuances in the Nahuatl language. The Nahuatl word for 'truth,' *neltiliztli*, also means 'rootedness'¹⁰ since the Aztecs believed "what was true was well-grounded, stable and immutable, enduring above all."¹¹ Indeed, this was what the *tlamatinime* sought: to find what was true and enduring while living in an impermanent world fraught with hazards. The Nahuatl word for 'earth,' *tlalticpac*, also denotes "a narrow, jagged, point-like place surrounded by constant dangers."¹² When these linguistic nuances are placed together into the poem's context, the answer to Nezahualcoyotl's question emerges: people do not 'truly' live on earth because humans' earthly existence is fleeting, and even the short duration of that existence itself is filled with struggle.

This implied answer to Nezahualcoyotl's question echoes the response seen in the poem: "Not forever here, / only a little while."¹³ According to Nezahualcoyotl, not only is human existence fleeting, but even the most valuable materials—gold, jade, precious feathers—are also subject to the ravages of time. The sobering realization that nothing in the world lasts forever prompts the questions that drive Mexica philosophy: What is enduring and true? How can humans, "beings of the moment[,] grasp the perduring?"¹⁴ Most importantly, how should people live on the *tlalticpac*?

B. Ideas of Aztec Philosophy

To address the transience of existence and find a source of rootedness on the hazardous *tlalticpac*, the Mexica *tlamatinime* turned to metaphysics. Central to the Aztecs' conception of the universe is *Teotl* (literally 'spirit' or 'god' in the Nahuatl language), an unending, divine life-force that simultaneously transcends and permeates all of existence. According to the *tlamatinime*, this life-force not only com-

8 León-Portilla Miguel, Earl Shorris, Sylvia Shorris, Ascensión H. de León-Portilla, and Jorge Klor de Alva José, *In the Language of Kings: An Anthology of Mesoamerican Literature, Pre-Columbian to the Present*, (New York: W. W. Norton & Co., 2002), 146.

9 Ibid, 146.

10 Maffie, "Aztec Philosophy."

11 Mann, Charles C., *1491: New Revelations of the Americas Before Columbus*, 122.

12 Maffie, "Aztec Philosophy."

13 León-Portilla, Miguel, et al., *In the Language of Kings: An Anthology of Mesoamerican Literature, Pre-Columbian to the Present*, 146.

14 Mann, Charles C., *1491: New Revelations of the Americas Before Columbus*, 122.

prises everything in the universe, but also presents itself in the “ceaseless, cyclical oscillation of polar-yet-complementary opposites” that pervades the cosmos.¹⁵

The worldview espoused by Mexica metaphysics can best be described as a “dialectical polar monism,”¹⁶ a term which can be broken down into its constituent words for further insight. ‘Monism’ posits that everything in the universe is part of a single, seamless whole. ‘Polar’ implies that this single whole consists of opposing halves. ‘Dialectical’ suggests that these opposing halves are not separate but rather constantly interacting, like two sides debating in discourse.

This perception of the world as a dialectical polar monism can be observed in surviving Mesoamerican artwork. Archaeological investigations have found half-face-half-skull masks that depict both life and death in locations such as Tlatilco and Oaxaca.¹⁷ Similarly, the *Life-Death Figure* sandstone sculpture displayed at the Brooklyn Museum portrays a living manifestation of the deity Ehecatl-Quetzalcoatl on its front and a skeleton manifestation of Ehecatl-Quetzalcoatl on the back.¹⁸ These artworks, which can be said to represent a state of being “neither-alive-nor-dead-yet-both-alive-and-dead all at once,”¹⁹ convey the inextricable nature of life and death: life inevitably ends in death, but death gives way to new life.



Figure 1. Split-Face Mask²⁰

Image Credit: Photo Courtesy of the National Institute of Anthropology and History of Mexico (Licensed Under Creative Commons BY-NC-ND 4.0)



Figure 2. Life-Death Figure²¹

15 Maffie, “Aztec Philosophy.”

16 Ibid.

17 Markman, Peter T., and Roberta H. Markman, *Masks of the Spirit: Image and Metaphor in Mesoamerica*, (Berkeley: University of California Press, 1994), 89-90.

18 “Life-Death Figure,” sculpture, 900-1250 AD, Brooklyn Museum, <https://www.brooklynmuseum.org/opencollection/objects/118927>. Accessed May 2019.

19 Maffie, “Aztec Philosophy.”

20 “Cabeza de La Dualidad,” sculpture, 500-800 AD, Museo Nacional de Antropología, http://mediateca.inah.gob.mx/islandora_74/islandora/object/objetoprehispanico%3A20534. Accessed December 2020.

21 “Life-Death Figure.”

Image Credit: Huastec. *Life-Death Figure*, 900-1250. Sandstone, traces of pigment, 62 3/8 x 26 x 11 1/2 in. (158.4 x 66 x 29.2 cm). Brooklyn Museum, Frank Sherman Benson Fund and the Henry L. Batterman Fund, 37.2897PA. Creative Commons-BY (Photo: 37.2897PA_front_PS11.jpg)

In a similar fashion, the *tlamatinime* saw other pairs of opposites—male/female, light/dark, etc.—as mutually-intertwined dualities infused with *Teotl*. Thus, with the view that the universe is a dialectical polar monism permeated by the spiritual energy of *Teotl*, Mexica metaphysics gave the *tlamatinime* an interpretation of the transience of existence. The unending dialectical oscillations between the universe’s polar extremes prevent any kind of long-term stability or rootedness. Despite this lack of stability, *Teotl* exists with reliable consistency. Scholar James Maffie comments:

....*Teotl* is nevertheless characterized by enduring pattern or regularity. How is this so? *Teotl* is the dynamic, sacred energy shaping as well as constituting these endless oscillations; it is the immanent balance of the endless, dialectical alternation of the created universe’s interdependent polarities.²²

Significantly, *Teotl* endures because it exists in a state of “immanent balance”²³ that permeates the entirety of existence. While the dialectical nature of *Teotl* can give rise to short-term or localized polar extremes, the oscillations of *Teotl* ultimately balance out those extremes, promoting long-term overall balance throughout the universe. From this understanding of *Teotl*, the *tlamatinime* arrived at the conclusion that only through attaining balance and avoiding extremes can humans succeed in finding rootedness on the precarious *tlalticpac*.

C. Ethical/Societal Impacts of Aztec Philosophy

The Mexicas’ metaphysical focus on duality and balance led to the development of Mexica ethics. The *tlamatinime* believed that a virtuous, moral life promotes balance and abstains from excess. The *Illustrated Encyclopedia of the Aztec and Maya* gives an overview of Mexica ethics and morality:

Aztecs were generally agreed as to what constituted good behavior. According to Bernardino de Sahagun, author of *General History of the Things of New Spain*, virtuous Aztecs...brought energy to their work, without overindulging in sleep but rising early and laboring for long hours. They ate and drank in moderation; drunkenness was particularly frowned upon. They did not make a great noise when eating, thought carefully before speaking,

²² Maffie, “Aztec Philosophy.”

²³ Ibid.

and were circumspect in what they said. They dressed and behaved with modesty.²⁴

Indeed, the Aztec education and law systems exhibited the importance Mexica philosophy placed on living a balanced life. In education, Aztec schools strove to instill moral virtues in young students. These schools, which often hired *tlamatinime* as teachers,²⁵ allowed Mexica philosophy to shape the growth and development of Aztec youth. A common Nahuatl instructive proverb of the Florentine Codex, a 16th-century codex documenting Aztec culture, demonstrates the impact of *tlamatinime* thought on Mexica education: “*Tlacoqualli in monequi*. [Translation and meaning:] Moderation is proper. We should not dress in rags, nor should we overdress. In the matter of clothing, we should dress with moderation.”²⁶ By teaching younger generations to lead moderate, balanced lives, the Mexica education system successfully integrated and adapted the teachings of the *tlamatinime*.

Similarly, Aztec laws display the influence of *tlamatinime* thought. The renowned *tlamatini* and *tlatoani* Nezahualcoyotl, who transformed his city into “the Athens of the Western World,” enacted Texcoco’s law code.²⁷ Under Nezahualcoyotl’s legal reforms, the judicial system criminalized actions and behaviors which were viewed as disruptive to societal balance, including “treason against the king, adultery, robbery, superstition, misuse of inherited properties, homicide, homosexuality, alcohol abuse, and military misconduct.”²⁸ As stated by the chronicler Fernando de Alva Cortés Ixtlilxóchitl, Nezahualcoyotl’s new legal code was considered so advanced and efficient that even the “kings of Tenochtitlan and Tlacopan [the other two most significant cities of the Aztec Empire] adopted Nezahualcoyotl’s laws and governmental standards.”²⁹

The *tlamatinime* not only played a crucial role in fostering Aztec intellectual life; they also nurtured a more balanced and harmonious society. Unfortunately, as Mann laments in 1491, the loss of the Mexica philosophical tradition after the Spanish conquest “was a loss not just to [the Aztecs]...but to the human enterprise as a whole.”³⁰

24 Phillips, Charles M., and David M. Jones, “Wise Governance, Strict Punishment,” in *The Illustrated Encyclopedia of Aztec & Maya: The History, Legend, Myth and Culture of the Ancient Native Peoples of Mexico and Central America*, (London: Hermes House, an imprint of Anness Publishing, 2010), 108.

25 Mann, Charles C., 1491: *New Revelations of the Americas Before Columbus*, 121.

26 Reagan, Timothy G., *Non-Western Educational Traditions: Alternative Approaches to Educational Thought and Practice*, (Mahwah: Taylor and Francis, 2005), 103.

27 Tuck, Jim, “Nezahualcoyotl: Texcoco’s Philosopher King (1403–1473),” *Mexconnect*, 2008, <https://www.mexconnect.com/articles/298-nezahualcoyotl-texcoco-s-philosopher-king-1403%e2%80%931473>. Accessed May 2019.

28 Lee, Jongsoo, *The Allure of Nezahualcoyotl: Pre-Hispanic History, Religion, and Nahua Poetics*, (Albuquerque: University of New Mexico Press, 2015), 120.

29 Ibid, 120.

30 Mann, Charles C., 1491: *New Revelations of the Americas Before Columbus*, 123.

II. Taoist Philosophy

Note: This section will consider another school of philosophy, Taoism, and compare and contrast Taoism with Aztec philosophy. The romanizations ‘Taoism’ and ‘Daoism’ refer to the same school of thought; for the sake of consistency, the name ‘Taoism’ will be used in discussion from here on. However, since the alternative romanization ‘Daoism’ is also commonly accepted in academia today, some quotations will contain the name ‘Daoism’ instead of ‘Taoism’ or refer to the philosophical concept of ‘Dao’ instead of ‘Tao.’

A. Origins and Context of Taoist Philosophy

More than a millennium before the rise of the Aztec Empire in Mexico, China’s Zhou Dynasty splintered into a multitude of warring kingdoms. In the turbulent era of warfare and chaos that followed, an unexpected development occurred: the blooming of Chinese philosophy, a phenomenon later referred to as the “Hundred Schools of Thought.”³¹ Because of the political fragmentation of the time, no intellectual orthodoxy existed to restrain philosophical inquiry, and China’s warring states were thus open to various different schools of thought. The intellectual diversity of this period sprouted many of imperial China’s foundational philosophies, such as Confucianism, Legalism, Mohism, and Taoism. Of these philosophies, Taoism bears much resemblance to Aztec philosophy.

Few historical records about the early history of Taoism survive today due to the Qin dynasty’s book-burning campaigns, but remaining Chinese sources trace Taoist philosophy to the teachings of the legendary sage Laozi, purported author of the *Tao Te Ching*, and the philosopher Zhuangzi, who is credited with writing the *Zhuangzi*.³² Unlike the Confucians of the time, who were primarily interested in applying theories of ethics to human relationships, Taoists stressed “meta-ethical reflections [which] were by turns skeptical then relativist, here naturalist and there mystical.”³³ Thus, from a metaphysical standpoint, “Daoism is naturalistic in that any first-order moral *dao* [way] must be rooted in natural ways.”³⁴ In other words, Taoist philosophers were skeptical of Confucianism’s rigid ethical emphasis on society and human relationships; instead, they looked beyond the human world to metaphysics and the natural environment to guide their reflections on ethics, a philosophical pursuit somewhat similar to that of the Mexica *tlamatinime*.

Political history often greatly shapes the development of philosophy. While the *tlamatinime* of the Aztec Empire lived during a time of political unity and pros-

31 Liu, Zehua, “The Contending Among the Hundred Schools of Thought During the Warring States Period and the Development of the Theory of Monarchical Autocracy,” *Chinese Studies in Philosophy*, No. 1 (1990): 58–87, DOI: 10.2753/csp1097-1467220158.

32 Hansen, Chad, “Daoism,” in *Stanford Encyclopedia of Philosophy*, (Stanford: Stanford University, 2003), <https://plato.stanford.edu/entries/daoism/>. Accessed May 2019.

33 Ibid.

34 Ibid.

perity, Taoism and the other Chinese philosophies among the “Hundred Schools of Thought” were established during the Spring-Autumn and Warring States periods, when China was filled with political strife and divided into separate states. As a result, Mexica thought is a more unified body of philosophy than the diverse schools of traditional Chinese thought.

Further historical developments complicate the disparities between Mexica and Taoist thought. Due to imperial China’s later history of relative political and cultural unity, “many philosophers of the time [Song through Qing dynasties] developed theories and methods of self-cultivation that mixed Confucianism with Buddhism and Daoism.”³⁵ The philosophical and religious blending of later Chinese history highlights an important difference between the schools of thought. Whereas Chinese *zhe xue jia* (philosophers) could build upon these other theories, Mexica *tlamatinime*, as the product of an isolated, cohesive philosophical tradition, did not have significant contact with other philosophies, and thus they lacked the opportunity to engage with external ideas.

B. Ideas of Taoist Philosophy

Taoism centers around the concept of *Tao*. Often translated to English as “way,” the *Tao* drives the main question behind Taoist philosophy: What is the right *way* for people to live? Like the *tlamatinime*, who asked how humans should live on the *tlalticpac*, Taoist thinkers did not pursue philosophy for the sake of philosophy. Rather, they aimed to reach an understanding of how to best approach everyday life. To the Taoists, the concept of *Tao* as “way” is central to this understanding.

With that said, the term ‘way’ inadequately describes *Tao* in many contexts. Sinologist Arthur Waley notes that the Chinese word *Tao* comes with multiple connotations:

...[Tao] means a road, path, way; and hence, the way in which one does something; method, doctrine, principle...in a particular school of philosophy whose followers came to be called Taoists, Tao meant ‘the way the universe works’; and ultimately something very like God, in the more abstract and philosophical sense of that term.³⁶

Waley’s definition of *Tao* as “the way the universe works”³⁷ is a more elaborate and accurate description than the simple “way,” but this designation still does not fully capture the essence of *Tao*. According to scholar Chad Hansen, *Tao* “appears

35 Kohn, Livia, *Daoism Handbook*, (Leiden: Brill, 2004), 643.

36 Laozi, and Arthur Waley, *The Way and Its Power: Lao Tzu’s Tao Te Ching and Its Place in Chinese Thought*, (New York: Grove Press, 1997), 30.

37 Ibid, 30.

more metaphysical than ‘way,’”³⁸ an assertion which is supported in the *Zhuangzi* by Zhuangzi’s statement, “Fishes breed and grow in the water; man develops in the *Dao*.”³⁹ This analogy implies that the *Tao* is like an endless metaphysical ocean that surrounds and encompasses all of existence. Zhuangzi’s conception of the *Tao* is analogous to Mexica philosophy’s idea of *Teotl*: *Teotl* and *Tao* are both seamless totalities that make up the universe and everything in it.

Another important aspect of the Taoist worldview is the notion of *yin* and *yang* forces. *Yin* is associated with darkness, coldness, and passivity, while *yang* refers to light, warmth, and action. Taoism posits that these “correlatives are the expressions of the movement of *Dao*...not opposites, mutually excluding each other... [but rather] the ebb and flow of the forces of reality: *yin/yang*, male/female; excess/defect; leading/following; active/passive.”⁴⁰ In the *Tao Tè Ching*, Laozi presents the nature of the *yin-yang* duality through several seemingly paradoxical statements:

It is because every one under Heaven recognizes beauty as beauty, that the idea of ugliness exists.

And equally if every one recognized virtue as virtue, this would merely create fresh conceptions of wickedness.

For truly ‘Being and Not-being grow out of one another;

Difficult and easy complete one another.

Long and short test one another;

High and low determine one another.

Pitch and mode give harmony to one another.

Front and back give sequence to one another.”⁴¹

Laozi’s first claim that the recognition of beauty begets the idea of ugliness initially appears contradictory. Upon further inspection, it becomes apparent that a perception of what *is* beauty also requires an understanding of what is *not* beauty, and thus, of what is *ugly*. Likewise, the other opposites in the pairs mentioned—virtue/wickedness, being/non-being, difficulty/easiness, and so on—appear to be mutually exclusive antitheses, but are in reality inseparable and interdependent entities.

This cyclic nature of duality portrayed by Laozi and other Taoist thinkers parallels the dialectical oscillations of *Teotl* in *tlamatinime* thought. In examining the

38 Hansen, Chad, “Daoism.”

39 Zhuangzi, and James Legge, “The Great and Most Honoured Master,” *Zhuangzi Chinese Text Project*, (Cambridge: Harvard-Yenching Institute, 2006), <https://ctext.org/zhuangzi/great-and-most-honoured-master>. Accessed May 2019.

40 Littlejohn, Ronnie, “Daoist Philosophy,” in *Internet Encyclopedia of Philosophy*, (Martin: University of Tennessee at Martin, 2015), <https://www.iep.utm.edu/daoism/>. Accessed May 2019.

41 Laozi, and Arthur Waley, *The Way and Its Power: Lao Tzu’s Tao Tè Ching and Its Place in Chinese Thought*, 2.

concepts of *Tao* and *yin-yang* in the context of Taoist philosophy, a noteworthy conclusion arises: Taoist metaphysics, like Mexica metaphysics, perceives the universe as a dialectical polar monism. Both philosophies view the universe as a cyclical, oscillating whole permeated by balance between polar extremes. In the case of the *tlamatinime*, this balance is an aspect of *Teotl*; in the case of the Taoists, this balance is an aspect of the *Tao*.

Visually, an artistic interpretation of this idea can be seen in the *Taijitu* symbol associated with Taoism.⁴² The *Taijitu* symbol consists of a black sliver (representing *yin*) and white sliver (representing *yang*) melded together into one circle, which represents the unity implicit in duality described in the *Tao Te Ching*. Each sliver contains a dot of the opposite color, indicating that *yin* and *yang* are mutually interconnected—in *yin* can be found *yang*, and in *yang* can be found *yin*. The *Taijitu* symbol bears striking aesthetic and ideological similarities to Aztec designs pictured in the Codex Magliabechiano.⁴³ The Aztec designs, known as *xicalcolihqui* motifs in Nahuatl, represent the universe’s dialectical “motion-change...[that] *nourishes* and *renews* existing cycles [of *Teotl*] as well as *initiates new* cycles.”⁴⁴



Figure 3. *Taijitu* Symbol⁴⁵

Image Credit: Image Courtesy of Gregory Maxwell (Public Domain)



Figure 4. Codex Magliabechiano Illustrations⁴⁶

Image Credit: Photos Courtesy of Ancient Americas at LACMA (ancientamericas.org)

42 Maxwell, Gregory, “Yin-Yang.” *Wikipedia Commons*, 2005, https://upload.wikimedia.org/wikipedia/commons/1/17/Yin_yang.svg. Accessed May 2019.

43 Florimond, Joseph, duc de Loubat, and Ancient Americas at LACMA, “Codex Magliabecchiano (Loubat 1904, Page 5 Verso),” *Foundation for the Advancement of Mesoamerican Studies*, 2013, http://www.famsi.org/research/loubat/Magliabecchiano/page_05v.jpg. Accessed December 2020.

44 Maffie, James, “Weaving the Aztec Cosmos: The Metaphysics of the 5th Era,” *Mexicolore*, 2011, <https://www.mexicolore.co.uk/aztecs/home/aztec-philosophy>. Accessed May 2019.

45 Maxwell, Gregory, “Yin-Yang.”

46 Florimond, Joseph, duc de Loubat, and Ancient Americas at LACMA, “Codex Magliabecchiano (Loubat 1904, Page 5 Verso).”

C. Ethical/Societal Impacts of Taoist Philosophy

Like the Aztec *tlamatinime*, Taoist philosophers also applied their metaphysics to ethics. In Taoist ethics, the definition of *Tao* as “way” is relatively fitting, as Taoist ethics seeks to understand the right *way* to live. But how can this *way* be applied to everyday life? The *Tao Te Ching* provides an answer:

Those who possess this Tao do not try to fill themselves to the brim,
And because they do not try to fill themselves to the brim
They are like a garment that endures all wear and need never be renewed.⁴⁷

In this passage, Laozi uses the imagery of a bucket filled to the brim with water to describe people who lead lives of overindulgence. Like the bucket—which contains an excess of water and cannot be easily carried without spilling and wasting some of its contents—people who lead lives filled with excess gluttony, greed, or lust will end up wasting their resources, leading to an unsustainable way of life. Thus, Laozi believes that people can maintain a sustainable life by avoiding extremes and excess. By not filling up the bucket completely to the brim, one will be able to carry the bucket without spilling and wasting any water. Therefore, those who lead lives of balance and moderation “need never be renewed.”⁴⁸ Laozi’s advice echoes the *tlamatinime* teachings seen from phrases such as *tlacoqualli in monequi* (moderation is proper). Thus, for both the Taoists and the *tlamatinime*, balance and moderation play a crucial role in ethics.

Despite the significance of balance in both Taoist and Mexica ethics, the two philosophical traditions approached societal institutions differently. While the *tlamatinime* actively encouraged balanced, proper behavior through educational and legal systems, Taoist philosophers saw human institutions—including schools and laws—as a source of imbalance to the universe’s natural harmony. This Taoist opinion rejected Confucianism’s obsession with order and rule-setting. Scholar Ronnie Littlejohn comments:

Confucius and his followers wanted to change the world and be proactive in setting things straight. They wanted to tamper, orchestrate, plan, educate, develop, and propose solutions...Confucians think they can engineer reality, understand it, name it, control it. But the Daoists think that such endeavors are the source of our frustration and fragmentation [because such acts create imbalance]...They believe the Confucians create a gulf between humans

⁴⁷ Laozi, and Arthur Waley, *The Way and Its Power: Lao Tzu’s Tao Te Ching and Its Place in Chinese Thought*, 15.

⁴⁸ Ibid, 15.

and nature, that weakens and destroys us.⁴⁹

The differing historical contexts of Aztec and Chinese philosophies explain their contrasting attitudes toward societal institutions. As noted earlier, unlike Mexica philosophy, Taoism was not isolated from other schools of thought, and thus it was subject to influences from other philosophies, especially Confucianism. Here, disagreement with the perceived excess of Confucian order and rules fueled the Taoist disapproval of government and other societal institutions (which were often led by Confucians). Hansen describes this sociopolitical stance as resembling “anarchism, pluralism, [and/or] laissez faire government,”⁵⁰ which markedly contrasts with the active role of the *tlamatinime* in the Mexica government.

Since Taoists sought to avoid entanglement in government and politics, Confucians eventually dominated China’s educational and legal systems. However, Taoism did not become irrelevant in Chinese society; the Neo-Confucian ideology of later dynasties integrated Taoist metaphysical influences with Confucian ethics.⁵¹ Taoist philosophy also impacted Chinese intellectual culture and aesthetics, as seen in Taoist contributions to various subjects, such as martial arts, meditation,⁵² astronomy, mathematics,⁵³ medicine,⁵⁴ art, and poetry.⁵⁵ On a larger scale, Taoism played a role in revolutionizing world history; inventions including gunpowder, printing, and the compass trace back to Taoist thinker-scientists’ experimental efforts to understand the nature of the *Tao*.⁵⁶

III. Conclusion

If brought together into a philosophical discussion today, the Aztec *tlamatinime* and Taoist sages would likely agree on many metaphysical and ethical ideas. The Mexica focus on *Teotl* and duality is remarkably similar to the Taoist conception of the *Tao* and *yin-yang*, as both philosophies see the universe as a dialectical polar monism. With this shared metaphysical outlook, the two schools of thought concur that balance and moderation enable humans to lead moral, virtuous lives. However, in discussions on the practical applications of philosophy—such as the

49 Littlejohn, Ronnie, “Daoist Philosophy.”

50 Hansen, Chad, “Daoism.”

51 Berthrong, John H., “Neo-Confucian Philosophy,” in *Internet Encyclopedia of Philosophy*, (Martin: University of Tennessee at Martin, 2005), <https://www.iep.utm.edu/neo-conf/>. Accessed May 2019.

52 Hansen, Chad, “Daoism.”

53 Camilli, Joseph A., “Taoism: The Exploration of Philosophy and Religion in a Chinese Cultural Context,” *Chinese History*, (Milwaukee: Marquette University Klinger College of Arts and Sciences, 2002), <https://academic.mu.edu/meissnerd/camilli.html>. Accessed May 2019.

54 Little, Stephen, and Shawn Eichman, *Taoism and the Arts of China*, (Chicago: Art Institute of Chicago, 2000), 13-14.

55 Chang, Chung-Yuan, *Creativity and Taoism: A Study of Chinese Philosophy, Art and Poetry*, (New York: Harper and Row, 1970), 8-177.

56 Little, Stephen, and Shawn Eichman, *Taoism and the Arts of China*, 47.

pros and cons of government—the *tlamatinime* and Taoist thinkers would likely diverge in their views.

Imagining this theoretical discussion between *tlamatinime* and Taoists provides us with some insight into the nature of humanity. Though people may appear to be divided by dichotomies—Western/non-Western, liberal/conservative, rich/poor, male/female, *tlamatinime*/Taoist—humankind is ultimately one, similar to the metaphysical conception of the universe as a dialectical polar monism. When looking at the bigger picture, this similarity between the human world and the abstract metaphysics of the universe also reflects the oneness between the existence of humanity and the universe we live in.

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Punishment: Human Nature, Order, and Power

Ezekiel Vergara

Legal punishment has become a pervasive phenomenon in society, affecting millions of individuals worldwide and encompassing police practices, prison systems, and medical professionals. However, the practice of punishment often overshadows its theoretical goals. This paper attempts to highlight the theoretical aims of punishment through a genealogy of punishment as it relates to human nature. The theory of punishment demonstrates the primacy of order as tied to human nature. In addition to order, punishment is shown to have secondary aims, such as moral desert, rehabilitation, and revenge. These primary and secondary goals of punishment are then compared to the modern practice of legal punishment. Unsurprisingly, punishment in theory differs greatly from punishment in praxis. Instead of fulfilling its theoretical aims, punishment functions as a locus of power that strips agency from the offenders. In an attempt to ameliorate this theoretical-practical difference, various solutions are provided to make practical punishment more congruent with the adopted theory. In the analysis and critique of punishment, authors from various fields are cited, ranging from seminal works by Michel Foucault to modern works by William Connolly and Didier Fassin.

While the first instance of punishment remains unknown, punishment has permeated all aspects of life — in prisons, schools, and at homes. However, this paper will be limited only to “legal punishment,” or the activities of punishment that are conducted by states, courts, and police.¹

To examine punishment, this paper will theoretically examine the institution and nature of punishment. The first section of the paper will seek to answer the question “what is punishment?” A brief genealogy of punishment and human na-

¹ The list of those involved in “legal punishment” that is provided above is non-extensive. From here on, “punishment” will refer to “legal punishment,” unless otherwise specified.

ture will be presented. Proceeding from this analysis, the second portion of this paper will juxtapose the theoretical outline of punishment—as derived from human nature—with the actuality of modern punishment. Notably, it will be argued that the presence of asymmetric power relations distinguishes theoretical punishment from actual punishment. In response to the discrepancy between theoretical and practical punishment, a possible improvement to punishment will be proposed: allowing offenders to propose their own punishment. Finally, the paper will consider challenges to this proposal.

In order to present a thorough and convincing analysis, each section of this paper will refer to a variety of authors, mainly political theorists and jurisprudential scholars, while also referencing some empirical data. Likewise, this paper will operate within the paradigm of the current debate on punishment and focus on punishment in the United States.²

I. Human Nature and Punishment

Punishment is related to human nature; it seems impossible to divorce the two. Through a genealogy of punishment, it will be shown that these two concepts are heavily intertwined, with the human desire for order serving as the impetus for punishment. “Punishment,” then, refers to “an attempt to reestablish *order* through sanction on the offender, in accordance with human nature.”

A few clarifying statements should be made before this relation is demonstrated via genealogy and analysis. First, the term “human nature” is an amorphous concept. Among theorists, there is debate on whether a unique “human nature” exists.³ Moreover, even if a human nature does exist, there is no consensus on the nature of this concept.⁴ Hence, this paper will present a thorough analysis of human nature that draws upon various authors. However, it is recognized that other conceptions of human nature may lead to the same conception of punishment.

Second, the fact that punishment is related to human nature does not mean that human nature involves punishing. This paper does not preclude the hypothesis that human nature itself desires punishment, yet the link between punishment and human nature supported by this paper is more derivative, in that punishment arises from the human want of order.⁵

Presently, this paper will provide a genealogy of punishment that begins with

2 The United States is used as the case study of this paper for two reasons: the prevalence of punishment in the United States and the author’s familiarity with the American punishment system.

3 See the post-modern and post-structural schools of thought. For the former, see Friedrich Nietzsche’s *Thus Spoke Zarathustra*. For the latter, see Gilles Deleuze and Félix Guattari’s *Anti-Oedipus: Capitalism and Schizophrenia*.

4 See the difference between Thomas Aquinas and Friedrich Nietzsche. For the former, see Aquinas’ *On Law, Morality, and Politics*. For the latter, see Nietzsche’s *Thus Spoke Zarathustra*.

5 Nietzsche, Friedrich, *Nietzsche: On the Genealogy of Morality (Cambridge Texts in the History of Political Thought)* (Cambridge: Cambridge University Press, 2007), 41.

human inequality.⁶ This inequality, which is natural to man, leads to conflict over similar wants. Namely, some individuals are better suited to achieve their wants, while others are less capable. When two or more individuals want a good that cannot be divided, the most capable is able to acquire the good. Oftentimes, this zero-sum game leads to conflict as the weaker party seeks retribution.⁷

In the face of this conflict, man desires order, which is the primary impetus for punishment. Because of this conflict, man seeks to establish a type of order, an order that can allow individuals to pursue their ends without the threat of violence.⁸ Ultimately, this order is established by a superior individual, family, tribe, or group that exerts control and establishes rules in a certain region. Originally, these rules are simply based on custom—or the norms of fair expectations in common-life. Due to their historical underpinnings, these customs are obeyed by the people.⁹ Over time, though, customs become binding in a certain area or jurisdiction.¹⁰

Customs, founded on fair expectations, seek to apply an objective, ordered standard of conduct to human behavior. However, because customs are not universally followed, a mechanism is needed to maintain order and ensure adherence to these expectations. Primarily, to increase the level of norm adherence, sanctions serve to increase the costs of deviance. Eventually, with the creation of the state and morality, punishment began to be exercised by centralized legitimate authorities that monopolize violence.¹¹ Important to the monopolization of violence is the codification of norms or general maxims, allowing the state to determine when punishments, such as monetary and physical punishments, should be applied. For instance, in the early United States, many crimes were accompanied by a fine and those convicted suffered harms from forced labor to capital punishment. Thus, a legal system came into existence.

As punishment evolves over time with the expansion of the state, the economy also plays an important role related to order-based punishment. Namely, monetary payment can be used as a sanction on offenders, as a way to reestablish order.¹² The creditor-debtor relationship serves as the basis for punishment in the Nietzschean account.¹³ The Nietzschean account highlights the relationality and inequalities of punishment. Namely, the asymmetry of Nietzsche's power relations requires two or more parties, illustrating that power is something relational among

6 Nietzsche, *Thus Spoke Zarathustra* (New York: Penguin Books, 1969), 123; Rousseau, Jean-Jacques, *The Discourse and Other Early Political Writings* (Cambridge: Cambridge University Press, 1997), 131.

7 Hobbes, Thomas, *Leviathan* (Indianapolis: Hackett, 1994), 75.

8 Augustine, *City of God* (New York: Bantam Doubleday Dell, 1958), 452-453.

9 Rawls, John, *Political Liberalism* (New York: Columbia University Press, 1993).

10 Carter, James, *Law, Its Origin, Growth and Function* (London: Forgotten Books, 2018), lectures 1-5.

11 The idea of "monopolization of the means of violence" comes from sociologist Max Weber.

12 Fassin, Didier, *The Will to Punish* (New York: Oxford University Press, 2018), 47-51.

13 Nietzsche, *Nietzsche: On the Genealogy of Morality*, 40.

individuals.¹⁴ As such, the penal relationship presents a distinct power dynamic, derived from the creditor-debtor relationship. Plainly, the creditor exercises an asymmetrical amount of power as he has something that the debtor needs or wants. On the other hand, the debtor has little power to resist, especially if he is in need of the creditor's good. An asymmetry, then, exists between the creditor and debtor. Such inequality is mirrored in the punisher-punished relationship where the former exercises power over the latter, given that a good must be compensated.

Given the desire for order—seen through the state and the economy—three points on human nature and punishment should be addressed here. First, the emergence of the state may simply be a “pleasure, delighted in the promised blood,” a mechanism that legitimizes infliction of suffering.¹⁵ Thus, instead of producing order, the state may simply serve as a means of exacting revenge on other individuals through a legitimized relationship. For example, police violence is legitimized and allowed to persist by the law.¹⁶ Second, the desire for punishment appears as a type of desire satisfaction, which signals that humans *desire* order. Simply, there is pleasure in order and reestablishing order through suffering. Rather than repaying money in the creditor-debtor relationship, the loan is replaced by suffering. Third, there seems to be a degree of rationality in punishment. For example, adults are sanctioned more severely than children for criminal offenses. Thus, it seems that punishment operates on a scale of rationality, as it is supposed that children have not completely developed such faculties, or what is generally accepted *amongst* individuals, whereas adults do.¹⁷

In short, then, punishment is derived from the desire for order, due to inequality and competing wants. Punishment reestablishes order when a standard—originally custom, presently law—is broken. Through a genealogy of punishment, certain aspects of human nature become readily disclosed. As such, punishment appears multifaceted, but likewise contained within a certain paradigm, that of history and custom. Thence, “punishment” appears to be “an attempt to reestablish order through a sanction on an offender, in accordance with human nature.”

II. How to Punish

This section of the paper will discuss a theory of how punishment should be practiced, as derived from human nature. Human nature appears to want order through punishment or sanction, but punishment appears to have secondary aims. Nietzsche identifies a list of secondary aims, besides the primary aim of order. For

14 Foucault, Michel, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1995), 93-4.

15 Rabinow, Paul, *Truth and Power: The Foucault Reader* (New York: Pantheon Books, 1984), 85.

16 Fassin, Didier et al., *At the Heart of the State: The Moral World of Institutions* (London: Pluto Press, 2015).

17 Locke, John, *Two Treatises of Government* (Cambridge: Cambridge University Press, 1960), 322-323.

example, punishment also seeks revenge, deterrence, and reformation.¹⁸ This paper will now explicate the primary and secondary aims of punishment and analyze their current practice. In this way, it will be illustrated how punishment based on human nature would be conducted and how current practices deviate from these theoretical ideals.

Order—the primary goal of punishment—is crucial to the practice of punishment. The basis of order is fair expectations, as has already been discussed. The notion of order, when tied to fair expectations, illustrates two aspects about how to punish.

First, punishment requires a relationship of two or more individuals, most clearly seen with Nietzsche's creditor-debtor example.¹⁹ A relationship between two individuals allows for a good to be extracted and a sanction to be applied, which releases the offender from his duty or debt. Thus, punishment must establish a relationship between individuals, thereby allowing order and therefore human nature to exist among them.

Overall, this phenomenon is both practiced and disregarded in modern punishment. The modern offender engages in various relationships—with the warden, with the judge, with the prison-worker, with the doctor, with the criminologist—that allow for a good to be extracted and a duty absolved.²⁰ However, this is not always the case. Solitary confinement is readily practiced in the modern penal system, undermining punishment's goal of reestablishing order between individuals. Namely, by isolating an offender, it is impossible for the offender to form and maintain a given relationship, thereby disregarding a fundamental necessity of order.²¹ Moreover, even if it is the case that solitary confinement is not permanent, the relationships in question are disrupted.²² This not only limits the goods that can be extracted from the offender, but also creates an unequal power dynamic that further forestalls the absolution of the offender's duty. That is, by confining the offender, he is rendered more unable to adequately engage in the relationships required by order-based punishment. Moreover, this power asymmetry strips the offender of his agency, which is of value, and contributes to disorder. Ultimately, to improve punishment, such an unequal power dynamic must be remedied.

Second, in regard to order, is the notion of fair expectation. Fair expectations highlight the proportionality of a claim, as illustrated in the creditor-debtor relationship. The debtor and the creditor have an agreement on how much money should be returned to the creditor. While there exists an asymmetrical power

18 Nietzsche, *Nietzsche: On the Genealogy of Morality*, 53-54.

19 Nietzsche, *Nietzsche: On the Genealogy of Morality*, 40.

20 Foucault, *Discipline and Punish*, 256.

21 Fassin, *The Will to Punish*, 76-77, 83.

22 I thank Sotonye George for the point.

dynamic among the creditor and the debtor, the agreement itself is fair.²³ Thus, punishment requires a level of proportionality, due to the fairness of the original agreement. The proportionality of a sanction establishes a reasonable duty that is imposed on the offender, as a means to reestablish order.

However, fairness as it relates to order is rarely practiced. Punishment in the United States is far from proportional, affecting minority and low-income individuals at a much higher level. These disparate impacts violate the original agreement of fairness and call into question the validity of the original agreement. Similarly, the modern penal system often places a burden on individuals, aside from the actual punishment. The offender often faces the prospect of losing his job, his family, and his friends.²⁴ Hence, disproportionality is endemic to modern punishment.

Aside from order, punishment also aims to exact revenge, deterrence, and reformation. In theory, these secondary aims support the primary goal of order. However, when improperly executed, these secondary goals actually subvert the primary end of order. Through an analysis of all three secondary aims, it will become clear that there are grand discrepancies between the theory and practice regarding punishment.

The idea of revenge being an aim of punishment is grounded in Nietzsche's work, namely the "slave morality" and his creditor-debtor relationship.²⁵ Unable to alter the past, a wronged individual seeks to will the present and the future. To do so, punishment deprives the offender of future possibilities. Simply then, the offender must repay for his actions in sufferings that occur in and possibly over time.²⁶ Revenge, then, desires that the offender suffers, requiring a unique relationship between a victim and an offender.

However, in practice, revenge deviates from its theoretical framework. First, it is forbidden by modern law; second, it is expressive.²⁷ As for the former, revenge is viewed negatively, seen by many as a type of desire to be suppressed. Only the law can punish, not private individuals. Nevertheless, the law appears to be a façade for this vengeful desire, concealing this vengefulness in its legitimacy.²⁸ Although not always physical retribution, the law legitimizes the unsupervised and unwarranted violence of the few, seen in modern police practices.²⁹

23 The need or want of the debtor creates this asymmetry. The asymmetry can also be produced due to natural inequality or dire circumstances. However, within this dynamic, the agreement is fair as both parties reasonably agree to it within the asymmetric relationship.

24 Feeley, Malcolm, *The Process is the Punishment: Handling Cases in a Lower Criminal Court* (New York: Russell Sage Foundation, 1979), xv; Foucault, *Discipline and Punish*, 268.

25 Nietzsche, *Nietzsche: On the Genealogy of Morality*, 20, 40.

26 Foucault, *Discipline and Punish*, 232.

27 Revenge on the individual level is prohibited, but modern law does not preclude the idea of institutional vengeance.

28 Rabinow, *Truth and Power*, 85.

29 Fassin et al., *At the Heart of the State*.

Moreover, punishment as revenge is expressive. Mainly a part of the retributivist framework, revenge is an expressive punishment that allows for the symbolic expression of disapprobation.³⁰ Punishment creates a new social stratum of the delinquent.³¹ This social stratum unites society by providing a scapegoat that can be examined, questioned, and blamed. Thus, revenge is cathartic, creating a unified relationship between members of society against the delinquent population, as seen in Connolly's discussion.³²

Therefore, practical punishment should inflict warranted suffering on an offender and create an offender-victim relationship. However, in practice, revenge inflicts unwarranted violence that scapegoats the offender to unite large groups, perverting the aforementioned relationship. For instance, unwarranted violence against Black Americans, under the guise of punishment, has long served to unite whites around ethno-national identity. Yet, such unity under the guise of punishment is actually counterintuitive, given that through these means, the primary goal of order is subverted. Indeed, this prevents the creation of a legitimate, properly-ordered system.

Deterrence is another aim of punishment, secondary to that of order. The idea of deterring crime suggests that individuals wish to live in an orderly society and have the ability to project into the future. Put simply, individuals can posit future relationships or possibilities where crime affects them. Thus, punishment deters other possible offenders from committing similar crimes in the future. However, deterrence supposes two connected ideas. The first is that individuals act rationally; secondly, it supposes that punishment is the appropriate means to deter crime.

Deterrence, in theory, supposes the rationality of possible offenders and their ability to make cost-benefit analyses. The thought goes that by increasing the punishment for a given offense, individuals will be less willing to commit the crime as the benefit of committing an offense is overshadowed by the punishment for that offense.

Notwithstanding this consideration, deterrence is very different on a practical level. Didier Fassin notes that the punishment used to deter crime is often aimed at humiliation and shaming, aimed at emotion, instead of rationality and cost-benefit analyses.³³ Therefore, the theory behind deterrence, which is based on the conception of rationality *among* individuals, is overshadowed by irrational practice that subverts the primary goal of order. Deterrence, in practice, supposes not the ratio-

30 Fassin, *The Will to Punish*, 69.

31 Foucault, *Discipline and Punish*, 170-184, 266-268.

32 Ibid, 53.

33 Fassin, *The Will to Punish*, 72-74. While it may be possible that these emotional pathways have or include some rational content, appealing to emotions deviates from the original appeal to strict rationality associated with deterrence.

nality and dignity of humans, but rather exploits the social relations of individuals. Through such exploitation, the creation of a proper order is forestalled. This may partly answer why punishment aimed at deterrence fails, failing to support the primary goal of order.³⁴

Finally, punishment has the secondary aim of rehabilitation. The idea of rehabilitation is important to maintaining the primary goal of order through punishment. In theory, rehabilitation has two key aspects: temporality and relational existence.

Temporality is crucial to human nature and is tied to the goal of rehabilitating an offender. The idea of rehabilitation supposes that an offender remains the same responsible agent over time and likewise that the offender can change and adopt the laws and norms of a society.³⁵ By attempting to reform an offender, the offender is forced to face the past and reflect upon the offense that was committed. During such a reflection, part of human nature is unconcealed, in the sense that the individual can gain understanding about himself.³⁶ With this reflection, the offender is prompted to project into the future, where he will not commit the offense, drawing off the present insight, which is provided by the reflection on the past. As a result, the offender recognizes his own temporality, his possibility aside from crime and the temporality of the penal system.

Relationality is also tied to rehabilitation. The notion of rehabilitation requires that an individual is aided by another individual. Usually, this takes the form of an offender and an authority figure, such as a therapist, a teacher, or a doctor. Although the offender-authority relationship is originally based on an asymmetry of power, the rehabilitation process diminishes the asymmetrical power dynamic as the offender reforms. Theoretically, over time, punishment serves to help the offender regain his standing in society, having “paid his debt to society.” Due to this symmetrical relationship of rehabilitation, the offender can understand his human nature and his past, knowing that the future will be based on relationships with other individuals in a given society. In short, rehabilitation awakens an offender to his human nature and diminishes the asymmetry between offender and non-offender.

However, modern punishment falls short of rehabilitating offenders. Instead of engaging offenders with their temporal and relational being, punishment urges recidivism.³⁷ Those who are punished by the modern system are disempowered and hardened in their ways. Rather than operating on the notion of individual respon-

34 Foucault, *Discipline and Punish*, 261.

35 Fuller, Lon L., *The Morality of Law* (New Haven: Yale University Press, 1964), 162. Modern legal systems seem to suppose human responsibility in punishment. This seems to be a key tenet of rehabilitation.

36 Heidegger, Martin, *The Question Concerning Technology and Other Essays* (New York: Garland, 1977), 35.

37 Foucault, *Discipline and Punish*, 265.

sibility, offenders are maligned; offenders are made out to be “[monsters]” beyond rehabilitation.³⁸ Likewise, instead of turning offenders to the future and their possibility, the penal system focuses on the past and the asymmetrical power relations created by the past. This is best seen in Fassin’s ethnographic work, as prisoners are punished simply due to their past.³⁹ For example, without the ability to secure adequate jobs or housing, many offenders turn back to crime, leading to high levels of recidivism. By limiting the opportunities available to former offenders, and contributing to recidivism, order-based punishment is undermined. Rather than a properly ordered system, offenders are thrust towards further crime and disorder. Offenders are neither rehabilitated nor empowered; offenders are trapped in the past, which forestalls their ability to recognize and to contribute to order.

Punishment, namely how to punish, seems complex but grounded in human nature. Focusing on order, the ideas of relationality and fairness are clearly espoused. In regard to the other aims of punishment, the unique ideas of temporality, suffering, and rationality are clearly presented. However, the goals of penal theory are far from the actuality of penal praxis. Instead, the modern penal system perpetuates asymmetric relationships that alienate offenders and highlights the desire to *faire le mal pour le plaisir de le faire*.⁴⁰ In such practice, human nature is blatantly disregarded, necessitating reform in punishment.

III. Improving Punishment

Punishment, as has been discussed, is based on a relationship and can thereby be described as just or unjust. As a concept, justice entails what should be given or done to others. Here, justice has a multiplicity of characteristics, yet one characteristic seems crucial to justice and is tied to human nature: relationality. Notably, justice defines the obligations and rights between individuals.⁴¹ Since relationality is an aspect of justice—which is paramount to reducing the discrepancy between theory and practice—reformation regarding relationships appears crucial to improving punishment.

Practical punishment, as based on a power asymmetry, appears unjust. This power asymmetry is unjust because it strips the offender of his agency, which is of value. Therefore, the task of justice, regarding practical punishment, is reducing the power asymmetry between the offender and others. By reducing this asymmetry, offenders will better understand their nature, creating a proper order that is

38 Connolly, William E., *The Ethos of Pluralization* (Minneapolis: University of Minneapolis Press, 1995), 45.

39 Fassin, *The Will to Punish*, 75-77.

40 Nietzsche, *Nietzsche: On the Genealogy of Morality*, 41.

41 See Scanlon, Thomas M., *What We Owe to Each Other* (Cambridge: Belknap Press, 1998); Rawls, John, *Justice as Fairness: A Restatement* (Cambridge: Cambridge University Press, 2001), 5-6; Miller, David, “Justice” in *The Stanford Encyclopedia of Philosophy* (Fall 2017).

respective of the offender's agency. Moreover, a more symmetric power dynamic would intuitively reduce the problems created by practical implementations of revenge, deterrence, and rehabilitation. That is, by having a more symmetric power relationship, not only will offenders be more capable to oppose these practical injustices, but punishers will be less likely to commit such injustices.

To be more just, the penal systems must reduce the asymmetry of power relations by highlighting the agency of the offender. Instead of passively going through the penal system, the offender must exercise his unique human agency. The root of this aforementioned asymmetry arose from the penal process. Both Connolly and Fassin underscore the asymmetry of the modern penal system in their work. In regard to the former, the rhetoric surrounding the offender dehumanizes him, making the offender equivalent to an animal, one that needs to be tamed.⁴² In regard to the latter, the individuals are at the mercy of the penal system, unable to exercise their human capacities.⁴³ This is further seen in the strict penal regiments of prisons and the rigid punishments of statutes.

To reduce this asymmetry, I argue that offenders should be allowed to propose their punishment for the crimes in cases where a judge or jury has found the offender guilty. To illustrate this proposal, I draw from Plato's and Xenophon's renditions of the ancient Athenian penal system during the trial of Socrates.⁴⁴

Unlike the modern penal system, where the offender plays a passive role, in the trial of Socrates, Socrates is prompted to give his own defense and cross-examine witnesses. Moreover, when Socrates' is found guilty, he is required to propose a punishment that would serve as recompense for the offense in question. The Athenian jury, in Socrates' case, then votes to choose between the offender's proposed punishment and that proposed by the prosecution. By doing so, Socrates is able to exercise his agency, despite the fact that he is sentenced to drink the hemlock.

In the modern penal system, the offender is able to defend himself if he wishes, but often defers to an attorney. Most times, the offender defers because he does not have a strong, functional knowledge on the intricacies of the law. Hence, a lawyer — an expert on the law—is brought in to compensate for the offender's lack of legal knowledge. This process strips the offender of his agency to directly affect the legal proceedings and thereby creates an asymmetric power relationship between the offender and others.

I propose that offenders should be allowed to propose their punishment for

42 Connolly, *The Ethos of Pluralization*, 45.

43 Fassin, *The Will to Punish*, 72-77.

44 See Plato, *Plato: Complete Works* (Indianapolis: Hackett, 1997), and Xenophon, *Xenophon: Memorabilia, Oeconomicus, Symposium, Apology* (Cambridge: Harvard University Press, 2013). One might argue that the trial of Socrates is the pinnacle of injustice. Yet, not only is such a position disputed, but my proposal solely attempts to schematically draw upon this example. I thank Tianyu Zhou for pushing me on this point.

crimes in cases where a judge or jury has found the offender guilty. To ensure that all offenders can propose their punishments, all citizens should be required to take some course on the law, so that offenders can have more agency during the trial's proceedings and in sentencing. In the wise words of Plato, "if law is the master [...] then the situation is full of promise and men enjoy all the blessings that the gods shower on a state."⁴⁵ By allowing the individual to present a possible punishment, the offender is forced to assume responsibility for his actions. Here, the offender exercises his agency and presents himself as a responsible agent before the court. Hence, the offender will create a more symmetric power relationship with others, including those of authority in the penal system. The result of this symmetric relationship will be a more just penal system, with individuals capable of exercising their unique human capacities.

A few brief words should be said on this suggestion. First, the prosecution would also propose a penalty, like in the Athenian system. Penalty proposals would allow for the judge or jury to decide the punishment of a case, while also maintaining the symmetry of the offender-authority relationship.⁴⁶ Similarly, this method does not sacrifice any of the goals of punishment as it allows order and punishment's secondary goals to be pursued. Finally, the idea of permitting the offender to have a choice in his punishment is not completely unsupported. Geoffrey Sayre-McCord argues that individuals should choose amongst various punishment plans to repay for an offense.⁴⁷ Such a penal structure allows individuals to take responsibility and reimburses society with a proportional penalty.

However, one may take issue with this potential solution on the grounds that such a solution has two counterintuitive implications: sentencing and asymmetric power relationships.⁴⁸ As for the former, one might think that offenders will always choose the minimal possible punishment for their crime. Or even worse, drawing from the trial of Socrates, the offender may go as far as to argue that he should be rewarded, not punished. As for the latter, one might contend that an asymmetric power relationship still maintains within this proposal. Namely, it seems to be the case that the judge or jury in question is still more powerful than the offender because the former have the *final say* on the punishment. To salvage this proposal, it is necessary to assuage these concerns about sentencing and asymmetric power relationships. To each concern, there are two considerations that ought to be con-

45 Plato, *Plato: Complete Works*, 1402.

46 By allowing the judge or jury to decide between the punishments proposed by the prosecution and defense, the convicted offender is still punished if he proposes a reward as his punishment, as was the case in the trial of Socrates.

47 Sayre-McCord, Geoffrey, "Criminal Justice and Legal Reparations as an Alternative to Punishment," *Philosophical Issues* no. 11 (2001), 505-506, 509.

48 I thank Morgan Cutts for pressing me to address this objection.

sidered.

With the concern of sentencing, two factors are worth considering. First, the proposal is pragmatically worthwhile because it leaves open the possibility that one chooses a punishment that is unlike a minimum sentence and is actually more beneficial. Here, instead of spending time in prison, an offender may choose to engage in public work programs. The possibility of a punishment that differs from the minimum sentence, but is actually beneficial, is an upshot of this view. Second, extreme sentencing is rejected. For example, take the case where a serial killer proposes the punishment of a \$20 fine. In this case, it is reasonable to suppose that either (1) the prosecutor in the given case would propose a much more reasonable punishment for the crime or (2) that the judge and jury would consider the reasonableness of the proposal in question when making their determination.⁴⁹ As a result, extreme sentencing would rarely occur. Rather, a domain of reasonable alternatives to punishment would become socially acceptable, perhaps including minimum jail time and participation in public work projects. Therefore, regarding sentencing, there are pragmatic benefits and reasonable constraints that bolster this proposal against challenges.

A more concerning objection presses on the power dynamics of sentencing, given that the judge or the jury still hold a degree of power over the offender. Here, two considerations are important. First, while it is the case that the judge or jury exercises power over the offender, the degree of asymmetry in the relationship is noteworthy. Notably, according to the proposal herein defended, judges and juries exercise less power over the offender than they currently do. Although the proposal does not completely rid itself of this asymmetry, the proposal should pragmatically be adopted, given its upshot of reducing the current asymmetry. Second, in an ideal world, judges and juries would be benevolent and strive to engage in symmetric relationships. However, in practice, there is a concern that judges and juries would overly exercise this asymmetric power. With this in mind, it is questionable whether the concern over asymmetry solely hinges on the proposal herein defended. Rather, it seems that the quality of judges and juries is important. Thus, it may not be the case that the asymmetric power dynamic completely hinges on the account of punishment that has been offered; rather, in addition to this proposal, it seems that work should be done to reform judgeships and juries, so as to further eliminate the asymmetric power relation.

Aside from these concerns regarding details of this proposal, one could argue that the solutions offered to ameliorate punishment are impractical in regard to the modern penal society. Such a claim can be based on concerns with the current structure of the penal system or on larger societal concerns. In regard to the for-

⁴⁹ Note that this is an inclusive disjunction.

mer, it could be argued the modern penal system is incapable of adjusting to the recommended changes. For example, an institution—most likely schools—would be required to teach courses on the law, requiring an overhaul of the current curriculum. Similarly, preparing authorities to engage in discourse with offenders may require training and some type of incentivization. However, both of these challenges are easily refuted. Namely, these solutions could be gradually incorporated into the penal system over time, thereby allowing for individual and institutional adjustment. Rather than implementing a radical change, change over time would ease the economic burden incurred by improving the penal system and also allow for individuals to change their biases towards offenders. Moreover, schools alter their curriculum as they incorporate new requirements, such as physical education. Hence, instituting a minimum requirement for knowledge of the law appears feasible.

A greater practical concern is the need for societal change as the penal system reforms. It would seem paradoxical if the penal system reduced the asymmetry of the offender-authority power relationship, but society still stigmatized offenders. The ongoing stigmatization takes on various forms: increased policing, reduced housing opportunities, or reduced employment opportunities.⁵⁰ While this is indeed a legitimate concern, it misunderstands the aims of this paper. I believe that these changes are without a doubt necessary when addressing the issue of punishment, however, this paper only seeks to examine the legal penal system. These societal concerns—while important to improving punishment—appears outside the bounds of this paper. Nevertheless, I acknowledge that the entirety of punishment, beyond the legal penal system, must be examined to create a more just society and to ensure that there is no asymmetry between the offender and society after the former has repaid for his offense.

IV. Conclusion

According to Michel Foucault, “western man has become a confessing animal.”⁵¹ Perhaps, however, it is better said that man has become a “punishing animal.” While this paper has only addressed legal punishment—that conducted by police, judges, and prisons—punishment is a societal phenomenon. From schools, to homes, to prisons, punishment is everywhere in society. The genealogy of legal punishment that was presented at the beginning of this paper illustrates that punishment is a fundamental derivation of man’s nature. While punishment may not be natural to man, it is a result of his nature. As such, a summary on the con-

50 This list is not extensive but attempts to highlight some of the scenarios that affect offenders due to their offender-status.

51 Foucault, Michel, *The History of Sexuality: An Introduction* (London: Penguin, 1990), 59.

clusions of this paper will help delineate the human nature that influences penal practice.

The ideal of punishment was shown to have both primary and secondary goals. The most important of these goals is order, yet punishment aimed at order requires relationality. The nature of relationships, in the ideal penal theory, were shown to be fair and symmetric. However, when juxtaposed to the realities of modern punishment, it became evident that practical punishment was heavily based on the creation of asymmetrical relationships between the offender and penal authorities, thereby devaluing the human nature of the offender. A combination of increased agency and increased discourse was proposed as a means to reduce this inherent asymmetry. By empowering the offender, the penal system appears to become more just. These solutions seem promising and feasible, withstanding refutations that challenge the accounts provided.

Although this paper has addressed punishment, some changes are needed beyond punishment, regarding the social and economic burden that punishment places on the offender and those associated with the offender. Moreover, work must be done to examine the effects of this paper's paradigm on innocent individuals that have been convicted of an offense. However, legal punishment has been addressed in these pages. This is only one step towards this more just society. Such reforms are possible, among intellectuals and society-at-large: the ideal is not out of sight.

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Happening on “Polished Society”: Towards a Theory of Progress and Corruption in the writings of Adam Ferguson and David Hume

Alexa Stanger

As two of the most important philosophical thinkers of the Scottish Enlightenment, David Hume and Adam Ferguson wrote formative texts in the philosophical discourse of modernity. Witnessing the emergence of commercial society and constitutional governments, both thinkers saw the classical republican model of politics, with its teleological bent and emphasis on cultivating the proper function of humans, as obsolete in the context of the commercial world. Neither civic virtue nor a pursuit of the proper function of humanity could explain the emergence of modern society—nor could they explain how commercial society might progress.¹ In a sharp contrast to ancient philosophy, Hume and Ferguson realized the importance of locating their philosophy within a historical context. Even if the chief role of history is to serve as a record of the virtues or practices that have historically proved to be beneficial, Hume and Ferguson’s application of history provides a new prism through which people’s judgement might be filtered, introducing the space for a theory of progress. Indeed, the notion of humanity’s ability to progress, if not a belief in the inevitability of progress itself, is integral to both writers and to Enlightenment thought: “polished society,” where the full flourishing of the arts and sciences might be realised, was the logical progression of human society from its “rude” origins.² The newfound importance ascribed to wealth, manners, and freedom meant that the ancient formulations of moral and civic virtue, such as

1 See Christopher J. Berry’s *The Idea of Commercial Society in the Scottish Enlightenment* for a more in-depth analysis of how Scottish Enlightenment thinkers understood “commercial society”, a society that is neither polity nor clan but contains governments and institutions systematic in their division of labor.

2 John Varty’s essay elaborates on how Ferguson, Hume and other thinkers of the Scottish Enlightenment formulated this idea of society’s progression from ‘primitive’ or ‘rude’ society’ to ‘civilized’ or ‘polished’ society. See John Varty, “Civic or Commercial? Adam Ferguson’s Concept of Civil Society,” *Democratization* 4, no. 1 (Spring 1997).

those found in Plato's writings, had to be re-evaluated in the context of the modern state. Nevertheless, Ferguson retains some notion of Classical teleology in his republicanism, a point where he diverges from Hume, in what Fania Oz-Salzberger describes as a "theory of commercial modernity with classical-republican linchpins."³ Where Hume has endless praise for the merits of modern society, Ferguson holds significant reservations. Hume's vision of progress contains both a moral and a material character whereas Ferguson fears a deep tension between these two forces. Often neglected in Hume's shadow, Ferguson is cast as the pessimistic commentator on bourgeois society, "a bemused, perplexed and rather worried observer of the kind of Civil Society which he sees emerging."⁴ He sees the dark underside of commercial society that, whilst demonstrating how society has progressed from its primitive predecessors, might also plant the seeds of its corruption. In reading these two philosophers alongside one another, we might come to a better understanding of how the same philosophical current creates room for a theory of progress, a shining optimism in the path that industrialisation laid before human society, whilst retaining a sober skepticism of what might lie beneath the polish.

An inquiry into Hume's concept of human nature provides the basis for understanding how polished society might arise and how this society might subsequently progress. His methodology thus deftly engages a set of timeless observations, namely those pertaining to human nature, within the context of humankind's historical development. Today, "polished society" might be understood as a narrow, elitist notion of the values society should nurture, though in the Scottish Enlightenment this term referred to qualities of "polish" as an indispensable quality of civilized life and the foundation for progress in all aspects of society, not limited to politics but extending into art, religion, even the built environment. Hume famously declared that "reason is and ought only to be the slave of the passions," arguing that in spurring an agent to act, the feelings the action provokes surpass any rational analysis of outcomes.⁵ However, Hume arguably overstates his point: reason is not entirely removed from the equation when people assess whether or not to act. In fact, there is a significant level of rational exercise at work in the self-reflective process where people evaluate the sentiments attached to a certain action—an exercise introduced in Hume's philosophy by his concept of justice. It is "the sense of virtue [...] *deriv'd from reason*," that facilitates a self-reflective process that corrects people's natural near-sightedness (where the "strongest attention is

3 Fania Oz-Salzberger, "The Political Theory of the Scottish Enlightenment," in *The Cambridge Companion to the Scottish Enlightenment*, edited by Alexander Broadie (Cambridge: Cambridge University Press, 2003), 168.

4 Ernest Gellner, *Conditions of Liberty: Civil Society and Its Rivals*, (London: Hamish Hamilton, 1995), 62.

5 David Hume, *A Treatise of Human Nature*. Ed. L.A. Selby-Biggs, (Oxford: Clarendon Press, 1978), 415.

confin'd to [oneself]”) in the interests of longer-term societal preservation.⁶ Hume thus strikes a necessary balance between rationality and sentiment in informing how a people have tempered their passion-directed actions as a result of living in society.⁷

More pertinent to an understanding of progress in Hume’s philosophy is his notion of humankind as fundamentally self-interested yet partially benevolent. Hume dismisses the Hobbesian state of nature as pure fiction. As Hume conceives the individual as being primarily directed by sentiment, the notion of human character as fundamentally sympathetic arises. The Humean individual is depicted as standing at the hub of a network of social relationships, and it is through assessment of how one’s action might not only be received by the individual themselves, but also by those around them that leads to moral sympathy in Hume’s formulation. This sympathetic construction of human nature gives rise to another concept in Hume’s philosophy: the “partial benevolence” of humanity.⁸ Hume sees self-interest, albeit attuned to how this self-interest might complement the broader interests of society, as the chief director of human action: “this avidity alone, of acquiring goods and possessions for ourselves and our nearest friends, is insatiable, perpetual, universal, and directly destructive of society.”⁹ Although he indicates here how this self-interest might initially appear destructive and all-consuming, the consideration of the interests of “nearest friends” expands self-interest beyond the purely selfish. Unselfish self-interest is possible; though self-interest begins with an individual’s attention on their personal needs, awareness of the interests of close friends tempers this selfishness. The balancing of myopic focus on the self with the interests of an individual’s associates foreshadows the idea of partial benevolence, where a concern for the interests of one’s associates pulls at humankind’s naturally sympathetic imagination and shapes how closely one chooses to follow their self-interest. Partial benevolence becomes a check for this insatiability, channelling it into a useful form that motivates individuals to engage in an active life in order to satisfy their appetites. As people find a middle ground between self-interest and its blind pursuit, they make space for progress in the realm of polished society, be that commerce or the arts, whilst also solidifying the “bands of affection” that are necessary to the preservation of society. Consequently, these self-interested bands of affection might actually serve the public interest in the long-term through en-

6 Hume, *Treatise*, 496 and 488.

7 David Miller describes this balance between the purely rational and the purely sentimental in the formulation of moral judgements in Hume’s philosophy as ‘mitigated scepticism’ (David Miller, *Philosophy and Ideology in Hume’s Political Thought*, (Oxford: Oxford University Press, 1984), 41.).

8 David Miller, *Philosophy and Ideology*, 107.

9 Hume, *Treatise*, 491-2.

surging that an individual remains in society but also set the wheels of progress in motion.

Similar to Hume, Ferguson also recognizes self-interest as a fundamental characteristic of human nature and emphasises the associational aspect of polished society, whereby humans inevitably interact and largely cooperate with one another in order to live. It is the “motive of interest” that “animate[s] the pursuits, or direct[s] the measures, of ordinary men.”¹⁰ Indeed, it is this associational tendency of humanity that Ferguson fears commercial society, overrun with the vicious effects of capitalism, will ultimately undermine. However, this notion of association—that a human is influenced by the relations he draws between himself and their fellow person—is extended to include not only interpersonal relations but also intergenerational and even intergovernmental ones: “man proceed[s] from one form of government to another, by easy transitions [...] the seeds of every form are lodged in human nature.”¹¹ It is perfectly natural that one form of human society should build upon its predecessors’ society, conveying a linear progression of history in Ferguson’s political thought. The tendency of governments and human associations to build upon one another is a product of what Ferguson characterises as the tendency of “nations [to] stumble upon establishments.”¹² He claims that it is not in human nature to “foresee” but rather to “know by experience” precisely what form of government might arise.¹³ Ferguson argues that humans learn from history what actions are most conducive to a stable society, enabling them to dispense with the errors of the past and thus embark on the gradual advancement of society: one generation builds on another. In this way, the inevitability of progress, even if this does not bar the possibility of regress, is ingrained in Ferguson’s philosophy through his view of history as a linear process. In fact, one might argue that what Ferguson sees as the failure of primitive societies is a prerequisite for his philosophy on the emergence of polished society. In his *Essay on the History of Civil Society*, Ferguson writes “Nations, which in later periods of their history became eminent for civil wisdom and justice, had, perhaps, in a former age, paroxysms of lawless disorder [...] The very policy by which they arrived at their degree of national felicity, was devised as a remedy for outrageous abuse.”¹⁴ Ferguson shows that in such national development, there was an intentional attempt on the part of their lawmakers to restructure their society in view of redressing past failings and avoiding their repetition. It is through understanding past mistakes, inquiring into

10 Adam Ferguson, *An Essay on the History of Civil Society*, (Cambridge: Cambridge University Press, 2001), 132.

11 Ferguson, *Essay*, 120.

12 Ibid, 119.

13 Ibid, 120.

14 Ibid, 230.

why nations have failed, that humans might work toward progress. It is worth noting that Ferguson does not see history as a grand narrative documenting humans as passive, but sees history as directly driven by human action: “the attainment of one end is but the beginning of a new pursuit.”¹⁵ History is thus in part driven by humans’ insatiable self-interest, which requires them to be endlessly engaged in the workings of society, giving them an investment in their society that will be conducive to its progression.

The social nature of human character, the fact that one is born into society and actively creates and participates in society’s custom, helps us understand the role of custom in Hume’s philosophy, which can then be applied to a theory of progress. Hume makes clear the importance of custom in explaining why certain values have been retained in human association and how these values shape our moral judgement: “each century has its peculiar mode in conducting business; and men, guided more by custom than by reason, follow, without inquiry, the manners which are prevalent in their own time.”¹⁶ The crucial role of custom in shaping human action becomes intuitive when connected to Hume’s concept of the natural sociability of humankind and his construction of human society. Furthermore, Hume’s understanding of custom helps resolve a potential logical break in his philosophy regarding the space for progress. If Hume’s philosophy emphasises the importance of sentiment, with all its changeability in directing human action and morality, one might question how progression can arise, when this notion implies a degree of consistency and gradual change. It is the role of sentiment in conjunction with history that turns these inconsistent actions of human nature into a pattern of action that we name custom. This custom, in turn, directs future human action while remaining a product of what was originally deemed moral by human sentiment: “habit soon consolidates what other principles of human nature had imperfectly founded,” and in this way history acts as a stabilising force.¹⁷ Although both Hume and Ferguson historicize human nature, they do not go so far as Hegel’s dialectic, where human nature itself is altered by human action in the unfolding of history and the synthesis of conflicting human interactions.¹⁸ In fact, Hume holds a rather

15 Ferguson, *Essay*, 205.

16 From Hume’s *History of England*, cited in Miller, *Philosophy and Ideology*, p. 103.

17 David Hume, “Of the Origin of Government,” *Essays Moral, Political, and Literary*, edited by E. F. Miller, (Indianapolis: Liberty Classics, 1985), 39.

18 Hume states that ‘all plans of government, which suppose great reformation in the manners of mankind, are plainly imaginary,’ (“Idea of A Perfect Commonwealth”, *Essays*, p. 514). By contrast, Hegel sees human nature as contextual and integrally social. For Hegel, the human mind is “a living unity or system of processes”, and, most importantly, is “world-historical”. Stating that “man is what he does”, Hegel argues that human nature is inherently linked to human action. For more reading on Hegel’s dialectic and his understanding of human nature, see Christopher J. Berry, *Hume, Hegel and Human Nature* (Dordrecht: Springer Netherlands, 1982). in particular 129-146.

conservative view of the influence of history on human action, stating that history's "chief use is only to discover the constant and universal principles of human nature."¹⁹ This statement is potentially misleading if the "constancy" of human nature is misinterpreted as the predictability of human action: history does not serve only to erode difference and show the universal properties of human nature but also shows how these properties arose by accident but were retained as a result of their demonstrated usefulness in practice.

In this conception of a human nature informed by historical events, Alix Cohen observes a malleable element of human judgement that overlays the selfish quality of Hume's formulation of human nature, which is "influenced by society and political structures."²⁰ In fact, Hume emphasises the inconstancy of human nature: "'tis difficult for the mind, when actuated by any passion, to confine itself to that passion alone, without any change or variation. Human nature is too inconstant to admit of any such regularity. Changeableness is essential to it."²¹ It is precisely this inconstancy in human nature, unable to predict the workings of the imagination, that allows for history to enter onto the scene. By replacing reason with sentiment as the primary motivator for human action, Hume renders humankind susceptible to the influence of convention in directing one's actions, because people realise that their actions have consequences and can predict how their actions might be received. This is not to say that a person becomes subject to, nor even the "slave of" passions, but rather that in critical self-reflection of how to direct their actions, the person is profoundly influenced by the passions that might arise from society's regard for their actions.²² This is the necessary effect of Hume's formulation of society as a network of relations and exposes a dynamism in human nature conducive to progress.

Having demonstrated how both Ferguson and Hume conceive of humans as naturally social, influenced in their actions by custom and the "lessons of history," one might now consider where a theory of progress fits into their philosophies. It has been established that both thinkers regarded modern, commercial society as the most artistically and technologically advanced form of society, where the arts and sciences flourish as never before.²³ Furthermore, in preserving the beneficial consequences of human action as custom, the role of history makes room for the

19 From Hume's *An Enquiry Concerning Human Understanding*, cited in Miller, *Philosophy and Ideology*, 102.

20 Alix Cohen, "The Notion of Moral Progress in Hume's Philosophy: Does Hume Have a Theory of Moral Progress?", *Hume Studies*, 26, no. 1 (April 2000), 110.

21 Hume, *Treatise*, 283.

22 *Ibid.*, 415.

23 Miller, *Philosophy and Ideology*, 124.

idea that commercial society tends toward building on such historical principles for overall betterment. Hume's notion of justice as the safeguarding of property rights connects political stability with commercial activity: commercial activity, along with humankind's naturally self-interested disposition, compels people to establish as well as to adhere to the rules of justice so that they might enjoy the fruits of a collective labour. In this way, the progress of political society goes hand in hand with the progress of economic thought: "polished society," therefore, manifests both civic and commercial advancement. Furthermore, Hume posits leading an active life as almost part of human nature, suggesting that economic progress is the logical corollary of his formulation of humanity; he claims that it is not only the love of the fruit of labour but also the occupation itself that produces pleasure on pursuing activity as opposed to idleness.²⁴ It is this dual satisfaction that such labour produces, including a sentimental element elevated above a purely material interest, that demonstrates how human nature might guide societal progress. Work invigorates the mind such that humankind has a selfish interest in seeing industry and the arts flourish; a person's natural predisposition towards activity and commitment to their work thereby necessarily entails an aggregate progress.

In considering the general progress of society, the notion of moral progress (or at least the evolution of tastes) also plays a constitutive role. In commercial society, Hume argues that "the possessor has also a secondary satisfaction in riches arising from the love and esteem he acquires by them."²⁵ The love of this secondary satisfaction gives rise to the potentially destructive human greed in commercial society that Ferguson so feared, but it nonetheless provides an impetus for humans to engage in commercial activity, such as trade and manufacturing. These secondary satisfactions deriving from said "love and esteem" (sentiments connected to a judgement of character and reputation) demonstrate how morality might also play a role in an assessment of economic progress. This sympathetic character of mankind gives rise to these feelings of love and esteem, which are innately associated with the acquisition of wealth and status. In this way, it might be expected that the progression of morals, or at least an evolution of tastes, accompanies or even acts as a precondition for economic progress. However, an evolution of tastes does not necessarily constitute an evolution of morality in itself and Hume is noticeably conservative in his discussion of humankind's capacity to attain "improvement of judgement." He states that people "cannot change their natures [...] all they can do is to change their situation," thus implying that moral advancement is not a consequence of societal progress, at least in the form of industrialisation or greater

24 Hume discusses this in "Of Refinement in the Arts", *Essays*.

25 Hume, *Treatise*, .

commercialisation.²⁶ For better or worse, in his construction of moral sentiment as a reflexive phenomenon, Hume sees the cultivation of moral sentiment as secondary to the progress of economics, arts and even politics. Conditioned by custom and the perceptions that an individual holds of his fellow people, moral sentiment cannot actively determine progress but rather is shaped by it.

Indeed, it is at this juncture that Ferguson comes into most direct conflict with Hume's philosophy, as he resoundingly argues that moral progress is not a necessary consequence of societal progress. In fact, he argues that even in polished society, human nature is fundamentally unchanged, although such change would guard against its corruptive tendencies, such as greed: "there have been very few examples of states, who have, by arts or policy, improved the original dispositions of human nature, or endeavoured, by wise and effectual precautions, to prevent its corruption."²⁷ He verbosely writes of the destructive effects of commercial society, exposing people to the pursuit of wealth within the new commercial machinery of modernity without regard to their actions' broader societal impacts. The "continued subdivision of the mechanical arts" in the progress of commerce heralds the emergence of an atomised society, where "the sources of wealth are laid open" and humankind, "ignorant of all human affairs [...] may contribute to the preservation and enlargement of their commonwealth, without making its interest an object of their regard or attention."²⁸ This introduces the notion that commercial society is the crucible where progress gains momentum but also paradoxically creates the corruptive forces that cause its decline: "The mighty engine which we suppose to have formed society, only tends to set its members at variance, or to continue their intercourse after the bands of affection are broken."²⁹ Ferguson argues that it is only humanity's natural interest in self-preservation that, with reflection and foresight, might lead humanity to temper their pursuit of gain so as to mitigate the total destruction of society. It is when these interests stray too far from national interest that society is rendered vulnerable, a risk that Ferguson sees as heightened in commercial society. However, where this interest takes the form of "enlightened interest," humankind's superior nature is capable of moderating this raw self-interest to orient it towards achieving something more elevated, namely

26 Hume, *Treatise*, 537.

27 Ferguson, *Essay*, 195.

28 *Ibid.*, 173. The division of labour, rather than being a form of justice in its Classical formulation, allows for the pursuit of self-interest that does not necessarily contribute to the overall harmony of society. Thus, although such specialisation might enable a general progress in mechanical and commercial arts as each individual devotes themselves, albeit out of self-interested motives, towards advancing their field of expertise, it also leads to the weakening of an individual's allegiance to the wellbeing of his society as a whole. This effect is also bolstered by man's natural tendency to subjugate long-term consequences in the view of short-term gain.

29 Ferguson cited in John Varty, "Civic or Commercial? Adam Ferguson's Concept of Civil Society," *Democratization* 4, no. 1 (Spring 1997), 35.

the “ambition or the desire of something higher than is possessed at present.”³⁰ Introducing an almost normative element to the object of natural self-interest, Ferguson’s philosophy draws closer to his classical predecessors and opens up a space for progress. Ferguson seems to believe that ambition, which might be thought of as the commercial variant of Aristotle’s drive for the proper function of humans, drives progress in society.

However, there is undoubtedly a dark side to this ambition, which must be modulated. In order to protect society from unfettered ambition, Ferguson draws further on a quasi-teleological argument. Ferguson locates the seeds of corruption in humankind’s tendency to value material gain—either for the gain itself or the notions of esteem associated with the possession of great wealth—above other virtues more aligned with the public interest. The danger of polished society is this redefinition of virtue along commercial lines: the transferral of “the idea of perfection from the character to the equipage,” such that a pursuit of “virtue” leads to the desire to dominate one’s fellow citizen, subjugating the public interest to the private.³¹ Although this change in the concept of virtue is deeply troubling for Ferguson, he nevertheless admits that the drive towards this new “perfection of equipage” is a powerful incentive for people to engage in politics, stating that “the desires of preferment and profit in the breast of the citizen, are the motives from which he is excited to enter on public affairs.”³² This introduces a contradiction in Ferguson’s work. His solution for retrieving bourgeois society from a cycle of progress and decline is to encourage “active political citizenry” among the populace, preventing the spirit of “servility,” which ironically accompanies the rise of industry, from also allowing the rise of tyranny.³³ This argument for active political engagement has clear Aristotelian undertones, which become even more explicit in Ferguson’s solution for commercial corruption. In his view, the hope for bourgeois society lies in active political participation, ideally by the individual who might orient their actions to the public interest. In doing so, Ferguson believes the individual might “educate” the lower classes through leading by example and demonstrating how civic virtue might be combined with power and wealth. Such a politician is necessary for preventing public life from being perceived as “a scene for the gratification of mere vanity, avarice, and ambition” instead “furnishing the best opportunity for a just and a happy engagement of the mind and the heart.”³⁴

30 From Hume’s *An Enquiry Concerning the Principles of Morals*, cited in Lisa Hill, “Adam Ferguson and the Paradox of Progress and Decline,” *History of Political Thought*, vol. 18, no. 4 (Winter 1997), 679.

31 Ferguson, *Essay*, 239.

32 Ibid, 245. Indeed, Ferguson argues that ignoring this fact is a corruption in itself: ‘the pretended moderation assumed by the higher orders of men, has a fatal effect in the state.’ (*Essay*, 245).

33 Hill, “Adam Ferguson and the Paradox of Progress and Decline,” 681.

34 Ferguson, *Essay*, 244.

However, if people enter politics out of purely ambitious motives (themselves the products of polished society's new idea of perfection) can this ideal politician exist in reality? It is not ambition itself that causes problems, but how the object of this ambition might conflict with the responsibilities of public office. Ferguson makes some attempt to resolve this tension in proposing a cyclical progress of society, though this is also potentially at odds with his linear notion of history, writing that "when human nature appears in the utmost state of corruption, it has actually begun to reform."³⁵

Although Hume does not fear the corruption and decline of commercial society as Ferguson does, Hume's theory of justice indicates a conservative view of the extent to which society might progress, particularly in the realm of political innovation. Where Ferguson casts conflict as a means through which political society might develop, stating that "the virtues of men have shone most during their struggles," Hume strongly guards against rebellion except in the most desperate case.³⁶ In order to prevent a habit of disobedience from arising, Hume argues that rebellion should only be "the last refuge [...] when the public is in the highest danger from violence and tyranny."³⁷ Since resistance may only be countenanced in the most dire situations, Hume appears to discourage political innovation, at least where it risks rebellion. Recalling how political progress and economic progress appear to go hand in hand in his philosophy, one might wonder whether he foresees a limit on societal progress. In the interests of preserving stability, Hume even discourages political innovation on the part of the wise individual: to "try experiments merely upon the credit of supposed argument and philosophy, can never be the part of a wise magistrate, who will bear a reverence to what carries the marks of age"—he will cater towards societal consensus.³⁸ In this way, individual action is circumscribed, revealing a disconnect between progress at the individual and societal levels, even questioning the ability of the "wise" individual to drive societal progress. One might wonder what the benefits of moral improvement are if the finest person must cater to the most vulgar elements of society. Hume's philosophy certainly allows for such moral progress but perhaps only to a point, which he regards as the commercialised bourgeois society that he found himself living in and has endless praise for.³⁹

35 Ibid, 278-9.

36 Ibid, 196.

37 Hume, "Of Passive Obedience," *Essays*, 490.

38 Hume, "Idea of a Perfect Commonwealth," *Essays*, 512.

39 Hume indicates what this necessary balance might look like: 'Some innovations must necessarily have place in every human institution; and it is happy where the enlightened genius of the age give these a direction to the side of reason, liberty, and justice: but violent innovations no individual is entitled to make. ("Of the Original Contract," *Essays*, 477).

It is almost impossible to separate human nature, morality, and the role of history from Hume's and Ferguson's theories of progress. Humankind's historical context and indeed the level of refinement of the society that humans live in determines the customs that will shape their moral judgement. Being fundamentally self-interested and motivated by sentiment, it follows that people's actions are directly influenced by the level of civilization manifest in their surroundings. One might worry that basing the promise of societal progress on the power of humankind's sympathetic nature to direct their actions towards a public interest is inherently unstable, given the inconstancy of their passions. However, it is possible that an attempt to correct this inconstancy would be fruitless considering how societal progress changes what humanity considers virtuous or part of the public interest. In fact, Oz-Salzberger writes that "wealth, in the modern European state, could no longer be opposed to virtue; 'virtue' itself was being transformed into a civil rather than civic, moral framework."⁴⁰ It is this transformation of the notion of virtue, produced by commercial society, that Ferguson fears will lead to corruption, both on a moral and societal level. What is perhaps most innovative to the theory of progress that evolves in both Ferguson's and Hume's writings is the role of history. In their philosophies, history does not provide a blueprint for how society must progress nor is it deterministic in how the interactions of human societies might grease the wheels of history towards a more polished, liberated end. Rather, history is useful as a sociological instrument for demonstrating how beneficial practices that humans have "stumbled upon" come to be a part of their nature, without fundamentally changing their character. History does not determine morality nor human identity as such but rather provides an extra layer for understanding how human judgement has evolved and why certain customs have gained such power. In fact, history might safeguard societal progress against decline through preserving political wisdom that has been derived from history, encouraging society to learn from humanity's past successes and errors. As both authors were writing in response to such historical moments as the English Civil War, it would be almost illogical to dismiss history's role in informing their ideas of progress and corruption, especially when so much of what they wrote was being informed by the lessons of these historical moments—practical manifestations of how people's actions might be shaped by history.

40 Oz-Salzberger, "The Political Theory of the Scottish Enlightenment," 169.

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More Than Just a Thought Crime? A Retributivist View of Hate Crime Legislation

Travis Harper

Most are familiar with the common conception of a hate crime: a violent act that involves some form of animus towards a particular group, usually a protected class. “Hate crimes” are considered to be more morally reprehensible than their counterparts that are not motivated by any particular animus or hatred. Accordingly, different jurisdictions have enacted legislation criminalizing these types of acts, oftentimes associating them with harsher penalties than crimes committed for other reasons. Still, while hate crimes *seem* like a simple and intuitive concept, the actual statutes that different legislatures enacted to criminalize them tend to vary in their definitions and application. In the United States, for example, anyone who “willfully causes bodily injury to any person... because of the actual or perceived race, color, religion, or national origin of any person” shall be found guilty of a federal hate crime.¹ Germany, however, takes a different approach. While “under German criminal law, ‘politically motivated’² hate crimes do not constitute explicit offenses or give rise automatically to higher sentences,” judges have a wide latitude to take aggravating factors into account when sentencing.³ Germany *does*, however, have a statute which criminalizes those who “incite hatred against” and “violate the human dignity” of populations or individuals on “account of their belonging to a... national, racial, or religious group or a group defined by their

1 “Hate Crime Acts,” 18 U.S.C. § 249 (2009), <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section249&num=0&edition=prelim>.

2 According to the German Ministry of Justice and Consumer Protection, a “politically motivated” crime includes crimes committed for reasons of the victim’s race, “political opinion, nationality, ethnicity, race, skin color, religion, belief, origin, disability, sexual orientation.”

3 Human Rights Watch, “The State Response to ‘Hate Crimes’ in Germany: A Human Rights Watch Briefing Paper,” Human Rights Watch, December 9, 2011, <https://www.hrw.org/news/2011/12/09/state-response-hate-crimes-germany>.

ethnic origin.”⁴ Clearly, the concept of a hate crime is not as intuitive as it seems to be. Thus, the question remains: What *is* a “hate crime”?

Moral and legal theorists have wrestled with this same question, along with raising other concerns. “Hate crimes” are unique in that their *mens rea* element, the requisite intent of the perpetrator in order to be found guilty of the crime, typically entails proving some form of hatred or bias. Thus, hate crimes effectively criminalize specific “hateful” mental states. Whether or not a person has committed a hate crime does not depend on their actual physical actions; rather, it depends on their motivations in doing so— whether they did so *because* of some animus towards their victim or a particular group of people. Naturally, this begs the question: To what extent is this justified? Can we punish offenders for their *motivations* in committing a crime along with their actions? Heidi Hurd, lawyer and legal theorist, sought to answer questions akin to these in her article, “Why Liberals Should Hate ‘Hate Crime Legislation’.” In doing so, Hurd argues that when “hatred and bias are construed as mens rea elements... they [become] alien to traditional criminal law principles.”⁵ She also argues that hate crime legislation—at least how it is conceived of today—is unjustifiable. Specifically, Hurd outlines that hate crime legislation has no place within our “act-centered theory of criminal punishment” and “liberal theory of legislation” because of the way it effectively criminalizes “emotional states... [that] constitute standing character traits rather than occurrent mental states (intentions, purposes, choices etc.)”⁶ Hurd’s critique is quite comprehensive and forces all advocates for hate crime legislation to ask themselves: is there any justification for hate crime legislation that is in line with a liberal theory of legislation? This is the question that this paper seeks to answer.

Through a critical analysis of Hurd’s argument, references to other legal theorists and philosophers, and empirical evidence, I will argue that within a retributivist theory of punishment, hate crime legislation *is* justifiable and morally acceptable. A retributivist theory of punishment prioritizes proportionality, the principle that the punishment associated with a crime varies based upon the severity of the crime, or how morally reprehensible the crime is, which can be determined by the amount of *harm* an action causes. I will argue that hate crimes cause more severe harm to the victim than do crimes committed for other reasons. Further, since hate crimes are unique in that they cause harm to both the victim and their community, they constitute both a public and private harm. Thus, not only is it morally acceptable, but rather it is required to make hate crimes distinct within the

4 “Incitement of Masses,” German Criminal Code § 130 (1998), http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p1241.

5 Heidi Hurd, “Why Liberals Should Hate ‘Hate Crime Legislation,’” *Law and Philosophy* 20, no. 2 (2001): 216.

6 Hurd, 216.

criminal law with increased punishment compared to crimes that are not committed due to any particular animus. Further, I will argue that hate crime legislation does not merely criminalize mental states or political beliefs; rather it criminalizes the explicit intent to cause increased harm to a specific group of people. This is a standard that any hate crime statute should make abundantly clear.

It is worthwhile to clarify what this paper does not seek to address. This paper will not weigh the merits of a retributivist's conception of punishment against that of a consequentialist; surely, a consequentialist's justification of hate crime legislation would be vastly different, most likely focusing on the possible benefit that could arise from specifically criminalizing hate crimes. Additionally, the paper will not analyze hate crimes and hate crime legislation from a sociological perspective; rather, it will focus on the moral and philosophical implications that legislators must consider when drafting hate crime legislation.

Hurd's Argument

Within her critique of hate crime legislation, Hurd offers two possible arguments in support of making hate crimes distinct within the criminal law, entailing harsher punishment. The first of these relies upon a precedent within Anglo-American common law. Specifically, it is not uncommon for those who have "particularly vicious reasons for action" to be more harshly punished.⁷ For example, some jurisdictions have enhanced punishments for pre-meditated murder, those that deliberately take the life of another. Hurd also highlights the existence of "specific intent crimes," or "crimes that require defendants to commit prohibited actions with certain *further* purposes."⁸ Burglary, for instance, is an example of a specific intent crime as it requires that someone "must break and enter with some further intention, say to steal, rape, or kill."⁹ Hurd posits that neither of these doctrines serve as justifications for hate crime legislation, primarily due to her contention that "hatred" and "bias" are emotional states, not occurrent mental states like intentions. If this is the case, then hate crime legislation is inherently criminalizing mental states, leaving those who support hate crime legislation with two lines of argumentation. Firstly, they might argue that the types of hatred and bias typical to hate crime legislation, contending that, for example, "racial hatred or gender bias is morally worse than greed, jealousy, and revenge,"¹⁰ or any other motive for that matter. Secondly, they might further a utilitarian argument, claiming that "hatred and bias are uniquely responsive to criminal sanctions in a way that greed,

7 Ibid, 218.

8 Ibid, 218.

9 Ibid, 218.

10 Ibid, 226.

jealousy and vengeance are not.”¹¹ Both of these arguments, however, violate liberalism in the way that they arbitrarily choose a specific motive to be either considerably more morally reprehensible or responsive to criminal sanctions.

I take two main responses to Hurd’s argument. First, I take issue with Hurd’s characterization of hatred and bias when they are construed as mens rea elements; hatred and bias can be considered to be occurrent mental states when they are understood as the intent of the actor to create the increased harms associated with hate crimes, not just the actor’s bigoted views in and of themselves. Second, even if this *were* the case, and hate crimes did criminalize bigoted views, I argue that considering hatred and bias to be particularly culpable mental states is justified. Hate crimes are considerably more morally reprehensible than crimes committed for other reasons because of the aforementioned increased harm they cause, and they deserve increased punishment accordingly. I will address these two concerns separately.

Hate Crimes and Specific Intent Crimes

One of the key concerns that Hurd addresses is the extent to which hate crime legislation can be drafted within the bounds of liberalism and Anglo-American Common Law. One of Hurd’s main contentions within her article is that hate crime legislation, at least in the way that it is conceived of today, criminalizes emotions or dispositions, as opposed to occurrent mental states. I argue that this is not the case, because of the fact that hate crime legislation does not and should not criminalize the mere fact that a perpetrator holds a specific belief; rather, it should criminalize their intention to cause specific harms to their victim and the victim’s community at large.

Michael Moore, in his work *The Moral Worth of Retribution*, defines “intentions”—within a retributivist theory of punishment—as “function states whose roles are to mediate between background states of motivation and those (bodily) motion-guiding states of volition that are parts of actions.”¹² Moore illustrates this distinction through the analogy of a person deciding to get their hair cut. The background state of this action is that they “desire to get a haircut,” their *intention* is the belief that “if [they] go to the barber shop, [they] will get a haircut” and finally, the “motion-guiding state of volition” is that they indeed make the decision in their mind to “go to that barber shop.”¹³ Thus, the intention that is relevant in regards to criminal liability is one in which the actor decides on a means to reach a specific goal.

11 Ibid, 226.

12 Michael Moore, *The Moral Worth of Retribution* (Oxford University Press, 2010), 449.

13 Michael Moore, “The Metaphysics of Basic Acts III: Volitions as the Essential Source of Actions,” in *Act and Crime: The Philosophy of Action and Its Implications for Criminal Law* (Oxford University Press, 1993), 136–37.

Applying this framework to hate crimes, the “emotional states” that Hurd references are not the *intentions* that are legally relevant; rather, they are background states of motivations. They are the deep desires of the actor. The *intention*, however, is the actor’s decision to act upon their bigoted motivations in order to accomplish a variety of goals, whether that be spreading a message, or intimidating members of the group they are targeting. The *intention* that is legally relevant is that an actor decided to resort to violence in order to spread their bigoted beliefs. Admittedly, most hate crime statutes do not make clear this distinction. Often, they simply mandate that the perpetrator chose their victim “for reason of” one of their specific identities. Thus, any hate crime statute must be clear in that if someone is to be convicted of a hate crime, then they must have intended to cause some specific harm to a particular community. With this understanding of intentions, the mens rea element of hate crimes does not criminalize an emotional state; rather, it criminalizes a specific intent to cause harm, not just to a person but to a broader community. As I will argue later, these harms are legally relevant because they cause hate crimes to be particularly more morally reprehensible than crimes committed for other reasons.

Hurd’s critique, in this case, is mostly doctrinal, but it does carry key moral implications. Even if a hate crime causes considerably more harm, the physical *action* is not different from crime that is completely devoid of any hatred or bias motivation. Is it reasonable to criminalize someone based on the fact that they have hateful beliefs? Is this a violation of the liberalism that grounds Anglo-American common law? The next section of this paper seeks to answer these questions by discussing the morality of hate crimes.

Hate Crime Legislation and the Harm Principle

In order to justify the distinction within the criminal law between hate crimes and other crimes—particularly when they tend to carry harsher punishment—we must identify a principle that can aid in determining which actions are crimes, and the extent to which they should be punished, if possible. This principle must have two characteristics: (1) It must align and be consistent with a retributivist theory of punishment by being sufficiently “backward-looking” and (2) it must allow for the differentiation of crimes beyond mere moral intuition—differentiating crimes that are “worse” than others, deserving harsher punishment, while aligning with a liberal theory of punishment. John Rawls has famously characterized this theory as one that emboldens the state to enforce the “right” and not the “good.”¹⁴ These two specifications ensure that the justificatory logic underpinning hate crime leg-

14 John Rawls, *Political Liberalism*, Expanded Ed., Columbia Classics in Philosophy (Columbia University Press, 2005).

islation aligns with traditional Anglo-American common law principles, and falls within the scope of this paper and Hurd's argument.

The first of these specifications naturally flows from the scope of this essay. The principle used to justify any sort of hate crime legislation must be "backward-looking" or focused on the act itself. This is in opposition to any sort of principle or justification that is consequentialist or "forward-looking." A consequentialist "approves or disapproves of every action whatsoever, according to the tendency it appears to have to augment or diminish the happiness of the party whose interest is in question,"¹⁵ with the "party" at hand being society as a whole, or even the actor themselves. Clearly, a consequentialist's justification of hate crime legislation is different than that of a retributivist, which this paper intends to address.

The second consideration is directly relevant to Hurd's argument and, naturally, my critique thereof. One of Hurd's primary critiques of hate crime legislation is that, if "hate" as a mens rea element is not considered to be an "occurrent mental state," then hate crime legislation effectively criminalizes emotional states. Further, Hurd argues that criminalizing emotional states shifts from a "liberal theory" to a "perfectionist theory" of criminal law. This "liberal theory" of the criminal law extends from the general theory of Political Liberalism. Specifically, in drafting legislation, criminal or otherwise, the "government should be neutral among competing conceptions of the good life."¹⁶ Within a society, there will be multiple conceptions of the good life, and the government should only be emboldened to enforce rights that are the result of an "overlapping consensus" that mediates "among conflicting views."¹⁷ Hatred and bias, when not directly connected to an action, are generally considered to be moral beliefs or character traits—and as Hurd notes, "liberals have long believed that theories that construe certain character traits as virtuous or vicious belong to the province of the Good, rather than the Right."¹⁸

Considering that I intend to argue that hate crimes primarily carry harsher sentences due to their being significantly more morally reprehensible than crimes committed for other reasons, the principle used to justify this distinction must aid us in determining which crimes are indeed "more morally reprehensible" beyond one's moral intuition which would align with a liberal theory of punishment. It is quite easy and normal to determine what crimes "feel" more morally reprehensible based upon our own individual moral intuitions. Legislators, however, cannot simply draft criminal legislation based upon their own subjective moral intuitions

15 Jeremy Bentham, "An Introduction to the Principles of Morals and Legislation" (Oxford: Clarendon Press, 1907), <https://oll.libertyfund.org/titles/bentham-an-introduction-to-the-principles-of-morals-and-legislation>.

16 Michael J. Sandel, "Political Liberalism," *Harvard Law Review* 107, no. 7 (1994): 1766.

17 Sandel, 1775.

18 Hurd, 230.

on a case to case basis; that would not be entirely consistent with political liberalism. Any principle that we use in determining which crimes are more morally reprehensible must not only be applicable to hate crimes, but to any crime which is being considered. As Aristotle notes, “all law is universal” and legislators must take into account and legislate based upon “the usual case.”¹⁹ Thus, the principle used to justify hate crime legislation must also be one that is universally applicable.

The principle that is most fitting is the “harm principle,” or the concept that the only actions that can be considered crimes are those that cause harm to others or the public. The most classic explication of this principle can be found in the work of John Stuart Mill, in which he claims that “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”²⁰ Put simply, the government can justify criminalization and punishment, overriding some individual rights, based upon the degree to which one being punished has caused “harm” to others. This principle aligns with the two specifications outlined earlier. The harm principle is sufficiently retributivist; If one were to justify punishment based upon the harm principle they would be focusing on the actions of the individual. Applying the harm principle compels legislators to ask: How much harm did the individual cause in their actions? The answer to this question directly affects whether or not their actions are considered criminal and the extent to which they should be punished. Further, Mill was an ardent liberal, and naturally, the “harm principle” aligns with a liberal theory of punishment. The harm principle works upon the liberal logic that an individual has the right not to be subjected to undue harm.

While the harm principle does meet the specifications laid out earlier, “nowhere does [Mill] give an explicit general stipulation” as to what constitutes harm. In order to understand how hate crimes should be considered under the harm principle, we must further define our understanding of “harm.”²¹ Joel Feinberg, in his work *Harm to Others*, provides a useful definition of “harm.” Concretely, Feinberg defines it as a “setback to interests”²² that can relate to an individual or to a wider group of people, where interests are “a miscellaneous collection, [consisting] of all those things which one has a stake.”²³ While there are nuisances that could be considered harms—a person’s stock performing poorly, for example, could certainly be understood as a setback to interest—these nuisances only become harms in the legal sense when they are the results of an invasion by others. Further, Feinberg

19 Aristotle, “Politics,” trans. Benjamin Jowett, 1994, <http://classics.mit.edu/Aristotle/politics.5.five.html>.

20 John Stuart Mill, *On Liberty* (Batoche Books, 1859), 13.

21 D.G. Brown, “The Harm Principle,” in *A Companion to Mill*, ed. Christopher Macleod and Dale E. Miller (John Wiley & Sons, 2016), 411.

22 Joel Feinberg, *Harm to Others*, vol. 1, 4 vols. (Oxford University Press, 1984).

23 Feinberg, 1:38.

provides that this “invasion” becomes legally relevant if the actor is “in a worse condition than [they] would have otherwise been had the invasion not occurred at all.”²⁴ Take, for example, an instance of a person being physically violent towards another. Physical violence towards another person to which they did not consent would certainly be a setback to the victim’s interests—perhaps to their interests in their own health and wellbeing, especially if they had been injured. Further, they would most definitely be in a worse condition due to the physical “invasion” by the other person. Additionally, harms can also manifest themselves as public or private harms. There are many crimes that most would consider to be harms that do not thwart the interest of one specific person. Take, for instance, those who counterfeit money; they are not harming any *one* person; rather, they are harming society as a whole, thwarting the interests of society by negatively affecting the economy.

Working with this understanding of harm and how it operates within the harm principle, we can begin to analyze hate crimes and the harms that they cause. Subsequently, we can begin to analyze whether or not they are considerably more morally reprehensible, warranting increased punishment. I argue that hate crimes indeed cause significantly more harm because they cause an increased amount of harm to the individual in addition to causing public harm as well.

Hate crimes cause increased private harm to their victims given that hate crimes do not just attack a *person*; they attack their identity as well, causing a fractured sense of security and identity and leading to a myriad of negative effects, or *harms*. “Crimes... communicate a message to the victim that they do not count and are not worthy of respect”²⁵ and once someone becomes the victim of a hate crime, they begin to cope and rationalize why they specifically were targeted. While those who aren’t victims of hate crimes could just cite that they were “at the wrong place at the wrong time,” victims of hate crimes cannot adopt this as a possibility. When one is the victim of a hate crime, they will *know* that they have been targeted based upon an aspect of their identity, and this in turn causes their identity to become “central to their internal awareness of why they have been victimized.”²⁶ The unique way in which hate crimes target identity causes a variety of immeasurable harms to victims. They often cite increased sentiments of shame and guilt compared to those that have been victimized for other reasons. Not only that, hate crime victims report increased levels of anxiety and depression compared to those that have been victimized for other reasons. Certainly these negative effects are setbacks to interests as defined by Joel Feinberg. They fracture the victim’s sense of self and cause actual physical ailments, leaving them in a much worse condition

24 Feinberg, 1:34.

25 Mark Austin Walters, “The Harms of Hate Crime: From Structural Disadvantage to Individual Identity,” in *Hate Crime and Restorative Justice* (Oxford University Press, 2014), 71.

26 Walters, 73.

than that in which they would have been if they had not been attacked at all, and especially if they had not been victimized because of their identity.

Beyond the increased harms that hate crimes cause to their victims, they also cause additional public harm uncharacteristic of crimes committed for other reasons: harm caused to the wider community of the targeted group. While hate crimes are attacks on specific individuals, they are moreover “symbolic messages to society about the worthiness of certain groups of people.”²⁷ This message is a signal to minority communities that they are “unequal, unwelcome and undeserving of social respect,” and more pertinently, this message is a threat as well. The message of hate crimes creates a heightened sense of vulnerability and insecurity amongst minority communities that leads to an intense fear of victimization, inhibiting community members from living life without extreme caution. Members of minority communities that have been affected by hate crimes often note that the “fear and anxiety” felt by the victims of hate crimes “spreads to other community members.”²⁸ This can be considered a public harm within the framework of the harm principle that I outlined earlier. The effects that hate crimes cause to minority communities can be defined as a setback to interests; again, it is certainly within our interest to be able to live our lives without fear of persecution or assault. Hate crimes deprive minority communities of their ability to do so.

When hate crimes are considered within the framework of the harm principle, it is clear that they are more morally reprehensible. Does this naturally lend itself to the conclusion that they deserve increased punishment? I argue that, within a retributivist theory of punishment, it does lend itself to this conclusion given the principles of proportionality. Within the retributive model proposed by Immanuel Kant, the degree of punishment should adhere to “the principle of equality, by which the pointer of the scale of justice is made to incline no more to the one side than the other.”²⁹ Considering the concept of proportionality within the framework of the harm principle, the degree of punishment for a crime should be proportional to the harm created by the crime. If that is the case, then hate crimes surely warrant increased punishment because of the increased harms that they cause, not only to their direct victims, but also to the communities that they affect.

Conclusion

This paper sought to provide a justification for hate crime legislation that conformed to the principles of liberalism and aligned with a retributive theory of punishment. I found that harsher punishment for violent crimes related to hatred

27 Mark Austin Walters, 84.

28 Ibid, 84.

29 Morris J. Fish, “An Eye for an Eye: Proportionality as a Moral Principle of Punishment,” *Oxford Journal of Legal Studies* 28, no. 1 (2008): 63.

or bias towards a specific group can be justified when examined using the harm principle. Because hate crimes cause considerably more harm to their victims and minority communities, they are considerably more morally reprehensible than crimes committed for other reasons. When assessing whether or not these increased harms warrant increased punishment, we can rely on the notion of proportionality—that punishment for a crime should be proportional to the harm it creates. When examined in this way, increasing criminal sanctions for hate crimes is justified. Further, there are a variety of considerations that need to be taken into account when drafting hate crime legislation: specifically, hate crime legislation should be written to construe the mens rea element of the crime to be the intent to cause the increased harms to the individual and the minority community.

Hate crimes are intuitively more morally reprehensible. At first we may think that they deserve increased punishment based upon how these crimes make us *feel*; however, we should constantly question ourselves, examining whether our gut moral instincts align with the moral doctrines that guide our actions and the criminal law. In this case, hate crimes do indeed deserve increased punishment based upon these moral doctrines. Thus, legislatures intending on criminalizing hate crime legislation, or any crime for that matter, should not only take doctrinal considerations into account, but should also consider the moral justifications for *why* these actions deserve criminal liability. If this is the case, the law will begin to be much more consistent and comprehensive with the moral doctrines that we have adopted as a society.

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Khadi Capitalism: Gandhian Neoliberalism and the Making of Modern India

Ria Modak

The postcolonial invocation of Mohandas Gandhi brings to mind a singular image: Gandhi dressed in a simple *dhoti* and shawl made from *khadi*, or home-spun and home woven cloth, sitting in front of his spinning wheel. This recollection of Gandhi positions him as both the embodiment of Indian national consciousness as well as a figure outside or above modernity, insulated from the hegemonic influence of Western reason and secularism. Modernity, encapsulated by the socio-political, economic, and cultural institutions and frameworks birthed by post-Enlightenment rationality, is seen as incompatible with the fundamental tenets of Gandhian political philosophy. Yet, in researching the massive corpus of Gandhi's collected writings and speeches, I found that his entanglements of modernity, capitalism, and nationalism were less straightforward than conventional Indian historiography might suggest.

Gandhi's political philosophy offers an entry point to address fundamental questions about nation thinking, modernity, and postcolonial futurity: can the postcolonial subject articulate political possibilities that move beyond the nation state without sacrificing the material considerations of global capitalism? Put differently, is it possible to imagine and enact a world order that transcends the hegemonic structuring forces of Western modernity? These questions are particularly resonant as we come to terms with the price of modern progress, which, in the stark words of Horkheimer and Adorno, has left us a world "radiant with triumphant calamity."¹ Critiques of modern living are boundless, ranging from Frankfurt school critiques of its reification of reason to Subaltern Studies' lamentations of

1 Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment: Philosophical Fragments*, ed. Gunzelin Schmid Noerr, trans. Edmund Jephcott (Stanford: Stanford University Press, 2002), 1.

Western epistemological hegemony² to arguments from the Black radical tradition that colonialism and modernity are inextricably linked.³ However, as scholars look beyond the modern Western intellectual tradition and locate alternative ways of being to create more liberatory political realities, it is crucial that we think critically about how radical these alternatives truly are. Some alternatives, like those found in Gandhi's political philosophy, cannot help but be, to invoke the work of David Scott, conscripts of modernity.

While historians and political theorists of contemporary India alike argue that Gandhi summarily rejected modern frameworks of nationalism, industrialism, and rationality itself, I contend that Gandhian political philosophy, rather than existing above the conceits of Western modernity, is intimately tied to Western civil society and its social, political, and economic manifestations. More specifically, it closely resembles neoliberal forms of social relations and economy. The fundamental methodologies and frameworks undergirding Gandhian political philosophy ultimately reinscribe the hegemonic global capitalist order even while they seem, on inspection, to articulate a radically different futurity. This paper's critical intervention, then, challenges the underlying assumptions of conventional Indian historiography by exposing its inability to reckon with Gandhi as a fundamentally modern political figure entrenched in the machinations of globalized neoliberalism. I suggest that a more critical reading of Gandhi-- one that accurately locates his political philosophy as a modern intellectual contribution-- is necessary in order to make sense of India's postcolonial future. After an outline of conventional Indian historiography and its fixation with Gandhi within the nationalist paradigm, I turn to elements of Gandhi's political philosophy and political economy to expose its similarities to modern neoliberal ideology and economics.

Nationalist Historiography: A Dominant Discourse

The conventional story of the Indian nationalist movement emphasizes the role of prolonged popular struggle; the diverse political and ideological visions of its leadership; and a uniquely revolutionary atmosphere of freedom and debate.⁴ The first stage of the independence movement was defined by the cultivation of an elite consciousness and the emergence of moderate nationalist activity; statesmen and politicians like Dadabhai Naoroji and Gopal Krishna Gokhale sought to achieve piecemeal reform through constitutional methods while keeping faith in the British justice system.⁵ As these gradual efforts failed to bring about substantive change,

2 Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference*, (Princeton: Princeton University Press, 2000), 4.

3 Aime Cesaire, *Discourse on Colonialism*, trans. Joan Pinkham (New York: Monthly Review Press, 2000), 9.

4 Bipin Chandra, *India's Struggle for Independence, 1857-1947*, (New Delhi, India; Viking, 1998), 14.

5 Sumit Sarkar, *Modern India: 1885-1947*, (Basingstoke: Macmillan, 1989), 92.

a more extremist brand of nationalism emerged. Through the *swadeshi* movement, militant nationalists like Lala Lajpat Rai and Bal Gangadhar Tilak fomented wide-spread political agitation by boycotting British institutions and goods.⁶ In this highly charged political context, Gandhi launched several *satyagraha*, or non-violent resistance, campaigns, including the non-cooperation movement and the Quit India movement, successfully mobilizing the masses.⁷ The culmination of this protracted struggle for freedom was, of course, Indian independence and the ensuing violence of Partition. This dominant narrative of the Indian freedom struggle foregrounds nationalism as a guiding principle, first to unify the social, economic, and political demands of a vastly heterogeneous population, and later to create a sovereign and secular nation state that embodies the will of the people.

In depicting nationalism as the primary structuring force in the making of modern India, the mainstream approach to Indian history is representative of other, more extreme, approaches to historiography, including Hindu nationalist, Marxist, and even subaltern perspectives. All Indian history, in other words, is told as nationalist history. Hindu nationalist retellings of the independence movement represent Indian nationalism as a brand of ethnic nationalism in which nationality is an inherent genetic characteristic.⁸ By villainizing Muslim subjects, it replaces the secular liberal state of conventional historiography with a Hindu state: the Indian nation is the Hindu nation.⁹ Marxist historiography, in contrast, traces the rise and fall of India as a socialist state through retelling history from below, analyzing the role of peasant revolts and general strikes in inciting nationalist fervor. It conceptualizes the positive aspects of the nationalist movement (i.e. the bourgeois-democratic values of secularism, women's rights, freedom of the press etc.) as the initial points for a people's front.¹⁰ While subaltern historiographical approaches drew inspiration from Marxist methods, their characterization of the nationalist movement splits Indian politics into elite and subaltern spheres, each of which articulated a unique form of nationalism.¹¹ Each of these historiographical approaches, in summary, insist on reifying the defining characteristic of nationalism according to the field's preeminent scholars: congruence between the political and national unit.¹²

Within this discourse, the figure of Gandhi emerges as the very embodiment of nationalist consciousness. During the freedom struggle, he acquired the informal,

6 Sugata Bose and Ayesha Jalal, *Modern South Asia: History, Culture, Political Economy*, (Routledge, 2017), 92.

7 Bose and Jalal, *Modern South Asia*, 110.

8 Liah Greenfeld, *Nationalism: Five Roads to Modernity*, (Cambridge: Harvard University Press, 1992), 11.

9 Vinayak Damodar Savarkar, *Hindutva: Who is a Hindu?* (Bombay, India: Veer Savarkar Prakashan, 1969), 2.

10 Irfan Habib, *Essays in Indian History: Towards a Marxist Perception*, (New Delhi, India: Tulika, 1995), 10.

11 Gyan Prakash, "Subaltern Studies as Postcolonial Criticism," *The American Historical Review* 99, no. 5 (1994): 1478.

12 Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983), 1.

but highly popularized, title of Father of the Nation, an appellation which continues to inform Gandhi's central role in Indian postcolonial imagination. Countless films, television programs, plays, and documentaries continue to memorialize his life and work both within and outside of India. From Richard Attenborough's 1982 film *Gandhi* to Doordarshan's 52 episode-long teleserial *Mahatma*, the figure of Gandhi continues to pervade India's nationalist project.¹³ Gandhi plays a crucial role in the symbolic consolidation of state power: his birthday and death day are both celebrated as national holidays; his image appears on paper currency of nearly all denominations issued by the Reserve Bank of India; and the International Gandhi Peace Prize is awarded annually by the Government of India as a tribute to Gandhian ideals. From the independence movement to our own political moment, Gandhi and the nationalist project have fused into an inseparable unit.

Contemporary theorists of Indian nationalism argue that the conflation of Gandhi and the nation can be attributed to Gandhi's refusal to adopt the values and assumptions of Western modernity. Partha Chatterjee suggests that by rejecting the modernizing ethos of Western rationality, Gandhi remained unencumbered by the Enlightenment thematic: "[n]ot only did Gandhi not share the historicism of the nationalist writers, he did not share their confidence in rationality and the scientific mode of knowledge."¹⁴ Dipesh Chakrabarty and Rochona Majumdar argue that Gandhi's reliance on the *Bhagavad Gita*, a Hindu scripture, allowed for the articulation of a novel religio-ethical orientation in the realm of politics, which he saw as intrinsically linked to Western modernity.¹⁵ This seemingly wholesale rejection of Western modernity, according to many historians of modern and postcolonial India, is clearly visible in Gandhi's public image.¹⁶ As he embraced his role as a *satyagrahi*, he traded the Western robes of the barrister for a simple *dhoti* and shawl made from *khadi*. Gandhi's *khadi* attire was transformed into a material artifact of the nation defined in terms of the contemporary politics and economics of self rule.¹⁷ Gandhi's physical appearance, in other words, paralleled his ideological distance from Western modernity.

Gandhi's rejection of modern social, political, and economic frameworks is often contrasted to other leading statesmen and intellectuals of Indian freedom. He is most frequently counterposed with Jawaharlal Nehru, India's first prime minister.

13 Shanti Kumar, *Gandhi Meets Primetime: Globalization and Nationalism in Indian Television*, (Baltimore: University of Illinois Press, 2005), 17.

14 Partha Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse*, (Minneapolis: University of Minnesota Press, 1993), 96.

15 Dipesh Chakrabarty and Rochona Majumdar, "Gandhi's Gita and Politics As Such," *Modern Intellectual History* 7, no. 2 (2010): 338.

16 For a good scholarly overview, see Sanjeev Kumar, *Gandhi and the Contemporary World*, (Taylor and Francis, 2019).

17 Lisa Trivedi, *Clothing Gandhi's Nation: Homespun and Modern India*, (Bloomington: Indiana University Press, 2007), xx.

Conventional Indian historiography narrates the differences between Gandhi and Nehru as such: where Nehru was a proponent of statist secular socialism driven by industrial growth, Gandhi was profoundly ambivalent about state intervention in agriculture and industry; where Nehru located India's future in the creation of the modern city, Gandhi presented the self-sufficient and autonomous village as an alternative to modern civilization; where Nehru saw economic development as central to Indian independence, Gandhi sought self-purification and the cultivation of individual ethical consciousness.¹⁸ Scholars of modern India also juxtapose Gandhi's religious orientation and appeals to Hinduism with the anti-caste, radical democratic humanism of B.R. Ambedkar, renowned Dalit leader and the architect of India's constitution.¹⁹ Where Gandhi revered village life as a revival of the old social order, Ambedkar saw the village as a model of oppressive Hindu social organization which segregated upper caste communities from lower caste communities; where Gandhi turned to religion as a source of ethics, Ambedkar glorified the secular humanist ideals of the French Revolution; where Gandhi urged spiritual and religious education in Hindustani, Ambedkar demanded that English be used in schools to counter the Brahmin tradition of denying education and literacy to lower caste communities.²⁰ In comparison to Nehru, Ambedkar, and others, Gandhian political philosophy is depicted in mainstream Indian historiography as irrefutably anti-modern. However, as I argue below, this characterization of Gandhi does not accurately reflect his political philosophy.

Defining the Gandhian Problem Space

Rather than articulating a radical alternative to Western modernity, Gandhian political philosophy was entrenched in the systems, structures, and frameworks of modernity, and more specifically, those of neoliberal capitalism. Before addressing the specifics of Gandhi's political philosophy, it is first necessary to locate Gandhi more comprehensively within his problem space to better establish the stakes of my argument. In his work *Conscripts of Modernity: The Tragedy of Colonial Enlightenment*, David Scott introduces the idea of the problem space, which he defines as "an ensemble of questions and answers around which a horizon of identifiable stakes (conceptual as well as ideological-political stakes) hangs."²¹ Theoretical work cannot be read, in other words, without identifying the questions to which that work responds. Even while actors within a particular problem space may dis-

18 Surinder S. Jodhka, "Nation and Village: Images of Rural India in Gandhi, Nehru and Ambedkar," *Economic and Political Weekly* 37, no. 32 (2002): 3347.

19 Arundhati Roy, *The Doctor and The Saint: Caste, Race, and the Annihilation of Caste: The Debate Between B.R. Ambedkar and M.K. Gandhi* (Chicago: Haymarket Books, 2017), 2.

20 Aishwary Kumar, *Radical Equality: Ambedkar, Gandhi, and the Risk of Democracy*, (Stanford: Stanford University Press, 2017), 338.

21 David Scott, *Conscripts of Modernity: The Tragedy of Colonial Enlightenment*, (Durham: Duke University Press, 2004), 4.

agree on the answers in a particular scenario, they are all responding to the same set of unspoken questions while maintaining a shared sense of the stakes. Intellectuals, statesmen and activists may disagree on how to decolonize, for example, while implicitly agreeing that something must be done to address the condition of colonized people.

In the previous section, I gestured to one aspect of Gandhi's problem space by outlining the background against which he formed his ideas in the space and time of the Indian freedom movement; in that spatio-temporal location, Gandhi's problem space was constructed by Hindu scripture and the formation of religion as ethics. However, the Gandhian problem space was not circumscribed by the borders of the Indian nation; rather, it existed concomitantly with other approaches to decolonization during the mid-twentieth century. On the whole, these other projects struggled, mostly unsuccessfully, to articulate a postcolonial future outside the terms of nationalism and modernity. In the Anglophone Black Atlantic, statesmen and intellectuals like Kwame Nkrumah and Eric Williams proposed federalism and non-domination on the global stage as solutions to the problem of empire.²² In the Francophone Black Atlantic, Aime Cesaire and Leopold Sedar Senghor sought to transform imperial France into a democratic federation with former colonies as autonomous members of a transcontinental polity.²³ Within this internationalist problem space of decolonization characterized by "an attitude of anticolonial longing, a longing for anti-colonial revolution," actors from all over the decolonizing world sought to engage in a radical project of worldmaking. However, many reinscribed colonial legacies by adopting the institutions, bureaucracies, and borders of colonial domination.

Within the context of this problem space, then, Gandhi's apparent rejection of modernity took on additional stakes as one of the few truly radical alternatives to nation thinking and capitalist state formation, not just in the Indian context but in the decolonizing world as a whole. However, this perception of Gandhi's ideological distance from modernity is fundamentally misguided. In the three sections that follow, I analyze some of the fundamental tenets of Gandhi's political philosophy and political economy to draw conceptual linkages to neoliberal capitalism. I first consider Gandhi's attention to the individual as a unit of analysis in the struggle for independence, and argue that his conceptualization of *swaraj* as self-purification elided a structural understanding of colonialism as an oppressive force. Next, I critique Gandhi's political ideal of *Ramarajya* and analyze his rejection of Western civilization. Finally, I turn to his visions of political economy, and

²² Adom Getachew, *Worldmaking After Empire: The Rise and Fall of Self-Determination*, (Princeton: Princeton University Press, 2019), 107.

²³ Gary Wilder, *Freedom Time: Negritude, Decolonization, and the Future of the World* (Durham: Duke University Press, 2015), 10.

in particular, his fixation with *khadi* to argue that Gandhi's economic programme was, in fact, far closer to neoliberalism than most scholars would admit.

Before addressing Gandhi's political philosophy in full, it is helpful to first situate my argument within the field of Gandhi studies and critiques of Gandhi. Beginning in the early twentieth century, trade unionists like Shripad Amrit Dange took issue with the conservative strains within Gandhi's economic thought, comparing it to the ideology of Soviet leaders like Vladimir Lenin.²⁴ Contemporary scholars of India have taken up these critiques, pointing to his defense of the propertied classes, his ambivalence toward trade unions, and his philosophy of trusteeship as evidence of his imbrication in modern systems of capitalism and nationalism.²⁵ However, few scholars have taken a theoretical approach to Gandhian political philosophy as a whole; those that do characterize his anticolonialism as fundamentally opposed to the modern state.²⁶ My intervention complicates both of these approaches by engaging in a theoretical and deeply normative consideration of Gandhian thought.

Swaraj as Self Purification and the Cultivation of Neoliberal Social Relations

In his seminal treatise on political philosophy, *Hind Swaraj*, Gandhi puts forth a unique definition of *swaraj*, or self rule, that offers several dimensions through which to understand the stakes and motivations of the freedom struggle. First, Gandhian *swaraj* must be understood through the praxis of the individual, who is "the one supreme consideration":²⁷ it is "in the palm of our hands... Swaraj has to be experienced by each one for himself."²⁸ The practitioner of *swaraj* is the individual, not society or community.²⁹ Gandhi's focus on internal moral transformation leaves ambiguous the role of coalitional organizing and community building. In addition, Gandhi's notion of *swaraj* is not generated in reaction to the brutality of colonial rule, but rather it emerges from an inner commitment to self improvement: "What we want to do should be done, not because we object to the English or because we want to retaliate, but because it is our duty to do so."³⁰ The political power derived from *swaraj*, in other words, must not be regarded as an end in itself. Indeed, a third characteristic of Gandhian *swaraj* is that it is not predicated on self determination or economic independence: "Now you will have seen that it is not

24 Shripad Amrit Dange, *Gandhi vs Lenin* (Bombay, India: Liberty Literature Company, 1921), 15.

25 Vivek Chibber, *Postcolonial Theory and the Specter of Capital* (London: Verso, 2013), 282.

26 Karuna Mantena, "On Gandhi's Critique of the State: Sources, Contexts, Conjunctures," *Modern Intellectual History* 9, no. 3 (2012): 535.

27 Mohandas Gandhi, *The Collected Works of Mahatma Gandhi*, vol. 25 (New Delhi: Publications Division, Ministry of Information and Broadcasting, Government of India, 1989), 252.

28 Mohandas Gandhi, *Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 2009), 71.

29 Koneru Ramakrishan Rao, *Gandhi's Dharma*, (New Delhi, India: Oxford University Press, 2017), 105.

30 Gandhi, *Hind Swaraj*, 116.

necessary for us to have as our goal the expulsion of the English. If the English become Indianised, we can accommodate them.”³¹ Rather, *swaraj* depends on moral development and ethical formation. As such, it is intimately tied to the cultivation of spiritual and religious sensibilities³² rather than the material considerations of development and industry: “Impoverished India can become free, but it will be hard for an India made rich through immorality to regain its freedom.”³³ Gandhian *swaraj* is not constructed exclusively by material forces, nor does it demand exclusively material solutions.

Gandhi’s focus on the individual obfuscates the role of colonialism as a structure of domination. He locates the origins of colonial exploitation in the moral failings of the Indian populace: “The English have not taken India; we have given it to them. They are not in India because of their strength, but because we keep them.”³⁴ Gandhi’s discussion of the emergence of colonial rule is, unsurprisingly, limited in scope; the subject of his analysis is the upper class, upper caste colonized elite: “Who assisted the Company’s officers? Who was tempted at the sight of their silver? Who bought their goods? History testifies that we did all this. In order to become rich all at once, we welcomed the Company’s officers with open arms.”³⁵ His myopic focus on the individual blinds him to the many revolutionary movements led by farmers, mill-workers, and tribal communities to overthrow British rule that were organized on the basis of economic exploitation.³⁶ Gandhi also absolves colonial officers from their role in fomenting religious tensions between Hindus and Muslims through a divide-and-rule policy: “The Hindus and the Mahomedans were at daggers drawn. This, too, gave the Company its opportunity, and thus we created the circumstances that gave the Company its control over India.”³⁷ This revisionist retelling of Hindu-Muslim relations ignores the crucial role of colonial policies in exacerbating religious tensions. The Census of British India of 1871-1872 constructed modern Hindu and Muslim identities as incompatible while the 1909 Morley-Minto reforms created separate electorates for Hindus and Muslims,³⁸ thus fracturing political power.³⁹ Gandhi’s conceptualization of *swaraj*

31 Ibid, 71.

32 I conflate these terms carefully: according to Gandhi, religion and morality could not be disentangled. Throughout *Hind Swaraj*, he emphasizes that they are entirely co-constitutive.

33 Gandhi, *Hind Swaraj*, 106.

34 Ibid, 38-39.

35 Ibid.

36 Subho Basu, *Does Class Matter? Colonial Capital and Workers Resistance in Bengal, 1890-1937*, (Delhi: Oxford University Press, 2004), 238-62.

37 Gandhi, *Hind Swaraj*, 40.

38 Rajmohan Gandhi, *Eight Lives: A Study of the Hindu-Muslim Encounter*, (Albany: State University of New York Press, 1986), 6.

39 Of course, in reality this narrative is not so simple. There was a clear sense of difference and tension between Hindu and Muslim communities long before British rule. However, I argue that Gandhi’s telling of this history erases the role that British colonialism played in intensifying these tensions for political gain.

does not adequately address the systems that continued to uphold the violence of colonial rule through law, bureaucracy, and state violence.

By privileging the individual over the systemic, Gandhi's formulation of *swaraj* closely resembles the cultivation of neoliberal social relations. While neoliberalism as an economic principle only gained traction in the 1970s after the dissolution of post-war Keynesianism, it also embodies ideological principles which marshal values of human dignity, individualism, and freedom to theorize the free market as a force of domination.⁴⁰ Ethics and morality under the ideology of neoliberalism, in other words, become highly individualized, as in the case of Gandhian *swaraj*. This moral dimension has been central to neoliberalism since the beginning of the twentieth century,⁴¹ and became particularly salient in the aftermath of the Second World War, when human rights discourse began to interface with neoliberalism to produce a modern version of the colonial civilizing mission by facilitating the emergence of a globalized market civilization in which individual rights and competitive market relations would spread across and within national borders co-constitutively.^{42,43} Neoliberalism as a method of understanding and critiquing social relations offers a theoretical framework through which to analyze Gandhian *swaraj*.

To be clear, I am not conflating all forms of religiously inflected self making with neoliberal social relations. I am arguing specifically that Gandhian *swaraj*, in failing to attend sufficiently to the structural forces of colonial domination, mirrors the highly destructive individualism that constitutes a central feature of neoliberalism. In fact, the very religio-ethical orientation that Gandhi gravitated toward was used as a tool for collective liberation in the context of the Indian freedom movement itself. For example, Muslim revolutionaries like Ashfaqullah Khan and Abul Kalam Azad invoked Islam and Islamic liberation theology to mobilize Indian Muslim subjects in the independence struggle by centering the mosque as a site of resistance and reciting the Quran and fasting for Ramadan while jailed as political prisoners.^{43,43} In contrast to Gandhian *swaraj*, their religious sensibilities confronted the colonial state by producing solidarity among many diverse Muslim communities.

A Critique of *Ramarajya*: Caste, Capitalism and Gandhi's Ideal Civilization

To reiterate, Gandhi is understood by most scholars as rejecting modernity be-

40 David Harvey, *A Brief History of Neoliberalism* (New York: Oxford University Press, 2005), 12.

41 Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism*, (La Vergne: Verso, 2019), 4.

42 Whyte, *The Morals of the Market*, 8.

43 Pran Nath Chopra, *Role of Indian Muslims in the Struggle for Freedom*, (New Delhi, India: Light & Life Publishers, 1979), 6.

cause of his scathing critiques of modern civilization. Modern civilization, rather than the violent state sanctioned brutality of colonialism, was responsible for India's downfall according to Gandhi: "It is not the British people who are ruling India, but it is modern civilization, through its railways, telegraphs, telepoles, and almost any invention which has been claimed to be a triumph of civilization."⁴⁴ The West fell prey to the forces of materialism, hyperrationality, and uncompromising secularism, which are all the inescapable after-effects of modernity. Gandhi expresses his disdain for this civilization in no uncertain terms: "This civilisation takes note of neither morality nor of religion: this civilization is irreligious."⁴⁵ Even more lamentably, the West mapped these values onto the East through the process of colonialism. As such, he writes, "India's salvation consists in unlearning what she has learnt during the past fifty years. The railways, telegraphs, hospitals, lawyers, doctors, and such like have all to go, and the so-called upper classes have to learn to live conscientiously and religiously and deliberately the simple peasant life, knowing it to be a life giving true happiness."⁴⁶ These critiques of modern civilization are taken as evidence of Gandhi successfully rising above the conceits of modernity.⁴⁷ However, it is not enough to consider Gandhi's critique of modern civilization; rather, we must also analyze his alternative to modern civilization to assess whether or not it breaks free of the very systems Gandhi is opposed to.

The fundamental values of Gandhi's civilizational ideal are distinct from those of what he refers to as modern or material civilization, but their enactment reinforces neoliberal values. He defines true civilization as "that mode of conduct which points out to man the path of duty."⁴⁸ True civilization is morally inflected, and therefore spiritually inflected. According to Gandhi, India once adhered to the tenets of true civilization and must work to recover them: "The tendency of Indian civilisation is to elevate the moral being, that of the Western civilisation is to propagate immorality. The latter is godless, the former is based on a belief in God. So understanding and so believing, it behoves every lover of India to cling to the old Indian civilisation even as a child clings to its mother's breast."⁴⁹ True civilization was achieved in the past and can be achieved again if, Gandhi argues, India returns to its original methods of governance, agriculture, industry, and labor while modifying some of its less progressive elements like untouchability: "In order to restore India to its pristine condition, we have to return to it. In our own civilisation, there will naturally be progress, retrogression, reforms and reactions,

44 Gandhi, "Letter to H.S.L. Pollack" in *Hind Swaraj*, 128.

45 Gandhi, *Hind Swaraj*, 36.

46 Gandhi, "Letter to H.S.L. Pollack" in *Hind Swaraj*, 129.

47 Chatterjee, *Nationalist Thought and the Colonial World*, 98.

48 Gandhi, *Hind Swaraj*, 65.

49 Ibid.

but one effort is required, and that is to drive out Western civilisation.”⁵⁰ The fundamental values of Gandhi’s civilization ideal defined a type of morality that was dependent on acting according to one’s duty. The fixation on duty as a morally and religiously constituted ideal is, as I hope to prove, entirely compatible with capitalism and casteism in their modern formulations.

Before considering the theoretical implications of Gandhi’s civilizational ethos, it is first necessary to understand how he envisioned their political manifestations through *Ramarajya*, “the non-violent state of Gandhi’s vision,”⁵¹ his most concrete articulation of an alternative to nation thinking. Admittedly, Gandhi was less concerned with the details of postcolonial institutions, instead preferring a “one step enough” approach.⁵² However, he wrote extensively on his conceptualization of the ideal state, which he derived from the ancient ideal of *Ramarajya*, the divine kingdom of Lord Ram. *Ramarajya* in Gandhi’s formulation consisted of a federation of self governing and semi-autonomous *panchayats*, or village councils. The authority of the federation would be limited to the coordination, guidance, and supervision of matters of common interest.⁵³ As in the case of *swaraj*, *Ramarajya* asserted the supremacy of individual freedom; this individual freedom was to be manifested in each *panchayat* and the state itself.⁵⁴ Yet, these individual freedoms were tempered by Gandhi’s insistence on maintaining the caste system. In order to overcome the “life-corroding competition” of materialism and capitalism, each individual must follow “his own occupation or trade.”⁵⁵ The law of *varna* “established certain spheres of action for certain people with certain tendencies,” thus at once naturalizing and institutionalizing caste.⁵⁶ The shadow of caste, a concrete manifestation of Gandhi’s civilizational ethos of duty and morality, hung over his *Ramarajya*.

Caste as a structuring force in Gandhi’s *Ramarajya* was not simply an unsavory vestige of pre-modern India; it was central to creating a reformed political and economic system in the postcolonial context. While *Ramarajya* was highly idealized, in the decades following Gandhi’s death, the Indian government has tried to implement many of its elements through campaigns, most notably the 2014 Clean India Mission (*Swachh Bharat Abhiyan*). The Clean India Mission is a country wide campaign aimed to “achieve universal sanitation coverage” by eradicating manual scavenging, improving the management of solid and liquid waste, and sustaining

50 Gandhi, *Hind Swaraj*, 104.

51 Rao, *Gandhi’s Dharma*, 210.

52 G.N. Dhawan, *The Political Philosophy of Mahatma Gandhi*, (Bombay, India: Popular Book Depot, 1946), 126.

53 Ibid, 282.

54 Raghavan Iyer, *The Moral and Political Thought of Mahatma Gandhi*, (New York: Oxford University Press), 86.

55 Gandhi, *Hind Swaraj*, 66.

56 *Ramarajya* also poses interesting and important questions about gender and patriarchy in village life, but unfortunately this line of inquiry is outside the scope of this paper.

open-defecation free behavior.⁵⁷ It is undoubtedly inspired by *Ramarajya*: it was initiated on the 150th anniversary of Gandhi's birthday; volunteers are known as *swachhagrahis*, clearly in reference to *satyagrahis*; and its messaging invokes Gandhian ideals of morality and duty.⁵⁸ Prime Minister Narendra Modi himself proclaimed, "I must admit that if I had not understood Gandhi's philosophy so deeply, the programme would not have been a part of my government's priorities."⁵⁹ Yet, the Clean India Mission relied on coercive state action in its interactions with Dalit and Adivasi communities because prevailing ideas of purity and pollution drawn from the caste system perpetuate open defecation in rural India. To spread its message to lower caste and tribal communities, the Clean India Mission relied on the spirit of neoliberal capitalism, aggressive branding, and the monetary aid of multi-million dollar conglomerates like Hindustan Unilever.⁶⁰ Neoliberal capitalism was the vessel through which casteism could inflict harm.⁶¹ The very ideals of morality and duty, when enshrined in the caste system, allowed *Ramarajya* to exist in accordance with the principles of neoliberal capitalism and state violence. When put into practice, Gandhi's *Ramarajya* was not a rejection of modernity and materialism, but rather a manifestation of the most oppressive elements of Western modernity. His ideal form of political governance was invoked to complete a fundamentally modernist project.

Khadi Capitalism: A Critique of Gandhi's Political Economy

Just as Gandhi's political philosophy was highly compatible with neoliberal capitalism, so was his political economy. Like his conceptualization of *Ramarajya* and political philosophy, Gandhi understood political economy as inseparable from ethical and religious pursuits. Through this religio-ethical lens, individual and societal economic interests were to be collapsed to avoid conflict between the two. Economic progress in the material sense was antagonistic to "real progress" in the ethical sense.⁶² As part of his political economy, Gandhi urged plain living, which entailed the curtailment of material desires to lead a more sustainable lifestyle: "More and more things are produced to supply our primary needs, less and less

57 "Swachh Bharat Mission," *Government of India*, <https://swachhbharatmission.gov.in/sbmcms/index.htm>.

58 "Swachh Bharat Mission," *Government of India*, <https://swachhbharatmission.gov.in/sbmcms/index.htm>.

59 "PM Modi: Gandhi inspired me to launch Swachh Bharat," *Economic Times*, Published October 2, 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/pm-modi-gandhi-inspired-me-to-launch-swachh-bharat/articleshow/66045561.cms?from=mdr>.

60 "Hindustan Unilever Limited: Spreading the message of Swachh Aadat across India," *The Hindu*, Published April 30, 2018, <https://www.thehindu.com/brandhub/hindustan-unilever-limited-spreading-the-message-of-swachh-aadat-across-india/article23729983.ece>.

61 Anand Teltumbde, *Republic of Caste: Thinking Equality in the Time of Neoliberal Hindutva*, (New Delhi, India: Navayana, 2018), 24.

62 Gandhi, "Economic and Moral Development" in *Hind Swaraj*, 154.

will be the violence.”⁶³ He urged small-scale and locally-oriented production that would not require large-scale industrialization or the use of machinery. Gandhi also emphasized the dignity of all forms of labor and suggested that every person, no matter their class status, should engage in manual labor, which he called, after Leo Tolstoy, “bread labor,” to understand the plight of agricultural laborers.⁶⁴ Plain living, small-scale production, and bread labor, in summation, formed the basis of Gandhi’s political economy.

The *khadi* programme was essential in enacting Gandhi’s political economy. *Khadi* was meant to be the national industry to benefit the masses by providing supplementary work to unemployed rural hands. The economics of *khadi* included a plan to produce, distribute, exchange, and consume hand-spun yarn and cloth. Its effects were meant to diminish unemployment, augment economic productivity, and increase the purchasing power and of the poor. As it was geared towards India’s rural population, *khadi* could rely on only the most simple and accessible technologies: the loom and the spinning wheel. It also had to rely on a local resource base for production and consumption.⁶⁵ As such, *khadi* played a crucial role in defining the structures of exchange in Gandhi’s political economy: each village had to be self supporting and self contained to adhere to the *khadi* programme. According to this highly fragmented doctrine, villages should only exchange necessary commodities with other villages where they are not locally producible.⁶⁶ Although *khadi* was meant to deliver material economic benefits to India’s rural population, as with other elements of Gandhi’s political economy, it also took on a profoundly moral dimension. It was integral to establishing what Gandhi referred to as a “non-violent economic order.”⁶⁷ While mill-made cloth was cheaper than *khadi*, it relied on “dishonesty,” “violence and untruth,” which is why it had to be opposed.⁶⁸ In the scope of Gandhi’s political economy, *khadi* was necessary to address the economic and moral needs of the Indian masses.

In promoting the *khadi* programme, Gandhi articulated an unequivocal opposition to industrialism and, by extension, state socialism. Labor-saving machinery, according to Gandhi, was highly detrimental to the lives of rural Indians; it was antagonistic to both man’s labor and true civilization: “Machinery has begun to desolate Europe. Ruination is now knocking at the English gates. Machinery is the chief symbol of modern civilisation; it represents a great sin.”⁶⁹ While statesmen like Nehru urged state-sponsored large-scale industrialization to bring India’s

63 Gandhi, *The Collected Works of Mahatma Gandhi*, vol. 22, 143.

64 Ibid, vol. 12, 51.

65 Trivedi, *Clothing Gandhi’s Nation*, 81.

66 Gandhi, *The Collected Works of Mahatma Gandhi*, vol. 51, 92.

67 Ibid.

68 Ibid.

69 Gandhi, *Hind Swaraj*, 106.

economy onto the globalized stage,⁷⁰ Gandhi insisted that “India does not need to be industrialised in the modern sense of the term.”⁷¹ His apathy towards state socialism was grounded in this uncompromising opposition to industrialism: if industrialism was a necessary step in implementing socialist policies, he would reject those policies.

However, while *khadi* was avowedly anti-industrialist, it was not unambiguously anti-modern. Just as Gandhi’s political philosophy resembles neoliberal ethical formation by erasing the structural role of colonialism, *khadi* does the same by erasing the structural role of capitalism. Gandhi’s political economy addressed the problem of inequality primarily on the individual level by pleading for necessary changes in lifestyle to limit one’s needs and conceptualizing the economy in moral terms. The cultivation of individual economic health apart from the travails of industrialism and heavy machinery was the guiding principle in Gandhi’s political economy: ethics and morality became co-opted by the logic of neoliberal individualism. The more structural features of *khadi*-- its production, distribution, exchange and consumption schemes-- also reinforce aspects of neoliberal economy and ideology. The confluence of a lack of state regulation and the supremacy of individual will in the context of atomized, self-sufficient villages is not far from the neoliberal ideal that reifies individual rights and competitive market relations.⁷² Just as neoliberal ideology obscures class conflict by dissuading class consciousness through the vocabulary of individualism, the moral and ideological ramifications of *khadi* portray class warfare as an instrument of social violence and disharmony.⁷³ Gandhian political economy sought to resolve economic inequality by preserving human dignity rather than ensuring material gains.⁷⁴ Gandhi’s political economy, in sum, was not so distant from modern neoliberalism.

Conclusion: Confronting the Postmodern Turn in Postcolonial Studies

Thus, Gandhi’s political philosophy and political economy were not divorced from Western modernity. Contrary to the writings of most historians and political theorists of contemporary India, I suggest that Gandhi’s political thought closely resembles neoliberal ideology, social relations, and economy even while it may seem, on inspection, unequivocally anti-modern. The methodological individualism that undergirds his conceptualization of *swaraj*, the centrality of caste and labor division in his political ideal of *Ramarajya* and his *khadi* programme all point to significant conceptual linkages to neoliberal capitalism. Through a critical reading

70 Chibber, *Postcolonial Theory and the Specter of Capital*, 249.

71 Gandhi, *The Collected Works of Mahatma Gandhi*, vol. 51, 93.

72 Whyte, *The Morals of the Market*, 12.

73 Harvey, *A Brief History of Neoliberalism*, 16.

74 Madan Gandhi, *Marx and Gandhi: Study in Ideological Polarities*, (Chandigarh, India: Vikas Bharti, 1969), 32.

of his work, I contend that Gandhi was not above modernity: he was entrenched in the systems, structures, and ideologies of modernity.

Understanding Gandhi's political philosophy as a modern intellectual contribution is crucial in confronting the recent postmodernist and poststructuralist turn in postcolonial studies, which seeks to replace class analysis or history from below with textual analysis and cultural theory.⁷⁵ This new orientation, through its methodological individualism, depoliticization of the social from the material realm, and wholesale refusal of programmatic politics, is both conservative and authoritarian.⁷⁶ By prioritizing ideology over existing structures of domination, in other words, it fails to engage with the material realities of colonialism and capitalism. This brand of scholarship, as I prove, uses Gandhi as its shining example. In my paper, I have attempted to dislodge this conventional perception of Gandhi as the embodiment of pure Indian nationalism untouched by Western modernity by pointing to the material implications of his political thought. In doing so, I hope to challenge the postmodern impulse within postcolonial studies.

More importantly, I strongly believe that a critical reading of Gandhi is necessary in our contemporary political moment. More than 250 million farm workers in India went on strike in November 2020 to demand better working conditions, including the withdrawal of new anti-farm bills that would deregulate agricultural markets by giving corporations the staggering power to set crop prices far below current minimum rates. Farmers are confronting neoliberal excess in its most globalized form, facing off against Prime Minister Modi as well as dozens of multinational corporations. While invocations of Gandhian political philosophy by far-right figures like Modi are often characterized as erroneous distortions of his thought within liberal nationalist scholarship, in reality they are the logical conclusions of his arguments.⁷⁷ Within the corpus of Gandhi's work lie the seeds of neoliberal exploitation. As farmers come to terms with an ever-growing and exploitative globalized economy, a careful examination of Gandhi's political thought may inform what a just postcolonial future should, and shouldn't, embody.

75 Sumit Sarkar, "The Decline of the Subaltern in Subaltern Studies," in Sarkar, *Writing Social History* (Delhi: Oxford University Press, 1997), 83.

76 Arif Dirlik, "The Postcolonial Aura: Third World Criticism in the Age of Global Capitalism," *Critical Inquiry* 20:2 (1994): 334, 328-56.

77 Mihir Bose, *From Midnight to Glorious Morning? India Since Independence*, (London: Haus Publishing, 2017), 122.

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Cause, Causation, and Multiplicity: A Critique of E. H. Carr’s “Causation in History”

Kyu-hyun Jo

Abstract

This paper will assess three central components of Edward Carr’s lecture “Causation in History” in *What is History?* First, Carr does not show causation’s real function of distinguishing between various types of history; the kinds of causes a historian employs describes the nature of their historical inquiry. Second, Carr’s notion of “accidental causes” is oxymoronic because accidents are unpredictable for any historical actor. There is no logic to explain why unexpected accidents had to happen for historical actors from their viewpoint. Therefore, its contrast with “rational causes” is misleading. Finally, however important causes are in formulating historical interpretations, causes do not determine a historian’s interpretation.

Keywords: E. H. Carr; causality; determinism; history; accidents; “rational causes”; hierarchy; methodology

1. An Outline of the Main Arguments

The explanation of causes in historical phenomena—explaining how historical events occurred by examining and describing the reasons behind their occurrence—is perhaps the signature hallmark of History as a Social Science. Yet, how does a historian know what a cause is and how should he or she explain the cause? This paper will provide a critique of Edward Carr’s methodology in his lecture “Causation in History,” collected in his seminal book, *What is History?* I will first assess Carr’s discussion of determinism, then discuss his distinction between accidental and rational causes, and finally, analyze how examples function throughout

the lecture to highlight his arguments. From such examination, I will emphasize the function of historical causality within Carr's framing of History as a scientific process.

After examining Carr's logic on historical causality, I will conclude with three main arguments. First, while Carr shows the necessity of causal explanations in historical analyses, he does not crucially show that the real importance of causes in historical explanation lies in their power to determine subdivisions in fields of historical research. Second, Carr's distinction between "accidental causes" and "rational causes" is misleading because "accidental causes" is an oxymoronic concept. Accidents occur unpredictably and unexpectedly from a historical actor's perspective, and it is impossible to accurately judge why an accident had to occur, unless a historical actor involved in an accident should miraculously resuscitate to directly inform the historian of the accident's details. Moreover, if the fundamental purpose of a historical cause is to provide a logical explanation to the occurrence of historical phenomena, Carr, in conceiving "accidental" as an opposing concept to "rational," is basically comparing illogical and logical causation in history. However, if "illogical" means "that which cannot be explained logically," then it is questionable how an "illogical cause" is actually an explanatory cause. It is possible to explain that an accident became an accident, even if it is much harder to determine why an accident exactly occurred. Insofar as there is an explanation, however unsatisfactory the quality of the explanation may be, explaining how an accident came to be called as such, still qualifies as being logical, or having the capability to be explained with reasonable statements. In other words, the contrast between accidental and rational causes in historical explanation is misconstrued because "accidental causes" is an oxymoronic concept.

Finally, while Carr may be correct in emphasizing the importance of causes in historical interpretation, he is mistaken in assuming that causes alone dictate the structure and content of historical analysis. The search for historical causes is only necessary for the sake of providing diverse angles of historical analyses; historical causes are not so important to exclusively determine and decide the entire content of a historian's interpretation. It is the historian's liberty to interpret facts about an event and then determine what the important causes of an event may be, but historical causes alone do not possess the great power to determine the direction of the historian's interpretation. Rather, it is interdisciplinary historical analysis, which provides a rationale, a justification for why certain causes have better explanatory causes for a certain historical event than others, which ultimately informs the direction of a historian's logic. The art of performing meticulous and exact historical interpretations involves adopting interdisciplinary methods, and only after the invocation of interdisciplinary methods to provide a rationale for establishing a hierarchy between causes can a historian perform interpretations.

2. A Brief Literature Review and the Significance of “Causation in History”

A close analysis and an examination of Carr’s conception of causality and his ideas is necessary because there has yet to be a systematic study of Carr’s “Causation in History.” The majority of the secondary literature on *What is History?* are book reviews that concentrates on commenting on the book’s overall structure and its main argument that History is a dialogue between the past and the present. This literature either mentions Carr’s discussion of historical causality solely in relation to his main argument, or ignores it altogether.¹ For example, in the most recent comprehensive discussion of philosophies of History and historiography, the author closely analyzes Robin Collingwood’s emphasis on human actions as the subject of historical inquiry is closely analyzed as a conditional theory for historical causation. Though Carr was a major critic of Collingwood’s views of History in general, neither Carr’s “Causation in History” as an independent work nor *What is History?* is given sufficient attention.²

Critical studies of Carr’s ideas regarding History have concentrated on his pursuit of objectivity and positivism, or his conceptualization of History as a study of causes. Ann Frazier (1976) argues against an absolute positivist view of History. She asserts that insofar as a historical narrative is a “reconstruction from present experience of what might have happened in the past,” it is impossible to absolutely determine what “actually happened in the past.”³ In other words, Carr’s vision for an objective and a pure History devoted to verifying past events with exactitude is untenable and impossible to realize. Geoffrey Partington (1979) criticized Carr’s “moral positivism and moral futurism” in favor of replacing them with relativism to better account for differences in time and place in which a historical event occurred when making a historical judgment.⁴ Most recently, Ann Talbot (2009), while comparing Carr’s view of chance and necessity with that of Leon Trotsky, concluded, “History is no longer a study of causality but is determined by the propensities of the historian.”⁵ In short, the secondary literature has engaged with various aspects of Carr’s view of History and concentrated on how historians write

1 Bernard Barber, “Review of What is History? by Edward Hallett Carr,” *American Journal of Sociology*, Vol. 68, No. 2 (September, 1962), 260-262; Seymour Itzkoff, “Review of What is History? by Edward Hallett Carr,” *History of Education Quarterly*, Vol. 2, No. 2 (June, 1962), 132-134; Jacob Price, “Review of What is History?: The George-Macaulay Trevelyan Lectures Delivered in the University of Cambridge, January-March 1961 by Edward Hallett Carr,” *History and Theory*, Vol. 3, No. 1 (1963), 136-145; Patrick Gardiner, “Review of What Is History? by E. H. Carr,” *The Philosophical Review*, Vol. 73, No. 4 (October, 1964), 557-559.

2 Aviezer Tucker, “Causation in Historiography,” in Aviezer Tucker ed., *A Companion to the Philosophy of History and Historiography* (Chichester, United Kingdom: Wiley-Blackwell, 2011), 101.

3 Ann Frazier, “The Criterion of Historical Knowledge,” *Journal of Thought*, Vol. 11, No. 1 (January, 1976), 66-67.

4 Geoffrey Partington, “Relativism, Objectivity, and Moral Judgment,” *Journal of Educational Studies*, Vol. 27, No. 2 (June, 1979), 125-139.

5 Ann Talbot, “Chance and Necessity in History: E. H. Carr and Leon Trotsky Compared,” *Historical Social Research*, Vol. 34, No. 3 (2009), 95.

about the past and how recent interpretations of History have abandoned Carr's concern for causality.

However, the secondary literature, in particular Talbot, does not explain *why* Carr's search for the role of causality in the writing of History is outdated, missing the central value of "Causality in History" as Carr's most definitive statement on what History is as a science, for it is in this lecture where a truly scientific and methodical answer to the title of Carr's book actually appears. A critical examination of Carr's conception of historical causality is necessary to show why it is outdated or, as I noted earlier, there are three major deficiencies in Carr's logic about historical causality. In "Causation in History" Carr develops the most methodological and structural argument about the nature of historical causality and criticism against historical determinism, which taken collectively, is actually devoted to explaining why History is a science, rather than explaining causality's place in History for its own sake. Carr's views about causality in History are essentially concerned with how causality functions in History to give its scientific character, not whether History's entire academic identity is simply a study of causation. It is in this particular lecture where Carr's understanding of History as a science in terms of approaches and methodology is most clearly expressed and where a genuinely structural analysis of History as a science—how historical causation reflects the scientific nature and essence of History—is most lucidly given.

In short, this particular lecture deserves a close analysis because it explains why and how History functions as a science: by ordering facts through causality to transform historical fact into historical knowledge. How History becomes understood as History to a historian is perhaps the best method to know how history becomes transformed into professional History. This paper intends to highlight the importance of causation within the question, "What is History?," later evaluating Carr's ability to frame historical inquiry as a scientific process through causation and causality.

3. Carr's Main Ideas on Historical Causality

Carr opens his discussion about historical causation with the observation that the historian "commonly assigns several causes to the same event."⁶ However, the historian is bound by "a professional impulse to reduce it to order, to establish some hierarchy of causes which would fix their relation to one another" to decide which cause should be "the ultimate cause, the cause of all causes."⁷ In other words, Carr believes that a multiplicity of causes serves a secondary function of letting the historian rationally prioritize a single cause that produced an event.

6 Edward Hallett Carr (New York: Pantheon Books, 1961), 116.

7 Carr, *What is History?*, 117.

From this discussion of the historian's need to identify an order to historical causes, Carr argues that "historical determinism" and "chance in history" are "red herrings" which obstruct the logical flow of historical causation and proceeds to show how they are not part of a proper historical logic. "Historical determinism" is "the belief that everything has a cause or causes, and could not have happened differently unless something in the cause or causes had also been different."⁸ In other words, "historical determinism" assumes that the occurrence of every phenomenon in life is dependent on a single cause unique to that particular phenomenon such that even the slightest alteration in the cause would necessarily produce a different phenomenon.

However, Carr sees "historical determinism" as both unsatisfactory and unrealistic because it does not recognize the unpredictable vicissitudes of human behavior and actions. According to Carr, the choices people make defy strict classification as either a matter of free will or logical determinism. He believes that various forms of human behavior and actions can arise from both free will and determined causes, arguing that historians are flexible in understanding human actions to arise from both sources.⁹⁴ From this reasoning, Carr does not entertain the view that historical events occur "inevitably," unless "inevitably" is qualified to mean that antecedent causes would have to be different for an event's outcome to be radically different from what was expected.⁵¹⁰ Since Carr is uncomfortable with the notion that historical events occur in a vacuum, it is unsurprising that he also finds explanations relying on "chance" or "accidents" unsatisfactory. Not only are accidents unexplainable through "historical determinism," but accidents are also causal interruptions to a string of events which a historian wishes to investigate. In other words, the occurrence of an accident is not a license with which a historian can argue that there was no clear cause for an event to occur; an accident is merely an obstacle preventing the historian from focusing on a chain of causality which clearly awaited the historian's discovery.

Of course, Carr is aware that it might be possible for accidents and chance events to happen in history, for such occurrences are not only minor, but are continually compensated by other accidents or chance events, and "chance" might be a "character of individuals."¹¹⁶ In other words, the randomness of accidents is possible because an accident is by nature an unexpected event and the forms in which it may occur are varied and diverse, and may be influenced by the unpredictable variety of personalities of every individual. Yet, Carr finds these apologetic defenses of accidents and chance events unsatisfying because accidents and

8 Ibid, 121-122.

9 Ibid, 122-123.

10 Ibid, 126.

11 Ibid, 133.

chance events are often “seriously exaggerated,” or perceived to “accelerate or retard” historical progress, a sentiment which Carr dismisses as mere “juggling with words.”¹²⁷ Moreover, he thinks that “chance events” are “natural occurrences” which complement each other is merely an euphemism to claim that there are events in life we cannot comprehend. Carr believes that those who use accidents in their theories have granted themselves the undeserved liberty to excuse themselves from the tedious business of rigorously investigating causes of an event. Such a person, in Carr’s view, is “intellectually lazy” or possesses “low intellectual vitality.”¹³⁸ In other words, because accidents are also induced via human activity and actions, Carr does not believe that accidents truly occur unexpectedly or without any causation. Insofar as accidents can be caused by some faults in human personality or will, these faults, however inherently various, deserve to be studied as causes behind the accidents they create. The historian must observe and analyze accidents just as he or she would investigate any other “normal” political, social, or cultural event and ponder on why the accident occurred or whether it could have been avoided or prevented at all.

So how does a historian pay proper attention to historical causes and formulate a causal relationship between historical facts? For Carr, it begins with the realization that there is little to distinguish between “historical” and “unhistorical” facts such that it is always possible for the latter to become the former.¹⁴⁹ For example, someone living in 1066 and directly witnessing the Battle of Hastings might record that the battle “is taking place,” but once a historian agrees with the witness who claims that it was important that the battle occurred, the historian preserves the fact that the battle occurred in the past and has historical importance by simply stating the same fact in the past tense: “The Battle of Hastings clearly occurred in 1066.” Yet, the murkiness of the distinction does not mean that all causes are to be treated equally, for Carr believes that there are “rational” and “accidental” causes. The former can be applied to diverse countries, eras, and conditions, which warrants generalizations. By contrast, “accidental” causes, which have to be specifically devoted to explaining how an accident as a particular event in a specific time, location, and circumstances, cannot be generalized. An accident occurs under particular conditions and is fundamentally a result derived only from the particular conditions and therefore “teach us no lessons and lead to no conclusions.”¹⁵ In other words, rationality for Carr is synonymous with generality, while “accidental” causes are limited in their generality because they can only be comprehended only within the specific contexts they had occurred.

12 Ibid, 137.

13 Ibid, 134.

14 Ibid, 135.

15 Ibid, 141.

The more important point is that “rational causes” have purposes borne from human motivations, whereas “accidental causes” do not have an objective. With that said, such a distinction does not mean “accidental causes” can be dismissed. Regardless of the type of cause, Carr believes that insofar as historians are expected to make interpretations about them, they are issuing value judgments, and causality is “bound up with interpretation,” for the act of assigning causes is itself a judgment. Moreover, because history is a purveyor of tradition, history is obligated to be a record of “past habits and lessons of the past” for future generations.¹¹⁶ Due to the arbitrary and selective nature of historical time, Carr concludes by arguing that historians must habitually ask “whither” along with “why?”¹⁷¹² The audience for whom the historian writes is as important as personal and private reasons for which the historian writes history.

Carr believes that the historian’s search for causation necessarily implies a search for an ultimate cause which can clearly answer why a phenomenon occurred, and insofar as a historian is searching for the ultimate cause, “historical determinism” is unsatisfactory because it disregards the importance of multiple causality in accounting for the unexpected and unpredictable nature of historical events. Carr also finds the treatment of “chance” or “accidental causes” as synonymous with “no causation” as unsatisfactory, because they are just masking a historian’s laziness or unwillingness to scrutinize historical events very closely to find a logical causation between them.

Finally, regardless of whether a cause is “rational”—has the ability to be generalized—or is “accidental”—happens by pure chance or as an outcome of unexpected events—distinctions between them are not very important because causality in general must inform a historian’s interpretation, which, in turn, is a form of value judgment. The possibility of a “subjective” causality is not an excuse to not treat “accidental causes” or “rational causes” unequally, for the division of time, which is the basic element of a historian’s thinking, is a subjective category which is bound to change depending on the nature of a “future” a historian is interested in addressing. As long as the future is subject to change, so will the perception of “past” and “present,” which is why a historian must be well aware of the purpose for which he or she desires to write history and the audience for whom the historian wishes a work to have a lasting influence.

Logic is important to maximize the delivery of rhetorical clarity, for it is the essence of an argument’s organization. Yet, because logic is a general description of a reasoning’s supposed trajectory, logic needs to be supplemented with proper examples to illustrate and convince others that the trajectory is an accurate and

16 Ibid, 142.

17 Ibid, 143.

rational one. This section has shown how Carr's logic about historical causation could probably be considered rational; the next section will examine and analyze Carr's use of examples to determine whether there is sufficient rhetorical strength in the logic to convince the reader that the logic is traveling on its proper and designated route.

4. Carr's Use of Examples and Their Logical Compatibility with His Main Points

This section evaluates Carr's usage of historical examples in illustrating his main themes and arguments, offering a critique about the propriety of the examples in relation to the points they are making. In particular, it will concentrate on Carr's examples drawn from the Russian Revolution and the accident of Robinson. This section will conclude that while his use of these examples is sound because he effectively illustrates the importance of unpredictability in historical causation to a historian's thought process, the Revolution and the accident of Robinson do not greatly support Carr's main theoretical argument because they do not show how and why a particular hierarchy of causes is necessary for one example but not the other.

Carr uses episodes from the Russian Revolution to illustrate his opposition to historical determinism. There are several problems with Carr's use of the Russian Revolution as an example to counter the assumptions of historical determinism. Fundamentally, the example does not show how Carr would be able to choose his "ultimate" cause behind the Revolution's origins. While it is clear that multiple causes must be considered to establish the complexity of the event and thereby highlight its importance, Carr does not show *how* a hierarchy of causes can be derived from a consideration of multiple causes. What he actually wishes to show by discussing the Russian Revolution is that "historical determinism" is not a proper historical logic because it essentially engages in counterfactual reasoning, which is not germane to the historian's critical aim of determining the past as it is. Against historical determinism's charge that a historian may not consider other alternatives while focusing too much on one cause, Carr argues that supposing that Stolypin had completed the agrarian reform or that the Bolsheviks did not win the Russian Revolution are not relevant to historical determinism, for the determinist would simply look for causes other than ones which actually occurred to argue that different causes would have different outcomes. Hence, Carr suggests that the suppositions have "nothing to do with history," because counterfactual assertions cannot be proven with any certainty with documented evidence and are non-historical.¹³¹⁸

18 Ibid, 127.

The problem is that Carr never really identifies the precise kind of historical interpretation for which his example from the Russian Revolution is meant to offer support. If the suppositions he made are not “historical,” then the real question is, which suppositions should be deemed “historical?” Refutation by negation does not necessarily lead to clarity; it only serves as a proof of what an opposing argument cannot be, rather than proving the essence of the opposing argument. Moreover, because the basic theoretical argument against “historical determinism” is that historical events have multiple causes and do not occur in a vacuum, Carr’s example should have shown how a genuine historical argument can be fruitful by considering multiple causes. After all, the real problem Carr has with “historical determinism” is that it assumes that historical events were bound to happen without any particular value ascribed to the events’ circumstantial causes. Since Carr is uncomfortable with the unscientific and unhistorical nature of the philosophy, it would have logically made more sense for him to show how historical logic operates in a coherent and powerful manner such that it could not be easily dismissed by proponents of historical determinism. Hence, it would have sufficed to show how causation and causes operate in a historical analysis rather than a proving how “historical determinism” has a faulty logic, since the fact that there is a deficiency in an opposing logic does not necessarily imply that an alternative logic must be better simply because it does not have that deficiency.

The other problem with Carr’s use of the Russian Revolution is his assumption that the supposed currency of the Russian Revolution as a “modern historical” problem has greater importance than “older” events such as the Norman Conquest or the American Revolution. Carr believes that there is a greater desire to remember “options” still available for a more recently concluded historical event than much older ones. Carr claims that the expression of diverse passions from non-historians makes it hard for them to accept conclusions of a historian who merely recounts an event as it happened.¹⁹ Carr does seem to show why “historical determinism” is popular, but his analogy does not necessarily prove why “historical determinism” is an unhistorical logic. All events eventually get forgotten to certain degrees in which some facts are going to be better known than others, but it is primarily a historian’s scholarly curiosity which determines the importance of a historical event. Since every historian must have different reasons for believing that a historical event is important, the only impediment with regard to time would be the availability or lack of primary sources rather than a poverty of a historian’s imagination or will to realize innovation. “Older” events were once “modern” and therefore, importance is inherently a subjective standard which arises from the question of how well individuals remember events. People do remember events

¹⁹ Ibid, 136.

which are closer to their immediate memories better than older ones in terms of general details, but squabbling over how alternative causes behind an event might have changed the actual outcome is not necessarily the only reason for which a “modern event” must be remembered better than an older event.

Christopher Columbus died believing that he had discovered “India” instead of the Caribbean, but the fact that the person might engage in a “historically deterministic” debate about how the course of history might have been different had Columbus really landed in North America does not necessarily mean that the person would not engage in historical determinism about other historical events, especially if the person has a passionate interest about them. Chronological distance has no definite correlation with interest because the latter is not necessarily dependent on time but rather on this person’s intellectual curiosity regardless of the event’s currency to the immediate present.

Furthermore, thinking historically is a capability, not a matter of predilection. Even if that person remembers the IMF Crisis better than Columbus’s discovery of the Caribbean, it does not follow that “unhistorical” suppositions such as “if Columbus had set sail for Africa instead, he would have never discovered the Caribbean” are not relevant to historical thinking. A “cause” is not some given concept or model; one has to think through a selection of reasons behind an event to determine which reasons were essential and which ones were merely auxiliary or unimportant in precipitating the occurrence of a phenomenon. Counterfactual reasoning can help a historian think through a rationale for why a supposed cause is actually a noteworthy one; the only caution is to only think through counterfactual claims, not write them down as part of the actual historical reasoning. In other words, the clarity of memory does not necessarily lead to more “historically deterministic debates” because logical clarity is independent from the question of whether that logic is “historically deterministic.” It is perfectly logical to assume that if Columbus had not been adept at sailing when he was young, then he would have not made the voyage to the Caribbean, for one is only thinking about the causal logic of actions in a given situation and time period without describing the historical consequences of those actions. Thinking about historical events does not always have to imply that one is only thinking about history in terms of chronology, for situational logicity is also important to fathom causality in action, which is what gives contextual meaning and significance to time.

Moreover, “historical determinism” is an attitude about a particular event or a specific set of events for which a different outcome would have been likely had causes been also different from ones which were originally suggested. Why assume that a desire to adopt such an attitude is stronger with a modern event than a more chronologically distant one? The expression of a particular attitude is not necessarily dependent on how new or old an event is, and chronic difference between

a historical event and the individual who is remembering the event may vary according to the individual who decides to remember it. Yet, emotional attachment to a particular event need not inversely relate with chronological distance because reasons for recollection are far too varied to summarize merely as a function of time.

As long as “modern” is a relative term expressed from the viewpoint of certain individuals and groups, there will be no rigid standard to determine which memories constitute “modern history.” Moreover, if the historian’s task is to select an “ultimate cause” of a particular event, how can a historian be so sure that there is an “ultimate cause” without ranking a supposedly “historically deterministic” cause? The danger of falling into “historical determinism” is not a good reason to avoid considering hypothetical claims, because a historian can always change hypotheses into positive statements by searching for relevant primary and secondary sources to test whether or not there is sufficient evidence to prove its validity. The suitability of a historical cause’s use as part of a historical argument is first and foremost dependent on how reliable that cause is.

Carr’s other main concern about historical causality is the disturbing use of the concept of “accidents” in history as synonymous with the idea of “no causation.” The primary example that he uses to illustrate his critique is “Robinson’s accident.” Carr gives a hypothetical example of Robinson, who was crossing the street to buy cigarettes but was unexpectedly struck and killed by an oncoming car. However, if the driver was intoxicated, was driving a car with defective brakes, and hit Robinson in a dark alley where barely anything was visible, what was the actual cause of the accident—Robinson, the defective brakes, the dark alley, or the drunk driver? Instead of answering his own inquiry, Carr states that if two passers-by were to give the opinion that Robinson was killed because he was a heavy smoker, and that had he not gone out to buy the cigarettes, there would have been no accident, they would be employing a “kind of remorseless logic found in *Alice in Wonderland* and *Through the Looking Glass*.” Carr concludes by remarking that such hypothetical reasoning is not a mode of thought appropriate for history.²⁰ The main deficiency he finds in the concept of “accidents” is that an “accident” is also an historical event. It is therefore subject to a historian’s analysis of preceding causes leading to the occurrence of the accident. In other words, “accidents” cannot escape a historian’s scrutiny just because they seemingly occur without any single clear cause. However complex an accident may be, Carr believes that there is still a hierarchy amongst causes behind an accident which allows the historian to discern between primary causes and auxiliary or negligible ones. The historian’s

20 Ibid, 138. In the actual passage, he calls it the “Dodgsonian mode” after the author of *Through the Looking Glass*.

ability to discern “relevant facts” from “irrelevant facts” until there is a “rational quilt of knowledge,” represents an approximation of a historian’s working mind.²¹

Unfortunately, Carr does not give a clear answer to the critical question, how does this discernment actually work in practice? There are two ironic errors that Carr commits in telling this narrative. First, despite Carr’s attempt to show why “accidents” are still valid elements to consider in historical thinking, he chose the wrong type of example; his example is purely unhistorical. We are only presented with a sequence of actions within one ‘historical’ moment rather than several different yet interconnected events across a wide span of time. When historians consider an accident and its causes, they always consider the accident’s relative importance to other events, figures, or conditions. To declare that an event is “historical” is to designate a relational quality which suggests that an event has a “historical significance” which can describe the event’s relationship or value by connecting with other events, figures, or conditions. If one is ever inclined to declare that a single event alone is historically significant, it can only happen because one presupposes that the event is already well-known because of its relationship with preceding or simultaneous events.

For example, from Archduke Ferdinand’s viewpoint, his assassination by Gavriilo Princip was an accident. However, before investigating the causes of the assassination, the historian must establish a rationale to explain why studying the assassination is important. In the case of Archduke Ferdinand, the historian, using a bit of hindsight, can argue that the assassination began a massive wave of violence which rattled across the European continent and ignited the sparks of World War I. By contrast, in Carr’s example, we are not given a reason to believe that studying Robinson’s accident is historically worthwhile. In other words, because Carr did not explain the “historicity” of Robinson’s accident, we are not presented with a credible reason to believe that this is a historical event.

Carr’s second error is that if we consider Carr’s reason for invoking Robinson’s accident as an example, the example does not illustrate a necessity or method to find multiple causes in historical analysis. If a historian’s prime objective in searching for multiple causes is to search for an ultimate cause for a historical phenomenon, then Carr ought to have shown how a historian might approach Robinson’s case as a historical phenomenon. His conclusion that a historian engages selectively with causes is not actually a literal answer to any of his two-part question: 1) How does a historian choose multiple causes? and 2) How does a historian actually select an “ultimate cause” from those multiple causes? This is because there is no reason to assume that there must be a single cause for Robinson’s accident at all unless Robinson himself or the driver told the police that there was actually one

21 Ibid, 136.

cause to the accident. Even if the driver had told the police that there was only one cause, it is purely the driver's own opinion which may or may not be corroborated by other witnesses or circumstantial evidence. From an unassuming observer's point of view, there is no exact means to verify a sequence of events and pinpoint a singular cause because the observer did not encounter Robinson's accident in real time along with Robinson. Insofar as this difference between an observer and Robinson exists, there will always be a gulf between speculations and the actual truth.

Indeed, because of this gulf, the real moral of Robinson's accident ought to have been that searching for multiple causes is necessary for a historian to account for every possible explanation of a phenomenon, since the point of finding possible causes of an accident is to establish that an accident can be explained to convince people that the accident can be perceived as an accident. Carr's argument that one should establish a "hierarchy of causes" implies that there is a particular cause which outranks others in terms of importance. However, there is no such thing as an absolute verification of a truth's minute details for the historian, unless, very rarely, absolute verification is a necessary condition to prove the soundness of his or her main arguments. A historian is obliged to consider as many aspects of a past event, but no one can know every single detail to get a complete and impeccable picture of an event. The historian has the right to exercise a liberty of imagination based on primary sources and eye-witness accounts, but the historian must also understand that his or her tools to unearth historical facts also delineate the parameters of epistemological certainty.

Moreover, Robinson's example also poses the question of how a historian determines a cause of an accident as an accident, a process that is limited by the quantity and quality of evidence one can find. Since the parameter of what constitutes historical knowledge is bound to change depending on which sources this historian can find, Carr is actually unable to answer the first part of his question. Furthermore, because the parameters of knowledge are at the mercy of the availability of historical sources, an attachment to the belief that there must be an ultimate cause is both unrealistic and false, which is why Carr is never able to give a clear answer to the second part of his question. Historical causes are not tangible and therefore cannot be visually compared with each other. Of course, if a historian is writing an autobiography and writes a history of his or her life from what he or she remembers, then, there might be some liberty for the historian to rank causes and choose the ultimate one. In such a case, there is no basis from which another historian can ask why the causes were ranked in one way but not another, because every mind has but one master.

The absence of a hierarchy among causes does not imply an absence of certainty or that historians ought to be skeptical about everything they encounter. To the

contrary, there are undeniable truths in history such as the Holocaust or Russian pogroms of the 19th century. Rather, acknowledging a multiplicity of causes allows for a holistic consideration of multiple dimensions of a historical event from which causal explanations can be drawn, which actually prevents a historian from engaging in “historical determinism.” If the objective of studying a historical event is, as Carr claims, to search for one cause with absolute explanatory power, then the historian is actually engaging in ‘historical determinism’ because such an objective reflects the idea’s actual essence. Hence, Carr’s opposition to “historical determinism,” which was precisely because he believed in the multiplicity of causes, does not logically follow from invoking Robinson’s example. Furthermore, the witnesses in Robinson’s accident were actually reflecting Carr’s faith in the multiplicity of causes, so the next task was for Carr to show how he could select his ‘ultimate cause’ for explaining why Robinson died. Instead, Carr vaguely suggests that the historian has to be selective about his causes without explaining the end to which this selectivity has value. Hence, Robinson’s example is actually a Straw Man argument because the original purpose for which the example was mentioned does not become clear until Carr supplies a rationale for justifying a hierarchy of causes. As for how and why the hierarchy fundamentally exists, Carr never gives a clear answer. Therefore, Robinson’s death merely illustrates an argument about an element which is not extant in any of Carr’s arguments prior to his discussion of Robinson’s death.

5. Three Central Problems with Carr’s Methodology in “Causation in History”

In this concluding section, I will identify three central problems with Carr’s method which will serve as a summary of this paper’s main arguments. First, Carr’s notion of a hierarchy of causes and its importance in historical explanation is unfortunately quite nebulous because he never specifies the purpose behind the existence of the hierarchy, ignoring the true function of historical causes as a form of scientific processing. Second, Carr’s distinction between “rational” and “accidental” causes is not valid because regardless of an event’s nature, multiple causes are necessary to account for inherent complexities in any historical event and such causes ultimately serve as evidence for a historian’s claim, which means that the more causes a historian can find, the more reliable and believable a historian’s account becomes. On the one hand, multiple causes are necessary to describe different facets of a phenomenon; a historian will summarize his or her main arguments to show readers how those facets constitute the “wholeness” of a historical fact. On the other hand, there needs to be a multiplicity in the kinds of causal analysis a historian uses to approximately position arguments within a given subfield of History. Finally, Carr is wrong to suggest that causes determine a historian’s interpretation because the former is just a means for which the historian has

the freedom to determine an end. Causes are merely building blocks with which a historian constructs an independently designed interpretation.

With regard to Carr's questions about how a historian chooses multiple causes and selects an "ultimate cause" among them, I argue that the only certainty a historian can have comes from ascertaining that the nature of *a* cause aligns with the field in which it must be accurately used. When a historian asks the question, 'Why was Archduke Ferdinand assassinated?' the historian implicitly means that, in general, he or she is looking for political causes specifically related to nationalist motivations behind the assassination and its impact on the outbreak of World War I, rather than cultural or social causes behind the rise of nationalism in a general sense. An argument can be made that such distinctions can be interchangeable, since Gavrilo Princip's association with the Black Hand was a culturally motivated expression of a desire to express Serbian nationalism. However, "political" and "cultural" cannot be so liberally applied in an interchangeable manner because they are merely generic labels conceived under the assumption that historians and the general public know that such a distinction can exist. A historian may find out that Gavrilo Princip preferred Serbian circuses to Austrian ones, but one does not use this cultural fact to describe anything with sufficient certainty about Princip's personal decision to assassinate Ferdinand, even if there is nothing mentioned in primary sources about it.

The transformation of a fact into a cause is actually a fixed relationship, in which a fact can become a cause, but a cause alone can never become a fact. The historian's designation of an occurrence as a cause reflects a personal belief that an element within a historical figure's character or a historical event has some reasonable degree of explanatory power. History is, in general, filled with facts, but it is the conditional possibility of several facts turning into believable causes of a historical phenomenon which truly excites the historian. Causes are essentially facts whose relationship amongst themselves and the phenomenon which they wish to explain is firmly and convincingly established by a rich array of primary sources. Facts which hardly need any source-based proof are not likely to become causes because they are generic and mundane enough to be independent of any historical situation. In short, what Carr really means by "a hierarchy of causes" is that not all causes are created equal. The real problem is that Carr never really demonstrated what a hierarchy of causes is. While it may not be possible to *definitively* identify which types of causes matter more than others, Carr ought to have at least shown how a hierarchy among causes can be conceived.

Yet, the real heart of the matter is that Carr could not actually show his audience that a hierarchy among causes exists because there is no singular standard of a "hierarchy," other than what a scholar perceives through a meticulous reading of the relevant historical literature. That Carr could not provide a concrete hierar-

chy strongly suggests the impossibility of doing so because different hierarchies of causation matter for different subfields of History. Movement of capital, markets, and industrial structure in the early 18th century matter more as direct causes behind the Industrial Revolution than as causes behind the death of the *Avant Garde* in the late 20th century.

The difference in subfields also translates to differences in particular “states of the field,” or the variance in the levels of academic discourse about various historical topics, leading to different developments in varying facets of historical inquiry. The nature of primary or secondary sources a historian must search for necessarily depends on the questions the historian wishes to answer in relation to how certain historical topics have been addressed in the existing scholarly literature. In other words, a search for primary or secondary sources is a dependent variable of “current” historical scholarship because the main function of amassing historical information is to facilitate a productive and meaningful scholarly debate. This debate, in turn, will invite future generations of historians to construct new angles and roads along which the debate must continue. Moreover, because proving causality in historical analysis can only be done through a meticulous examination of primary and secondary sources, it follows that the richness in illustrating historical causality is dependent on the availability of sources. In short, ascribing a strict sense of a hierarchical notion of historical causality is impossible because of three main variables: multiple causes and multiplicity in the kinds of causes, a rigid relationship between facts and causes, in which only the former can transform into the latter, and finally, differences in subfields and varying conditions in historiography, which imply that a historian must pragmatically conceive of a hierarchy of causes which reflects the availability of primary and secondary sources and their ability to cogently deliver a progressive view or methodological contribution to the existing scholarship.

The second major problem with Carr’s method is his misconstrued distinction between “rational” and “accidental” causes. An “accidental” cause is a misnomer because no cause can arise without a reason. Even the most unexpected events have clear causes because searching for causation is essentially identical to searching for reasonable connections previously ignored or overlooked. Furthermore, if Carr himself acknowledged that ‘accidental’ causes need to undergo strict academic scrutiny as much as “rational” causes, then what he really means is that a scholar must have the same approach and attitude toward “accidental” causes as he or she has toward “rational” or normal causes.

Yet, Carr does not illustrate how a historian actually investigates “rational” causes because he is interested in comparing “accidental” causes with “rational” ones rather than demonstrating how a historian uses each type of cause to construct a historical analysis or make an observation. In practice, Carr did not have

to make a distinction between the two causes. A historian can propose rational explanations for supposedly accidental causes, and once this is done, there is no difference between “rational” and “accidental” causes. I will illustrate my point by comparing Caesar’s crossing of the Rubicon as a “rational” event, and Pierre Curie’s carriage accident as a literally “accidental” event. I will show how these two events deserve equally serious scholarly attention because they all involve the same process of investigation, regardless of an event’s nature.

Caesar’s decision to cross the Rubicon would be a rational event because the crossing itself is a “reasonable” action in that a man mounted on horseback can cross a river because he has the will and means to do so. Such an action can be expected, for regardless of what the Roman Senate thought, Caesar only had two choices: defy the Senate by crossing the river or obey the Senate and let them limit his actions. Caesar’s decision to cross the Rubicon was not “surprising” as an action in itself; neither would the decision not to cross be surprising, unless Caesar somehow died for reasons unrelated to the crossing.

By contrast, Pierre Curie’s carriage accident is not a rational event because the exact circumstances are open to much speculation. We do not know so many details about how Marie Curie’s husband died, but it would hardly matter whether the driver of the carriage or Pierre Curie was drunk or whether Curie was jogging when the driver lost control of the carriage and hit Curie at break-neck speed. What remains true independent from causes is that it was an accident because neither Curie nor the driver would have expected to run into each other, for they were no mutual acquaintances.

According to Carr, the rationality of a cause does not affect its historical investigation, making both “rational” and “accidental” causes garner the same approach. Although Carr never defines what a “rational” event is, since human beings are responsible for creating events, it follows that what is rational is what can be expected within the realm of reasonable human behavior and thought. If the primary function of historical causes is to explain why a phenomenon, regardless of its nature, occurred, then identifying how an accident became an accident is in itself an explanation, no matter how unexpected or unforeseeable the accident must have been to the people involved in it. However, regardless of how much we know or do not know about Caesar or Pierre Curie, the principles of research remain identical. A historian must first amass all records on the crossing of the Rubicon and Pierre Curie’s accident, gather any witness testimonies to corroborate on controversial or obscure aspects of each case, perform a theoretical analysis of causes and speculations, and finally, arrive at reasonable conclusions based on the existing evidence. The rationality of the research process which is common to both events is what makes a study of the two events rational, for the nature of an event does not necessarily reflect or dictate the nature of the means with which one

ought to study each event.

If accidents, like rational events, also have causes, then Carr ought to have shown how “accidents” could be considered the antithesis of rational events. An accident is unexpected, but is not irrational, for every cause of an accident is borne from actions which the individuals involved consider rational. If two speeding cars collide, it could be an accident borne from the drivers’ disregard for the speed limit, or from one driver’s inebriation. Still regardless of whether it is due to mishandling the car or personal flaws, none of the causes are irrational. Disregarding the speed limit or drinking heavily may have been a mistake, but neither of these activities are incapable of having a logic ascribed to them, for a historian can still argue that committing these mistakes, regardless of their severity, contributed to the occurrence of the accident.

Insofar as all actions have causes and motives in their creation, the historian is obliged to study them with an eye towards collecting all relevant facts, an action unrelated to how rational or irrational a historical event may seem. It is because, as I argued through the example of Caesar crossing the Rubicon and Pierre Curie’s accident, no elements are beyond the reasonably expected scope of human behavior. Regardless of whether an event was planned or turned out to be an accident, what remains constant in both cases is that there are various actions a person can take at a particular time, and every action will have a distinct set of reasons. Carr’s distinction between rational and “irrational” causes is therefore, a faulty comparison, for there is no clear reason given to believe that accidents are inherently “irrational,” and because historians can also surmise about causes behind accidents insofar as accidents are human-induced events.

The final point of this paper is that a historian’s personal selection of causes does not dictate a singular direction of interpretation. Establishing causation and providing interpretation are independently creative activities conjoined by the necessity to give coherence to a historian’s general argument. Carr seems to believe that a historian is reflecting private opinions through a selection of causes, but the selection is only the means to the ultimate end-to generate a unique interpretation which does not necessarily reflect what the causes themselves have to say about a topic. Causes in and of themselves reflect no emotions; until the historian judges the causes to be positive or negative in nature in relation to the argument he or she wants to make from the causes, causes are merely guidelines and building blocks to the overall argument which gives the essential structure to the historian’s logic. Causes merely reflect a historian’s judgment about a possibility in believing that a phenomenon happened in one direction. The real essence of the historian’s argument lies in what the historian thinks about the phenomenon, not the causes. The historian’s attention must not be limited to understanding how a car’s assembly line malfunctioned, but be extended to observe how the car as a finished product

qualitatively suffers as a result of faults in the assembly line.

Carr's argument about causes might be feasible if a historian is trying to find out the causes behind a historical tragedy, but even in this case, the historian's real argument is about proving one can see that it was a tragedy. For example, if the sinking of the *Titanic* was truly due to a crash into an iceberg, and a historian proves that indeed it was so, the moral of the research is not just that "a ship hit an iceberg and sank." Rather, the moral is that because of this linkage, one can conclude that it was a terrible accident and a tragedy. Even if a historian should conclude with identifying the iceberg as the cause of the tragedy, the identification of the cause does not dictate the interpretation of the phenomenon because interpretation is not about identifying what or why something happened. Instead, interpretation is concerned with what one should observe from the structure of a historical phenomenon that emerges from identifying the cause behind the phenomenon. Identifying causes alone does not make the study of History interesting; one needs to show how causes function to produce original observations about a holistic phenomenon that emerges from showing a causal relationship between or within a series of linked phenomena.

Once a general picture of a historical phenomenon emerges, every historian can have a glimpse into how the phenomenon got concluded, no matter how many diverse facts about it are unearthed. Yet, the most interesting question in historical research is not what happened, but how an event unfolded to produce a particular result. In answering "how," every historian is bound to focus on diverse and specific causes to explain the general outcome. Most historians will not focus on what the importance of a particular cause is simply by analyzing the cause in its own terms but on what that cause means in relation to a web of other multiple causes. Furthermore, since a cause is but one element in a historian's interpretation of relations between phenomena; what are termed "causes" were actually phenomena happening in real time for historical actors. Therefore, the originality of historical interpretation does not arise simply from cherry-picking elements from a single phenomenon to serve as "causes" but in linking multiple phenomena into one grand narrative. In creating this grand narrative, the historian's goal is to show how the phenomena relate to each other, and therefore to produce an original view about how to understand the relationship.

What Carr's arguments do show is that a search for causes and causation is worthwhile because every historical cause originally begins from ascertaining historical facts, which in turn, helps a historian discover and rationally explain new discoveries. Moreover, historical causes need to delineate boundaries between various subfields in History to assure that each field employs appropriate causes which best explain a phenomenon under scrutiny. Furthermore, a proper search for historical causation must not engage in a distinction between 'rational' and 'ac-

cidental' causes because all causes are valuable insofar as they serve the primary function of explaining what happened and why an event occurred. Insofar as the historian's duty to tell the true sequence of actions behind an event remains valid for all rational or accidental incidents, a historian must concentrate on finding causes to fulfill a cause's fundamental purpose.

Finally, causes are building blocks to facilitate an original and interesting interpretation of a historical event, but causes alone do not possess the power to determine the entire direction of an interpretation. An incisive eye for finding accurate explanations must combine with a historian's unique imagination and vision to recreate a believable "image" of a reality that corresponds closely to the truth which the historian found. The combination can only come about smoothly if a discovery of causes and an original analysis of the significance of the discovery are independent and not concurrent activities of an inquisitive scholarly mind. A respect for a cause's individuality that is distinct from a historical fact, a respect for a cause's explanatory prowess rather than its rational or accidental nature, and a separation between the discovery and interpretation of causes are essential to the pursuit of History as a rigorous, liberal, and original science.

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Civil Disobedience and Desert Theory of Punishment

Vance Kelley

I. Introduction

In this paper, I discuss how the state ought to punish civil disobedience given a desert theory of punishment. By “desert theory of punishment,” I mean the view that lawbreakers ought to be punished according to what they deserve. Other considerations, such as what would best deter or incapacitate lawbreakers, are to be ignored according to desert theory.

Since there are many distinct notions of “civil disobedience,” I will also clarify my use of this phrase. I use “civil disobedience” to mean “breaking the law in order to communicate to the public and the state that a policy violates the lawbreaker’s moral convictions.” My definition leaves aside whether civil disobedience is nonviolent or a last resort (as John Rawls supposes), although these features could marginally affect how civil disobedience ought to be punished.¹

Ultimately, I conclude that states ought to punish all civil disobedience less harshly than typical offenses. I arrive at this “mercy for all” view in a roundabout way. In fact, I initially point out a shortcoming with this view in Section III. In Section IV, I examine an alternative view that advocates lesser punishment only for civil disobedience done from correct moral convictions. I argue that this “mercy for correct moral convictions” view is impractical, since the state cannot identify who disobeyed from correct moral convictions and who disobeyed from incorrect ones. This leads me to argue in Section V that the state must punish all civil disobedience uniformly, without regard to the correctness of civil disobedients’ moral convictions. I then conclude that the best uniform punishment is indeed to treat all civil disobedience with mercy, since this avoids over-punishing those who

¹ John Rawls, *A Theory of Justice*. Harvard Belknap Press, 1971. 320, 327.

act from correct moral convictions.

II. Why Desert Theory?

As I have said above, my central claim is that *given desert theory of punishment*, the state ought to punish all civil disobedience mercifully. Some may find it perplexing that my central claim accepts desert theory as the correct theory of punishment, and indeed this needs to be justified. Simply put, I accept desert theory because it best captures our intuitions about disciplining lawbreakers.

Most of us share the intuition that it is wrong to punish innocent people as well as the intuition that it is wrong to over-punish the guilty. Desert theory offers an explanation of these intuitions; it is wrong to punish the innocent and to over-punish the guilty because these conflict with what people *deserve*. Innocent people do not deserve to be punished at all, and guilty people deserve to be punished in proportion to the severity of their crimes.

Yet alternatives to desert theory—such as theories that recommend punishments based on their incapacitation or deterrence value—have a difficult time explaining why we hold the above intuitions.² In fact, these “consequentialist” theories of punishment would suggest punishing the innocent or over-punishing the guilty if doing so deterred or incapacitated lawbreakers. For example, suppose that by executing a petty thief the state could deter all would-be thieves from stealing others’ property in addition to incapacitating the executed criminal. Consequentialist theories of punishment would recommend executing the petty thief even though this conflicts with our intuition that over-punishing him with death is wrong. Therefore, the problem with consequentialist theories of punishment runs even deeper than what Walen suggests. Not only do consequentialist theories fail to *explain* our intuitions about punishment; they also render verdicts that directly *conflict* with these intuitions.

Of course, one could write volumes on the merits of different theories of punishment, and what I have written above merely scratches the surface. But I hope to have at least made the argument that desert theory is compelling, and my doing so should assuage concerns that I am unduly neglecting what consequentialist theories would say about punishing civil disobedience. Desert theory is the most plausible account of how we ought to punish lawbreakers, and I will now move on to my central concern: how *should* the state punish civil disobedience?

III. The Shortcoming of “Mercy for All”

One initially plausible view is that given desert theory, all civil disobedience

² Alec Walen, “Retributive Justice”. *Stanford Encyclopedia of Philosophy*, Fall 2020 Edition. <https://plato.stanford.edu/entries/justice-retributive/>. Section 1.

ought to be punished less harshly than typical offenses. Kimberly Brownlee discusses this “mercy for all” view in her *Stanford Encyclopedia* entry, writing that civil disobedients deserve mercy because they are motivated by moral convictions. The idea is that lawbreakers generally deserve mercy if obeying the law would have been very difficult for them, and civil disobedients’ moral convictions indeed make obeying the law quite difficult.³ Additionally, perhaps civil disobedients deserve mercy because their motives are less reprehensible than those of typical offenders. Breaking the law because of one’s moral convictions seems far less shameful than doing so out of self-interest, and this has long been held by legal scholars.⁴

The view that all civil disobedients deserve mercy because they act from moral convictions may therefore seem plausible, but it is not quite right. Surely, granting mercy even to civil disobedients who have *incorrect* moral convictions is too broad. These misguided disobedients do not deserve lesser punishments than typical offenders, and an example shall make this clear.

Suppose a man publicly refuses to obey a law that protects gay citizens from discrimination. Believing that homosexuality is immoral and that the law unjustly protects wrongdoers, the man refuses to serve same-sex couples at his restaurant as a way of protesting the law. Clearly, the fact that his disobedience is done from a moral conviction does not make the man deserve lesser punishment than normal offenders.⁵ His moral conviction is severely misguided, detestable, and undeserving of mercy. Therefore, it seems that only civil disobedients who act from *correct* moral convictions deserve reduced punishments.

IV. The Impracticality of “Mercy for Correct Moral Convictions”

I have just shown that only civil disobedients who act from correct moral convictions deserve mercy. Disobedience done from incorrect moral convictions, on the other hand, deserves no lesser punishment than normal. On desert theory, then, it seems rather straightforward that states ought to punish civil disobedients who hold correct moral convictions less harshly than normal offenders, while those with incorrect moral convictions ought to be punished at the standard level.

However, this “mercy for correct moral convictions” view faces a significant problem. In practice, the state cannot administer the different levels of punishment that the view calls for. During sentencing, judges would need to discern who disobeys from correct moral convictions and who disobeys from incorrect

3 Kimberlee Brownlee, “Civil Disobedience”. *Stanford Encyclopedia of Philosophy*, Fall 2017 Edition. <https://plato.stanford.edu/entries/civil-disobedience/>. Section 4.2.

4 Harrop A. Freeman, “The Right of Civil Disobedience”. *Indiana Law Journal*, Vol 4 Iss 2, 1966. <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=3628&context=ilj>. 228-254.

5 It might be hard to imagine the “normal offender” for this case. Here, it would be someone who refuses to serve gay citizens but does not do so to protest the antidiscrimination law. Perhaps this person thinks that serving gay citizens will cause him to lose the business of homophobic customers.

ones. Yet typically judges will not be able to discern this, and instead they will view both types of civil disobedients as having incorrect moral convictions. This is because *all* civil disobedience expresses moral convictions contrary to those of lawmakers—that is the entire point of civil disobedience—and typically lawmakers’ convictions will also be held by judges. After all, in most democratic systems, lawmakers choose judges whose views accord with their own. Given that judges’ own moral convictions will agree with those of lawmakers and conflict with those of civil disobedients, judges will regard *all* civil disobedients as having incorrect moral convictions, for it will not matter that some civil disobedients’ convictions actually are correct and some are not.

Admittedly, there may be cases where acts of civil disobedience convince judges that their moral convictions are wrong and that the disobedients’ convictions are correct. In such cases, judges *could* perceive that civil disobedience is being done from correct moral convictions, since here they do not allow their own moral convictions to cloud their judgment. That said, these cases are rare. Civil disobedients often fail many times before persuading the state that their moral convictions are correct. For example, the civil rights period in the United States lasted many years and required numerous instances of civil disobedience before judges and lawmakers were persuaded to end Jim Crow segregation. Generally, judges will view civil disobedients as having incorrect moral convictions even if some actually are correct; consequently, the state cannot give the different types of civil disobedients the disparate punishments that they deserve.

V. “Mercy for All” Revisited

So, how can the state punish civil disobedience? It cannot discriminate between disobedients who have correct moral convictions and those who lack them. Instead, the state must punish all civil disobedience uniformly, without regard to the truth of disobedients’ moral convictions.

This may cause us to conclude that desert theory is false if “ought implies can.” If states only have moral obligations to do what is possible, then it is *not* the case that they ought to give different punishments to civil disobedients depending on the truth of their moral convictions. As I have shown in the previous section, it is generally impossible for the state to assess the truth of these convictions and give out different punishments for them. Yet “different punishments depending on the truth of civil disobedients’ moral convictions” seems to be exactly what desert theory entails. The view claims that states ought to punish lawbreakers according to what they deserve, and civil disobedients deserve different punishments depending on the truth of their moral convictions.

Since desert theory seems to entail a false conclusion, it appears to be false. However, there is a way around this problem for the view. We can add a proviso

to desert theory that handles cases where the state is unable to give lawbreakers the different levels of punishment that they deserve. According to this proviso, if a state cannot identify and administer these different levels of punishment, then it no longer ought to give lawbreakers these different levels. Instead, the state ought to choose a *uniform* level of punishment that gives no one harsher punishment than she deserves, even if this lets some lawbreakers receive undeserved mercy.⁶ One may wonder why this proviso places so much emphasis on treating no one worse than she deserves. But in fact, many people agree with the spirit of the proviso. We often say that it is better to let guilty people go free than to imprison someone who is innocent; this idea was formalized by British jurist William Blackstone and has remained a part of jurisprudence ever since.⁷

With this proviso added to desert theory, it no longer imposes a moral obligation that violates “ought implies can.” Now, states are simply obligated to impose a uniform level of punishment on civil disobedients, and this should pose no practical difficulties.

Given this proviso, what uniform level of punishment does desert theory recommend for civil disobedience? This could take one of two forms.⁸ First, the state could show no mercy to any civil disobedients and punish all of them at the level appropriate for normal offenders. But this would over-punish those who have correct moral convictions and deserve mercy, so it is ruled out by the proviso. Alternatively, the state could show mercy to all civil disobedients and punish them at the reduced level appropriate for those with correct moral convictions. This under-punishes civil disobedients with incorrect moral convictions (who deserve full punishments), but it avoids over-punishing those with correct moral convictions. Since this second option avoids over-punishment, it is favored by the proviso. Therefore, states ought to show mercy to all civil disobedients and punish them at the reduced level appropriate for those with correct moral convictions.

VI. Conclusion

I have shown that given desert theory, we ought to punish all civil disobedience mercifully. I began in Section II by justifying and accepting desert theory, which claims that people ought to be punished according only to what they deserve. Then, in Section III, I examined my preferred view that all civil disobedients ought to be punished less harshly than typical offenders. I initially argued that this

6 One might question why the new level of punishment must be uniform. For example, perhaps different levels of punishment could be administered on a random or arbitrary basis. But surely, such punishments would be unjust.

7 William Blackstone, *Commentaries on the Laws of England*, 1893. 358.

8 It could also take a third form, at a level somewhere between what the two groups of disobedients deserve. But this would obviously over-punish those who have correct moral convictions and be thrown out by the proviso.

“mercy for all” view has a shortcoming: civil disobedients with incorrect moral convictions do not deserve mercy. Nonetheless, I returned to this view after recognizing in Section IV that it is impractical to give mercy only to disobedients with correct moral convictions. As I then explain in Section V, punishment of civil disobedience must therefore be uniform with respect to the truth of lawbreakers’ moral convictions. After adding a proviso to desert theory which accounts for this fact as well as our intuition that under-punishing is preferable to over-punishing, I return to the “mercy for all” view and accept it as the only one compatible with justice.

Tribes and Tribulations: Character as Property in *Survivor*

Jasmine Bacchus

Almost 600 contestants have appeared on the US version of *Survivor*, with only 82 of those contestants (approximately 13%) identifying as Black. Over the past twenty years, Black *Survivor* contestants have expressed that their portrayal on the edited version of the show misrepresents their lived experiences on and off the island. In 2020, a group of Black alumni joined together to produce a series of panels and discussions on race in *Survivor* and have argued that CBS, the show's broadcasting network, has a responsibility to accurately and appropriately represent the experiences of their contestants of color. This paper explores character as a form of property and aims to showcase how intellectual property rights and the right to publicity function within the context of reality television. Ultimately, I argue that networks, such as CBS, should aim to balance their desire to produce an entertaining show with genuine attempts to accurately tell the stories of Black and Indigenous People of Color (BIPOC). After showcasing how CBS's ownership of their contestant's characters has uniquely harmed Black contestants, I will suggest steps CBS can take to improve their portrayals.

I. Character on *Survivor*

Survivor is an American television show created by Mark Burnett in 2000. The premise of the show is that 16-20 players, called "castaways," are brought to a deserted island. The castaways are put into two teams, called "tribes." In each episode, the two tribes compete against each other in a series of challenges. The losing tribe goes to "Tribal Council" where they collectively vote one player off of the island. This pattern continues until there are only two or three contestants left in the game; the final players then face a "jury" consisting of the last seven players that have been voted out of the game. The final players give speeches and the jury

members cast their vote for the player they want to win the game. The winner receives the title of “Sole Survivor” and \$1,000,000.

As a reality TV show, *Survivor* is known for its memorable characters and character moments. When the show originally aired in 2000, one of the earliest marketing points was that the game was bringing sixteen people from different “walks of life;” the significance of bringing together different socioeconomic, racial, and geographic backgrounds made the show a televised social experiment. While the show still claims to bring together a diverse group of players, at home, audience members see characters carefully crafted by the network, rather than raw footage of sixteen strangers.

The discrepancy between reality and their portrayal is what has sparked action from Black *Survivor* alumni. During the casting and editing process, contestants are typically shaped to fit specific archetypes. While *Survivor* producers aim to get contestants from a range of archetypes each season, many times Black contestants are repeatedly cast into the same roles or emphasized for the same shortcomings. Gervase Peterson (Season 1), Osten Taylor (S7), Tasha Fox (S31), and Keith Sowell (S38) received major storylines about their inability to swim, contributing to the harmful stereotype that “Black people can’t swim.” Alicia Calaway (S2) is primarily remembered for being aggressive and JoAnna Ward (S6) was shown as “overly religious.” Likewise, contestants NaOnka Mixon (21), Nick Brown (S2), and J’Tia Hart were primarily shown as being “lazy” and nonstrategic and were frequently shown taking naps and not participating in camp work. This seems to suggest that “laziness” is one of their core personality traits when in fact outside of the game, Mixon was a physical education teacher, Brown was a Harvard Law Student, and Hart was a nuclear engineer with a Ph.D.¹ Black contestants have argued that these repetitive, one-sided portrayals ignore the fact that the Black *Survivor* community is not a monolith. The contestants are multifaceted people, but by shoehorning them into the same narratives every season, they are inaccurately portraying the true personas of the contestants.

While producers can only work with the footage they are given, Black contestants have argued that the showrunners focus on turning the footage into memorable moments without also highlighting their gameplay and strategy. While a white contestant may be given both a fun edit and strategic moments, Black contestants often are only highlighted when they do something to support their assigned archetype. These one-sided portrayals come at the expense of giving the contestants “proper credit” for the positive contributions they made to the game. Vecepia “Vee” Towery, winner of *Survivor: Marquesas* and the first African American con-

¹ Office of Economic Impact and Diversity. “Dr. J’Tia Hart.” *Energy.gov*, www.energy.gov/diversity/contributors/dr-j-tia-hart.

testant to win the game, has been known throughout the *Survivor* community for being a “boring” and “nonstrategic” player, yet during one of the Black Voices of Survivor panels, Vecepia spoke out about her edit:

They flipped it and made me look like I was under the radar like I didn’t do anything to win that game. Even to the point that when we were watching the episodes, people on my season would call me and email me like ‘that didn’t happen like that. Why didn’t they show you doing that?’ and I’m sitting there like I have no idea.²

With instances like Vecepia’s occurring regularly, Black *Survivor* contestants have joined together to campaign for better representation. Black alumni shared their stories in a series of podcasts known as the “Black Voices of Survivor”; the series is accompanied by a petition sent to CBS, which called for “anti-racism”; specifically, they called for CBS to “Ensure that cultural elements of the experiences of BIPOC are not exploited and their portrayal does not perpetuate harmful stereotypes.”³ This raises the question: to what extent do Black contestants have ownership over how they are portrayed on the show? The following sections explore the concept of a “reality tv character” and examine how intellectual property (IP) and publicity laws can be used to give individuals and corporations ownership over characters.

II. Character as Property

I believe that property functions in this setting as a means of character ownership. Denise Martinez defines “character” as “the aggregate of features and traits that form the individual nature of a person.”⁴ These traits and features are constructed by various elements, including the person’s “physical appearance, their background and personality, the words they use and the actions they take.”⁵ As I discuss character in this paper, I am referring to the aggregate of a contestant’s personalities, appearances, and actions, that edited together, make “a character.” Personality is a key component used to build a character. Deborah Halbert breaks a reality TV star’s personality into three parts. There is the “human persona,” which is the person in their everyday life, a functional persona, which represents the archetypal character the network aims to project, and a hybrid persona, which

2 Rob Has a Podcast, director. *Black Voices of Survivor: Changing the Game of Survivor*. YouTube, 1 Sept. 2020, www.youtube.com/watch?v=e7_rju1pneQ.

3 The Soul Survivors Organization, and J’Tia Heart. “A Petition for Anti-Racism Action by Survivor Entertainment Group.” *MoveOn*, June 2020, sign.moveon.org/petitions/a-petition-for-anti-racism-action-by-survivor-entertainment-group-2.

4 Martinez, Denise. “Character Ownership in Reality TV”. p. 5.

5 Ibid.

contains elements of both.⁶ What we see on television is the hybrid persona, where the “Reality TV star’s personality is combined with producer-controlled storylines and edits.”⁷ This, combined with other elements of their wardrobe and background, create a reality TV character.

Thus, the tension between the contestants and the network is over the ownership of these characters. By “character ownership,” I mean control over how the character, including the hybrid persona, is displayed in the edited final cut of the television show and any appearances of the character afterward.

The law views character ownership in a couple of ways. Both IP and publicity rights have been invoked to claim ownership over a character. Reality TV characters, however, do not tend to receive intellectual property protections. In order for a character to be eligible for copyright, the creator must prove that the character is 1) “sufficiently Distinctive So as to Constitute an Original Expression” and 2) “constitute the story being told.”⁸ Martinez argues that reality TV characters are not sufficiently distinctive, as their “hairstyle, hair color, clothing (costume), and scenery change from one episode or season of a reality TV show to another.”⁹ Likewise, with ensemble casts, a singular *Survivor* contestant would not “constitute the story being told”: in other words, if that contestant was removed from the season, the show would still be able to proceed.¹⁰

While stereotypes themselves cannot be trademarked, trademarked characters, such as “Aunt Jemima,” have perpetuated negative stereotypes about the Black community.¹¹ Some reality stars have sought trademark protection over certain aspects of their character as a way of claiming ownership over their “personal brand.”¹² In the early days of *Survivor*, some contestants would use their experience on the show to propel them to higher celebrity statuses with hopes of making money off of their appearances.¹³ Contestants who received poor edits might have been excluded from those opportunities, however, even those who were offered opportunities were often denied participation by CBS.¹⁴ Sean Rector (S4) described his experience with this, stating “many of the opportunities that were offered to me

6 Halbert, Debora. “Who Owns Your Personality: Reality Television and Publicity Rights.” *Survivor Lessons Essays on Communication and Reality Television*, by Matthew J. Smith and Andrew F. Wood, McFarland & Company, 2003, p. 42.

7 Martinez, Denise. “Character Ownership in Reality TV”. p. 6.

8 Ibid. p. 8.

9 Ibid. 11.

10 Ibid. 13

11 Greene, K.J. “Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues.” *American University Journal of Gender, Social Policy & the Law*, vol. 16, no. 3, 2008, p. 375.

12 Greene, K.J. “Right of Publicity, Identity, and Performance K. J. Greene Article 4.” *Santa Clara High Technology Law Journal*, vol. 28, no. 4, 1 Oct. 2012, p. 870.

13 Collins, Sue. “Making the Most out of 15 Minutes.” *Television & New Media*, vol. 9, no. 2, Mar. 2008, p. 88, tvnm.sagepub.com.

14 Halbert, Debora. “Who Owns Your Personality” p.44.

from different networks, and even Viacom, were denied to me by SEG/Survivor and yet my image and catchphrases [are] exploited on merchandise and monetized by various different entities and I couldn't even mention Survivor let alone try and make a living off of my experience."¹⁵

While there is an interesting argument to be made that contestants are being robbed of the opportunity to profit off of their personal brand, I am primarily concerned about situations where CBS's ownership of Black and POC characters cause contestants to be disproportionately affected relative to white contestants. While BIPOC contestants may experience less accurate portrayals than their counterparts, all contestants lack the ability to trademark these aspects of their brand. Ultimately, the ability to profit off of their appearance does not seem to be the primary concern raised by the Black *Survivor* alumni.

III. The Survivor Contract

What I see as the primary property issue here is the right to publicity, which "protects against the unauthorized appropriation of a person's name, likeness, portrait, picture, voice and other indicia of identity or persona."¹⁶ *Survivor* contestants give up their right to publicity when they sign the participation contract. During the early stages of the casting process, contestants who wish to continue in the casting process must sign a contract that releases their right to their portrayal during the show and after it airs. Deborah Herbert explains, "the contract grants CBS all rights to the name and likeness of the application, forever, even if the application is not recognizable."¹⁷ If they are selected to participate on the show, "anything related to *Survivor* becomes the property of CBS."¹⁸ Not only does the contract give CBS the rights to control how they are portrayed, but the network maintains full control over their "life story,"¹⁹ and this control extends after the show airs. Thus, once a contestant signs the contract, they relinquish any right to their storylines or narratives on the show, and technically cannot do or say anything after the show to contradict anything that was portrayed onscreen without facing a potential penalty.²⁰ As a result, any interviews, talk shows, books, or appearances a contestant wants to make for at least three years after the show airs must be cleared by CBS first.

With CBS having control over their narratives on the show and actions after-

15 Ross, Dalton. "Sean Rector Speaks out on Never Being Asked Back for 'Survivor.'" *EW.com*, 9 Nov. 2020, ew.com/tv/survivor-marquesas-sean-rector-quarantine-questionnaire/.

16 Greene, K.J. "Right of Publicity" p. 866.

17 Halbert, Debora. "Who Owns Your Personality" p.44.

18 Ibid 44.

19 Blair, Jennifer L. "Surviving Reality TV: The Ultimate Challenge for Reality Show Contestants." *Loyola of Los Angeles Entertainment Law Review*, vol. 31, no. 1, 2010-2011, p. 1-26. HeinOnline.

20 Halbert, Debora. "Who Owns Your Personality" p.44.

ward, Black contestants have struggled to find ways to reshape their characters outside after the show has aired. Two of the four Black *Survivor* winners have expressed a desire to participate in positive outreach to the Black community after their show, however, they received little to no support from CBS to do so. Earl Cole, the winner of *Survivor*'s fourteenth season, *Survivor: Fiji*, was the first Black man to win the show and the first contestant to receive a unanimous vote at the end of the game. During "The Black Voices of Survivor: Roundtable," Earl explained that after he won the show, CBS gave him a structured list of appearances and interviews to make. Earl noticed that most of the venues he was scheduled to speak at catered to a predominately white audience and asked CBS if he could make additional appearances at venues where he was more likely to reach a Black audience. However, he was met with opposition from the network. He explained:

I thought that CBS would use this as an opportunity to actually try to get more Black viewers...[but] nothing happened. They did nothing for me. They didn't promote me in any kind of way...like hey you know a Black dude just won for the first time, won unanimously...[But] I never got any of those opportunities, no promotional things, no marketing things.²¹

Wendell Holland, winner of *Survivor: Ghost Island* experienced similar frustration when trying to obtain access to clips from the show for speaking engagements. Wendell described his experience to the group, stating:

We [the four Black winners] want to be great ambassadors for *Survivor*. We want to go to the community...scream from the mountaintops that we were on *Survivor*...I spoke at so many places and I tried my hardest to acquire things. I would try to get clips from my show, I'd go through the proper channels, I would send messages to the people at CBS and they make me jump through so many hoops, and ultimately they wouldn't give me anything, that I could show to like 700 kids.²²

The anecdotes from Earl and Wendell showcase how little agency contestants have once they sign the contract and agree to participate on the show. While the argument can be made that players could have read the contract and refused to sign it, often reality TV contestants have limited legal understanding and when faced with a 100+ page document they may feel overwhelmed or unable to digest

21 Rob Has A Podcast. "Black Voices of SURVIVOR Roundtable LIVE - June 24, 2020."

22 *YouTube*, YouTube, 24 June 2020, www.youtube.com/watch?v=lqJM_05fFuk.

JTiaPhD. "Tribes and Tribulations." *YouTube*, YouTube, 27 June 2020, www.youtube.com/watch?v=K7YK4DjRQwI.

it all. While perhaps contestants should read the contract with an attorney present, often reality tv contestants are given a limited amount of time to sign and feel pressured to do so before the network replaces them with another candidate.²³

In an interview for *Entertainment Weekly*, Sean Rector expressed regret for how the contract signing process went down, stating:

I rarely have regrets in life, but if there were some regrets after doing the show, it would have been that I wished I would've legally understood the SEG/Survivor contract I signed. I wished they would've had more transparency and explanation as to why certain people were able to capitalize off of their experience and others were not.²⁴

With the pressure to sign quickly and no legal counsel provided by CBS, *Survivor* contestants have signed away their right to publicity for the rest of their lives, making it challenging for contestants to remedy harmful on-screen portrayals.

VI. Race and Character Portrayal – Finding Balance

Given the extensive contracts they signed when they auditioned for the show, Black *Survivor* contestants do not retain any rights to publicity over their *Survivor* character. CBS has economic incentives to continue to structure their contracts in this manner, however as more stories of Black contestants begin to be made public, the network is facing pressure to better characterize their BIPOC contestants. Thus, if CBS continues to require contestants to sign away their right to publicity, they still may be held accountable when it comes to handling the characterization and life stories of marginalized individuals. Thus, how can networks balance exercising their autonomy over character creation (to craft an entertaining show), without putting marginalized groups in a position where they are forced to connect their likenesses to harmful stereotypes? In this final section, I will explain how and why CBS should take steps to better characterize their contestants of color, and how they can do so, without modifying their contract.

Unique Harms to Black Contestants

A negative reality television edit has the potential to harm any contestant, however, I believe that stereotypical portrayals of predominantly Black contestants create unique harms to the Black community. In her study of race on reality TV shows, Katrina Bell-Jordan writes that reality television can “shape the reality of race and racism in the US.”²⁵ For BIPOC contestants, their character portrayals

²³ Blair, Jennifer L. “Surviving Reality TV” p. 20.

²⁴ Ross, Dalton. “Sean Rector Speaks out on Never Being Asked Back for ‘Survivor’.” *EW.com*, 9 Nov. 2020, ew.com/tv/survivor-marquesas-sean-rector-quarantine-questionnaire/.

²⁵ Bell-Jordan, Katrina E. “Black, White, and a Survivor of The Real World: Constructions of Race on Reality

shape not only their personal image, but how our society views African Americans. Bell-Jordan explains that the “editing and framing of footage depicting the experiences of ‘real’ people have the power to shape our understandings of the people, places and sociocultural issues presented on these programs.”²⁶ People who watch *Survivor* may have limited real-life experience interacting with the Black community. Thus, portrayals of Black contestants can directly shape the way a person views the community.

Likewise, at this point, many Black contestants have recognized how important it is to be depicted in a non-harmful light, and thus multiple Black castaways have spoken out about the pressure they felt to positively represent their ethnic group and avoid any editing traps while on the show. Thus, these players enter the show aiming to “dispel the myths about their respective group.”²⁷ Often, they spend additional energy not only trying to play the game but being hyper-aware of their surroundings and their actions, so they can avoid alienating their tribe. This pressure is two-pronged. For example, while a white contestant may feel comfortable taking a nap after helping catch food for dinner, a Black contestant may feel an additional pressure to stay active, as they would not want their nap to become their main storyline. They are likely aware of the “lazy” stereotype that has been pushed on previous Black contestants and will want to make sure their fellow castaways have no evidence of them being lazy (as this would likely lead to them being voted out). They may also feel an additional level of anxiety around the producer’s ability to push the stereotype on them. While all castaways regardless of race are thinking about their in-game relationships and the final edit, Black castaways experience a unique pressure to avoid falling into stereotypical narratives historically pushed by the show.

Navigating these one-dimensional negative portrayals may also make it more challenging for players to be invited back to play *Survivor* again. Many contestants dream about the chance to be invited back; another chance gives them more exposure, another once-in-a-lifetime experience, and another chance to win \$1,000,000. Thus, not being invited back is incredibly disappointing to many players. Black alumni expressed frustration when Vecepia, the first Black contestant to win and the only Black woman to win, was one of the only winners not invited to play in the “All-Winners” season of *Survivor*. Unpopular characters are less likely to be invited back to play *Survivor* again; contestants with poor edits are often perceived negatively by the fanbase and thus denied another invitation. However, refusing to play into a stereotype may cause a player to be disliked by production,

TV.” *Critical Studies in Media Communication*, vol. 25, no. 4, Oct. 2008, p. 357.

26 Bell-Jordan, Katrina E. “Black.White”, p. 368.

27 Ibid, p. 353.

which could still lead to a negative edit (albeit a different one) or being “black-listed” from future invitations. Out of the 103 contestants who have been invited back to the show, only 11 of the invited castaways are Black.²⁸ Knowing that they are invited back at a lower rate, Black and other BIPOC contestants face another level of complexity not faced by their white counterparts.

Lastly, unbalanced edits can lead to Black stories being completely ignored. During Season 38 Julia Carter was the only Black castaway in her tribe. During the first few nights of the game, a fellow castaway used a racial slur. Julia reported feeling uncomfortable but remained silent due to a desire not to make *her* tribe uncomfortable or put a “target” on her back. Eventually, a white castaway stepped in and confronted the other contestant. After this incident occurred, Julia hoped that once aired, it would create a dialogue amongst viewers about language and race. However, CBS chose not to air any part of this incident, and many speculate that this was done to protect the reputation of the castaway who said the slur.²⁹ In fact, Julia is known for being virtually erased from the entire season, receiving very few confessionals or moments at all.³⁰ This story only came to light after Julia wrote an essay about the incident after the show aired. Unfortunately, Julia’s story of unaired racial incidents is not unique. When the edit chooses to ignore these contestant narratives altogether, they invalidate the lived experiences of Black contestants, while making no effort to make the game a more comfortable space for BIPOC players.

Network Incentives to Address these Harms

As I mentioned earlier, for many viewers, characters and their storylines are what makes a show like *Survivor* so interesting. Building drama, creating conflict, and putting contestants in challenging situations are essential parts of the show, and to do that effectively, production companies need to have blanket approval from the contestants. The contract enables CBS to have control over these creative elements of the show. By owning each contestant’s right to publicity, the network has creative freedom to produce a show that is entertaining to the public. Likewise, character creation is a time consuming, creative process. Retaining rights to these characters serves as an economic incentive for the company to create compelling ones that will generate high viewership.

Likewise, part of being a reality TV contestant is the willingness to put yourself out there and risk potential failures or humiliations that may occur.³¹ Contestants

28 Survivor Wiki. “Returning Players.” *Survivor Wiki*, survivor.fandom.com/wiki/Returning_Players.

29 r/Survivor. “r/Survivor - Can Someone Explain to Me What Happened with Joe and Julia from Eoe and What Shes Ranting about? Is Joe Really Racist...” *Reddit*, Nov. 2020.

30 Eager Tortoise. “The Real Reason Julia Was Upset About Her Edit .” *YouTube*, YouTube, 6 Dec. 2020, www.youtube.com/watch?v=qCXaYeHROT0.

31 Mendible, Myra. “Humiliation, Subjectivity, and Reality TV.” *Feminist Media Studies*, vol. 4, no. 3, Jan. 2004.

should expect that any negative footage obtained is fair game to be used for the show. Likewise, the comprehensive contract allows producers to obtain “genuine” footage from contestants. Some aspects of *Survivor*, like the “gross” food eating challenges, are centered around the contestants not knowing what they are going to face. If contestants were to be given a contract that revealed everything that would happen to them, it would remove elements of drama and make it much less satisfying to watch their reactions.³² If CBS was required to receive editing approval from each contestant before airing a show, likely we would never see any conflicts (artificial or genuine), mess-ups, or moments of stupidity. While a contestant may not feel like they “signed up to be portrayed as an idiot,” by virtue of the genre, players should expect some level of humiliation.

However, I believe that the harms created by CBS’s current portrayals combined with their contract make the game uniquely challenging for BIPOC players beyond the reasonable expectation of humiliation and drama. The game of *Survivor* is not “fair”—every player will experience varying levels of luck throughout their time on the show. However, the show is edited in a way that portrays, to the audience, a level of “fairness.” We are led to believe that at the start of the show, for all intents and purposes, each contestant has a relatively fair shot of winning. Yet, Black contestants are not only trying to play the game, but they also attempt to dodge negative stereotypes and positively represent their entire group, all while navigating their complex relationship with production. There is a whole new level of challenge for these contestants.

One group of people consistently facing additional hurdles and challenges undermines this illusion of “fairness” that the network tries to create. Continuing to ignore these inherent disadvantages faced by players delegitimizes the game of *Survivor*. As these issues come to light, the show is at risk of losing the element of competition that makes the audience want to turn in each week to find out who moves on. Likewise, as the Black Survivors have begun to speak out about their concerns, CBS has faced lots of negative publicity for how they treat BIPOC contestants. As more Black contestants share negative experiences, future applicants of color may be deterred from applying to be on the show. CBS has already received negative publicity surrounding this issue, but a season of all white contestants would possibly put the show over the edge. Thus, the network now has two incentives to tackle this issue 1) the incentive to continue to stage *Survivor* as a “fair game” and 2) the incentive to respond to the negative publicity.

I recognize that CBS has the economic motive to produce an entertaining show; retaining the right to publicity over their characters and IP ownership over their recordings gives them an incentive to create quality content. I do not believe that

32 Blair, Jennifer L. “Surviving Reality TV” p.19-20.

CBS needs to modify their contract as it currently exists. However, the network also has an incentive to improve the way they tell Black stories. The network should take steps to make these improvements.

Suggestions for CBS

Without modifying their contract, the *Survivor* team should take steps to minimize future harmful portrayals in the first place. The petition sent by the Sole Survivors Organization asked CBS to hire more BIPOC producers, casting directors, and editors to increase the likelihood that diverse stories are being told in a way that is respectful and accurate.³³ A more diverse team would be more equipped to think about representing new archetypes and displaying important parts of each BIPOC castaway's "life stories." Likewise, CBS should also make it a priority to cast a more diverse group of players. Some of the pressure tied to a contestant's feeling like they must "represent for their race" is the fact that Black contestants are only 13% of all players. Often, Black players find themselves one of maybe two African American contestants on a season. The limited amount of representation makes the stakes of an accurate portrayal even higher. The Sole Survivor Organization suggested 30% of the cast each season to people of color³⁴ and CBS has publicly expressed intent to work towards achieving a similar goal.³⁵ Moving forward, the network should work to increase the number of diverse voices at all stages of production.

Likewise, CBS should encourage contestants to speak out against inaccurate portrayals as they see fit. As we have seen with the Black Voices of *Survivor* podcast, contestants have already begun to speak about their experiences without authorization from the network. I believe that dialogues such as the Black Voices of *Survivor* should not only be permitted but encouraged; if contestants are encouraged to speak up, stories of stereotypical portrayals made public will put more pressure on the network to do a better job in future seasons. In cases where Black winners, like Wendell and Earl, want to speak in the Black community, the network should be more open to giving them access to materials from the show. No modification to their contract has to be made, but the network should be more diligent about approving and supporting the speaking engagements of BIPOC contestants.

V. Conclusion

33 The Soul Survivors Organization, and J'Tia Heart. "A Petition for Anti-Racism Action by Survivor Entertainment Group." *MoveOn*, June 2020, sign.moveon.org/petitions/a-petition-for-anti-racism-action-by-survivor-entertainment-group-2.

34 Ibid.

35 Hauser, Christine. "'Survivor' and Other Reality Shows Will Feature More Diverse Casts, CBS Says." *The New York Times*, The New York Times, 11 Nov. 2020, www.nytimes.com/2020/11/11/business/media/cbs-reality-tv-diversity.html.

Throughout this paper, I have showcased how Black *Survivor* contestants have felt inaccurately portrayed by CBS and I have examined their desire to receive ownership over their on-screen characters. The unique harms experienced by Black contestants reveal that an understanding of property driven by economic incentives can cause great harm to specific groups of people. I recognize that CBS's property claims enable them to create compelling characters and produce their show without fear of interference from disgruntled contestants, however, their absolute character ownership has uniquely harmed BIPOC contestants. Thus, I suggested that CBS increase diversity amongst all aspects of the filming process and to encourage BIPOC contestants to speak up when they feel uncomfortable with their edit. While neither of these options will give these contestants the ability to trademark their catchphrases or control their edit, it is a step towards eliminating the pressures that come with harmful portrayals.

Our systems do not seem to recognize when the creations we fostered create harmful, negative externalities. We seem to rely on the market to naturally eliminate creations that do more harm than good. In the case of CBS, public reaction is the only way to gauge if their show is net positive for society, however, controlling the contestant's right to publicity functions as a way of managing public reaction through limiting public interactions. Thus, this issue is important to a discussion about property because it highlights how the economic benefits of property rights can lead to negative externalities that uniquely harm marginalized communities. In this case, property rights seem to foster innovation, but there is no formal system in place to check if the innovation, *Survivor*, is continuing to positively impact society (or even, a structured way to measure what constitutes a "net positive impact").

In this case, property rights do not have to be a zero-sum game where either the producers or the contestants are satisfied. Hopefully, the external pressure caused by the public will push CBS to engage with their BIPOC contestants. However, I recognize that the network may choose not to make any changes to their production teams or processes. Therefore, this issue has showcased to me that while property laws can foster creativity, they can also create societal harms that uniquely harm groups of people.

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Rural Despair and Decline: How Trump Won Michigan in 2016

Bess Markel

Introduction

When Donald Trump won the Electoral College vote in 2016, he shocked the entire world. In part, people believed he could never win because he would never crack the Democrats' famous "Blue Wall": the combination of Michigan, Wisconsin, and Pennsylvania. But he did, winning counties that John McCain and Mitt Romney could not. Political pundits asked themselves: How did this entitled, brash, inexperienced New York millionaire appeal to rural voters? What seems like thousands of think-pieces have been written on the issue, each suggesting that Trump won the election because of Russian interference, deeply rooted misogyny, racial backlash to Obama's presidency, the rise of social media, and a myriad of other factors.

However, some scholars have suggested that Trump's unexpected triumph could be traced to another factor: pain and discontentment across rural America. Over the past several decades, America's working class has seen its way of life disappear. With a loss of jobs due to innovative technology, outsourcing of manufacturing jobs, and mass migration out of Rust Belt states, residents of Illinois, Indiana, Michigan, Ohio, Pennsylvania, West Virginia and Wisconsin—areas that used to be vibrant parts of America's heartland—feel left behind.¹ Some believe that this downward trajectory helped spark the rise of Trump. While this might seem counterintuitive at first because Trump is viewed by the liberal media as an uncaring, East Coast elite, scholars have strived to understand the appeal of Trump among working-class, white voters, particularly in the Midwest. This line of research is particularly important for the future of electoral politics. The movement Trump's

¹ Pottie-Sherman, "Rust and Reinvention," 2.

election sparked, and even Trump himself, are not going away anytime soon. Understanding Trump's appeal can explain his continued support and how other candidates can seize upon the movement he built.

This research paper will explore the connection between despair and the rise of Donald Trump. It will use data on unemployment, education levels, and levels of drug- and alcohol-related deaths and suicide taken from the swing state of Michigan, which narrowly helped Trump win the 2016 election. The data section will show that Trump performed better in places where residents seemed more likely to feel economically and socially left behind. However, we must first classify and understand what scholars mean when they discuss despair in rural, working-class America.

Understanding Rural Support for Trump

Political scientist Katherine Cramer, in her book *Politics of Resentment*, argues that rural politics can be understood as stemming from the creation of a rural community consciousness, rooted in resentment toward “elites” and urbanites.² Through interviews with a group of locals in rural Wisconsin, Cramer discovered what rural consciousness looks like and defines it as three sentiments: caring about perspectives of power, primarily that urban areas have all of it and rural areas have none; respect for the “rural way of life”; and the perspective that too few resources are allocated to rural areas.³ All in all, her definition of rural community consciousness paints a picture of rural Americans feeling that urban Americans, and by extension government officials who are overly influenced by urban values, have no respect for their way of life, and are draining rural resources and livelihoods through welfare programs and other legislative efforts that advantage urban areas. This perceived allocation of resources toward exclusively urban areas is not actually the case, and many government funds and programs target rural areas. However, governmental bodies do not always prioritize marketing their budget allocations and as a result many rural communities are uninformed about the inner workings of the political system. In addition, because rural Americans are disillusioned, they have low desire to learn about government activities, leading these causal beliefs to go unchallenged and unresearched.⁴ This breakdown in communication and understanding has long-reaching effects.

The Republican Party has seized upon these sentiments to further its agenda. Many rural Americans are wary of governmental employees and programs that they view as elite and guilty of stealing rural money for personal or political gain.⁵

2 Cramer, *The Politics of Resentment*, 11.

3 Ibid., 54.

4 Cramer and Toff, “The Fact of Experience.”

5 Cramer, *Politics of Resentment*, 127.

Journalist Thomas Frank understands the power of rural resentment but argues that it is not necessarily about a lack of understanding of budgetary inner workings or community anger but is rather about character assessment. He asserts that while resentment and hostility are important in understanding the rural vote, the most crucial factor is actually authenticity.⁶ Republicans, he argues, have successfully rebranded Democrats as out-of-touch city elites worthy of scorn. Even as Republican political figures push legislation that hurts working-class Americans, they successfully market themselves as relatable, the politicians that a voter would want to have a beer with.⁷ This authenticity wins them voters despite their lack of concrete political achievements for lower-income, working-class Americans.

When putting these scholarly findings in conversation with the campaign message on which Trump ran, it is easy to see how in 2016 Trump played upon the resentment and despair of rural areas by framing the Democrats, and by extension the urban liberal elite, as the cause for all problems. Throughout the campaign, Trump had a habit of saying exactly what was on his mind, perhaps giving him an air of over-a-beer-authenticity and relatability—he certainly appeared honest due to his unfiltered dialogue. Moreover, his lack of political experience likely worked in his favor in areas where government officials are seen as untrustworthy. By contrast, his opponent, Secretary of State Hillary Clinton, had held governmental office at various levels for many years, which played into Trump’s painting of her in the eyes of many rural communities as an urban elite living off the people’s hard earned money.

Further complicating the relationship between rural and urban areas is the perception that urban areas are more liberal or have different ways of life. Sociologist Jennifer M. Silva argues that some rural voting patterns can be explained by the considerable amount of fear that exists in many of these places, both around shrinking economic opportunities and the general future of communities.⁸ This fear often manifests itself as a feeling that America must return to “disciplined values” such as hard work, or worries that immigrants are stealing all the well-paying jobs. In his campaign, Trump certainly identified these fears.⁹ This could be seen in his harsh anti-immigrant rhetoric, seemingly placing the blame on them for the lack of decent-paying jobs. Trump also emphasized his skills as a businessman, arguing that they would help him run the country and increase the job market.

Many authors believe that Trump’s strong performance in rural counties can be explained by the “landscapes of despair” theory, arguing that all of the areas in which Trump over-performed or Clinton underperformed have experienced im-

6 Frank, *What’s the Matter with Kansas?*, 113.

7 Thomas, *What’s the Matter with Kansas?*, 119.

8 Silva, *We’re Still Here*, 45.

9 Inglehart and Norris, “Trump and the Populist Authoritarian Parties.”

mense social, economic, and health declines over the past several decades. These authors believe that Trump appeals to voters who are not necessarily the poorest in America but whose lives are worse off than they were several decades ago.¹⁰ Trump spoke to that pain and offered these Americans a message that appealed to their despair. Goetz, Partridge, and Stephens find that economic conditions have changed over time throughout rural communities, with urban centers becoming more prominent and fewer agricultural jobs available. However, they find that not all rural areas are doing uniformly poorly economically across America. Instead, there has been “profound structural change” in most of these areas in terms of the types of employment available.¹¹ This structural change could contribute to the feeling among many rural Americans of having been left behind and could also explain some of the draw to Trump’s nationalism, as trade and increased globalization, along with new technology, have contributed to this extreme change.¹²

Goodwin, Kuo, and Brown agree with this theory and find a correlation between higher rates of opioid addiction in a county and the percent of the county that voted for Trump.¹³ They found that opioid addiction is one way to measure the sociocultural and economic factors that often created support for Trump and noted that simple unemployment measurements fail to capture this same trend. These two pieces of data imply that the voting patterns of Trump’s supporters do not correspond with being worse off economically than the rest of America, but rather are related to whether people personally feel like they and their communities are backsliding, with opioid addiction as an indicator of this attitude. Gollust and Miller argue that the opioid crisis triggered support for Trump, not necessarily because it is a measurement of sociocultural factors within communities, but because it triggered a comparison in the minds of people living in communities where the crisis was rampant.¹⁴ Through experimentation, Gollust and Miller found that Republicans and Trump supporters were more likely than Democrats to view whites as the political losers in the country.¹⁵ It is easy to see how Trump’s aggressive rhetoric appealed to people who felt like they were losing and that they needed a fighter to advocate for them.

Journalists and Political Research Associates Berlet and Sunshine believe that Trump’s rise can be attributed to changing ways of life and Trump’s connection

10 Monnat and Brown, “More than a Rural Revolt.”

11 Goetz, Partridge, and Stephens, “The Economic Status of Rural America in the President Trump Era and Beyond,” 101.

12 Ibid, 117.

13 Goodwin et al., “Association of Chronic Opioid Use With Presidential Voting Patterns in US Counties in 2016,” e180450.

14 Gollust, and Miller, “Framing the Opioid Crisis: Do Racial Frames Shape Beliefs of Whites Losing Ground?” *Journal of Health Politics, Policy and Law* 45, no. 2 (April 2020): 241-276.

15 Gollust, and Miller, “Framing the Opioid Crisis: Do Racial Frames Shape Beliefs of Whites Losing Ground?”

to right-wing populism.¹⁶ They argue that there was a rise in the notion that the white-Christian-heterosexual-American way of life is “under threat” in the years preceding the election. They believe that Trump’s brash candidness, his willingness to invoke Islamophobia, homophobia, and xenophobia, and his appeals to Christianity and the patriarchy tapped into a deep-simmering rage that had been growing among rural people.¹⁷ In this way, white racial antagonism contributed to Trump’s success. Rural Americans redirected their despair into rage toward those individuals and collectives that they perceived as a threat to their way of life. This argument is heavily focused on the effects of bigotry and anger on people’s voting choices, whereas several other authors, such as Cramer and Frank, believe that rural support for Trump was much less rage-based and much more about a lack of trust in government and the feeling of being neglected for years.

We believe that the theories of despair and feelings of backsliding can explain some of the trend toward rural support for Trump in 2016. We believe that data will show that the most important despair factors depict not how badly off a community was in 2016, but rather the comparative: how much worse off it was in 2016 compared to several decades earlier. Finally, we agree with Cramer’s theory of rural consciousness and feel that it may have played a role in general distrust for Clinton as a candidate, but found it impossible to test those attitudes given the data available.

Methodology

To test the effect of rural pain and despair in connection to GOP voting share in Michigan, we used data at the county level, primarily from 2016, which came from the United States Census Bureau and the Institute for Health Metrics and Evaluation.¹⁸ We focused specifically on the 2016 election because of the connection between Donald Trump’s share of the vote and struggling rural voters, which was higher than previous GOP candidates Mitt Romney and John McCain,¹⁹ as well as Trump’s reputation as an outsider.²⁰ We chose to look at data from all Michigan counties, regardless of which candidate the county voted for or whether the county flipped parties between 2012 and 2016. We chose not to look exclusively at flipped counties because Trump flipped only twelve counties in Michigan. In order to obtain a statistically significant and unbiased result about the effects despair factors had on county result data, more than twelve data points were needed. We instead measured the effect of despair factors on the vote share that Trump

16 Berlet and Sunshine, “Rural Rage,” 480–82.

17 Ibid, 490.

18 Foster-Molina and Warren, *Partisan Voting, County Demographics, and Deaths of Despair Data*.

19 Monnat, “Deaths of Despair and Support for Trump in the 2016 Presidential Election.”

20 Cramer, *Politics of Resentment*, 127–137.

received in each county in 2016.

We defined six despair factors to represent the challenges and pains each county faced at the time of, or leading up to, the 2016 election. The first three of these factors are defined as the percent change in age-standardized mortality rates between 1980 and 2014 for the following: alcohol use disorders, drug use disorders, and self-harm injuries (*alcoholchange*, *drugchange*, and *selfchange*, respectively). The source from which we obtained information on drug use disorder–related fatalities did not provide a breakdown by substance so we are unable to determine how much of this factor can be attributed to the ongoing opioid crisis. However, due to the sweeping nature of the crisis, particularly in rural working-class communities, we believe there is some relationship between the drug-use-disorder mortality rate and the opioid crisis.²¹ Factors that measure changes in living conditions over time, such as changes in fatal overdoses, alcohol deaths, and suicides, will test whether despair is truly about voters’ communities becoming worse than they were before. The fourth despair factor (*undereducated*) represents the education level of each county, using the percent of adults over 18 whose highest educational attainment in 2014 was a high school degree or less. This is an important factor to examine while exploring despair because lower levels of education limit career and income options and are often correlated with greater instances of feeling trapped or stuck in a community.²²

The final two factors in the exploration are unemployment and the percentage of the county population that died of any cause in 2016. This last factor is important to consider because higher death rates often show that a county has an aging population and can accordingly suggest that younger people are choosing to leave. If the theories described above are true, unemployment should not matter as much because the “landscapes of despair” theory focuses on decline in communities and in economic opportunities, meaning many voters could be employed but working longer hours, harder jobs, getting paid less, or feeling like they have fewer opportunities than they once did. To test this we ran the same statistical analysis for unemployment but specifically looked at whether the variable was statistically significant in predicting the Trump vote. If it was not, that would prove Goodwin, Kuo, and Brown’s theory that unemployment is not the best measure of Trump’s support in 2016.

We used two statistical methods of analysis. First, we used histograms to compare a single despair factor, such as percent change in alcohol use disorder–related deaths, against the way that the county voted in 2016 to see if certain factors of despair disproportionately affected one party’s vote share. Second, we used the re-

21 Florian Sichart et al., “The Opioid Crisis and Republican Vote Share.”

22 Autor, Katz, and Kearney, “The Polarization of the U.S. Labor Market.”

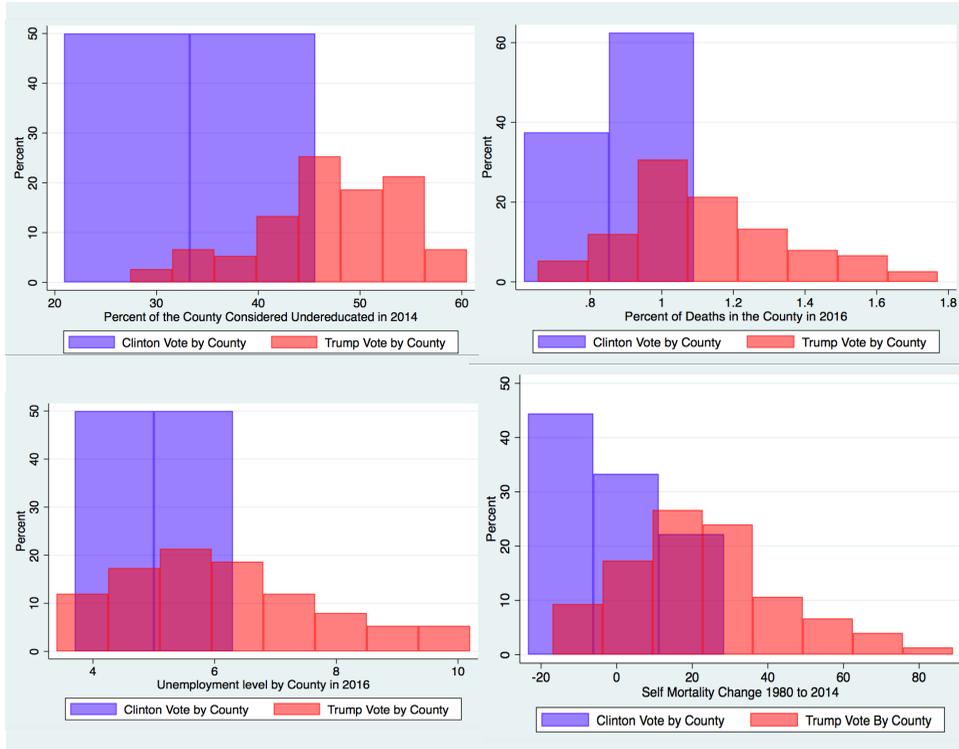
gression equation below to test our hypothesis that the six aforementioned despair factors led to Trump's higher vote share in Michigan. Finally, we analyzed the despair factors individually to show their discrete effects on the GOP vote share in Michigan's 2016 election.

$$\begin{aligned} TRUMPSHARE_i = & \beta_0 + \beta_1 DRUGCHANGE_i + \beta_2 ALCOHOLCHANGE_i \\ & + \beta_3 SELFCHANGE_i + \beta_4 UNDEREDUCATED_i + \beta_5 UNEMPLOYMENT_i \\ & + \beta_6 PRCNTDEATHS_i + \epsilon_i \end{aligned}$$

We fit the model using the county-level data we gathered to examine whether the test statistic led us to reject or fail to reject the null hypothesis that there is no relationship between these six despair factors and the percent of the vote share that Trump received in Michigan in 2016. We also used the R-squared from this regression to determine how strong the linear relationship of the regression equation was.

Results and Discussion

The results we found conclusively show that we can reject the null hypothesis that there is no relationship between the six despair factors and Trump's success in a county. The first statistical method we used was comparing histograms of each factor broken down by party identification. We found graphical evidence to suggest that death rates, suicide, undereducation, and unemployment were disproportionately higher in Republican counties. Changes in alcohol and drug deaths (*alcoholchange* and *drugchange*) did not seem to be strongly correlated with one specific party, though counties that voted very strongly for Republicans did seem to have the highest values (highest percent changes from 1980 to 2014) for both of these variables.



In some respects, the fact that many of these despair factors were higher in counties that voted Republican makes sense. By 2016, Barack Obama had been president for eight years, and often people who are unhappy with how the economy has been faring or who are unemployed vote for the candidate from the opposite party of the sitting president. However, large values of other factors, such as percent change in deaths from self-harm, are more alarming, as these first three variables measure changes dating back to the 1980s. We were surprised that alcohol and drug deaths seemed to be more evenly spread out between the parties than self-mortality, which was particularly unexpected due to the amount of literature on the correlation between those affected by the opioid epidemic and votes for Trump.²³ Perhaps Goodwin, Kuo, and Brown's theory that increased opioid usage is a good instrumental variable for Trump support still holds because this data only looks at drug mortality, not drug use. It is entirely possible that Trump counties have higher drug use, but we could not make a conclusion based on the data.²⁴ However, due to the large percentage of drug overdoses that can be attributed to the opioid crisis, it is surprising that more of Gollust and Miller's and Goodwin,

23 Goodwin et al., "Association of Chronic Opioid Use With Presidential Voting Patterns in US Counties in 2016," e180450.

24 Ibid.

Kuo, and Brown's theories did not seem to be supported in this data set.²⁵

The 3-D graphs in the appendix²⁶ look at the relationships between the vote share that Trump received and percent changes in alcohol, drug, and self-harm mortality rates. The regression planes on these 3-D graphs show that percent change in self-harm mortality is the only variable with a clearly positive relationship to Trump votes. The other two changes in mortality variables have weaker linear relationships with Trump votes in part due to several county outliers. Exploring those outlier counties more and investigating why specifically they might not follow the common trend would be an interesting topic for ethnographic research.

When we ran the regression analysis the first time, we included all six of the variables we categorized as measures of despair. We also ran the regression analysis with different combinations of these variables to see if we could increase the adjusted R-squared variable, which shows the accuracy of adding another variable to the model. We found that the model was most accurate when we excluded the unemployment value, and because its t-test statistic was not statistically significant, we made the decision to exclude it from the final regression we ran in order to have a more accurate model. At first, we were surprised that unemployment was not significant in the model; however, this seems to support the theory that many "despair voters" do have jobs—they are just low paying and highly stressful.²⁷ This supports Goodwin, Kuo, and Brown's analysis that the unemployment level is not a good measurement alone of whether a county voted heavily for Trump. Moreover, the histogram shows that high levels of unemployment are not necessarily correlated with high percentages of the vote going to Trump. Clearly, there are other factors at play that this statistic fails to capture, and unemployment could be an incomplete benchmark for despair because it does not measure satisfaction in jobs nor whether a job pays a living wage.

Overall, we found that a model with the five factors of despair besides unemployment gave an R-squared of .552, meaning that 55% of the variance among the percentage of votes Trump won in a certain county could be attributed to these factors alone. This is remarkably high considering that neither policies nor previous voting records were added into this regression. However, the only variables that were found to be statistically significant on their own were percent changes in self-harm deaths and percent of undereducated voters. We were surprised that percent changes in alcohol and fatal drug overdoses were not more significant than changes in self-harm deaths, but again, that could be partially attributed to the

25 Imtiaz et al., "Recent Changes in Trends of Opioid Overdose Deaths in North America."

26 Created with the help of Ella Foster-Molina.

27 Torraco, "The Persistence of Working Poor Families in a Changing U.S. Job Market."

fact that the data only measures overdoses rather than frequency of use. While one would assume that there would be a positive representative relationship between the two, it is hard to know for sure. However, we can say that, on average, increases in despair in certain aspects of life are correlated with an increase in support for Trump in the 2016 election, supporting the original hypothesis of this paper that rural despair played into Trump's win in Michigan in 2016. However, we fail to find definitive conclusions regarding some of the connections drawn in previous scholarly literature between opioid overdose and the Trump vote.

Perhaps the most striking analysis is running the same regression but with Democratic vote share in the 2016 election and comparing the results with those from the Republican vote share. As seen in the table below, the coefficients for each variable nearly flip signs.

A decrease in suicide-, alcohol-, and drug-related deaths, or other despair factors, can be expected on average to be associated with a positive increase among the percentage of the county "voting blue." Counties that vote Democratic, at least on average, tend to have had some sort of positive change, on the individual or communal level, around certain measures of despair.²⁸ This does not mean that Clinton voters were necessarily better off than all Trump voters across Michigan, but rather that Clinton voters had seen their lives improve, if only marginally, and Trump voters had not. Theories of despair regarding rural voters do not compare the lives of rural voters to those of voters in other areas of the state but rather investigate whether rural communities are worse off than they were several decades ago. Similarly, just because certain counties have seen an improvement in certain despair factors does not mean that their communities are not also grappling with alcohol, drug, and mental health issues. Additionally, better-educated counties tend to vote Democratic, with less-educated counties voting Republican. This is a reversal of certain historical trends.²⁹

Again, at some level it is logical that voters who are doing better vote for the party that has been in power for the past several years. However, the data in these studies capture decades of crumbling communities. There is a downward trend in these communities in terms of levels of despair that shows that regardless of which party these counties vote for (whether they vote for the opposite party when they feel dissatisfied with the current one, or for the same party when things seem to be going well), neither party has been able to stop the 34-year trends of increases in suicide-, drug-, and alcohol-caused deaths. This validates theories of "rural consciousness" and "rural despair" by Cramer and Goetz, Partridge, and Stephens

28 We do not mean to suggest that Democratic voters do not face their own share of struggles, rather that this data on average suggests that counties that voted Democratic were less affected by these specific measures of despair in 2016.

29 Harris, "America Is Divided by Education."

that rural communities clearly see and feel suffering in their communities and perceive a lack of attention and resources given to them.³⁰ One could also argue that this supports Silva’s theory that many rural communities fear for their futures based on the downward spiral these communities have experienced for several years or decades.³¹ This fear could motivate voters to act more drastically or to believe that a massive change is necessary. In the voting booth, this could lead to their voting for a more unconventional candidate.

	Rep. Vote	Dem. Vote
drugchg~2014	0.005 (0.00)	-0.005* (0.00)
prcntdeaths	0.150 (3.69)	1.757 (3.73)
selfchg~2014	0.080* (0.04)	-0.083* (0.04)
alcoholchg~4	-0.011 (0.02)	0.011 (0.02)
undereduca~d	0.616*** (0.11)	-0.613*** (0.11)
constant	21.724*** (4.52)	71.309*** (4.57)

t statistics in parentheses
 * p<0.05, ** p<0.01, *** p<0.001

Trump’s main slogan was “Make America Great Again,” suggesting that, at some level, he understood and was trying to court those experiencing this sense of despair. For many voters, America is the best it has ever been: we have unprecedented levels of rights and acceptance for women, minorities, and members of the LGBTQ+ community. Going back seems like regression, not progress. But as shown by this data, many of the counties that voted for Trump in 2016 were better off by certain metrics in 1980 than they are now. It makes sense that res-

30 Goetz, Partridge, and Stevens, “The Economic Status of Rural America in the President Trump Era and Beyond.” *Applied Economic Perspectives and Policy* 40, no. 1 (February 16, 2018).

31 Kim Parker et al., “Similarities and Differences between Urban, Suburban and Rural Communities in America.”

idents of these counties could be worried about the continuing decline of their communities and could want to go back to a better time and quality of life. Not to mention, according to Cramer's thesis of rural consciousness, voters in rural Michigan could be very distrustful of any type of governmental employee promising change. Trump's brand as a businessman with no prior political experience could have especially appealed to those affected by rural-consciousness thinking. His role as an outsider was relatable. His phrase "drain the swamp" directly spoke to the prevailing belief in these communities that Washington, DC is full of people who take taxpayers' money and waste time. His opponent had been in the public eye for years in various government positions and was by extension seen, and marketed by conservative news outlets, as the leader of the "liberal elite." Particularly in contrast with her, Trump could have seemed particularly appealing to those rural voters.

The data we found strongly supports Cramer's thesis that rural despair and resentment led to the crumbling of the Blue Wall. In order for Democrats to rebuild their former strongholds in these states, the party must examine the real pain and anger that many rural voters experience. They need to understand the hopelessness people are feeling and recognize why Trump specifically appeals to them. Trump, and the Republican Party, have been strategic in tapping into the anger, fear, and pain that rural voters feel. Democrats contributed to the phenomenon of rural consciousness and the belief that Democrats are coastal elites who neither care about nor understand middle America.³² Clinton and other Democrats have made several public missteps, including making fun of these voters, that have further reinforced this idea. Trump has succeeded in directing rural voters' anger and mistrust toward the government, specifically bureaucracy and governmental programs that could actually help rural areas.

Overall, Democrats need to strengthen their relationship with white working-class voters, and understanding rural despair and consciousness might be the first step to doing so. They need to consider creating messages that specifically address and appeal to rural voters and find and support candidates who can connect with them. To win back rural voters, Democrats also need to focus on messaging in rural America. That includes creating programs that provide resources and relief to these struggling areas, but also, perhaps more importantly, it requires making sure that rural communities are aware of these resources. If rural communities still view government as ineffective and uninterested in their problems, these programs will not be sufficient. It will take significant effort and messaging on behalf of Democrats to convince enough voters that the Democrats' party, not Trump's, actually represents rural Americans' best interests. While President

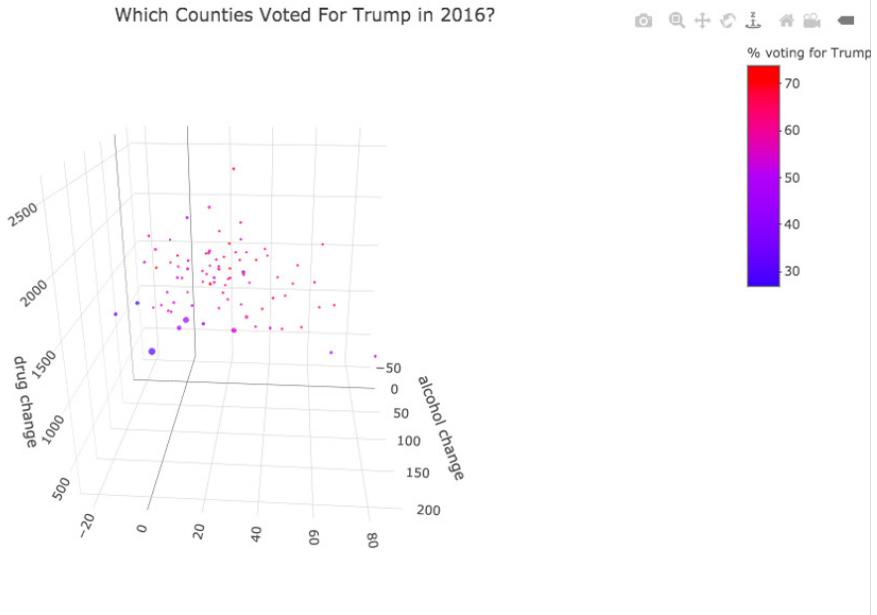
32 Cramer, *Politics of Resentment*, 127-137.

Biden managed to do this in 2020, very narrowly, it remains to be seen whether other Democratic candidates will be able to or will even want to capitalize on this messaging. It also remains to be seen which candidates will seem authentic to rural voters—clearly this was a big factor in Trump’s victory and was maybe an even bigger factor contributing to Clinton’s loss. Going forward, the Democrats will need to support candidates who can reach rural voters effectively and authentically, which remains a tall order.

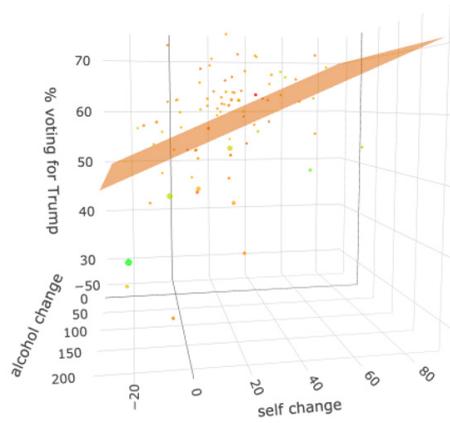
While Trump, not establishment Republicans, created a new coalition that drew on rural pain and despair, it would be naive to assume that the Republican Party will not continue to take advantage of rural despair to win elections. Since Trump’s defeat, the messaging of the Republican Party has remained largely the same as when Trump was in office. If Democrats do not devote resources to successfully addressing these voters, they will have to accept the possibility that their once reliable Blue Wall will fall again or will never be rebuilt, and they will need to find another sizable coalition of voters to target in order to win elections at every single level.

Appendix

Which Counties Voted For Trump in 2016?



Which Counties Voted For Trump in 2016?



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Federal 5G Innovation Policy in the Context of Technological Competition between the United States and China

Will Matheson

Introduction

Proponents of 5G pitch the technology as a societal panacea, leading to a ‘fourth Industrial Revolution’ complete with robotic surgeons and near-boundless economic growth.¹ Such predictions are premature—the nascence of this technology makes impossible predictions of its economic, political, and societal implications.² Nevertheless, just as each progression from 1G to 4G brought a greater impact than its predecessor, the transition to 5G holds substantial implications as the largest network overhaul in history, effectually causing tremendous innovation across facets of society. As such, beyond questions of bandwidth, spectrum allocation, and mobile capacity, questions of politics, cybersecurity, and national prestige have shaped the adoption of 5G.

In particular, China and its “national champion” telecommunications company, Huawei, have become central to the political questions surrounding 5G. In 2020, Attorney General William Barr delivered a speech accusing China of having unfairly gained an advantage in 5G development through the Chinese Communist Party’s (CCP) market-distorting support of Huawei, seeming to imply the US is being cheated in this race and needs to begin playing by China’s rules.³ Similarly,

1 Bruce Mehlman, “Why the 5G Race Matters,” *TheHill*, December 10, 2018, <https://thehill.com/blogs/congress-blog/technology/420509-why-the-5g-race-matters>; “How 5G Can Transform Healthcare,” *Verizon*, October 22, 2018, <https://www.verizon.com/about/our-company/5g/how-5g-can-transform-healthcare>; Jason Curtis, “5G Wireless Networks Leading Fourth Industrial Revolution,” *TechRadar*, April 26, 2020, <https://www.techradar.com/news/5g-wireless-networks-leading-fourth-industrial-revolution>.

2 Tom Wheeler, “5G in Five (Not so) Easy Pieces,” *Brookings* (blog), July 9, 2019, <https://www.brookings.edu/research/5g-in-five-not-so-easy-pieces/>; Chris Donkin, “Verizon VP Warns on 5G Overhype and Under-Delivery,” *Mobile World Live* (blog), April 26, 2019, <https://www.mobileworldlive.com/featured-content/top-three/verizon-vp-warns-on-5g-overhype-and-under-delivery/>.

3 William Barr, “Attorney General William P. Barr Delivers the Keynote Address at the Department of

US Secretary of State Mike Pompeo recently warned business leaders in Silicon Valley to be aware of intense technological competition with China, suggesting the CCP and Chinese companies have engaged in widespread cheating to steal from US companies and gain a technological advantage over the US.⁴ This rhetoric draws attention to a more interesting trend: a shift in US government technology policy, particularly in the 5G space, and particularly driven by the Trump administration.

As China gains global attention for its technological innovation in 5G, the US has reacted with increased intervention and control in the sector. Traditionally, US economic orthodoxy is associated with a free-market system, in which innovation derives from competition among private firms. Proponents of American capitalism, representing the economic doctrine of both major political parties, embrace this innovation model as a great strength of the system. As the US has shifted towards a more interventionist approach in spaces like 5G in reaction to China's successes, supporters of this economic approach such as *The Economist* have, predictably, reacted with surprise and disapproval.⁵

Of course, this free-market depiction oversimplifies the US economy—the government has played significant and varying roles in technological innovation throughout history—but the *shift* in strategy matters. It also contradicts historical responses to similar cases of national competition. In the 1980s, fears of Japanese technological innovation outpacing that of the US's were rampant, leading credible voices to call for direct government involvement in capital allocation analogous to Japan's system.⁶ However, such a shift from a free market economy to the interventionist Japanese-style "industrial policy" did not happen. The US never picked specific companies or industries to drive economic growth, did not develop a vast bureaucracy to direct technology adoption and dispersion, and did not adopt widespread protectionist measures. Today, the US government's shift in technology strategy is not yet on the scale of true industrial policy. However, comments from key Trump administration officials asserting a need to pick "the 'horse' we are going to ride in this [5G] race" and the administration's embrace of tariffs suggest that the reaction to China's innovation surge differs from the reaction to Japan's 40 years ago, begging the question, why might the US shift now, but not then?

Justice's China Initiative Conference," <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-keynote-address-department-justices-china>.

4 Michael Pompeo, *Silicon Valley and National Security* (San Francisco, 2020), <https://www.state.gov/silicon-valley-and-national-security/>.

5 "The Qualcommist Manifesto: American State Capitalism Will Not Beat China at 5G," *The Economist*, February 15, 2020.

6 Robert B. Reich, "Why the U.S. Needs an Industrial Policy," *Harvard Business Review*, January 1, 1982, <https://hbr.org/1982/01/why-the-us-needs-an-industrial-policy>.

This paper begins to investigate the factors motivating the shift in the US federal government's 5G innovation strategy. To understand why the government's reaction to China's technological rise differs from its reaction to Japan's, the paper investigates the influence the US-China relationship has on federal 5G strategy, with emphasis on the relative influence of concerns of national security and concerns of economic growth and development. The US's relationship with China differs greatly from that of the US with Japan in the 1980s; increasingly, policymakers view the relationship through the lens of great power competition. This essay considers how the differing security relationship with the People's Republic of China may motivate this shift and investigates the specific ways it may manifest. Economically, the Trump administration's policies represent a shift in economic orthodoxy in the US as industrial policy has become more mainstream. This strategy results from a reaction to global trade, particularly with China. While these motivations are not necessarily mutually exclusive, this paper's test of the perceived strength of each motivation illustrates the relative influence of perceived security and economic challenges from China on the US's domestic innovation strategy. It concludes that while both factors likely play a role in motivating US 5G innovation strategy, the security aspect of the relationship holds a stronger sway over the federal approach to innovation than does the economic aspect.

Literature Review

The scope of academic research specifically focusing on the US government's recent shift toward greater intervention in 5G innovation is limited, likely due to the recency of this trend, its ongoing evolution, and the specificity of this change. However, numerous schools of thought have provided useful frameworks for understanding this evolution, and in some cases, academics have applied these frameworks to questions of US technology policy oriented toward China. The following sections delineate these bodies of literature as they apply to this evolution in US tech policy.

The "New Cold War" and the Role of Historical Analogy

Today, popular discourse increasingly frames the US-China relationship as devolving into a "new Cold War."⁷ One key parallel emerging from this discourse is the systematic differences between American democracy and Chinese autocracy.⁸ At the same time, many challenge these claims, illustrating the multiplicity of views of China in popular discourse and the ongoing use of history as a mechanism to

7 For example, see Robert D. Kaplan, "A New Cold War Has Begun," *Foreign Policy*, January 7, 2019, <https://foreignpolicy.com/2019/01/07/a-new-cold-war-has-begun/>; Niall Ferguson, "The New Cold War? It's With China, and It Has Already Begun," *The New York Times*, December 2, 2019, <https://www.nytimes.com/2019/12/02/opinion/china-cold-war.html>; Odd Arne Westad, "The Sources of Chinese Conduct: Are Washington and Beijing Fighting a New Cold War?," *Foreign Affairs* 98, no. 5 (2019): 86–95;

8 Matthew Kroenig, "Why the U.S. Will Outcompete China," *The Atlantic*, April 3, 2020, <https://www.theatlantic.com/ideas/archive/2020/04/why-china-ill-equipped-great-power-rivalry/609364/>.

understand the Sino-American relationship.⁹ Certainly, the Trump administration has seemed to adopt a more confrontational stance toward China that belies a belief in great power competition, perhaps best embodied by its depiction of China as “revisionist” in the 2017 National Security Strategy.¹⁰

This discourse holds key implications for US policy. Given its empirical nature and the difficulties of understanding the present and future, history often serves as a heuristic for national leaders. Analogizing the Sino-American relationship to the Cold War will shape how leaders view the relationship and the policies they enact.¹¹ However, a smaller body of literature instead finds that analogies serve more as *post hoc* justifications for policies.¹² Of course, the framing of China as a wholly “revisionist” power that serves as an ideological and geopolitical foe oversimplifies the Sino-American relationship and China’s own behavior on the international stage at the expense of empirical accuracy.¹³ Nevertheless, the *belief* in such a “new Cold War” likely influences US policy toward China. Interestingly, some research suggests less conceptually complex leaders—defined as the level of sensitivity to information and its nuances within, measured by relative usage of high and low complexity words—use less sophisticated, more simplistic, and universalizing historical analogies in foreign policy decision-making.¹⁴ Political psychology naturally involves significant issues with validity, and this study’s sample size is limited. However, its implication suggests that Trump (a less complex leader by its measure of complexity) is particularly inclined to universalizing analogies such as framing the US-China relationship as a second Cold War. Such analogizing implies that the perception of great power competition with China may be motivating the shift in US technology policy. Indeed, the connection between memory of the Cold

9 Melvyn P. Leffler, “China Isn’t the Soviet Union. Confusing the Two Is Dangerous,” *The Atlantic*, December 2, 2019, <https://www.theatlantic.com/ideas/archive/2019/12/cold-war-china-purely-optional/601969/>; Ben Westcott, “There’s Talk of a New Cold War. But China Is Not the Soviet Union,” *CNN*, January 3, 2020, <https://www.cnn.com/2020/01/02/asia/us-china-cold-war-intl-hnk/index.html>.

10 Donald Trump, “National Security Strategy of the United States of America 2017” (The White House, December 2017), <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905-2.pdf>.

11 Yaacov Y. I. Vertzberger, “Foreign Policy Decisionmakers As Practical-Intuitive Historians: Applied History and Its Shortcomings,” *International Studies Quarterly* 30, no. 2 (1986): 223–47, <https://doi.org/10.2307/2600677>; David Patrick Houghton, “The Role of Analogical Reasoning in Novel Foreign-Policy Situations,” *British Journal of Political Science* 26, no. 4 (1996): 523–52; Yuen Foong Khong, *Analogies at Ear: Korea, Munich, Dien Bien Phu, and the Vietnam Decisions of 1965*, Princeton Paperbacks (Princeton, N.J.: Princeton University Press, 1992); David Bruce MacDonald, *Thinking History, Fighting Evil: Neoconservatives and the Perils of Analogy in American Politics* (Lanham, MD: Lexington Books, 2009), <http://hdl.handle.net/2027/mdp.39015078809848>; Jeffrey Record, *Making War, Thinking History: Munich, Vietnam, and Presidential Uses of Force from Korea to Kosovo* (Annapolis, MD: Naval Institute Press, 2002), <http://hdl.handle.net/2027/mdp.39015054296721>.

12 Andrew J. Taylor and John T. Rourke, “Historical Analogies in the Congressional Foreign Policy Process,” *The Journal of Politics* 57, no. 2 (1995): 460–68, <https://doi.org/10.2307/2960316>.

13 Alastair Iain Johnston, “China in a World of Orders: Rethinking Compliance and Challenge in Beijing’s International Relations,” *International Security* 44, no. 2 (November 11, 2019): 9–60.

14 Stephen Benedict Dyson and Thomas Preston, “Individual Characteristics of Political Leaders and the Use of Analogy in Foreign Policy Decision Making,” *Political Psychology* 27, no. 2 (2006): 265–88.

War to technological competition with China is beginning to emerge in popular discussion.¹⁵

At a baseline level, research detailing government technology strategy during the Cold War provides a rough idea of the lessons leaders analogizing the present may draw. The Cold War national security apparatus routinely dictated innovation strategy and goals across sectors in a departure from market-driven innovation, instead being motivated by a greater focus on pre-eminence in key areas such as radar, jet propulsion, and telecommunications. In particular, the government drove innovation primarily via federal projects (rather than the creation of state-owned enterprises) organized in the constellation of a few critical government laboratories, a slightly larger group of independent labs and sources of expertise, and a large array of businesses fulfilling contracts. The sheer scope and size of government funding for these projects was exorbitant and focused on specific technological achievements rather than foundational research.¹⁶ The most powerful technological Cold War analogy is the Space Race. This episode condenses the notions of technological competition between great powers and is still reflected today by Americans' general fascination with space and support for "space leadership."¹⁷

Securitization

Another way the US security relationship with China may influence support for 5G technology development is the securitization of various facets of the relationship as a result of a rising perception of great power competition. Securitization theory refers to a politicization process in which leaders of states assert policy areas as issues of national security, redefining the way actors treat the issue.¹⁸ An array of scholars argue the aforementioned "new Cold War" framing creates depictions of China as a threat that leads to the securitization of the US-China relationship.¹⁹ Importantly, securitization is a phenomenon that describes how countries, leaders, media, and other political actors understand things as threats. The securitization of something—such as aspects of the US-China relationship—does not imply that

15 Brad Glosserman, "Innovation: The Front Line of the New Great Power Competition," *The Japan Times*, March 4, 2020, <https://www.japantimes.co.jp/opinion/2020/03/04/commentary/world-commentary/innovation-front-line-new-great-power-competition/>.

16 Philip Scranton, "Technology, Science and American Innovation," *Business History* 48, no. 3 (August 20, 2006): 311–31, <https://doi-org.ezp-prod1.hul.harvard.edu/10.1080/00076790600791763>.

17 Cary Funk and Mark Strauss, "Majority of Americans Believe Space Exploration Remains Essential" (Pew Research Center, June 6, 2018), <https://www.pewresearch.org/science/2018/06/06/majority-of-americans-believe-it-is-essential-that-the-u-s-remain-a-global-leader-in-space/>.

18 Michael C. Williams, "Words, Images, Enemies: Securitization and International Politics," *International Studies Quarterly* 47, no. 4 (2003): 511–31; Paul Roe, "Is Securitization a 'Negative' Concept? Revisiting the Normative Debate over Normal versus Extraordinary Politics," *Security Dialogue* 43, no. 3 (June 1, 2012): 249–66, <https://doi.org/10.1177/0967010612443723>.

19 Weiqing Song, "Securitization of the 'China Threat' Discourse: A Poststructuralist Account," *China Review* 15, no. 1 (May 8, 2015): 145–69; Emma V. Broomfield, "Perceptions of Danger: The China Threat Theory," *Journal of Contemporary China* 12, no. 35 (May 1, 2003): 265–84, <https://doi.org/10.1080/1067056022000054605>.

said object does not genuinely constitute a security threat. Rather, the theory is useful for understanding discursive constructions of threats, but the determination of whether that construction is justified is a separate question.

Recently, scholars of securitization theory have applied it to the realms of technology and cybersecurity. Hansen and Nissenbaum propose a three-pronged framework for the securitization of cyberspace useful for evaluating possible security constructions of 5G. First, securitization in cyberspace includes depictions of entire infrastructures at risk of devastating, irreversible attack. Second, emphasis on everyday security practice in cyberspace creates powerful links between people's everyday experience with their personal electronic devices and the threat of devastating attack. Third, emphasis on the technical complexity of the security threats ("technification") powerfully motivates the securitization of a cyber issue and lends credibility to those securitizing it.²⁰

Given how recently the Huawei issue has risen to public prominence, only a small body of literature specifically argues US discourse securitizes Huawei (and ZTE, another key Chinese telecommunications company).²¹ Of course, a wider body of scholarship investigates the ways cybersecurity and critical infrastructure are constructed or securitized, implying the potential securitization of specific Chinese companies like Huawei and ZTE.²² The securitization of technology has unique implications, such as substantial restrictions to trade (e.g. export controls, tariffs, localization requirements, restrictions on foreign direct investment). This immediate effect in turn leads to greater securitization of technology (creating a feedback loop), as well as tensions between nation-states.²³

Industrial Policy

Industrial policy connotes a specific economic intervention by the government. The economic strategy requires government intervention into the economy to target the allocation of capital, alter production models, and provide protection for

20 Lene Hansen and Helen Nissenbaum, "Digital Disaster, Cyber Security, and the Copenhagen School," *International Studies Quarterly* 53, no. 4 (2009): 1155–75.

21 Andrew Stephen Champion, "From CNOOC to Huawei: Securitization, the China Threat, and Critical Infrastructure," *Asian Journal of Political Science* 28, no. 1 (January 2, 2020): 47–66, <https://doi.org/10.1080/02185377.2020.1741416>; Noah T. Archibald, "Cybersecurity and Critical Infrastructure: An Analysis of Securitization Theory," *Undergraduate Journal of Politics, Policy and Society* 3, no. 1 (2020): 39–54. Note this work is an undergraduate paper, implying its lack of peer-review. The need to cite an undergraduate paper underscores the lack of scholarly literature in this domain.

22 Myriam Dunn Cavelty, "From Cyber-Bombs to Political Fallout: Threat Representations with an Impact in the Cyber-Security Discourse," *International Studies Review* 15, no. 1 (2013): 105–22; Agnes Kasper, "The Fragmented Securitization of Cyber Threats," in *Regulating ETechnologies in the European Union*, ed. Tanel Kerikmäe (Cham: Springer International Publishing, 2014), 157–87, https://doi.org/10.1007/978-3-319-08117-5_9; Mark Lacy and Daniel Prince, "Securitization and the Global Politics of Cybersecurity," *Global Discourse* 8, no. 1 (February 15, 2018): 100–115, <https://doi.org/10.1080/23269995.2017.1415082>.

23 Karl Grindal, "Trade Regimes as a Tool for Cyber Policy," *Digital Policy, Regulation and Governance* 21, no. 1 (2019): 19–31, <https://doi.org/10.1108/DPRG-08-2018-0042>.

sectors deemed key drivers of economic growth and job production (that, absent said intervention, would perform significantly less well).²⁴ Japan's rapid economic development in the mid- to late 20th century best exemplifies this strategy of a developmental state: a system closely coordinating government and business by limiting the entry of competitors, creating recessionary cartels, coordinating technology uptake and knowledge sharing in key industries, forcing and guiding mergers and industry exits, and providing subsidies through regulating pricing, government purchasing schemes, tax breaks, the use of tariffs, and low-interest rate loans.²⁵ The process results in the "picking of winners and losers" whereby the government plays a key role in determining which companies become the conglomerate drivers of certain industries or sectors. While consensus generally assumed this process was almost entirely bureaucracy-driven,²⁶ recent scholarship has suggested that elected leaders still played a key role in shaping Japanese industrial policy.²⁷

China's strategic plan, "Made in China 2025," also reflects the core tenets of industrial policy. The strategy articulates China's current industrial policy, serving as a ten-year guide to pivot the economy away from low-quality, labor-intensive goods to high-quality, technology-intensive goods and services. The plan provides the framework by which the Chinese government will coordinate massive subsidies, preferential market access, and technology uptake from other nations in order to promote specific companies in key industries as *national champions*.²⁸ "Made in China 2025" identifies key industries including information technology, and Huawei is one of China's most successful national champions. The multinational technology company Huawei provides a useful case study in Chinese industrial policy: the company benefits from large state subsidies, lucrative contracts with the

24 Howard Pack and Kamal Saggi, "Is There a Case for Industrial Policy? A Critical Survey," *The World Bank Research Observer* 21, no. 2 (2006): 267–97, especially 267–268.

25 Chalmers Johnson, "Japan: Who Governs? An Essay on Official Bureaucracy," in *Japan: Who Governs? The Rise of the Developmental State* (New York, NY: W.W. Norton & Company, 1995), 115–40; Leonard Schoppa, "Productive and Protective Elements of Convoy Capitalism," in *Race for the Exits: The Unraveling of Japan's System of Social Protection* (Ithaca, NY: Cornell University Press, 2006), 36–66.

26 T.J. Pempel, "The Bureaucratization of Policymaking in Postwar Japan," *American Journal of Political Science* 18, no. 4 (1974): 647–64, <https://doi.org/10.2307/2110551>.

27 John Creighton Campbell and Ethan Scheiner, "Fragmentation and Power: Reconceptualizing Policy Making under Japan's 1955 System," *Japanese Journal of Political Science* 9, no. 1 (April 2008): 89–113, <https://doi.org/10.1017/S1468109907002836>.

28 Wayne M Morrison, "The Made in China 2025 Initiative: Economic Implications for the United States," *Congressional Research Service*, April 12, 2019, <https://fas.org/sgp/crs/row/IF10964.pdf>; James McBride and Andrew Chatzky, "Is 'Made in China 2025' a Threat to Global Trade?," *Council on Foreign Relations*, May 13, 2019, <https://www.cfr.org/backgrounder/made-china-2025-threat-global-trade/>; "Made in China 2025: Global Ambitions Built on Local Protections" (US Chamber of Commerce, 2017), https://www.uschamber.com/sites/default/files/final_made_in_china_2025_report_full.pdf; "Made in China 2025 Backgrounder" (Institute for Security and Development Policy, June 2018), <https://isdpeu.org/content/uploads/2018/06/Made-in-China-Backgrounder.pdf>; Scott Kennedy, "Made in China 2025," Critical Questions (Washington, D.C.: Center for Strategic & International Studies, June 1, 2015), <https://www.csis.org/analysis/made-china-2025>.

military, and favorable tax breaks. As a result of its ability to consistently undercut all competitors on pricing, it has experienced massive global market growth.²⁹

Much like how some American thinkers and leaders called for industrial policy in reaction to Japan's industrial policy successes in the 1980s, today some call for the strategy in reaction to China's policy.³⁰ This sentiment may be grounded in states modeling their policy behavior off of the actions of one another, particularly in defense policy.³¹ Donald Trump, and key advisors in his administration such as Peter Navarro, have strong records of supporting industrial policy and have made attempts at enacting such an economic strategy both broadly and in relation to China over the previous three years.³² However, while the administration may have attempted to use strategies like a trade war as a protectionist reaction to China's industrial policy, China's recent behavior and industrial planning have continued to emphasize the industrial policy mentality of "Made in China 2025," suggesting the influence of the administration's policies on China's behavior has been limited thus far.³³ Nevertheless, this track record demonstrates that in the US, support for industrial policy empirically derives from interactivity with other nations' economies and that it is reasonable to suggest that the orthodoxy of industrial policy may motivate the Trump administration's economic strategies. Indeed, research is beginning to investigate how industrial policy motivated by economic

29 Lindsay Maizland and Andrew Chatzky, "Huawei: China's Controversial Tech Giant" (The Council on Foreign Relations, February 12, 2020), <https://www.cfr.org/background/huawei-chinas-controversial-tech-giant>; Chuin-Wei Yap, "State Support Helped Fuel Huawei's Global Rise," *Wall Street Journal*, December 25, 2019, <https://www.wsj.com/articles/state-support-helped-fuel-huaweis-global-rise-11577280736>.

30 Robert D. Atkinson, "The Case for a National Industrial Strategy to Counter China's Technological Rise" (Information Technology and Innovation Foundation, April 13, 2020), <https://itif.org/publications/2020/04/13/case-national-industrial-strategy-counter-chinas-technological-rise>; Gabriel Wildau, "China's Industrial Policies Work. So Copy Them," *The Japan Times*, November 19, 2019, <https://www.japantimes.co.jp/opinion/2019/11/19/commentary/world-commentary/chinas-industrial-policies-work-copy/>.

31 Patrick Major and Rana Mitter, "East Is East and West Is West? Towards a Comparative Socio-Cultural History of the Cold War," *Cold War History* 4, no. 1 (October 1, 2003): 1–22, <https://doi.org/10.1080/14682740312331391714>; João Resende Santos, "Anarchy and the Emulation of Military Systems: Military Organization and Technology in South America, 1870–1930," *Security Studies* 5, no. 3 (March 1996): 193–260, <https://doi.org/10.1080/09636419608429280>; Andrea Gilli and Mauro Gilli, "Why China Has Not Caught Up Yet: Military-Technological Superiority and the Limits of Imitation, Reverse Engineering, and Cyber Espionage," *International Security* 43, no. 3 (2018): 141–89.

32 Peter Navarro, *Death By China: How America Lost Its Manufacturing Base (Official Version)*, 2016, <https://www.youtube.com/watch?v=mMlmjXtnIXI>; "Strategy for American Leadership in Advanced Manufacturing" (National Science & Technology Council, October 2018), <https://www.whitehouse.gov/wp-content/uploads/2018/10/Advanced-Manufacturing-Strategic-Plan-2018.pdf>; Justin Wolfers, "Why Most Economists Are So Worried About Trump," *The New York Times*, January 11, 2017, <https://www.nytimes.com/2017/01/11/upshot/why-most-economists-are-so-worried-about-trump.html>; Rana Foroohar, "Trump Aims for an Industrial Policy That Works for America," *Financial Times*, May 7, 2017, <https://www.ft.com/content/9b6ed79a-318c-11e7-9555-23ef563ecf9a>; Ted Gayer, "Should Government Directly Support Certain Industries?," *Brookings* (blog), March 4, 2020, <https://www.brookings.edu/policy2020/votervital/should-government-directly-support-certain-industries/>.

33 Orange Wang and Adam Behsudi, "Beijing's New Industrial Policy Plan Doesn't Address Trump Complaints," *South China Morning Post*, November 20, 2019, <https://www.scmp.com/economy/china-economy/article/3038590/chinas-new-industrial-policy-dismissed-made-china-2025-rehash>.

competition with China specifically influences technology innovation strategies.³⁴

Methodology

Operationalization of the Dependent Variable

Understanding the evolution of government policy toward greater intervention and control in technological innovation presents distinct challenges. Because this dependent variable is a recent trend that is continuing to develop, factors that indicate it are subtle. As a result, a composite of indicators best illustrates this change within the past few years. In particular, this shift has three components: protection of domestic technology firms from perceived risks, investment in technological innovation, and intervention specifically designed to support US-based semiconductor manufacturer Qualcomm as it competes with Huawei.

The Committee on Foreign Investment in the United States (CFIUS) provides evidence of the protection of domestic technology firms from perceived risk. CFIUS is an interagency governmental body that was created in the 1970s to evaluate potential national security implications of various forms of foreign direct investment. Its powers have generally expanded over time, now focussing on the broader implications of specific investments and on the implications of aggregate investments from certain countries and investors in specific industries. Given this role, its record of enforcement illustrates the protection of domestic firms from foreign—and in particular, Chinese—firms. CFIUS's scope has expanded significantly over the past 15 years as it increasingly scrutinized Chinese Foreign Direct Investment (FDI). In 2007, the Foreign Investment and National Security Act officially codified CFIUS (which had previously enjoyed the mandate of only an executive order) in a clear push by Congress to give it more sway in screening FDI. In 2015, *Ralls Corporation v. CFIUS* expanded the presidential powers to use the committee to prevent FDI on claims of national security. The Foreign Investment Risk Review Modernization Act of 2018 further expanded CFIUS's purview, instructing it to both consider the risks of cumulative investments in particular sectors and the broader economic implications of any single investment in national security terms. It also instructs the committee to take into account the country from which FDI originates, signaling its increasing focus on China. In the same year, CFIUS intervened in the hostile takeover of Qualcomm by then Singaporean-based Broadcom, marking the first instance of the committee intervening before a deal was finalized. The cumulative effect has turned CFIUS into a gatekeeper to the US economy, enjoying broad, unappealable power to dictate FDI.³⁵

34 Kevin Honglin Zhang, "Industrial Policy and Technology Innovation under the US Trade War against China," *The Chinese Economy*, February 27, 2020, 1–11, <https://doi.org/10.1080/10971475.2020.1730553>.

35 James K. Jackson, "The Committee on Foreign Investment in the United States (CFIUS)" (Congressional Research Service, February 14, 2020), <https://fas.org/sgp/crs/natsec/RL33388.pdf>; Grindal, "Trade Regimes as a Tool for Cyber Policy;" Hunter Deeley, "The Expanding Reach of the Executive in Foreign Direct Investment:

The data demonstrate this expansion of CFIUS intervention over the previous decade. Crucially, the threat of a CFIUS investigation is the most important way CFIUS influences businesses due to the high costs these entities must shoulder under an investigation.³⁶ Over roughly the past decade, CFIUS has dramatically increased the number of notices it has received as its scope has broadened and has correspondingly pursued a greater number of investigations over time (see “Increasing CFIUS Enforcement and Deterrence, 2009–2017,” above).³⁷ Correspondingly, this increase in investigations has deterred companies from following through on their transactions, as the number that have withdrawn their notices during investigation or review has increased, as demonstrated by the same chart.

This expansion of notices has specifically focused on China. Between 2005–2015, CFIUS dramatically increased the number of transactions originating from China that it covered, and Chinese transactions became a larger part of its portfolio (see “Chinese transactions covered by CFIUS,” next page).³⁸ In addition, between 2016–17, China far outpaced any other country for the number of CFIUS cases explicitly concerned with acquisitions of critical US technology, totaling over 1/5th of all such cases (a total of 38 cases).³⁹

Two cases under the Trump administration demonstrate how the 5G/semiconductor fight has particularly shaped this growth in CFIUS’s power. In 2017, President Trump directly blocked the takeover of Lattice Semiconductor by a Chinese-backed investor on the basis of national security.⁴⁰ In 2018, CFIUS intervened to prevent the hostile takeover of Qualcomm on the national security grounds that the deal could potentially undermine America’s ability to compete with Huawei.⁴¹ The application of the national security framework, citing the threat from China, for a case concerning a takeover by a non-Chinese firm underscores how seriously the government has taken 5G.

Tracking government investment in 5G is more difficult—for as many times as the White House has had Infrastructure Week, the government still has not put

How Ralls v. CFIUS Will Alter the FDI Landscape in the United States,” *American University Business Law Review* 4, no. 1 (2015): 125–52;

Kevin Granville, “Cfius, Powerful and Unseen, Is a Gatekeeper on Major Deals,” *New York Times*, March 5, 2018, <https://www.nytimes.com/2018/03/05/business/what-is-cfius.html>.

36 Paul Connell and Tian Huang, “An Empirical Analysis of CFIUS: Examining Foreign Investment Regulation in the United States,” *Yale Journal of International Law* 39, no. 1 (2014): 131–64.

37 Data sourced from Jackson, “The Committee on Foreign Investment in the United States (CFIUS).”

38 Note – chart taken from Grindal, “Trade Regimes as a Tool for Cyber Policy.”

39 Jackson, “The Committee on Foreign Investment in the United States (CFIUS).”

40 Ana Swanson, “Trump Blocks China-Backed Bid to Buy U.S. Chip Maker,” *The New York Times*, September 13, 2017, <https://www.nytimes.com/2017/09/13/business/trump-lattice-semiconductor-china.html>.

41 Aimen N. Mir, “Letter From Treasury Department to Broadcom and Qualcomm Regarding CFIUS,” March 5, 2018, <https://www.documentcloud.org/documents/4407490-Letter-From-Treasury-Department-to-Broadcom-and.html>; Chris Sanders, “U.S. Sees National Security Risk from Broadcom’s Qualcomm Deal,” *Reuters*, March 7, 2018, <https://www.reuters.com/article/us-qualcomm-m-a-broadcom-idUSKCN1G11S8>.

substantial funding toward 5G. Nevertheless, the government has made a number of steps that collectively signal an increasing level of involvement in the 5G space. The FCC's controversial approval of the T-Mobile and Sprint merger (given the substantial concerns regarding oligopoly among cellular network providers) was explicitly founded upon the reasoning that it would promote "United States leadership in 5G" and conditioned the deal on the company's provision of 5G to 90% of rural Americans.⁴² Moreover, the FCC recently announced a \$9 billion fund for 5G in rural areas.⁴³ The Department of Labor additionally created and put \$6 million toward a public-private partnership to support education and training for jobs considered key to accelerating 5G deployment.⁴⁴

Most relevant, however, is the Networking and Information Technology Research and Development Program (NITRD). NITRD unites various federal agencies, serving as the primary source of direct government research and development for advanced technologies relating to information technology. The "NITRD Budget Data, FY2011–2020" graph below captures how the government has ramped up its investment in this area over the past decade.⁴⁵ This graph demonstrates three important trends. First, from 2011 to 2018, NITRD's budget increased by 43%, from \$3.7 to \$5.3 billion, illustrating the substantial shift in the importance the government has placed on its research. While the total amount of funding may seem small by the standards of the government budget, the strong growth rate illustrates the shift to place greater emphasis on the government's role in technology innovation. Second, the executive branch has begun substantially increasing its requested budget amount every year since 2016, suggesting a concurrent increase in government investment in IT. Third, the actual budget has outpaced the requested budget for each year recorded since 2015, suggesting Congress has also played a key role in driving this shift toward more government investment.

Finally, the government's involvement with Qualcomm and Huawei illustrates how it is willing to take low-frequency, high-visibility actions to protect 5G technology innovation. The Trump administration's 2018 intervention to prevent the Broadcom takeover of Qualcomm signaled the degree to which it will intervene to protect this 5G chip-making company it sees as crucial to national competitiveness. This year, the administration has doubled down on this emphasis on Qualcomm, using the Department of Justice (DOJ) to back Qualcomm in an anti-trust lawsuit. Interestingly, this lawsuit was first brought against Qualcomm by the

42 "FCC Approves Merger of T-Mobile and Sprint" (Federal Communications Commission, November 5, 2019), <https://docs.fcc.gov/public/attachments/DOC-360637A1.pdf>.

43 "FCC Proposes the 5G Fund for Rural America" (Federal Communications Commission, April 23, 2020), <https://docs.fcc.gov/public/attachments/DOC-363946A1.pdf>.

44 "WIA Awarded \$6 Million DOL Grant to Train 5G Workforce" (Wireless Infrastructure Association, February 19, 2020), <https://wia.org/wia-awarded-6-million-dol-grant-to-train-5g-workforce/>.

45 Data sourced from the NITRD's Supplement to the President's Budgets for Fiscal Years 2012-2020.

Federal Trade Commission under the Obama administration, with a district court ruling in favor of the FTC.⁴⁶ Now, the DOJ (with support from the Departments of Defense and Energy) has supported Qualcomm’s appeal, explicitly making the argument that the courts should allow the company to maintain its business model on grounds that the company itself is integral to the security of the nation.^{47,48}

Similarly, the Trump administration has taken aim at Huawei. In 2019, President Trump issued Executive Order 13873, which dramatically expanded government protections for telecommunications on the basis that such networks faced serious threat from foreign companies and governments and that such threats constituted a national security risk. Though not mentioning Huawei by name, the move was universally regarded as a reaction to the company’s perceived threat in the 5G space. Indeed, at the same time, the Department of Commerce added Huawei to the Entity List, effectively banning Huawei from doing business in the US. The coordination of these actions demonstrates the US government’s specific targeting of Huawei as the face of the Chinese technological competition with the US.⁴⁹

While other Trump administration officials have spoken on this subject as well, these statements will not be as useful for signaling the existence of a shift in gov-

46 “United States District Court Findings of Fact and Conclusions of Law (Public Redacted Version), Federal Trade Commission v. Qualcomm Incorporated” (UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION, May 21, 2019), https://www.ftc.gov/system/files/documents/cases/qualcomm_findings_of_fact_and_conclusions_of_law.pdf.

47 “BRIEF OF THE UNITED STATES OF AMERICA AS AMICUS CURIAE IN SUPPORT OF APPELLANT AND VACATUR” (US Department of Justice, August 30, 2019), <https://www.justice.gov/atr/case-document/file/1199191/download>; Kadhim Shubber, “US Regulators Face off in Court Tussle over Qualcomm,” *Financial Times*, February 9, 2020, <https://www.ft.com/content/adbca366-49d3-11ea-aeb3-955839e06441>.

48 Note – the government’s support for the T-Mobile-Sprint merger, which (as mentioned earlier) is explicitly premised on 5G rollout to be enabled by consolidated market power, is another example of government intervention supporting anticompetitive behavior in the 5G space. For more, see Thomas M Johnson et al., “Statement of Interest of the United States of America” (United States Department of Justice, December 20, 2019), <https://www.justice.gov/atr/case-document/file/1230491/download>.

49 Donald Trump, “Executive Order on Securing the Information and Communications Technology and Services Supply Chain, Executive Order 13873” (2019), <https://www.whitehouse.gov/presidential-actions/executive-order-securing-information-communications-technology-services-supply-chain/>; “Department of Commerce Announces the Addition of Huawei Technologies Co. Ltd. to the Entity List” (US Department of Commerce, Office of Public Affairs, May 15, 2019), <https://www.commerce.gov/news/press-releases/2019/05/department-commerce-announces-addition-huawei-technologies-co-ltd>; Tamer Soliman et al., “US Commerce Department Proposes Sweeping New Rules for National Security Review of US Information and Communications Technology or Services Transactions,” *Mayer Brown*, December 2, 2019, <https://www.mayerbrown.com/en/perspectives-events/publications/2019/12/us-department-of-commerce-proposes-rule-for-securing-the-nations-information-and-communications-technology-and-services-supply-chain>; Damian Paletta, Ellen Nakashima, and David Lynch, “Trump Administration Cracks Down on Giant Chinese Tech Firm, Escalating Clash with Beijing,” *Washington Post*, May 16, 2019, https://www.washingtonpost.com/world/national-security/trump-signs-order-to-protect-us-networks-from-foreign-espionage-a-move-that-appears-to-target-china/2019/05/15/d982ec50-7727-11e9-bd25-c989555e7766_story.html; Annie Fixler and Mathew Ha, “Washington’s Huawei Ban Combats Chinese Espionage Threat,” *Foundation for Defense of Democracies*, May 16, 2019, <https://www.fdd.org/analysis/2019/05/16/washingtons-huawei-ban-combats-chinese-espionage-threat/>.

ernment policy toward more intervention in 5G innovation.⁵⁰ First, this administration's statements have conflicted in this area. In 2019, administration officials openly disagreed on the right level of intervention in 5G policy, with Trump finally deciding to oppose a direct federal acquisition of Nokia or Ericsson. However, a year later Attorney General Barr's aforementioned speech revisited the issue and suggested that acquisition remained on the table.⁵¹ Clearly, the statements by the Trump administration send too many conflicting signals to reliably capture the trend of increasing government intervention. Additionally, intervention in the tech space matters for its actual effects on innovation processes, so tracking actions is better than tracking words. However, the concrete actions by CFIUS and the DOJ regarding Qualcomm unequivocally show how the government is increasingly favoring an interventionist approach specific to 5G. Taken together, the data from CFIUS, NITRD, and the government's specific focus on Qualcomm illustrate a growing tendency in the federal government to intervene in technology areas such as 5G in order to promote innovation.

Hypotheses

The emphasis on great power competition has emerged in the government at the same time this shift in innovation policy strategy has occurred. Especially under the Trump administration, key government documents reflect this shift, arguing that China and Russia present the greatest threats to the United States. These documents forward a collection of related ideas: that great power competition will define the coming decades, that China is a revisionist power, that this competition is not simply a military one but an ideological one, etc.⁵² Interestingly, while most of these documents, including the most authoritative such as the 2017 National Security Strategy (NSS), have emerged during the years of the Trump presidency,

50 For example, see Barr, "Attorney General William P. Barr Delivers the Keynote Address at the Department of Justice's China Initiative Conference;" Michael Pompeo, *U.S. States and the China Competition: Secretary Pompeo's Remarks to the NGA*, <https://www.youtube.com/watch?v=g1BbswU3i10>; and Pompeo, *Silicon Valley and National Security*.

51 Margaret Harding McGill, "Trump Rejects Government Intervention in 5G Wireless Networks," *POLITICO*, April 12, 2019, <https://politi.co/2P4erIf>; Barr, "Attorney General William P. Barr Delivers the Keynote Address at the Department of Justice's China Initiative Conference;" Peter Newman, "How the US Buying Ericsson or Nokia Would Impact Networking," *Business Insider*, February 10, 2020, <https://www.businessinsider.com/us-could-buy-ericsson-nokia-to-compete-against-huawei-report-2020-2>.

52 Trump, "National Security Strategy of the United States of America 2017;" Jim Mattis, "Summary of the 2018 National Defense Strategy of the United States of America" (United States Department of Defense, 2018), <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf>; Jim Mattis, "Nuclear Posture Review 2018" (Office of the Secretary of Defense, February 2018), <https://media.defense.gov/2018/Feb/02/2001872886/-1/-1/1/2018-NUCLEAR-POSTURE-REVIEW-FINAL-REPORT.PDF>; Daniel R. Coats, "Worldwide Threat Assessment of the US Intelligence Community" (Senate Select Committee on Intelligence, January 29, 2019), <https://www.dni.gov/files/ODNI/documents/2019-ATA-SFR---SSCI.pdf>; "Description of the National Military Strategy 2018" (US Joint Chiefs of Staff, 2018), https://www.jcs.mil/Portals/36/Documents/Publications/UNCLASS_2018_National_Military_Strategy_Description.pdf; John Richardson, "A Design for Maintaining Maritime Superiority: Version 2.0" (United States Navy, December 2018), https://www.navy.mil/navydata/people/cno/Richardson/Resource/Design_2.0.pdf.

the 2016 Design for Maintaining Maritime Superiority embraced the notion of great power competition between the US and China, showing how this trend is not necessarily exclusive to the Trump administration.⁵³

Clearly, an emerging trend is the perception of great power competition between the US and China, which seems at first glance to motivate or be invoked in the interventions the government is making into the 5G and technology innovation space. As detailed in the literature review, this trend can motivate political behavior, including through the influence of historical analogy and securitization. Given this trend and the literature on technology as a realm of great power competition, an overarching hypothesis for this shift in government innovation policy follows:

The perception in the US of great power competition with China has led it to embrace greater intervention in technology innovation.

This hypothesis has two implications alluded to by the literature review. First, this perception of great power competition may lead to Cold War analogizing that in turn motivates the shift in government innovation policy. The body of literature on historical memory as a heuristic for policymakers suggests the Cold War analogizing of the US-China relationship may have distinct political effects. Such effects and the general discourse around a “new Cold War” imply that perceptions of great power competition could motivate changes to technological innovation policy. Second, the perception of great power competition may motivate the securitization of the 5G space. Literature on securitization suggests that the US may construct technological innovation as a front in a great power competition, thereby necessitating intervention on national security grounds. Both of these scenarios are particular manifestations of the great power competition hypothesis. Testing each of these possibilities, then, illustrates the ways in which the hypothesis may be true. The results of those tests will specifically highlight the mechanisms by which great power competition leads to the shift in technology policy, and will more broadly illuminate the dimensions of this new era of perceived great power competition. Note that these manifestations are neither mutually exclusive nor dependent.

To test the potential for Cold War analogizing, I will track analogizing of 5G to the Space Race with the USSR. This test will examine rhetoric framing 5G as a “race,” including a specific focus on analogies to US and Soviet achievements in the 1960s, over time. Given the rich literature on historical analogies’ influence on political behavior, a trend of such comparisons increasing over time will demonstrate how the administration is framing technology innovation with great power competition. NASA and the race to the moon represent perhaps the most critical

53 John Richardson, “A Design for Maintaining Maritime Superiority: Version 1.0” (United States Navy, January 2016), https://www.navy.mil/cno/docs/cno_stg.pdf.

Cold War episode concerning technology innovation in competition with another great power. As such, these comparisons are the most likely to take place, given the importance of simplistic analogies in particular, and are thus most illustrative of the use of analogizing in viewing 5G. Because the space race represented a pivot toward greater government intervention in technology innovation, its analogy serves as a likely motivator for a similar shift today. Of course, the government's intervention in support of 5G is nowhere close to the scale of involvement it took in the space race, but the analogy-driven change in policy matters more than the parity in magnitude between government involvement in innovation in the 1960s and 2010s. This data is admittedly correlational, though the body of literature on the use of historical memory suggests that the perpetuation of specific analogies influences decision making. This suggestion means the greater the use of the analogy, the more likely it is influencing the shift in innovation strategy.

To test for securitization, I will examine critical documents to understand if a securitizing discourse is being deployed. Securitization is a discursive process, meaning this review of such wording is the most direct way to detect whether or not the government is constructing technology innovation as a realm of security risk. One key implication of securitization is that the national security apparatus absorbs securitized issues, so to test this hypothesis, I will look at key national security documents such as the NSS, National Military Strategy, and Nuclear Posture Review in order to see if national security discourses are intentionally incorporating questions of technological innovation, especially with explicit reference to or focus on 5G.

The literature on the Trump administration's affinity for industrial policy suggests a different explanation for this shift in innovation strategy. Rather than a reaction to China based on notions of great power security competition, this shift may derive from a reaction based on notions of economic vulnerability to China. In other words, this industrial policy in the 5G area stems from an economic embrace of industrial policy more broadly, rather than from the security concerns borne out of great power competition. This literature thus suggests the following hypothesis:

The Trump Administration's belief in industrial policy has led it to embrace greater intervention in technology innovation.

The strongest evidence that supports the industrial policy hypothesis is the DOJ's intervention specifically protecting Qualcomm. By advocating for the preservation of an anticompetitive business model, the government is effectively signaling a policy of "picking winners and losers" that characterizes industrial policy. However, to understand if this strategy is industrial policy rather than security strategy, there must be a trend of similar uses of this courts-based strategy that seems to be "picking winners" in sectors beyond 5G. To test this hypothesis, I will

track the appellate briefs filed by the DOJ's Antitrust Division to determine if it is advocating for anticompetitive equilibria that pick winners and losers in other industries as well. The implication of the hypothesis is that the administration is actively embracing the economic orthodoxy of industrial policy, meaning its interventions extend beyond 5G. Observing such a trend would thus imply the economic motivation for the 5G intervention, rather than the security motivation. Of course, this tracking method is imprecise—the individual facts and nuances of each case likely shape the content of the DOJ's appellate briefs. However, surveying all briefs over the previous four years will demonstrate broader trends in the frequency with which the DOJ supports anticompetitive behavior.

Results

Cold War Analogizing

The data on the use of the phrase “race to 5G” demonstrate a dramatic increase in the use of the analogy beginning in 2018. Using an analysis of documents employing the phrase between 2014–2019 (accessed through Factiva), the graph at right demonstrates the dramatic adoption of this term as mentions of 5G increased from 97 in 2017 to 715 in 2018, a 637% increase. Additionally, when only including documents that specifically make mention of the United States Federal Government or Federal Communications Commission, the data still demonstrate a similar jump from 17 in 2017 to 271 in 2018, a 1,494% increase.

This increase serves as a rough indicator of the prevalence of technology race analogizing. Factiva aggregates publications using specific keywords, meaning this data reflect the prevalence of this analogy in the media. However, given the influence of analogies on decision-makers' thinking, a greater prevalence implies a greater likelihood of such an analogy shaping public policy. Additionally, isolating the publications that specify the FCC or USFG demonstrates the connection between government action and this perceived technology race. A random sampling of these publications also suggests the vast majority employed the analogy, rather than argued against using it. Admittedly, establishing causality between government action and prevalence of the analogy is difficult—the media could be ascribing the analogy to the actions of the government without policymakers ever having employed the analogy. Fortunately, the record demonstrates that policymakers *have* adopted this analogy in recent years. Key figures in the government, including President Trump, FCC Chairman Ajit Pai, Chief Technology Officer of the United States Michael Kratsios, Chairman of the Senate Committee on Commerce, Science, and Transportation Roger Wicker, House Energy and Commerce Ranking Member Greg Walden, and Communications and Technology Subcommittee Ranking Member Bob Latta, have all employed the analogy.⁵⁴ Moreover,

54 Todd Haselton, “President Trump Announces New 5G Initiatives: It’s a Race ‘America Must Win,’” *CNBC*,

Attorney General Barr has explicitly argued the US has not yet had its “Sputnik moment” in this race, further underscoring the connection to the space race.⁵⁵ Taken together, the aggregate data from Factiva and the specific examples from key elected officials provide compelling evidence for “Race to 5G” analogizing.

Securitization

The set of documents articulating national security priorities and assessments provides the best source to scour for the securitization of 5G technology. Because these documents articulate matters pertaining to the security of the United States, their inclusion of 5G specifically and the domestic technology innovation base more broadly indicates the securitization of these spaces. The most recent Worldwide Threat Assessment from the Director of National Intelligence directly addresses 5G, arguing that the creation and adoption of 5G networks by other countries directly implicates data security within the United States due to the interconnectedness of communications and information technology infrastructure. Additionally, the Assessment connects this data infrastructure to threats posed by decryption capabilities growth, underscoring the technical threats to sensitive data in particular.⁵⁶ Similarly, the 2016 Design for Maintaining Maritime Superiority specifically connects great power competition with China and Russia to threats to US information technology systems and argues crucial outputs enabled by 5G such as better AI will dramatically influence the balance of power.⁵⁷ These depictions conform to Hansen and Nissenbaum’s framework by emphasizing a threat to the broad data infrastructure in the US posed by foreign development of 5G technologies and engaging in technification by emphasizing aspects like decryption capabilities growth and complex 5G outputs.

The 2017 NSS is particularly important given its reframing of technology issues in a national security framework. The document identifies the need for the nation to excel in technology and innovation domestically to ensure the security of the nation, which in and of itself may not represent a dramatic shift from previous

April 12, 2019, <https://www.cnn.com/2019/04/12/trump-on-5g-initiatives-a-race-america-must-win.html>; Ajit Pai, “Remarks of FCC Chairman Ajit Pai at the White House” (Washington, D.C., April 12, 2019), <https://docs.fcc.gov/public/attachments/DOC-356994A1.pdf>; Michael Kratsios, “America Will Win the Global Race to 5G,” *The White House*, October 25, 2018, <https://www.whitehouse.gov/articles/america-will-win-global-race-5g/>; Roger Wicker, “Wicker Convenes Hearing on the Race to 5G” (Washington, D.C.: Senate Committee on Commerce, Science, and Transportation, February 6, 2019), <https://www.commerce.senate.gov/2019/2/wicker-convenes-hearing-on-the-race-to-5g/>; Greg Walden and Bob Latta, “Walden and Latta Statement on Bipartisan Bills to Boost 5G” (Washington, D.C., January 8, 2020), <https://republicans-energycommerce.house.gov/news/press-release/walden-and-latta-statement-on-bipartisan-bills-to-boost-5g/>. To the extent that business leaders’ rhetoric on this issue matters as well, see Katie Lobosco, “AT&T Chief: China Isn’t Beating the United States on 5G — Yet,” *CNN*, March 20, 2019, <https://www.cnn.com/2019/03/20/business/att-randall-stephenson-5g/index.html>.

55 Barr, “Attorney General William P. Barr Delivers the Keynote Address at the Department of Justice’s China Initiative Conference.”

56 Coats, “Worldwide Threat Assessment of the US Intelligence Community.”

57 Richardson, “A Design for Maintaining Maritime Superiority: Version 1.0.”

security orthodoxies that emphasized US domestic innovation as a component of national power. However, the NSS also asserts a new idea of a National Security Innovation Base (NSIB), formalizing the notion that technological innovation across the economy (not simply for defense purposes) is crucial to the balance of power the US must maintain to survive inter-state strategic competition. The document directly confronts China for intellectual property theft that it argues undermines the NSIB, discursively creating the notion of a Chinese threat to the securitized domestic innovation base.⁵⁸ The 2018 National Defense Strategy (NDS) builds on this idea of the NSIB, arguing that non-defense related innovation directly implicates the command of the commons: “The fact that many technological developments will come from the commercial sector means that state competitors and non-state actors will also have access to them, a fact that risks eroding the conventional overmatch to which our Nation has grown accustomed.”⁵⁹ Crucially, what follows from this assessment that commercial innovation is a security issue is the absorption of non-defense technology development into the military’s purview: “A long-term strategic competition requires the seamless integration of multiple elements of national power—diplomacy, information, economics, finance, intelligence, law enforcement, and military. More than any other nation, America can expand the competitive space.”⁶⁰ This absorption classically models the discursive securitization of a policy area and the following policy change as the national security apparatus begins to dictate policy in said area.

The DOD has specifically applied this notion of commercial innovation as central to the command of the commons. A spokesperson for the DOD framed 5G as a question of ability to function on the battlefield, claiming: “That’s where we are with 5G...we are going to run our entire warfighting ecosystem through communications.” She directly connected this vulnerability to grand ideas of the balance of power, arguing: “If we don’t embrace it and apply it towards our goals, we could be overcome quickly with technical overmatch.”⁶¹ Clearly, by connecting 5G innovation to the nation’s warfighting ability and conventional military superiority, and by directly echoing the phrase “technical overmatch” used in the 2018 NDS when it discusses the national security importance of the NSIB, the spokesperson frames technology innovation as a question of debilitating collapse of the nation’s military, securitizing the issue. This analysis of key national defense documents and statements by members of the national security state provides compelling ev-

58 Trump, Donald. “National Security Strategy of the United States of America 2017,” 20-22.

59 Mattis, “Summary of the 2018 National Defense Strategy of the United States of America.”

60 Ibid.

61 C. Todd Lopez, “Pentagon Official: U.S., Partners Must Lead in 5G Technology Development,” *US Department of Defense*, March 26, 2019, <https://www.defense.gov/Explore/News/Article/Article/1796437/pentagon-official-us-partners-must-lead-in-5g-technology-development/>.

idence for the securitization of 5G.

Industrial Policy

A review of the roughly 80 appellate briefs filed by the DOJ's Antitrust Division reveals a dramatically limited scope of interventions supporting specific companies' anticompetitive practices analogous to the DOJ's intervention to protect Qualcomm in 2019.⁶² During this period, only seven briefs opposed antitrust enforcement. Of these, two related to Qualcomm (briefs for *Federal Trade Commission v. Qualcomm, Incorporated* and *Karen Stromberg, et al. v. Qualcomm Incorporated*), excluding them from consideration as they pertain specifically to 5G. A third, for *State of New York and Other Plaintiff States v. Deutsche Telekom AG, et al.*, supported the merger of T-Mobile and Sprint conditioned on the company's rollout of 5G infrastructure across America, excluding it from consideration as well.

Among the four remaining briefs, *Viamedia, Inc. v. Comcast Corp., et al.* only weakly supports the notion that the government is supporting anticompetitive behavior in order to promote specific companies. In this case, the DOJ states that it takes no position on the merits of the plaintiff's claims, only stating that proof of reduced competition in a market is necessary in addition to proof of the existence of agreements considered anticompetitive (arguing that behavior must be effectually anticompetitive to be subject to antitrust laws, not simply anticompetitive based on a company's decisions on paper). Two briefs better demonstrate opposition to antitrust enforcement—those for *Continental Automotive Systems, Inc. v. Avanci, LLC, et al.* and *Apple Inc. v. Robert Pepper, et al.* The final brief, for *Intel Corporation and Apple Inc. v. Fortress Investment Group LLC, et al.*, also pushes back against the application of antitrust laws, though in favor of Fortress Investment Group; this behavior is puzzling for the “winners and losers” hypothesis because Apple and Intel would likely be considered American national champions of sorts, implying the government would intervene in *their* favor were it truly interested in promoting their market dominance.

Put simply, too few briefs oppose antitrust enforcement to indicate a trend supporting the industrial policy hypothesis. Due to their limited number, it is not possible to discern a broader trend from the briefs that do oppose antitrust enforcement. The DOJ may take the position it does in these cases simply based on its reading of the law and understanding of the facts in each individual case. Because there is not a sufficiently discernible trend, it is not possible to confirm the hypothesis that the government is engaging in the picking of winners and losers. This finding complements previous findings that the effects of CFIUS investigations are non-discriminatory, implying their use is based on actual national security (their

⁶² To see these briefs, see “Appellate Briefs,” US Department of Justice, n.d., <https://www.justice.gov/atr/appellate-briefs>.

stated purpose), not protectionism of special interests.⁶³ These findings thus imply the industrial policy hypothesis is less accurate than the great power competition one.

However, watchdogs and journalists have noted that under the Trump Administration, the DOJ's antitrust division has significantly reduced the application of cartel and merger enforcement,⁶⁴ and the number of personnel working on antitrust cases has similarly declined.⁶⁵ This trend may indicate an embrace of a permutation of industrial policy, whereby the Trump administration may not be "picking winners and losers" but, rather, allowing rapid consolidation such that the market picks national champions. This evidence thus lends some credence to the industrial policy hypothesis. However, given the observed behavior of the dependent variable includes active intervention to support Qualcomm, this decline in enforcement alone does not provide as good of an explanation for the motivation of the Trump administration's 5G strategy as does the great power competition hypothesis.

Conclusion

The assessments from the previous section demonstrate stronger evidence for the great power competition hypothesis than for the industrial policy hypothesis. The assessment of aggregate data on publications by Factiva as well as statements by key administration officials demonstrates the substantial growth of rhetoric analogizing 5G to the Cold War space race. This trend demonstrates how US policymakers are employing historical thinking as they understand the US-China security relationship more broadly as well as competition in the 5G space specifically. The assessment of key national security documents and statements illustrates the securitization of 5G, also providing support for the great power competition hypothesis. In contrast, the assessment of the appellate briefs filed by the DOJ's Antitrust Division reveals the government's interventions in support of anticompetitive behavior are almost exclusively limited to the 5G space thus far, meaning evidence for the industrial policy hypothesis does not presently exist. The available evidence thus suggests the security relationship, manifested both in historical analogy and in securitization, more powerfully motivates the government's shift toward greater intervention in 5G technology innovation than the economic relationship and derived inclinations toward industrial policy.

63 Connell and Huang, "An Empirical Analysis of CFIUS: Examining Foreign Investment Regulation in the United States."

64 "The State of Antitrust Enforcement and Competition Policy in the U.S." (American Antitrust Institute, April 14, 2020), <https://www.antitrustinstitute.org/work-product/antitrust-enforcement-report/>; "FCC Proposes the 5G Fund for Rural America;" Kadhim Shubber, "US Antitrust Enforcement Falls to Slowest Rate since 1970s," *Financial Times*, November 28, 2018, <https://www.ft.com/content/27a0a34e-f2a0-11e8-9623-d7f9881e729f>.

65 Kadhim Shubber, "Staffing at Antitrust Regulator Declines under Donald Trump," *Financial Times*, February 7, 2019, <https://www.ft.com/content/cf1ed2a6-2619-11e9-b329-c7e6ceb5ffdf>.

As technological innovation appears to be growing into a key facet of the US-China relationship, the change in government policy represents a manifestation of how the Sino-American relationship is evolving. This change in the technology innovation space is particularly important for understanding the broader US-China relationship. Because technological developments like 5G and AI, which have emerged from interconnected economies and had impacts beyond borders, are being framed as areas of competition, the ways the US and China interact in this sphere will have implications for their broader relationship. Beyond speaking to the motivations behind the administration's 5G strategy, the findings in this paper shed light on how the US more broadly perceives China's economic and technological behaviors in a national security mindset.

Finally, because this trend is relatively nascent, this paper is only a first step toward understanding changing government policy in technology spaces. Assessing motivations is difficult, and more research into the topic—particularly involving interviews with actual policymakers—will help better define this trend as it evolves over the coming years. More research is needed to understand the influence and limits of the emerging industrial policy mindset. In particular, the possibility discussed in the previous section that the Trump administration may be “letting the market pick the winners and losers” in a permutation of traditional industrial policy merits attention. Additionally, given the implication that securitization of domestic technology innovation has led to a shift toward more government intervention in the 5G space, future research may seek to understand other manifestations of this securitization. Finally, scholars should explore the motivations behind securitization. While legitimate security threats may exist, proponents of industrial policy may see securitization as an effective means to achieve their ends; similarly, leaders of US technology companies may see securitization as a useful strategy to secure favorable government policies. These possibilities suggest a need for future research into the motivations for different actors deploying securitizing discourse of 5G.

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A “Shot” Heard Around the World: The Fed made a deliberate choice to let Lehman fail. It was the right one.

Sydney Bowen

On the morning of September 15, 2008, the DOW Jones Industrial Average plunged more than 500 points; \$700 billion in value vanished from retirement plans, government pension funds, and investment portfolios.¹ This shocking market rout was provoked by the bankruptcy filing of Lehman Brothers Holding Inc., which would soon become known as “the largest, most complex, most far-reaching bankruptcy case” filed in United States history.² Amid job loss, economic turmoil, and choruses of “what ifs,” a myriad of dangerous myths and conflicting stories emerged, each desperately seeking to rationalize the devastation of the crisis and explain why the Federal Reserve did not extend a loan to save Lehman. Some accuse the Fed of making a tragic mistake, believing that Lehman’s failure was the match that lit the conflagration of the entire Global Financial Crisis. Others disparage the Fed for bowing to the public’s political opposition towards bailouts. The Fed itself, however, adamantly maintains that they “did not have the legal authority to rescue Lehman,” an argument played in unremitting refrain in the years following the crisis.

In this essay, I discuss the various dimensions of the heated debate on how and why the infamous investment bank went under. I examine the perennial question of whether regulators really had a choice in allowing Lehman to fail, an inquiry that prompts the multi-dimensional and more subjective discussion of whether regulators made the correct decision. I assert that (I) the Fed made a deliberate, practical choice to let Lehman fail and posthumously justified it with a façade of legal inability, and that (II) in the context of the already irreparably severe crisis,

1 Public Affairs, *The Financial Crisis Inquiry Report*, 340.

2 Ibid.

the fate of the future financial landscape, obligations to taxpayers, and the birth of the landmark legislation TARP, the Fed made the ‘right’ decision.

I. The Fed’s *Almost* Rock-Solid Alibi: Legal Jargon and Section 13(3)

Fed Chairman Ben Bernanke, Former Treasury Secretary Hank Paulson, and New York Fed general counsel Thomas Baxter Jr. have each argued in sworn testimony that regulators wanted to save Lehman but lacked the legal authority to do so. While their statements are not lies, they neglect to tell the entire – more incriminating – truth. In this section, I assert that Fed officials *deliberately chose* not to save Lehman and justified their decision *after the fact* with the impeccable alibi that they did not have a viable legal option.

In a famous testimony, Bernanke announced,

*“[T]he only way we could have saved Lehman would have been by breaking the law, and I’m not sure I’m willing to accept those consequences for the Federal Reserve and for our system of laws. I just don’t think that would be appropriate.”*³

At face value, his argument appears sound; however, the “law” alluded to here—Section 13(3) of the Federal Reserve Act—was not a hard and fast body of rules capable of being “broken,” but rather a weakly worded, vague body that encouraged “regulatory gamesmanship and undermined democratic accountability.”⁴

i. Section 13(3)

Section 13(3) of the Federal Reserve Act gives the Fed broad power to lend to non-depository institutions “in unusual and existent circumstances.”⁵ It stipulates that a loan must be “secured to the satisfaction of the [lending] Reserve Bank,” limiting the amount of credit that the Fed can extend to the value of a firm’s collateral in an effort to shield taxpayers from potential losses.⁶ Yet, since the notion of “satisfactory security” has no precise contractual definition, Fed officials had ample room to exercise discretionary judgment when appraising Lehman’s assets. This initial legal freedom was further magnified by the opaqueness of the assets themselves – mortgage-backed securities, credit default swaps, and associated derivatives were newfangled financial instruments manufactured from a securitization process, complexly tranching and nearly impossible to value. Thus, the three simple words, “secured to satisfaction,” provided regulators with an asylum from

3 Clark, “Lehman Brothers Rescue Would Have Been Unlawful, Insists Bernanke.”

4 Judge, “Lehman Brothers: How Good Policy Can Make Bad Law.”

5 Fetting, *The History of a Powerful Paragraph*.

6 Ball, *The Fed and Lehman Brothers*, 5.

their own culpability, allowing them to hide a deliberate choice inside a comfortable perimeter of legal ambiguity.

ii. Evaluations of Lehman's Assets and "Secured to Satisfaction"

The "legal authority" to save Lehman hinged upon the Fed's conclusions on Lehman's solvency and their evaluation of the firm's available collateral—a task that boiled down to Lehman's troubled and illiquid real-estate portfolio, composed primarily of mortgage-backed securities. Lehman had valued their portfolio at \$50 billion, purporting a \$28.4 billion surplus; however, Fed officials and potential private rescuers, skeptical of Lehman's real-estate valuation methods, argued that there was a gaping "hole" in their balance sheet. Bank of America, a private party contemplating a Lehman buyout, maintained that the size of the hole amounted to "\$66 billion" while the Fed's task team of Goldman Sachs and Credit Suisse CEO's determined that "tens of billions of dollars were missing."⁷ Esteemed economist Lawrence Ball, who meticulously reviewed Lehman's balance sheet, however, concluded to the contrary—there was no "hole" and Lehman was solvent when the Fed allowed it to fail. While I do not claim to know which of the various assessments was correct, the simple fact remains—the myriad of conflicting reports speak to the ultimate subjectivity of any evaluation. "Legal authority" became hitched to the value of mortgage-backed securities, and in 2008 their value had become dangerously opaque.

In discussing the Fed's actions, it is necessary to point out that the Federal Reserve has a rare ability to value assets more liberally than a comparable private party—they are able to hold distressed assets for longer and ultimately exert incredible influence over any securities' final value as they control monetary policy. The Dissenting Statement of the FCIC report aptly reveals that Fed leaders could have simply guided their staff to "re-evaluate [Lehman's balance sheet] in a more optimistic way to justify a secured loan;" however, they elected not to do so since such action did not align with their private, practical interests.⁸ The "law" could have been molded in either direction—the Fed consciously chose the direction of nonintervention just as easily as they could have chosen the opposite.

iii. The Fed's "Practical" and Deliberate Choice

Section 13(3) had been invoked just five months earlier in March 2008, when the Fed extended a \$29 billion loan to facilitate JP Morgan's purchase of a different failing firm, Bear Stearns. In an effort to separate the Fed's handling of Bear Stearns from Lehman, Bernanke admits that considerations behind each decision

7 Stewart, *Eight Days*.

8 Public Affairs, *The Financial Crisis Inquiry Report*, 435.

were both “*legal and practical*.”⁹ While in Bear Stearns case, practical judgement weighed in favor of intervention, in Lehman’s case, it did not: “if we lent the money to Lehman, all that would happen would be that the run [on Lehman] would succeed, because it wouldn’t be able to meet the demands, the firm would fail, and not only would we be unsuccessful, but we would [have] saddled the taxpayer with tens of billions of dollars of losses.”¹⁰

While an exhaustive display of arguments and testimonies that challenge the Fed’s claim of legal inability is cogent, perhaps the most chilling evidence lies in an unassuming and incisive question:

*“Since when did regulators let a lack of legal authority stop them? There was zero legal authority for the FDIC’s broad guarantee of bank holding debt. Saving Lehman would have been just one of many actions of questionable legality taken by regulators.”*¹¹

iv. Other Incriminating Facts: The Barclay’s Guarantee and Curtailed PDCF Lending

An analysis of Lehman’s failure would be incomplete without discussing the Fed’s resounding lack of action during negotiations of a private rescue with Barclays, a critical moment in the crisis that could have salvaged the failing firm without contentious use of public money. Barclays began conversing with the U.S. Treasury Department a week prior to Lehman’s fall as they contemplated and hammered out terms of an acquisition.¹² The planned buyout by the British bank would have gone through had the Fed agreed to guarantee Lehman’s trading obligations during the time between the initial deal and the final approval; yet, the Fed deliberately refused to intervene, masking their true motives behind a legal inability to offer a “‘naked guarantee’—one that would be unsecured and not limited in amount.”¹³ However, since such a request for an uncapped guarantee never occurred, the Fed’s legal alibi is deceitfully misleading. In truth, Lehman asked for secured funding from the Fed’s Primary Dealer Credit Facility (PDCF), a liquidity window allowing all Wall Street firms to take out collateralized loans when cut off from market funding (“The Fed—Primary Dealer Credit Facility (PDCF),” n.d.). While Lehman would not have been able to post eligible collateral under the initial requirement of investment-grade securities, they likely would have been able to secure a loan under the expanded version of the program that accepted a broader

9 Public Affairs, *The Financial Crisis Inquiry Report*, 340.

10 Ibid.

11 Calabria, “Letting Lehman Fail was a Choice, and It Was the Right One.”

12 Chu, “Barclays Ends Talks to Buy Lehman Brothers.”

13 Ball, *The Fed and Lehman Brothers*.

range of collateral.

The purposeful curtailment of the expanded collateral to Lehman is one of the most questionable aspects of the Lehman weekend, and is perhaps the most lucid evidence that the Fed made a deliberate choice to let the firm fail. The FCIC details the murky circumstances and clear absence of an appropriate explanation for the act: “the government officials made it plain that they would not permit Lehman to borrow against the expanded types of collateral, as other firms could. The sentiment was clear, but the reasons were vague.”¹⁴ If there had been a rational explanation, regulators would have articulated it. Instead, they merely repeated that “there existed no obligation or duty to provide such information or to substantiate the basis for the decision not to aid or support Lehman.”¹⁵ The Fed’s refusal to provide PDCF liquidity administered the final nail in Lehman’s coffin—access to such a loan made the difference in Lehman being able to open for business that infamous morning.

v. An Intriguing Lack of Evidence

The Fed did not furnish the FCIC with any analysis to show that Lehman lacked sufficient collateral to secure a loan under 13(3), referencing only the estimates of other Wall Street firms and declining to respond to a direct request for “the dollar value of the shortfall of Lehman’s collateral relative to its liquidity needs.”¹⁶ Diverging from typical protocol, where the Fed’s office “wrote a memo about each of the [potential] loans under Section 13(3),” Lehman’s case contains no official memo. When pressed on this topic, Scott Alvarez, the General Counsel of the Board of Governors of the Federal Reserve, rationalized the opportune lack of evidence as an innocuous judgement call: “folks had a *pretty good feeling* for the value of Lehman during that weekend, and so there was no memo prepared that documented why it is we didn’t lend... they understood from all of [the negotiations] that there wasn’t enough there for us to lend against and so they weren’t willing to go forward.”¹⁷

While this absence of evidence does not prove that the Fed had access to a legal option, it highlights a disconcerting and suggestive vacancy in their claims. Consider an analogous courtroom case where a defendant exercises the right to remain silent rather than respond to a question that may implicate them—similarly, the Fed’s intentional evasion of the request for concrete evidence appears an incriminating insinuation of guilt. The lack of “paper trail” becomes even more confounding when coupled with the Fed’s inconsistent and haphazard statements

14 Public Affairs, *The Financial Crisis Inquiry Report*, 337.

15 Ball, *The Fed and Lehman Brothers*, 141.

16 *Ibid.*, 11.

17 *Ibid.*, 133.

justifying their decision. Only after the initial praise for the decision soured into a surge of public criticism did any mention of legality enter the public record. Nearly three weeks after Lehman’s fall on October 7th, Bernanke introduced a strategic “alibi:” “Neither the Treasury nor the Federal Reserve had the authority to commit public money in that way.”¹⁸

Bernanke insists that he will “maintain until [his] deathbed that [they] made every effort to save Lehman, but were just unable to do so because of a lack of legal authority.”¹⁹ However, when considering the subjectivity of “reasonable assurance” of repayment, the malleability of “legal authority,” and the convenient lack of evidence to undermine his statement, Bernanke’s “dying” claim becomes comically hollow. If the Fed had truly made “every effort” to rescue Lehman, they would have relied on more than a “pretty good feeling”—had they truly been sincere, the Federal Reserve, a team of seasoned economists, would have used hard numerical facts as guidance for a path forward.

vi. The Broader Implications of “Secured to Satisfaction:” a Logical Fallacy

While the Fed’s lack of transparency is unsettling, perhaps the most unnerving aspect of the entire Lehman episode is the precarious regulatory framework that the American financial system trusted during a crisis. The concept of “secured to satisfaction” is not the bullet-proof legal threshold painted by the media, rather it was a malleable moving target molded by the generosity of the Fed’s estimates and the fluctuating state of the economy, instead of precise mathematical facts.

A 2018 article by Columbia Law Professor Kathryn Judge exposes the logical fallacy of Section 13(3)’s “secured to satisfaction,” citing how “subsequent developments can have a first order impact on both the value of the assets accepted as collateral and the apparent health of the firms needing support.”²⁰ The “legal authority” of regulators to invoke Section 13(3) is a circular and empty concept, hitched to nebulous evaluations of complex and opaque securities, assets that were not only inherently hard to value but whose valuations could later be manipulated. By adjusting the composition of their balance sheet (Open Market Operations) and altering interest rates, the Fed guides the behavior of financial markets, thus subtly inflating (or deflating) the value of a firm’s collateral.²¹ Indeed, in the years following the government’s support of Bear Stearns and AIG, the Fed’s aggressive and novel monetary policy (close to zero interest rates and a large-scale program of quantitative easing) may have been “critical to making the collateral posted

18 J.B. Stewart and Eavis, “Revisiting the Lehman Brothers Bailout that Never Was.”

19 Ibid.

20 Judge, “Lehman Brothers: How Good Policy Can Make Bad Law.”

21 Tarhan, “Does the federal reserve affect asset prices?”

by [Bear Stearns and AIG] seem adequate to justify the central bank's earlier actions."²²

Using collateral quality and solvency as prerequisites for lawful action is inherently problematic, since a firm's health and the quality of their collateral are not factors given exogenously—they are endogenous variables that regulators themselves play a critical role in determining. Thus, acceptance of the narrative that Lehman failed because the Fed lacked any legal authority to save it would be a naive oversight. Rather, Lehman failed because the Fed lacked the practical and political motivations to exploit the law.

II. The Right Choice

As Lehman's downfall is both a politically contentious and emotionally charged topic, it is necessary to approach the morality of the Fed's decision with sympathy and caution. In the following sections, I intend to illustrate why regulators made the right decision in allowing Lehman to fail by using non-partisan facts organized around four key arguments.

(1) Lehman was not the watershed event of the Crisis. The market panic following September 2008 was a reaction to a *collection* of unstoppable, unrelated, and market-shaking events.

(2) Lehman's failure expunged the hazardous incentives carved into the financial landscape prior. Policymakers shrewdly chose long-term economic order over the short-term benefit of keeping a single firm afloat.

(3) Failure was the "right" and only choice from a taxpayer's perspective.

(4) Lehman's demise was a necessary catastrophe, creating circumstances so parlous that Congress passed TARP, landmark legislation that gave the Federal Reserve the authority that ultimately revived the financial system.

(1) *Lehman Was Not the Watershed Event of the Crisis*

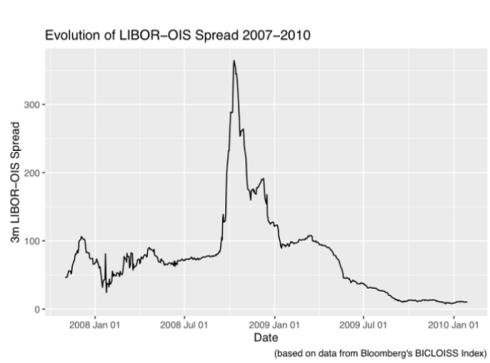
For many people, the heated debate over whether regulators did the right thing in allowing Lehman to fail is synonymous with the larger question: "would rescuing Lehman have saved us from the Great Recession?" In the following section, I assert that Lehman was not the defining moment of the Financial Crisis (as is often construed in the media); rather, the global financial turmoil was irreversibly underway by September 2008 and the ensuing disaster could not have been simply averted by Lehman's rescue.

"The problem was larger than a single failed bank – large, unconnected financial

22 Judge, "Lehman Brothers: How Good Policy Can Make Bad Law."

institutions were undercapitalized because of [similar, failed housing bets].”²³

By Monday September 15, Bank of America had rescued the deteriorating Merrill Lynch and the insurance giant AIG was on the brink of failure—a testament to the critical detail that many other large financial institutions were also in peril due to losses on housing-related assets and a subsequent liquidity crisis. Indeed, in the weeks preceding Lehman’s failure, the interbank lending market had virtually froze, plunged into distress by a contagious spiral of self-fulfilling expectations. Unable to ascertain the location and size of subprime risk held by counterparties in the market, investors became panicked by the obscured and so ubiquitous risk of housing exposure, precipitously cutting off or restricting funding to other market participants. This *perceived* threat of a liquidity crisis triggered the downward spiral of the interbank lending market in the weeks preceding Lehman’s fall, a market which pumped vital cash into nearly every firm on Wall Street. The LIBOR-OIS spread, a proxy for counterparty risk and a robust indicator of the state of the interbank market, illustrates these “illiquidity waves” that severely impaired markets in 2008.²⁴ (Sengupta & Tam, 2008). As shown in the figure below, in the weeks prior to the failure of Lehman Brothers, the spread spiked dramatically, soaring above 300 basis points and portraying the cascade of panic and contraction of lending standards in the interbank market.



The idea that Lehman was the key moment in the crisis might be accurate if nothing of significance happened before its failure; however, as I outline below this was clearly not the case. The quick succession of events occurring in September 2008 – events which would have occurred regardless of Lehman’s failure – triggered the global financial panic.

A *New Yorker* article publishing a detailed timeline of the weekend exposes how

²³ Public Affairs, *The Financial Crisis Inquiry Report*, 433.

²⁴ Sengupta & Tam,

AIG's collapse and near failure was completely uncorrelated to Lehman.²⁵ On Saturday September 13, AIG's "looming multi-billion-dollar shortfall" from bad gambles on credit default swaps became apparent. Rescuing AIG became a top priority throughout the weekend, and on Tuesday, the day after Lehman filed for bankruptcy protection, the Fed granted an \$85 billion emergency loan to salvage AIG's investments.²⁶ Given the curious timing, AIG's troubles are often chalked up to be a market reaction to Lehman's failure; however, proper facts expose the failures of AIG and Lehman as merely a close succession of unfortunate, yet unrelated events.

In a similar light, the failure and subsequent buyouts of Washington Mutual (WaMu) and Wachovia, events that further rocked financial markets and battered confidence, would have occurred regardless of a Lehman bailout. Both commercial banks were heavily involved in subprime mortgages and were in deep trouble before Lehman. University of Oregon economist Tim Duy asserts that, even with a Lehman rescue, "the big mortgage lenders and regional banks [ie. WaMu and Wachovia] that were more directly affected by the mortgage meltdown likely wouldn't have survived."²⁷ The financial system was precariously fragile by the fall of 2008 and saving Lehman would not have defused the larger crisis or ensuing market panic that erupted after September 2008.

Critics of the Fed's decision often cite how the collapse of Lehman Brothers begat the \$62 billion Reserve Primary Fund's "breaking of the buck" on Thursday, September 18 and precipitated a \$550 billion run on money-market funds. Lehman's dire effect on money and commercial paper markets is irrefutable; however, arguments that Lehman triggered this broader global financial panic neglect all relevant facts. The Lehman failure neither froze nor would a Lehman rescue have unfrozen credit markets, the key culprit responsible for the escalation and depth of the Crisis.²⁸

Credit markets did not freeze in 2008 because the Fed chose not to bailout Lehman—they froze because of the mounting realization that mortgage losses were concentrated in the financial system, but nobody knew precisely where they lay. It was this creeping, inevitable realization, amplified by Lehman and the series of September events, that caused financial hysteria.²⁹ As Geithner explains, "Lehman's failure was a product of the forces that created the crisis, not the fundamental cause of those forces."³⁰ The core problems that catalyzed the financial market

25 J.B. Stewart, "Eight Days."

26 Public Affairs, *The Financial Crisis Inquiry Report*, 435.

27 O'Brien, "Would saving Lehman have saved us from the Great Recession?"

28 Ibid.

29 Public Affairs, *The Financial Crisis Inquiry Report*, 436.

30 Geithner & Metrick, *Ten Years after the Financial Crisis: A Conversation with Timothy Geithner*.

breakdown were an amalgamation of highly leveraged institutions, a lack of transparency, and the rapidly deteriorating value of mortgage-related assets—bailing out Lehman would not have miraculously fixed these problems. While such an analysis cannot unequivocally prove that regulators made the right decision in choosing to let Lehman fail, it offers a step in the right direction—the conventional wisdom that Lehman single-handedly triggered the collapse of confidence that froze credit markets and caused borrowing rates for banks to skyrocket is unfounded.

While I have argued above that Lehman’s bankruptcy was not the sole trigger of the crisis, it was also not even the largest trigger. Research by Economist John Taylor asserts that Lehman’s bankruptcy was not the divisive event peddled by the media—using the LIBOR spread (the standard measure for market stress), Taylor found that the true ratcheting up of the crisis began on September 19, when the Fed revealed that they planned to ask Congress for \$700 billion to defuse the crisis.³¹

Arguments advanced by mainstream media that saving Lehman would have averted the recession are naively optimistic and promote a dangerously inaccurate narrative on the events of 2007–2009. The failure of Lehman did indeed send new waves of panic through the economy; however, Lehman was not the only disturbance to rock financial markets in September of 2008.³² This latter fact is of critical importance.

(2) Lehman’s Collapse Caused Inevitable and Necessary Market Change

“The inconsistency was the biggest problem. The Lehman decision abruptly and surprisingly tore the perceived rule book into pieces and tossed it out the window.”
—Former Vice Chairman to the Federal Reserve Alan Blinder.³³

Arguments that cite the ensuing market panic and erosion of confidence that erupted after Lehman’s failure are near-sighted and fail to appreciate the larger picture motivating policy makers’ decision. Regulators’ decision not to rescue the then fourth largest investment bank, an institution assumed “too big to fail,” dispensed a necessary wake-up call to deluded and unruly Wall Street firms, which had been lulled into a costly false sense of security.

The question of whether regulators did the right thing in allowing Lehman to fail cannot be studied in a vacuum; it must be considered alongside the more consequential question

31 Skeel, “History credits Lehman Brothers’ collapse for the 2008 financial crisis. Here’s why that narrative is wrong.”

32 Public Affairs, *The Financial Crisis Inquiry Report*, 436.

33 J.B. Stewart and Eavis, “Revisiting the Lehman Brothers Bailout that Never Was.”

of whether regulators made the right decision in saving Bear Stearns. In 2007, the Fed's extension of a \$29 billion loan to Bear Stearns rewrote the tacit rules that had governed the political and fiscal landscape for centuries, substantiating the notion that institutions could be "too big or too interconnected to fail." The comforting assumption that regulators would intervene to save every systemically important institution from failure was a turning point in the crisis, "setting the stage for [the financial carnage] that followed."³⁴

After the Bear Stearns intervention, regulators faced a formidable and insuperable enemy: the inexorable march of time. It would be an unsustainable situation for the government to continue bailing out every ailing financial firm.

*"These officials would have eventually had to say 'no' to someone, sometime. The Corps of Financial Engineers drew the line at Lehman. They might have been able to let the process run a few weeks more and let the bill get bigger, but ultimately, they would have had to stop. And when they did expectations would be dashed and markets would adjust. If Lehman had been saved, someone else would have been allowed to fail. The only consequence would be the date when we commemorate the anniversary of the crisis, not that the crisis would have been forever averted."*³⁵

The Lehman decision corrected the costly market expectations created by Bear Stearns' rescue and restored efficiency and discipline to markets. Throughout the crisis, policymakers, unable to completely avoid damage, were forced to decide which parties would bear losses. Lehman's demise was a reincarnation and emblem of their past decisions—their precedent of taxpayer burden had further encouraged Wall Street's excessive leverage and reckless behavior.³⁶ Saving Lehman would have simply hammered these skewed incentives further into markets, putting the long-term stability and structure of capitalist markets at risk.

Taxpayers would have been forced to foot a bill regardless of the Fed's final decision: if not directly through a bailout, then indirectly through layoffs and economic turmoil.³⁷ Instead of saddling taxpayers with the lingering threat of a large bill in the future, the Fed made the prudent and far-sighted decision to hand them a smaller bill today. The Fed heeded the wisdom of the age-old adage, "better the devil you know than the devil you don't."

Put simply, the economic "calculus" of policymakers was correct. While rescuing Lehman may have seemed tantalizing at the time, the long-term costs would have been far

34 Skeel, "History credits Lehman Brothers' collapse for the 2008 financial crisis. Here's why that narrative is wrong."

35 Reinhart, "A Year of Living Dangerously: The Management of the Financial Crisis in 2008."

36 Ibid.

37 Antonicic, "Opinion | Lehman Failed for Good Reasons."

more consequential than the short-term benefits.³⁸ Political connotations often accompany this argument, evocative of what some have christened the Fed’s “painful yet necessary lesson on moral hazard;” however, partisan beliefs are extraneous to the simple, economic facts of the matter. From a fiscal perspective, policymakers made the right choice to let Lehman fail by shrewdly choosing long-term economic order over short-term benefits.

(3) *The Right Decision from a Taxpayers’ Perspective*

Given financial markets’ complete loss of confidence in Lehman and the unnervingly fragile state of the economy, an attempt at a Lehman rescue (within or above the law) would not only have been a fruitless, but also a seriously unjust use of taxpayer dollars.

The health of an investment bank hinges upon the willingness of customers and counterparties to deal with it, and according to former Secretary Geithner, “that confidence was just gone.”³⁹ By the weekend, the market had already lost complete confidence in Lehman: “no one believed that the assets were worth their nominal value of \$640 billion; a run on its assets was already underway, its liquidity was vanishing, and its stock price had fallen by 42% on just Friday September 12th; it couldn’t survive the weekend.”⁴⁰ For all practical purposes, the markets had sealed Lehman’s fate and a last-minute government liquidity line could have done nothing to change it. In testimony, Bernanke aptly characterizes a loan to supplant the firms’ disappearing liquidity as a prodigal expenditure, “merely wasting taxpayer money for an outcome that was unlikely to change.”⁴¹

After the fallout of the Barclays deal, many experts have argued that the Fed should have provided liquidity support during a search for another buyer, since temporary liquidity assistance from the government might have extinguished the escalating crisis. However, such an open-ended government commitment that allowed Lehman to shop for an “indefinite time period” would have been an absurd waste of public money.⁴² If the Fed had indeed provided liquidity aid up to some generous valuation of Lehman’s collateral, “the creditors to Lehman could have cashed out 100 cents on the dollar, leaving taxpayers holding the bag for losses.”⁴³ The loan would not have prevented failure, but only chosen which creditors would bear Lehman’s losses at the expense of others.

On September 15, “Lehman [was] really nothing more than the sum of its toxic assets and shattered reputation as a venerable brokerage.”⁴⁴ It would have been an egregious abuse of the democratic tax system if the government were to bail out Lehman, leaving the public at the whims of the fragile financial markets and saddling them with an uncapped bill for Wall Street’s imprudence. While virulent rumors of Lehman’s failure as political

38 Reinhart, “A Year of Living Dangerously: The Management of the Financial Crisis in 2008.”

39 Geithner & Metrick, *Ten Years after the Financial Crisis: A Conversation with Timothy Geithner*.

40 J.B. Stewart, “Eight Days.”

41 Public Affairs, *The Financial Crisis Inquiry Report*, 435.

42 Ibid.

43 Ibid.

44 Grunwald, “The Truth About the Wall Street Bailouts.”

save-face by regulators may prevail in mainstream media, I maintain that the Fed's decision was the right one for the American public.⁴⁵

(4) TARP: Lehman Begat the Legislation that Revived the Financial System

In considering the relative importance of Lehman as the cause of the crisis, scholars must also consider the more nuanced and hard-hitting counterpart: "How important was Lehman as a *cause of the end of the Crisis?*" While in the context of the suffering caused by the Great Recession and the polarizing rhetoric of "bailing out banks," this question is politically unpopular; I broach it nonetheless, since it is an important facet of the debate on whether regulators made the "right decision." Lehman's failure was vitally important to the end of the Crisis—it allowed the Troubled Asset Relief Program (TARP) to pass Congress, a critical piece of legislation that equipped regulators with the tools ultimately necessary to repair the financial system.⁴⁶

Every previous effort of the Fed (creating the PDCE, rescuing Bear Stearns, the conservatorship of Fannie and Freddie) was not enough to salvage the deteriorating financial system—by September 2008 "Merrill Lynch, Lehman, and AIG were all at the edge of failure, and Washington Mutual, Wachovia, Goldman Sachs, and Morgan Stanley were all approaching the abyss."⁴⁷ The Fed needed the authority to inject capital into the financial system, and as described in Naomi Klein's *The Shock Doctrine*, Lehman's unexpected fall acted as the final catastrophic spark necessary to "prompt the hasty emergency action involving the relinquishment of rights and funds that would otherwise be difficult to pry loose from the citizenry."⁴⁸

With authority to inject up to \$700 billion of capital into suffering non-bank institutions, TARP preserved the crumbling financial system by inspiring them to lend again. The government offered \$250 billion in capital to the nine most systemically important institutions, and used \$90 billion in TARP financing to save the teetering financial giants, Bank of America and Citigroup.⁴⁹ Exactly how much credit TARP deserves for averting financial catastrophe is unclear, yet the fact remains that coupled with Geithner's Stress Tests, TARP helped stop the country's spiral into what could have been a crisis as dire as the Great Depression.

IV. Conclusion

In this essay, I have shown that the Fed exploited the vagueness of Section 13(3) to advance their political, economic, and moral agenda to let Lehman fail, and asserted that policymakers made the right choice in allowing Lehman to fail (weighing economic facts,

45 Erman, "Five years after Lehman, Americans still angry at Wall Street: Reuters/Ipsos poll."

46 Geithner & Metrick, *Ten Years after the Financial Crisis: A Conversation with Timothy Geithner*.

47 Ibid.

48 Erman, "Five years after Lehman, Americans still angry at Wall Street: Reuters/Ipsos poll."

49 J.B. Stewart, "Eight Days."

the implications of future economic landscape, taxpayers’ rights, and the passage of landmark legislation).

It may have been easier for regulators to hide behind legal jargon and technicalities than to defend the economic rationale and practicality of their onerous decision to an audience of distressed Americans; however, this ease is not without the costs of continued confusion, misleading conventional wisdom, and bitter citizenry.

Lehman’s bankruptcy will forever be synonymous with the financial crisis and (resulting) wealth destruction.” -Paul Hickey, founder of Bespoke Investment Group⁵⁰

Lehman’s failure left an indelible mark in history and a tireless refrain of diverging and potent emotions towards regulators: contempt for the Fed that “triggered the Crisis,” disdain for the government that bailed out Wall Street with TARP, and hatred of impressionable leaders who “bowed” to political pressure. It is indeed easier to accept a visceral and tangible moment like Lehman’s failure as a cause of suffering than the nihilistic and elusive fact that the buildup of leverage and the burst of the housing bubble caused the crisis. However, it is not enough for only academics and policymakers to understand that “Lehman’s failure was a product of the forces that created the crisis, not a fundamental cause of those forces.”⁵¹ Conventional wisdom must be rewritten for the sake of faith in the government and the prevention of future crises. Our acceptance of why Lehman was allowed to die must move beyond the apportioning of responsibility or the distribution of reparations—we must redirect the futile obsession over the legality and morality of the Fed’s decision towards the imbalances in the financial system that caused the Crisis to begin with.

50 Straders, “The Lehman Brothers Collapse and How It’s Changed the Economy Today.”

51 Geithner & Metrick, *Ten Years after the Financial Crisis: A Conversation with Timothy Geithner*.

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how-good-policy-can-make-bad-law/

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Is a UK Government commitment to the Sustainable Development Goals good for the economy and business in general?

Brooklyn Han, Patrick Leitloff, Sally Yang, Eddy Zou

¹One aspect of the United Nations Sustainable Development Goals (UN SDGs) is a sustainable use of natural resources and comprehensive environmental protection, mandating a significant change in economic and industrial practices. This discussion paper investigates the impact of a government commitment to the implementation of the UN SDGs relating to natural capital on the economy and business in the United Kingdom. We evaluate existing research and governmental policy declarations. The investigation finds that greater certainty around environmental regulations has a net benefit on business performance and that positive spillovers exist already. Policy gaps in waste and energy regulation exist. We also argue that a more accurate tracking of the progress in the SDGs leads to more commitment and better policymaking. This paper won the UK Office for National Statistics (ONS) Renaissance Prize² in April 2020.

I. Introduction

In recent years, rising concerns over the environmental sustainability of human-driven economic practices have called for significant action. Lenton et al. argue that the world may have already crossed several “tipping

¹ We thank Chiara Sotis and Judith Shapiro for their continued support and guidance. We are grateful to the ONS for initiating the prize and agreeing to the publication of the modified version of the paper. We would also like to thank the editors, Alice Jo and Jacob Zeldin, for their comments and suggestions which have significantly improved the paper.

² www.ons.gov.uk/aboutus/whatwedo/programmesandprojects/economicstatisticstransformation/theonsrenaissanceprize

points” beyond which environmental degradation becomes irreversible, mandating immediate political and economic response.³ We thus choose to focus on natural capital-based Sustainable Development Goals (SDGs) in our discussion. Natural capital, defined as “stocks of the elements of nature that have value to society”⁴, is used in combination with human, financial, and social capital to produce valuable goods and services. This differs from “natural resources” in the sense that natural capital is natural resources *utilised* to add value to society and the economy. It directly sustains human life, is not easily replenished, and is non-substitutable in certain cases, highlighting the need for sustainable use.⁵ We explore this with examples throughout our paper.

Our SDGs of focus are:

- Goal 12: Efficient use of natural resources and effective waste management
- Goal 13: Climate change mitigation and adaptation
- Goals 14 and 15: Preservation of water and land ecosystems

Henceforth we refer to these goals as NC-SDGs.



Figure 1. Natural capital-based Sustainable Development Goals (NC-SDGs) and auxiliary NC-SDGs

We consider Goals 6, 7, and 9 as auxiliary NC-SDGs as they have targets relating to water ecosystems, fossil fuels as subsoil natural resources, and “environmentally sound technologies and industrial processes” respectively.⁶ Figure 1 provides a graphic summary.

3 Lenton, T. M., Rockström, J., Gaffney, O., Rahmstorf, S., Richardson, K., Steffen, W., & Schellnhuber, H. J. (2019). Climate tipping points—too risky to bet against. *Nature*, 575(7784), 592–595. doi: 10.1038/d41586-019-03595-0.

4 HM Treasury (2020). *The Green Book: Central Government Guidance On Appraisal and Evaluation*.

5 Neumayer, E. (1998). Preserving natural capital in a world of uncertainty and scarce financial resources. *International Journal Of Sustainable Development & World Ecology*, 5(1), 27–42. doi: 10.1080/13504509809469967

6 United Nations General Assembly (2015). *Transforming our world: the 2030 Agenda for Sustainable development*, A/RES/70/1.

We refer to “commitment” as the integration of SDG targets and indicators in the design and evaluation of policies, as well as promoting awareness towards achieving SDGs in the indicated timeframe.

In the following sections, we outline the UK-specific businesses and economy-wide benefits, then examine positive spillovers from current sustainable development policies. After identifying policy gaps, we reflect on the recent developments in measuring SDGs.

II. Improved Business Performance

There is strong evidence that environmentally sustainable practices improve business performance. Clark et al’s 2014 review of 200 studies on sustainability and corporate performance found that high environmental, social, and governance (ESG) standards lowered costs of sourcing capital and improved financial performance in 90 percent of cases.⁷ Similarly, Flammer identified a positive causal impact of adopting Corporate Social Responsibility (CSR) proposals, such as incorporating SDGs in business operations, on accounting performance, labour productivity, and business sales in 2015.⁸ Flammer did so by exploiting variation in corporate proposals that are mostly independent of confounding factors, such as the passage of shareholder proposals on CSR that pass or fail by a small margin of votes.

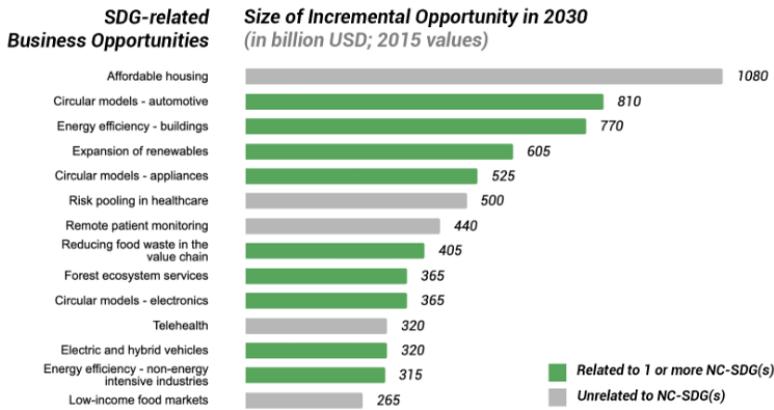


Figure 2. The size of incremental SDG-related business opportunities in 2030.
 Notes: Only the largest opportunities are shown. Source: Business and Sustainable Development Commission, 2017.

The implementation of SDGs also opens up new markets for UK businesses. A

7 Clark, G. L., Feiner, A., & Viehs, M. (2015). From the stockholder to the stakeholder: How sustainability can drive financial outperformance. Available at SSRN 2508281.

8 Flammer, C. (2015). Does corporate social responsibility lead to superior financial performance? A regression discontinuity approach. *Management Science*, 61(11), 2549-2568.

2017 report by the Business and Sustainable Development Commission estimates that delivering SDGs in the four “economic systems”—food and agriculture, energy and materials, cities, and health—can generate over £10 trillion⁹ worth of business opportunities per year by 2030.¹⁰ These closely relate to NC-SDGs (summarised in Figure 2) and are highly applicable in the UK. For instance, product-reformulation strategies, which improve the nutritional content of processed food in the UK and enhance sustainable consumption (SDG 12), require total business investments of approximately £3.7 billion. This is significantly smaller than the estimated gains in Figure 2.¹¹ Further, this improvement to processed food is projected to improve the health of the population, saving a total of 1.7 million disability-adjusted life years. Healthy workers reduce the burden on the National Health Service by avoiding economic costs associated with falling ill or being hospitalised; they also work and consume more, which are major drivers of GDP.

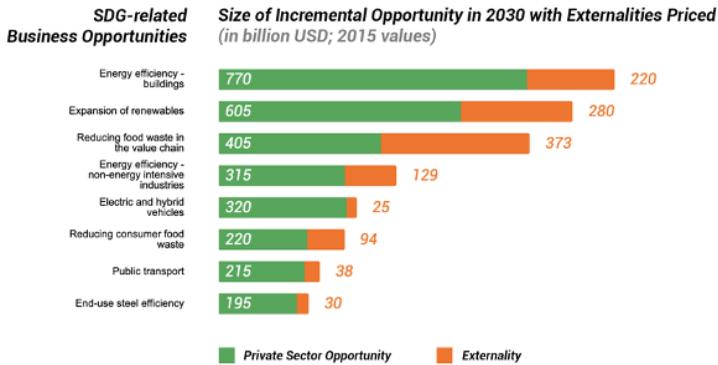


Figure 3. The size of incremental SDG-related business opportunities in 2030, with externalities added.

Notes: Evidence at the global level suggests that pricing externalities adds market opportunities substantially.

Source: Business and Sustainable Development Commission, 2017.

In addition, as shown in Figure 3, adjusting prices to reflect the positive externalities generated by a business focus on SDGs can add up to 40 percent of business opportunities in the four economic systems identified.¹²

9 The original data is in USD. We employ an exchange rate of \$1=£1.2.

10 Business and Sustainable Development Commission. (2017). *Better Business Better World: The report of the Business & Sustainable Development Commission*.

11 Dobbs, R., Sawers, C., Thompson, F., Manyika, J., Woetzel, J., Child, P., ... & Spatharou, A. (2016). *Overcoming obesity: An initial economic analysis*. McKinsey Global Institute, 2014.

12 Business and Sustainable Development Commission. (2017). *Better Business Better World: The report of the Business & Sustainable Development Commission*.

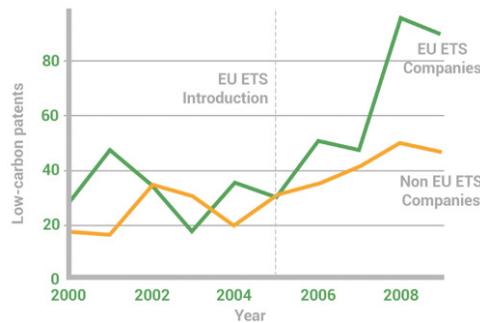


Figure 4. Low-carbon innovation activity of EU ETS regulated companies compared with the counterfactual scenario.

Source: Cael & Dechezleprêtre, 2014

Carbon pricing policies can have a significant effect on business incentives in creating sustainable innovations.¹³ Figure 4 shows that the introduction of the EU Emissions Trading System (ETS) has led to an increase in the number of low-carbon patents from companies. There is potential for the UK government to further commit to SDGs through measures such as maintaining carbon pricing. Such a commitment would result in even greater benefits from encouraging businesses to invest in low-carbon innovations and creating new business areas.

As Europe's centre of sustainable funds management, the UK's financial industry has long incorporated ESG standards into its investment criteria to support the growth of sustainable finance. One common method of sustainable finance is investment in an eco-friendly fund which applies ESG criteria and focuses its investment options in companies which are less carbon-intensive or earn green revenues. Eco-friendly funds generally design their own metrics of "climate awareness" and adjust portfolios towards companies and assets that perform better along those metrics. One example is the Future World Fund managed by Legal & General Investment Management, which only includes companies meeting minimum environmental standards and exposes itself more to companies which, in addition to meeting environmental standards, engage in environmentally friendly activities.¹⁴ In 2016, HSBC placed £1.85 billion of its UK employees' pension savings into the Future World Fund.¹⁵ Reasons for HSBC's decision are reportedly greater expected returns, improved company engagement, and a more widespread per-

13 Cael, R., & Dechezleprêtre, A. (2016). Environmental policy and directed technological change: evidence from the European carbon market. *Review of economics and statistics*, 98(1), 173-191. Around 300 companies regulated under the EU ETS are included in the sample. "Non EU ETS companies" are a group of 3000 European companies that are not regulated under the EU ETS but operated in the same country and the same economic sector and are comparable in size and innovation capacity to companies regulated under the EU ETS.

14 Legal & General Investment Management (2016). *The Future World fund range*.

15 Flood, C. (2016, November 8). HSBC's UK pension scheme to invest £1.85bn in eco-friendly fund. *The Financial Times*.

ception that addressing climate change should be the “new normal”.¹⁶ The notion that eco-friendly funds can generate returns is supported by empirical evidence: Morningstar, a global research agency, compared average return, success and survival rates of 745 sustainable funds with those of 4150 traditional funds. They found that irrespective of the type considered (bond or equities), and the country of origin (UK or abroad), rates of return on sustainable funds either matched or beat their traditional counterparts. Many businesses also publicly urge the government to further commit to strengthening private-public coordination in delivering SDGs.¹⁷ While SDGs are beneficial to businesses, without an active governmental commitment to NC-SDGs to address market failure, firms and the economy more broadly may not fully realise these benefits.

Market failures, whereby markets fail to achieve socially efficient resource allocations, necessitate government intervention. Many green investments are currently uncompetitive as they involve early-stage innovations yet to be commercialised. Gillingham and Stock use 2018 data from the US Energy Information Administration to compute the costs of abating each ton of CO₂ by replacing electricity generated by an existing coal-fired power plant with the cleaner alternative.¹⁸ As a comparison, the UK in 2019 proposed a £16 (\$19.2) tax per tonne of CO₂ emitted by installations. This effectively means abatement costs for switching to most feasible “cleaner alternatives” are much higher than social costs reflected by carbon tax schemes. Furthermore, solar and wind are among the cleanest forms of energy (Figure 5), yet Gillingham and Stock show that solar thermal and offshore wind are the most costly to implement (Table 1).¹⁹

Technology	Cost estimate (\$2,017/tonne of CO ₂ abated)	Cost estimate (£2,017/tonne of CO ₂ abated) ²⁰
Onshore wind	24	20
Natural gas combined cycle	24	20
Utility-scale solar photovoltaic	28	23.3
Natural gas with carbon capture and storage	42	35
Advanced nuclear	58	48.3

¹⁶ Bioy, H. & Boyadzhiev, D. (2020). *How does European sustainable funds' performance measure up?* Morningstar.

¹⁷ UKSSD Network (2018). *Measuring up: How the UK is performing on the UN Sustainable Development Goals.*

¹⁸ Gillingham, K., & Stock, J. H. (2018). The cost of reducing greenhouse gas emissions. *Journal of Economic Perspectives*, 32(4), 53-72. While they conclude that solar thermal and offshore wind technologies are the most costly to implement, we caution that these measures represent underestimates of true costs of abating CO₂, given that they only consider mechanical switching and differ from costs of policy responses needed to encourage switching.

¹⁹ Ibid.

²⁰ The original data is in USD. We employ an exchange rate of \$1=£1.2.

Coal retrofit with carbon capture	84	70
New coal with carbon capture and storage	95	79.2
Offshore wind	105	87.5
Solar thermal	132	110
UK proposed Carbon Emissions Tax under a no-deal Brexit (2019)²¹	19.2	16

Table 1. New source generation costs when comparing to existing coal generation.

Notes: The table shows **engineering costs** per ton of CO2 abated by replacing electricity generated by a current coal-fired power plant with the new generation source. Source: Gillingham and Stock, 2018

The UK Energy Research Centre’s review of evidence on the timescale of technological innovations showed that across 14 innovations studies, it takes an average of 39 years for an innovation to be commercialised and deployed.²² Furthermore, Gillingham and Stock suggest that much of the “green investments” in renewable energy suffer from path dependence, whereby rates of return go up in the long run only with sufficiently high inputs.²³ Furthermore, environmental externalities in current pollutive technologies are not internalised, leading to overproduction. Greener innovations thus tend to be under-funded by private markets, causing deadweight welfare loss for both consumers and producers.²⁴ Consumers continue to suffer the consequences of pollution, while producers forego the opportunity to achieve better business performance in the long run as outlined above.²⁵ Government finance such as the UK Energy Entrepreneurs Fund, which was launched in 2012 and invested £75 million of grant money by 2019, can support the incubation of businesses before they generate revenues.

21 While the technical note was later withdrawn due to further developments in Brexit negotiations, there have since been new calls and consultation processes for implementation of a Carbon Emissions Tax.

22 Hanna, R., Gross, R., Speirs, J., Heptonstall, P., & Gambhir, A. (2015). Innovation timelines from invention to maturity. *UK Energy Research Centre*.

23 Gillingham, K., & Stock, J. H. (2018). The cost of reducing greenhouse gas emissions. *Journal of Economic Perspectives*, 32(4), 53-72.

24 Owen, R., Lyon, F., & Brennan, G. (2018). Filling the green finance gap: Government interventions supporting early-stage low carbon ventures. *Academy of Management Proceedings*, 2018(1), 16419.

25 One example would be Clark et al. (2015).

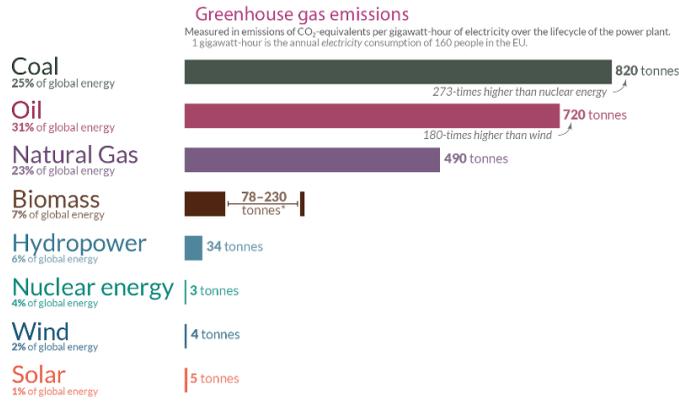


Figure 5. Solar and wind are among the cleanest forms of energy.
Source: Ritchie & Roser, 2020.

In addition, the government can provide a regulatory base to correct “imperfect information”. Standardisation prevents greenwashing, the act of labelling projects or bonds with detrimental or negligible impact on the environment as “green” to attract investors. Addressing the lack of clear common standards, cited as the largest source of investor uncertainty, can fuel demand for green bonds, which are bonds earmarked primarily for projects improving energy efficiency (SDG 7).²⁶ This is exemplified by the ASEAN’s adoption of comprehensive Green Bond Standards that categorise projects and specify the exclusion of fossil fuels.²⁷ These actions reduce information asymmetries between firms and investors and may encourage the latter group to more confidently invest in green projects and bonds.

The government can also help establish common reporting standards to lower the implementation costs of sustainability practices. HSBC found that 26 percent of the 1000 UK firms surveyed suggested that a confusion with ESG reporting undermined their sustainability practices.²⁸ KPMG also found that one of the biggest barriers to sustainability for firms was the lack of common metrics to assess and compare performances.²⁹ In 2020, the British Standards Institution (BSI) launched the first of its five-year initiative with the UK Government (BEIS) and the UK industry (City of London’s GFI) to develop consensus-based standards in sustainable finance.³⁰ We argue that such country-wide standardisation is only achievable through regulatory changes directed by the government. While firms

26 Climate Bonds Initiative (2019). *Green Bond European Investor Survey*. International Finance Corporation (2020). *Green Bond Impact Report*.

27 ASEAN (2017). *ASEAN Green Bond Standards*.

28 HSBC (2018). *HSBC Navigator 2018*.

29 KPMG (2017). *KPMG Survey of Corporate Responsibility Reporting 2017*.

30 British Standards Institution (2020a). *BSI launches first sustainable finance guide setting standards for financial institutions to align to global sustainability challenges*.

in the private sector can also attempt to establish uniform standards, their lack of enforcement power gives other businesses considerable discretion over which standards to adopt. This inconsistency not only raises search and adoption costs of standards, but also undermines uniform comparisons of companies' performances along relevant dimensions. By contrast, government directives provide the incentive to report some common metrics, allowing investors and other stakeholders to better assess such information. Moreover, government-induced standards can go beyond helping companies assess their environmental impacts by tailoring case-specific solutions to incorporate environmental sustainability into existing business practices. This is illustrated by the BSI's new ISO standards, which aim to allow businesses of all sizes to consider climate change adaptation while designing new policies, strategies, plans, and activities.³¹

The government can also exercise its authority to endorse consistent information and nudge consumer behaviour. For example, mandating businesses to disclose the environmental impact of their products through labelling highlights the impact of consumption choices and addresses consumers' behavioural bias.³²

Finally, government commitments to SDGs have the potential to improve coordination in the private sector. An example of such improved coordination is industrial symbiosis, where governments promote mutual synergies between firms from different industries. The UK's National Industrial Symbiosis Programme (NISP), matches participating firms that can use each other's byproducts with the view that "one company's waste is another's raw material." For example, the waste filter cake produced by an air conditioner manufacturer is used by a fuel manufacturer as an oil absorption agent. In five years, NISP diverted over 47 million tonnes of industrial waste, contributing to improvements in SDG 12, production expansions and costs reductions.³³

III. Current Policies and Positive Spillovers

In the first year alone, 90 percent of the actions in the 25 Year Environment Plan have been delivered or are being progressed.³⁴ Further, complex interactions and positive spillovers between goals occur. In the NC-SDGs framework, the key areas include air quality, water quality, urban planning, and waste management.

Commitments to cleaner air have shown significant progress. The World Bank suggests that 100 percent of the UK population has access to clean fuels and tech-

31 British Standards Institution (2020b). *New international standard helps organizations adapt to climate change*.

32 Ölander, F., & Thøgersen, J. (2014). Informing versus nudging in environmental policy. *Journal of Consumer Policy*, 37(3), 341-356. doi: 10.1007/s10603-014-9256-2.

33 International Synergies (2013). *National Industrial Symbiosis Programme*.

34 UK Government (2019a). *First review of 25 Year Environment Plan published*.

nology for cooking in 2020 (SDG 7.1.2).³⁵ The ONS also finds that the share of renewable energy in total energy consumption rose exponentially from 0.7 percent in 1990 to 10.3 percent in 2017 (SDG 7.2.1).³⁶ This is expected to enhance climate resilience and encourage the transition to an economy with a lower reliance on high-emission technologies (SDG 13.2.1). Recent policies further support the attainment of NC-SDGs. The Clean Growth Strategy seeks to align economic growth with “clean” development by improving industry efficiency and encouraging the transition to low-carbon transport.³⁷ Climate change policies may shape incentives in technological change, promoting innovation (SDG 9) and sustainable infrastructural development (SDG 11).

Secondly, a commitment to cleaner water sources is “good business” because it raises productivity and cuts costs for firms, according to researchers at the Stockholm International Water Institute.³⁸ Current policies such as the Nitrates Directive and the Water Framework Directive reduce contamination risk to water bodies while enhancing their quality. Such policies ensured that 100 percent of UK households have access to safe drinking water and are connected to wastewater treatment.³⁹ Access to sanitary drinking water is vital for personal health, and healthy workers make valuable contributions to business and the economy.

Thirdly, urban planning policies encourage infrastructure innovation. Congestion is a huge cost for the economy in terms of lost time spent waiting in traffic and the continuous emission of pollutants from vehicles. TomTom’s London traffic reports in 2017 to 2019 show that just shy of 150 hours per year are spent by each driver waiting in rush hour traffic jams.⁴⁰ Further, greenhouse gas emissions from road transport make up 21 percent of the UK’s total greenhouse gas emissions, which motivate the importance of making road planning easier for vehicle owners.⁴¹ To maximise the value of public investment, the UK government has established a Transforming Cities Fund worth £2.5 billion to tackle congestion and promote smart traffic management. The government is also considering new vehicle types and innovative ways to simplify journey planning and payments as a part of their Future of Mobility Urban Strategy. The aspects of this strategy are to be tested with a £90 million investment in four “future mobility zones.” These policies complement the goal of achieving cleaner air; as the transport sector is the

35 World Bank (2020). *Access to clean fuels and technologies for cooking, percentage of population*.

36 Office for National Statistics (2020). *Energy use: renewable and waste sources*.

37 Department for Business, Energy & Industrial Strategy (2017). *Clean Growth Strategy*.

38 Sanctuary, M., Haller, L., & Tropp, H. (2005). *Making water a part of economic development: the economic benefits of improved water management and services*. SIWI.

39 WHO/UNICEF (2020). *People using safely managed drinking water services (% of population)*. OECD (2020). *Wastewater treatment (% population connected)*.

40 TomTom (2020). *London traffic report*.

41 Office for National Statistics (2019b). *Road transport and air emissions*.

largest single contributor to greenhouse gas emissions at 34 percent of total emissions, introducing smarter vehicles and tackling traffic congestion can significantly reduce air pollution.⁴² Furthermore, there is a strong link between the sustainability of cities and communities (SDG 11) and the sustainability of an environmental ecosystem with which the cities and communities interact.⁴³

Finally, waste management policies have also shown promise in maintaining cleaner environmental standards. Since 2000, the UK's material footprint has shown a downward trend.⁴⁴ Plastic waste has been a major area of focus for the government, with an aim to reach zero plastic waste by 2042.⁴⁵ Better waste management will benefit ecosystems on land and in water and preserve the quality of the resources that are necessary to everyday production and consumption. Further, achieving the sustainable management of natural resources (SDG 12.2) and promoting policies that are in accordance with such management (SDG 12.7) are closely associated with the development of sustainable transport and infrastructure (SDG 9).

IV. Shortcomings of Current Policies

Despite considerable progress in some areas, there is strong evidence to suggest that gaps still exist, particularly in waste management and energy efficiency. Current trajectories pose a considerable threat to the future availability of natural capital. This necessitates immediate action to be taken against these issues.

Hazardous waste generated, such as used oils and chemical waste, rose by over 10 percent between 2010 and 2016.⁴⁶ This waste pollutes water bodies and threatens aquatic biodiversity. It necessitates greater purification efforts, resulting in major costs of production.⁴⁷

Energy efficiency is plagued by policy inconsistencies. Relaxations on fracking rules, freezes on fuel duty, uncertainty around the future of carbon pricing, and the end of hybrid vehicle subsidies damage expectations about the government's commitment to a low-carbon economy.⁴⁸ Low per capita spending on improving household energy efficiency and uncertainty in the government's target to up-

42 Department for Transport (2019). *Department for Transport single departmental plan*.

43 Stafford-Smith, M., Griggs, D., Gaffney, O., Ullah, F., Reyers, B., Kanie, N., ... & O'Connell, D. (2017). Integration: the key to implementing the Sustainable Development Goals. *Sustainability Science*, 12(6), 911-919. doi:10.1007/s11625-016-0383-3.

44 Office for National Statistics (2019a). *Measuring material footprint in the UK: 2008 to 2016*. An economy's material footprint refers to the amount of resources extracted in order to produce the goods and services demanded by the domestic economy.

45 UK Government (2018). *A Green Future: Our 25 Year Plan to Improve the Environment*.

46 Department for Environment, Food & Rural Affairs (2020). *UK statistics on waste*.

47 Sanctuary, M., Haller, L., & Tropp, H. (2005). *Making water a part of economic development: the economic benefits of improved water management and services*. SIWI.

48 Rydge, J., Martin, R., & Valero, A. (2018). Sustainable Growth in the UK: Seizing opportunities from technological change and the transition to a low-carbon economy. *CEP Industrial Strategy Paper*, (7).

grade “fuel-poor” homes have caused the improvement in median energy efficiency ratings to level off (Figure 6). The proportion of households in fuel poverty has not changed significantly despite the fuel poverty gap decreasing since 2014.⁴⁹ Households are considered fuel poor if their fuel costs are above the national median level and their residual income after fuel costs would fall below the poverty line.

A combination of slack minimum energy efficiency regulations, high fixed costs and the fact that returns are typically distributed over the long term means that private incentives, which are based on a series of myopic optimisation, do not bring enough investments to meet current targets.⁵⁰ Given that energy efficiency is one of the most effective ways to tackle fuel poverty, stagnant improvements in this area stall progress in indicators such as 9.4.1 (CO₂ emission per unit of value added).⁵¹

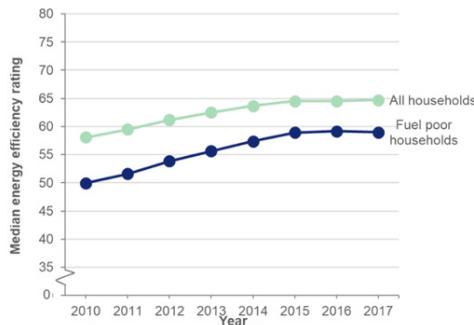


Figure 6. The improvement in median energy efficiency ratings between 2010 and 2015 has levelled off in recent years for fuel-poor households and all households

Source: Ministry of Housing, Communities & Local Government, 2018.

V. Opportunities for Better Measurement

Existing improvements in measurement enable policymakers to track progress on specific SDGs, analyse root causes of challenges in delivering SDGs and design policies that address problems for specific stakeholders, to “Leave No One Behind”.⁵² The ability to establish quantitative targets for indicators that currently lack clarity will further enhance governmental commitment by reducing the propensity to take discretionary action and exploit the vagueness of said indicator(s).

70 percent of 180 SDG indicators reported using UK data are disaggregated (broken down into subcategories) by at least one variable, such as geographic re-

49 Ministry of Housing, Communities & Local Government (2018). *English Housing Survey 2016 to 2017: headline report*.

50 Gillingham, K., & Stock, J. H. (2018). The cost of reducing greenhouse gas emissions. *Journal of Economic Perspectives*, 32(4), 53-72.

51 UKSSD Network (2018). *Measuring up: How the UK is performing on the UN Sustainable Development Goals*.

52 Dawe, F. (2019). *UN Sustainable Development Goals: How does climate change jeopardise the chances of a sustainable future?*

gion.⁵³ This data can be used to compare the socio-economic impact of policies across regions, enabling policymakers to identify and target regional economic disparities. For example, researchers can use UK regional Google patent rank data to quantify regional distributions of economic spillovers from innovation investments (Figure 7). Policymakers can then direct innovation spending to regions with stagnant productivity.

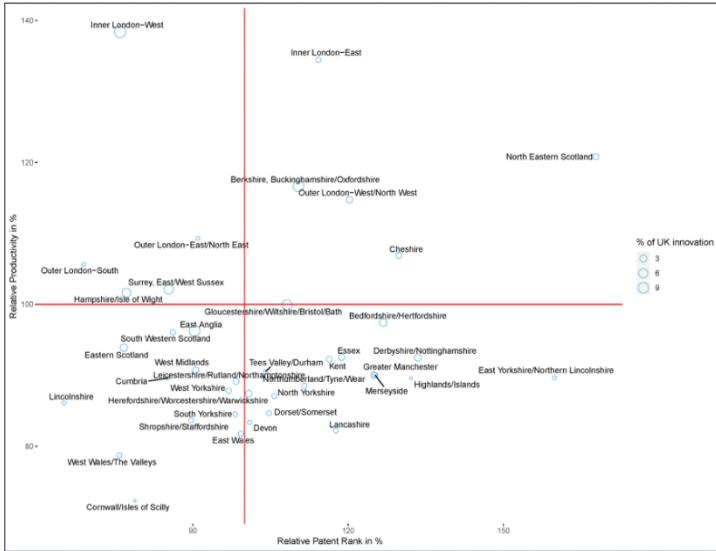


Figure 7. A scatter plot of relative regional productivity and relative regional average spillovers for NUTS2 regions of the UK

Notes: From this estimation, it is clear that targeting regions with below national average productivity and high innovation spillovers can generate higher benefits. Source: Rydge, Martin & Valero, 2018.

For NC-SDGs, we argue that the UK government can leverage the 100 percent coverage of climate action indicators and existing micro-level data to incorporate climate change-induced dynamics when investing in different parts of the UK. Existing literature suggests that foresighted infrastructure investments that consider dynamic effects of climate change, including inundation, sea-level rises, and floods, bring significant long-term economic welfare gains.⁵⁴

An understanding of inter-linkages between SDGs allows policymakers to consider the distributional and long-term consequences of their decisions, thereby avoiding policy conflicts between different departments or omitting key areas of policy focus.⁵⁵ For instance, the UN Statistical Division is collaborating with the

53 UK Government (2019b). *Voluntary National Review of progress towards the Sustainable Development Goals.*
 54 Balboni, C. A. (2019). *In harm's way? infrastructure investments and the persistence of coastal cities* (Doctoral dissertation, The London School of Economics and Political Science (LSE)).
 55 Inter-agency Expert Group on SDG Indicators (2019). *Interlinkages of the 2030 Agenda for Sustainable*

ONS and other statistical agencies across developing countries to harmonise the use of indicators in understanding positive linkages between targets, to direct statistical reporting and policies to those with the greatest potential for positive externalities.

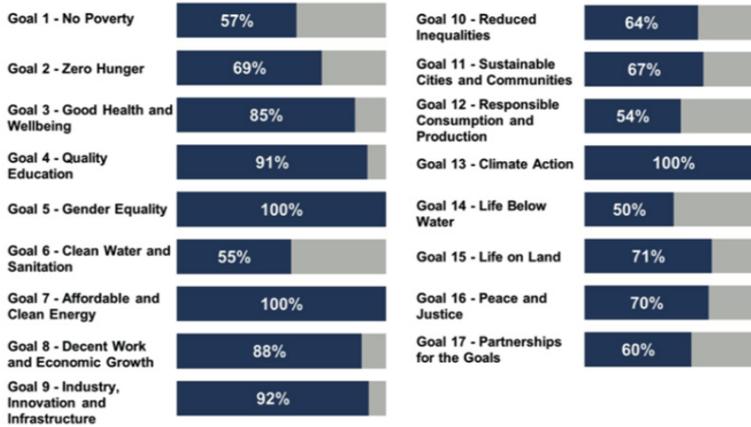


Figure 8. Proportion of Global Indicators for each SDG that have data reported on the UK National Reporting Platform, as of June 2019.

Source: UK Government, 2019b

Greater governmental commitment to NC-SDGs is essential to accelerate improvements in data measurement. As shown in Figure 7, among specific goals we focus on, there is substantial scope for improved data availability in Goals 12, 14, and 15.

Many indicators require more details on how they can be met. For instance, none of the transboundary basin areas in the UK currently have an operational agreement on water cooperation.⁵⁶ In addition to improving local and international water resource management, clarification will also help the UK maintain international ties, the importance of which has only increased since Brexit.

VI. Conclusion

Sustainable growth cannot be left to the private sector alone; a consistent, well-measured UK government commitment helps deepen the symbiotic relationship between stakeholders. This can help address market failures such as imperfect information and coordination problems in the private sector, where sustainable economic activity has the potential to take place on a large scale. Our assessment of current policies show that a stronger government commitment is consistent with current policy trajectories and that bridging existing policy gaps can deliver large

Development.

56 United Nations Economic Commission for Europe (2018). *Progress on Transboundary Water Cooperation.*

gains.

We have demonstrated the ways in which SDGs benefit the UK economy and businesses, such as reducing production costs through the maintenance of water sources, incentivising sustainable innovations through carbon pricing schemes, and strengthening the relationship between environmental ecosystems and the city. Environmental sustainability and economic growth are not always on a collision course. Rather, they should be viewed as complementary aims under the overarching goal of sustainable growth. With the advent of improved data collection methods and measurement of SDG indicators, we can better quantify progress towards a more sustainable future that benefits businesses and the economy.

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“Victorian Holocausts”: The Long-Term Consequences of Famine in British India

Adithya V. Raajkumar

Abstract: This paper seeks to examine whether famines occurring during the colonial period affect development outcomes in the present day. We compute district level measures of economic development, social mobility, and infrastructure using cross-sectional satellite luminosity, census data, and household survey data. We then use a panel of recorded famine severity and rainfall data in colonial Indian districts to construct cross-sectional counts measures of famine occurrence. Finally, we regress modern-day outcomes on the number of famines suffered by a district in the colonial era, with and without various controls. We then instrument for famine occurrence with climate data in the form of negative rainfall shocks to ensure exogeneity. We find that districts which suffered more famines during the colonial era have higher levels of economic development; however, high rates of famine occurrence are also associated with a larger percentage of the labor force working in agriculture, lower rural consumption, and higher rates of income inequality. We attempt to explain these findings by showing that famine occurrence is simultaneously related to urbanization rates and agricultural development. Overall, this suggests that the long-run effects of natural disasters which primarily afflict people and not infrastructure are not always straightforward to predict.

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1. Introduction

What are the impacts of short-term natural disasters in the long-run, and how do they affect economic development? Are these impacts different in the case of disasters which harm people but do not affect physical infrastructure? While there is ample theoretical and empirical literature on the impact of devastating natural disasters such as hurricanes and earthquakes, there are relatively few studies on the long-term consequences of short-term disasters such as famines. Furthermore, none of the literature focuses on society-wide development outcomes. The case of colonial India provides a well-recorded setting to examine such a question, with an unfortunate history of dozens of famines throughout the British Raj. Many regions were struck multiple times during this period, to the extent that historian Mike Davis characterizes them as “Victorian Holocausts” (Davis 2001 p.9). While the short-term impacts of famines are indisputable, their long-term effects on economic development, perhaps through human development patterns, are less widely understood.

The United Kingdom formally ruled India from 1857 to 1947, following an earlier period of indirect rule by the East India Company. The high tax rate imposed on peasants in rural and agricultural India was a principal characteristic of British governance. Appointed intermediaries, such as the landowning *zamindar* caste in Bengal, served to collect these taxes. Land taxes imposed on farmers often ranged from two-thirds to half of their produce, but could be as high as ninety to ninety-five percent. Many of the intermediaries coerced their tenants into farming only cash crops instead of a mix of cash crops and agricultural crops (Dutt 2001). Aside from high taxation, a *laissez-faire* attitude to drought relief was another principal characteristic of British agricultural policy in India. Most senior officials in the imperial administration believed that serious relief efforts would cause more harm than they would do good and consequently, were reluctant to dispatch aid to afflicted areas (ibid). The consequences of these two policies were some of the

most severe and frequent famines in recorded history, such as the Great Indian Famine of 1893, during which an estimated 5.5 to 10.3 million peasants perished from starvation alone, and over 60 million are believed to have suffered hardship (Fieldhouse 1996).

Our paper focuses on three sets of outcomes in order to assess the long-term impact of famines. First, we measure macroeconomic measures of overall development, such as rural consumption per capita and the composition of the labor force. We also use nighttime luminosity gathered from satellite data as a proxy for GDP, of which measurement using survey data can be unreliable. Second, we look at measures of human development: inequality, social mobility, and education, constructed from the India Human Development Survey I and II. Finally, we examine infrastructure, computing effects on village-level electrification, numbers of medical centers, and bus service availability.

To examine impacts, we regress famine occurrence on these outcomes via ordinary least-squares (OLS). We use an instrumental-variables (IV) approach to ensure a causal interpretation via as-good-as-random assignment¹. We first estimate famine occurrence, the endogenous independent variable, as a function of rainfall shocks—a plausibly exogenous instrument—before regressing outcomes on predicted famine occurrence via two-stage least-squares (2SLS). Since the survey data are comparatively limited, we transform and aggregate panel data on rainfall and famines as counts in order to use them in a cross-section with the contemporary outcomes.

We find for many outcomes that there is indeed a marginal effect of famines in the long-run, although where it is significant it is often quite small. Where famines do have a significant impact on contemporary outcomes, the results follow an interesting pattern: a higher rate of famine occurrence in a given district is associated with *greater* economic development yet *worse* rural outcomes and higher inequality. Specifically, famine occurrence has a small but positive impact on nighttime luminosity—our proxy for economic development—and smaller, negative impacts on rural consumption and the proportion of adults with a college education. At the same time, famine occurrence is also associated with a higher proportion of the labor force being employed in the agricultural sector as well as a higher level of inequality as measured by the Gini index². Moreover, we find limited evidence that famine occurrence has a slightly negative impact on infrastructure as more famines are associated with reduced access to medical care and bus service. We

1 One can essentially understand this technique as manipulating the independent variable, which may not be randomly assigned, via a randomly assigned instrument.

2 The Gini index measures the distribution of wealth or income across individuals, with a score of zero corresponding to perfectly equal distribution and a score of one corresponding to a situation where one individual holds all of the wealth or earns all of the income in the group.

do not find that famines have any significant impact on social mobility – specifically, intergenerational income mobility – or infrastructure such as electrification in districts. This finding contradicts much of the established literature on natural disasters, which has predominantly found large and wholly negative effects. We attempt to explain this disparity by analyzing the impact of famines on urbanization rates to show that famine occurrence may lead to a worsening urban-rural gap in long-run economic development. Thus, we make an important contribution to the existing literature and challenge past research with one of our key findings: short-term natural disasters which do not destroy physical infrastructure may have unexpectedly positive outcomes in the long-run.

While the instrumental estimates are guaranteed to be free of omitted variable bias, the OLS standard errors allow for more precise judgments due to smaller confidence intervals. In around half of our specifications, the Hausman test³ for endogeneity fails to reject the null hypothesis of exogeneity, indicating that the ordinary-least squares and instrumental variables results are equally valid. However, the instrumental variables estimate helps address other problems, such as attenuation bias⁴, due to possible measurement error.

Section 2 presents a review of the literature and builds a theoretical framework for understanding the impacts of famines on modern-day outcomes. Section 3 describes our data, variable construction, and summary statistics. Sections 4 and 5 present our results using ordinary least-squares and instrumental two-stage least-squares approaches. Section 6 discusses and attempts to explain these results.

2. Review and Theoretical Framework

1. *The Impact of Natural Disasters*

Most of the current literature on natural disasters as a whole pertains to physical destructive phenomena such as severe weather or seismic events. Moreover, most empirical studies, such as Nguyen et al (2020) and Sharma and Kolthoff (2020), focus on short-run aspects of natural disasters relating to various facets of proximate causes (Huff 2020) or pathways of short-term recovery (Sharma and Kolthoff 2020). Famines are a unique kind of natural disaster in that they greatly affect crops, people, and animals but leave physical infrastructure and habitation relatively unaffected. We attempt to take this element of famines into account when explaining our results.

3 The Durbin-Wu-Hausman test essentially asks whether adding the instrument changes bias in the model. A rejection of the null hypothesis implies that differences in coefficients between OLS and IV are due to adding the instrument, whereas the null hypothesis assumes that the independent variable(s) are already exogenous and so adding an instrument contributes no new information to the model.

4 Attenuation bias occurs when there is measurement error in the independent variable, which biases estimates downward due to the definition of the least-squares estimator as one which minimizes squared error on the axis of the dependent variable. See Durbin (1954) for a detailed discussion.

Of the portion of the literature that focuses on famines, most results center on individual biological outcomes such as height, nutrition, (Cheng and Hui Shui 2019) or disease (Hu et al. 2017). A percentage of the remaining studies fixate on long-term socioeconomic effects at the individual level (Thompson et al. 2019). The handful of papers that do analyze broad long-term socioeconomic outcomes, such as Ambrus et al. (2015) and Cole et al. (2019), all deal with either long-term consequences of a single, especially severe natural disaster or the path dependency effects that may occur because of the particular historical circumstances of when a disaster occurs, such as in Dell (2013). On the other hand, our analysis spans several occurrences of the same type of phenomenon in a single, relatively stable sociohistorical setting, thereby utilizing a much larger and more reliable sample of natural disasters. Thus, our paper is the first to examine the *long-term* effects of a very specific type of natural disaster, famine, on the *overall development* of an entire region, by considering multiple occurrences thereof.

Prior econometric literature on India's famine era has highlighted other areas of focus, such as Burgess and Donaldson (2012), which shows that trade openness helped mitigate the catastrophic effects of famine. There is also plenty of historical literature on the causes and consequences of the famines, most notable in academic analyses from British historians (contemporarily, Carlyle 1900 and Ewing 1919; more recently Fieldhouse), which tend to focus on administrative measures, or more specifically, the lack thereof.

In terms of the actual effects of famine, all of the established literature asserts that natural disasters overwhelmingly influence economic growth through two main channels: destruction of infrastructure and resulting loss of human capital (Lima and Barbosa 2019, Nguyen et al. 2020, Cole et al. 2019), or sociopolitical historical consequences, such as armed conflict (Dell 2013, Huff 2019). Famines pose an interesting question in this regard since they tend to result in severe loss of human capital through population loss due to starvation but generally result in smaller-scale infrastructure losses (Agbor and Price 2013). This is especially the case for rural India, which suffered acute famines while having little infrastructure in place (Roy 2006). We examine three types of potential outcomes: overall economic development, social mobility, and infrastructure, as outlined in section three. Our results present a novel finding in that famine occurrence seems to *positively* impact certain outcomes while negatively impacting most others, which we attempt to explain by considering the impact of famines on urbanization rates.

Famines can impact outcomes through various mechanisms; therefore, we leave the exact causal mechanism unspecified and instead treat famines as generic shocks with subsequent recovery of unknown speed. If famines strike repeatedly, their initial small long-term effects on outcomes can escalate. In order to distinguish long-run effects of famines, we construct a simple growth model where flow variables

such as growth quickly return to the long-run average after the shock, but stock variables such as GDP or consumption only return to the average asymptotically. Our intuition for the basis of distinguishing a long-run effect of famines rests on a simple growth model in which flow variables such as growth quickly return to the long-run average after a shock, but stock variables such as GDP or consumption only return to the average asymptotically⁵. Thus, over finite timespans, the differences in stock variables between districts that undergo famines and those that do not should be measurable even after multiple decades. As mentioned below, this is in line with more recent macroeconomic models of natural disasters such as Hochrainer (2009) and Bakkensen and Barrage (2018).

Assume colonial districts (indexed by i) suffer n_i famines over the time period (in our data, the years 1870 to 1930), approximated as average constant rates f_i . The occurrence of famine can then be modeled by a Poisson process⁶ with interval parameter f_i , which represents the expected time between famines –even though the exact time is random and thus unknown– until it is realized. For simplicity, we assume that famines cause damage⁷ d to a district's economy, for which time r_i is needed to recover to its assumed long-run, balanced growth path. We make no assumptions on the distributions of d and r_i except that r_i is dependent on d and that the average recovery time $E[r_i]$ is similarly a function of $E[d]$.

If the district had continued on the growth path directly without the famine, absent any confounding effects, it would counterfactually have more positive outcomes today by a factor dependent on $n_i E[t_i]$ and thus n_i , the number of famines suffered. We cannot observe the counterfactuals (the outcome in the affected district had it not experienced a famine), so instead, we use the unaffected districts in the sample as our comparison group. Controlling for factors such as population and existing infrastructure, each district should provide a reasonably plausible counterfactual for the other districts in terms of the number of famines suffered. Then, the differences in outcomes among districts measured today, y_i , can be modeled as a function of the differences in the number of famines, n_i . Finally, across the entire set of districts, this can be used to represent the average outcome $E[y_i]$ as a function of the *number* of famines, which forms the basis of our ordinary-least squares approach in section four. This assumes that the correlation between famine occurrence and outcome is equal to 0. To account for the possibility their cor-

5 Classical growth theory, such as in the Solow-Swan (1957) and Romer (1994) implies long-run convergence and therefore that districts would have similar outcomes today regardless of the number of famines they underwent. However, this is at odds with most of the empirical literature as discussed previously, in which there are often measurable long-term effects to natural disasters.

6 A Poisson process models count data via a random variable following a Poisson distribution.

7 Although we use the term damage, the impact to the economy need not be negative – indeed, we find that some impacts of famine occurrence are positive in sections four and five, which we attempt to explain in section seven.

relation is non-zero, we also use rainfall shocks to isolate the randomized part of our independent variable in order to ensure that famine occurrence is uncorrelated with our outcome variables. The use of rainfall shocks, in turn, forms the basis of our instrumental variables approach in section five.

The important question is the nature of the relationship between d and r_i . While f can be easily inferred from our data, d and especially r are much more difficult to estimate without detailed, high-level, and accurate data. Since the historical record is insufficiently detailed to allow precise estimation of the parameters of such a model, we constrain the effects of famine to be linear in our estimation in sections four and five.

2. Estimation

Having constrained the hypothesized effects of famine to be linear, in section four, we would prefer to estimate (1) below, where \hat{d}_i represents our estimate of the effect of famine severity (*famine*), measured as the number of famines undergone by the district, on the outcome variable outcome y_i , and X_i is a vector of contemporary (present-day) covariates, such as mean elevation and soil quality. The constant term captures the mean outcomes across all districts and ε_i is a district-specific error term.

$$y_i = \alpha + \beta * \text{famine}_i + X_i^T \gamma + \varepsilon_i \quad (1)$$

Much of the research on famine occurrence in colonial India attributes the occurrence of famines and their consequences to poor policies and administration by the British Raj. If this is the case, *and* these same policies hurt the development of districts in other ways, such as by stunting industrialization directly, then the estimation of (1) will not show the correct effect of famines per se on comparative economic development. Additionally, our observations of famines, which are taken indirectly from district-level colonial gazetteers and reports, may be subject to “measurement” error that is non-random. For example, the reporting of famines in such gazetteers may be more accurate in well-developed districts that received preferential treatment from British administrators. To solve this problem, we turn to the examples of Dell et al. (2012), Dell (2013), Hoyle (2010), and Donaldson and Burgess (2012), who use weather shocks as instruments for natural disaster severity. While Dell (2013) focuses on historical consequences arising from path dependency and Hoyle (2010) centralizes on productivity, the instrumental methodology itself is perfectly applicable to our work. Another contribution of our paper is to further the use of climate shocks as instruments. We expand upon the usage of climate shocks as instruments because they fit the two main criteria for an instrumental variable. Primarily, weather shocks are extremely short-term phe-

nomena, so their occurrence is unlikely to be correlated with longer-term climate factors that may impact both historical and modern outcomes. Secondly, they are reasonably random and provide exogenous variation with which we can estimate the impact of famines in an unbiased manner.

We first estimate equation (2) below before estimating (1) using the *predicted* occurrence of famine from (2):

$$\widehat{famine}_i = \lambda + \theta * rainfall_i + X_i^T \eta + v_i \quad (2)$$

We calculate *famine* as the number of reported events occurring in our panel for a district and *rainfall* as the number of years in which the deviation of rainfall from the mean falls below a certain threshold, nominally the fifteenth and tenth percentiles of all rainfall deviations for that district. As in (1), there is a constant term and error term. As is standard practice, we include the control variables in the first-stage even though they are quite plausibly unrelated to the rainfall variable. This allows us to estimate the impacts of famine with a reasonably causal interpretation; since the assignment of climate shocks is ostensibly random, using them to “proxy” for famines in this manner is akin to “as good as random” estimation. The only issue with this first-stage specification is that while we instrument counts of famine with counts of low rainfall years, the specific years in which low rainfall occurs theoretically need not match up with years in which famine is recorded in a given district. Therefore, we would prefer to estimate (3) below instead, since it provides additional identification through a panel dataset. Any other climate factors should be demeaned out by the time effects, . Other district characteristics that may influence agricultural productivity and therefore famine severity, such as soil quality, should be differenced out with district effects, represented by the parameters .

$$\widehat{famine}_{it} = \lambda_i + \delta_t + \theta * rainfall_{it} + X_i^T \eta + v_{it} \quad (3)$$

Differences in administrative policy should be resolved with provincial fixed effects. Unfortunately, we would then be unable to implement the standard instrumental variables practice of including the control variables in both stages since our modern-day outcomes are cross-sectional (i.e, we only have one observation per district for those measures). Nevertheless, our specification in (2) should reasonably provide randomness that is unrelated to long-term climate factors, as mentioned above. Finally, we collapse the panel by counting the number of famines that occur in the district over time in order to compare famine severity with our cross-sectional modern-day outcomes and to get an exogenous count measure of *famine* that we can use de novo in (1). To account for sampling variance in our

modern-day estimates, we use error weights constructed from the current population of each district meaning that our approach in section 5 is technically weighted least-squares, not ordinary. While this should account for heteroscedasticity⁸ in the modern observations, we use robust SM estimators in our estimations (McKean 2004, Barrera and Yohai 2006) to assure that our standard errors on the historical famine and rainfall variables are correct.

The results of these approaches are detailed in section six.

3. Data

1. Sources and Description

Our principal data of interest is a historical panel compiled from a series of colonial district gazetteers by Srivastava (1968) and details famine severity at the district level over time in British India from 1870 to 1930. Donaldson and Burgess (2010) then code these into an ordinal scale by using the following methodology:

- 4 – District mentioned in Srivastava’s records as “intensely affected by famine”
- 3 – District mentioned as “severely affected”
- 2 – Mentioned as “affected”
- 1 – Mentioned as “lightly affected”
- 0 – Not mentioned
- 9 – Specifically mentioned as being affected by spillover effects from a neighboring district (there are only four such observations, so we exclude them)

In our own coding of the data, we categorize famines as codes 2, 3, and 4, with severe famines corresponding to codes 3 and 4. We compute further cross-sectional measures, chiefly the total number and proportion of famine-years that a district experienced over the sixty-year periods. This is equivalent to tabulating the frequency of code occurrences and adding the resulting totals for codes 2 to 4 to obtain a single count measure of famine. Our results are robust to using “severe” (codes 3 and 4) famines instead of codes 2, 3, and 4. Across the entire panel, codes from 0 to 4 occurred with the following frequencies: 4256, 35, 207, 542, and 45 respectively.

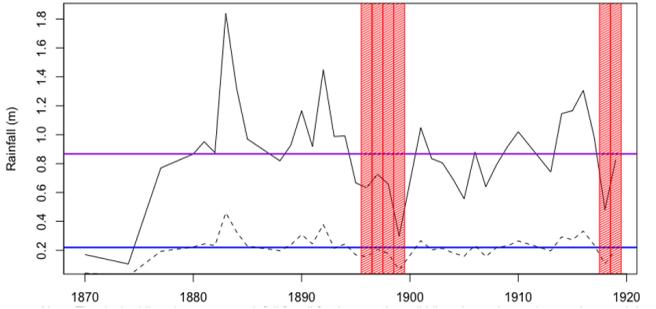
We also supplemented this panel with panel data on rainfall over the same time period. Several thousand measuring stations across India collected daily rainfall data over the time period, which Donaldson (2012) annualizes and compares with crop data. The rainfall data in Donaldson (2012) represents the total rainfall in a

⁸ Normally, OLS assumes that the variance of the error term is not correlated with the independent variable(s) i.e the errors are homoscedastic. If this is not true, i.e the errors are heteroscedastic, then the standard errors will be too small. Robust least-squares estimation calculates the OLS standard errors in a way that does not depend on the assumption that the errors are homoscedastic.

given district over a year, categorized by growing seasons of various crops (for example, the amount of total rainfall in a district that fell during the wheat growing season). Since different districts likely had different shares of crops, we average over all crops to obtain an approximation of total rainfall over the entire year. We additionally convert this into a more relevant measure in the context of famine by considering only the rainfall that fell during the growing seasons of crops typically grown for consumption in the dataset; those being bajra, barley, gram (bengal), jowar (sorghum), maize, ragi (millet), rice, and wheat. Finally, to ensure additional precision over the growing season, we simply add rainfall totals during the growing seasons of the two most important food crops - rice and wheat - which make up over eighty percent of food crops in the country (World Bank, UN-FAOSTAT). The two crops have nearly opposite growing seasons, so the distribution of rainfall over the combined growing seasons serves as an approximation of total annual rainfall. Our results are robust with regards to all three definitions; the pairwise correlations between the measures are never less than ninety percent. Moreover, the cross-sectional famine instruments constructed from these are almost totally identical as the patterns in each type of rainfall (that is, their statistical distributions over time) turn out to be the same.

As expected, there appears to be significant variation in annual rainfall. The example of the Buldana district (historically located in the Bombay presidency, now in Maharashtra state) highlights this trend, as shown in Figure 1 on the following page. In general, the trends for both measures of rainfall over time are virtually indistinguishable aside from magnitude. As anticipated, famine years are marked by severe and/or sustained periods of below-average rainfall although the correlation is not perfect. There are a few districts which have years with low rainfall and no recorded famines, but this can mostly be explained by a lack of sufficient records, especially in earlier years. On the opposite end of the spectrum, there are a few districts that recorded famines despite above-average rainfall, which could possibly be the result of non-climatic factors such as colonial taxation policies, conflicts, or other natural disasters, such as insect plagues. However, the relationship between rainfall patterns and famine occurrence suggests that we can use the former as an instrument for the latter especially since the correlation is not perfect, and famine occurrence is plausibly non-random due to the impact of British land ownership policies.

Figure 1: Rainfall over time for Buldana from 1870 to 1920



Notes: The dashed line shows mean rainfall for all food crops; the solid line shows the total rainfall over the wheat and rice growing seasons. The blue and purple lines represent the historical means for these measures of rainfall. The red shading denotes years in which famines are recorded as having affected the district.

We construct count instruments for famines by first computing the historic mean and annual deviation for rainfall in each district. We can then count famines as years in which the deviation was in the bottom fifteenth percentile in order to capture relatively severe and negative rainfall shocks as plausible famine causes. For severe famines, we use the bottom decile instead. The percentiles were chosen based on famine severity so that the counts obtained using this definition were as similar as possible to the actual counts constructed from recorded famines (see above) in the panel dataset.

For modern-day outcomes, we turn to survey data from the Indian census as well as the Indian Human Development Survey II, which details personal variables (ex. consumption and education), infrastructure measures (such as access to roads), and access to public goods (ex. hospital availability) at a very high level of geographical detail. An important metric constructed from the household development surveys is that of intergenerational mobility as measured by the expected income percentile of children whose parents belonged to a given income percentile, which we obtain from Novosad et al. (2019). Additionally, as survey data can often be unreliable, we supplement these with an analysis of satellite luminosity data, which provides measures of the (nighttime) luminosity of geographic cells, which should serve as a more reliable proxy for economic development, following Henderson et al. (2011) and Pinkovsky and Sala-i-Martin (2016). These data are mostly obtained from Novosad et. al (2018, 2019) and Iyer (2010), which we have aggregated to the district level.

The outcomes variables are as follows:

1. Log absolute magnitude per capita. We intend this to serve as a proxy for a district’s economic development in lieu of reliable GDP data. This is the logarithm of the total luminosity observed in the district divided by the district’s population.

These are taken from Vernon and Storeygard (2011) by way of Novosad et al. (2018).

2. Log rural consumption per capita. This is taken from the Indian Household Survey II by way of Novosad et al. (2019).

3. Share of the workforce employed in the cultivation sector, intended as a measure of rural development and reliance on agriculture (especially subsistence agriculture). This is taken from Iyer et al. (2010).

4. Gini Index, from Iyer (2010), as a measure of inequality.

5. Intergenerational income mobility (father-son pairs), taken from Novosad et al. (2018). Specifically, we consider the expected income percentile of sons in 2012 whose fathers were located in the 25th percentile for household income (2004), using the upper bound for robustness⁹.

6. The percentage of the population with a college degree, taken from census data.

7. Electrification, i.e. the percent of villages with all homes connected to the power grid (even if power is not available twenty-four hours per day).

8. Percent of villages with access to a medical center, taken from Iyer (2010), as a measure of rural development in the aspect of public goods.

9. Percent of villages with any bus service, further intended as a measurement of public goods provision and infrastructure development.

Broadly speaking, these can be classified into three categories with 1-3 representing broad measures of economic development, 4-6 representing inequality and human capital, and 7-9 representing the development of infrastructure and the provision of public goods. As discussed in section two, our preliminary hypothesis is that the occurrence of famines has a negative effect on district development, which is consistent with most of the literature on disasters. Hence, given a higher occurrence of famine, we expect that districts suffering from more famines during the colonial period will be characterized by lower levels of development, being (1) less luminous at night, (2) poorer in terms of a lower rural consumption, and (3) more agricultural, i.e. have a higher share of the labor force working in agriculture. Similarly, with regards to inequality and human capital, we expect that more famine-afflicted districts will have (4) higher inequality in terms of a higher Gini index, (5) lower upward social mobility in terms of a lower expected income percentile for sons whose fathers were at the 25th income percentile, and (6) a lower percentage of adults with a college education. Finally, by the same logic, these districts should

9 So, for example, if this value is 25, then there is on average no mobility on average, as sons would be expected to remain in the same income percentile as their fathers. Similarly, if it is less than (greater than) 25, then there would be downward (upward) mobility. A value of 50 would indicate perfect mobility, i.e. no relationship between fathers' income percentiles and those of their sons.

be relatively underdeveloped in terms of infrastructure, and thus (7) lack access to power, (8) lack access to medical care, and (9) lack access to transportation services.

Finally, even though our independent variable when instrumented should be exogenous, we attempt to control for geographic and climatic factors affecting agriculture and rainfall in each district, namely:

- Soil type and quality (sandy, rocky or barren, etc.)
- Latitude (degree) and mean temperature (degrees Celsius)
- Coastal location (coded as a dummy variable)
- Area in square kilometers (it should be noted that district boundaries correspond well, but not perfectly, to their colonial-era counterparts)

As mentioned previously, research by Iyer and Banerjee (2008, 2014) suggests that the type of land-tenure system implemented during British rule has had a huge impact on development in the districts¹⁰. We also argue that it may be related to famine occurrence directly (for example, in that tenure systems favoring landlords may experience worse famines), in light of the emerging literature on agricultural land rights, development, and food security (Holden and Ghebru 2016, Maxwell and Wiebe 1998). Specifically, we consider specifications with and without the proportion of villages in the district favoring a landlord or non-landlord tenure system, obtained from Iyer (2010). In fact, the correlation between the two variables in our dataset is slightly above 0.23, which is not extremely high but enough to be of concern in terms of avoiding omitted variable bias. We ultimately consider four specifications for each dependent variable based on the controls in \mathbf{X} from equation (1): no controls, land tenure, geography, and land tenure with geography. Each of these sets of controls addresses a different source of omitted variable bias: the first, land-tenure, addresses the possibility of British land-tenure policies causing both famines and long-term development outcomes. The second, geography, addresses the possibility of factors such as mean elevation and temperature impacting crop growth while also influencing long-term development (for example, if hilly and rocky districts suffer from more famines because they are harder to grow crops in but also suffer from lower development because they are harder to build infrastructure in or access via transportation)

We avoid using contemporary controls for the outcome variables (that is, including infrastructure variables, income per capita, or welfare variables in the right-hand side) because many of these could reasonably be the result of the historical effects (the impact of famines) we seek to study. As such, including them as controls

¹⁰ For a brief overview of the types of systems employed by the East India Company and Crown administrators, see Iyer and Banerjee (2008), or see Tirthankar (2006) for a more detailed discussion.

would artificially dilate the impact of our independent variable.

2. Summary statistics

Table I presents summary statistics of our cross-sectional dataset on the following page. One cause for potential concern is that out of the over 400 districts in colonial India, we have only managed to capture 179 in our sample. This is due chiefly to a paucity of data regarding rainfall; there are only 191 districts captured in the original rainfall data from Donaldson (2012). In addition, the changing of district names and boundaries over time makes the matching of old colonial districts with modern-day administrative subdivisions more imprecise than we would like. Nevertheless, these districts cover a reasonable portion of modern India as well as most of the regions which underwent famines during imperial rule. The small number of districts may also pose a problem in terms of the standard errors on our coefficients, as the magnitude of the impacts of famines that occurred over a hundred years ago on outcomes today is likely to be quite small.

Table 1 – Summary Statistics

<u>Variable</u>	<u>N</u>	<u>Min</u>	<u>Q1</u>	<u>Median</u>	<u>Q3</u>	<u>Max</u>	<u>Mean</u>	<u>S.D</u>
Panel A. Independent variables								
Mean rainfall across time	192	0.181	0.856	1.168	1.592	8.648	1.584	1.324
S.d of rainfall across time	192	0.102	0.287	0.340	0.454	5.720	0.522	0.743
Number of low-rainfall years	179	3	6	6	7	9	6.223	0.963
Number of famines	179	0	5	7	10	21	7.877	4.318
Panel B. Dependent variables								
Log absolute magnitude per capita	179	-6.13	-4.92	-4.13	-3.69	-1.44	-4.31	0.79
Log consumption per capita	179	8.27	9.32	9.43	9.54	10.07	9.42	0.28
Share of workforce in cultivation	179	0.000	0.145	0.214	0.280	0.613	0.228	0.118
Gini index	179	0.249	0.605	0.695	0.743	0.817	0.661	0.108
Intergenerational income mobility	179	17.239	29.825	37.008	44.980	59.448	37.365	9.786

Percent adults with college degree	179	0.000	0.001	0.002	0.005	0.057	0.005	0.009
Village electrification	179	0.003	0.080	0.194	0.480	1.000	0.317	0.306
Access to medical services	179	0	0.2	0.3	0.6	1	0.424	0.320
Access to bus service	197	0.035	0.185	0.291	0.626	1.00	0.401	0.270

Panel C. Control variables

Tenure (proportion non-landlord EEs)	179	0.000	0.000	0.338	1.000	1.000	0.457	0.442
Area (square km.)	179	1,118	3,500	5,743	10,112	39,114	7,151	5,221.66
Coastal dummy	167	0.000	0.000	0.000	0.000	1.000	0.126	0.333
Percent rocky terrain surface area	179	0.000	0.000	0.000	0.005	0.266	0.006	0.022
Percent sandy surface area	179	0.000	0.000	0.000	0.001	0.088	0.002	0.008
Percent steep-sloping surface area	179	0.000	0.000	0.000	0.001	0.050	0.002	0.007
Primary soil type red dummy	179	0.000	0.000	0.000	0.001	0.050	0.002	0.007
Primary soil type black dummy	179	0.000	0.000	0.000	0.001	0.050	0.002	0.007
Latitude	167	9.610	20.355	24.460	26.170	32.000	23.044	4.909
Mean annual temperature	167	19.799	23.970	25.489	26.351	27.478	25.090	1.613

Panel D. Miscellaneous

Population (2011)	179	84,121	1,632,033	2,620,015	3,735,503	11,059,548	2,853,923	1,609,217
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Source: Author calculations, from Iyer (2010), Iyer and Bannerjee (2014), Novosad et. al (2018), Asher and Novosad (2019), Donaldson and Burgess (2012).

4. Ordinary Least Squares

Although we suspect that estimates of famine occurrence and severity based on recorded historical observations may be nonrandom for several reasons (mentioned in section two and three), we first consider direct estimation of (1) from section two. For convenience, equation (1) is reprinted below:

$$y_i = \alpha + \beta * \text{famine}_i + \mathbf{X}_i^T \gamma + \varepsilon_i \quad (1)$$

As in the previous section, *famine* refers to the number of years that are coded 2, 3, or 4 in famine severity as described in Srivastava (1968). \mathbf{X} is the set of contemporary covariates, also described in section three. We estimate four separate specifications of (1) where \mathbf{X} varies:

1. No controls, i.e. \mathbf{X} is empty.
2. Historical land tenure, to capture any effects related to British land policy in causing both famines and long-term developmental outcomes.
3. Geographical controls relating to climatic and terrestrial factors, such as temperature, latitude, soil quality, etc.
4. Both (2) and (3).

Table II presents the estimates for the coefficients on famines and tenure for our nine dependent variables on the following page (we omit coefficients and confidence intervals for the geographic variables for reasons of brevity and relevance in terms of interpretation). In general, the inclusion or exclusion of controls does not greatly change the magnitudes of the estimates nor their significance, except for a few cases. We discuss effects for each dependent variable below:

Log of total absolute magnitude in the district per capita: The values for famine suggest that interestingly, each additional famine results in anywhere from 1.8 to 3.6 percent *more* total nighttime luminosity per person in the district. As mentioned in section three, newer literature shows that nighttime luminosity is a far more reliable gauge of development than reported survey measures such as GDP, so this result is not likely due to measurement error. Thus, as the coefficient on famine is positive, it seems that having suffered more famines is positively related to development. This in fact is confirmed by the instrumental variables (IV) estimates in Table III (see section five). Curiously, the inclusion of tenure and geography controls separately does not change the significance, but including both of them together in the covariates generates far larger confidence intervals than expected and reduces the magnitude of the effect by an entire order of magnitude. This may be because each set of controls tackles a different source of omitted variable bias. As expected, however, land tenure plays a significant role in predicting a district's development; even a single percent increase in the share of villages with a tenant-favorable system is associated with a whopping 73-80% additional nighttime luminosity per person.

Log rural consumption per capita: We find evidence that additional famines are associated with lower rural consumption, albeit on a miniscule scale. This suggests that the beneficial effect of famines on development may not be equal across urban and rural areas but instead concentrated in cities. For example, there might

be a causal pathway that implies faster urbanization in districts that undergo more famines. Unlike with luminosity, historical land tenure does not seem to play a role in rural consumption.

Percent of the workforce employed in cultivation: As expected, additional famines seem to play a strongly significant but small role with regards to the labor patterns in the district. Districts with more famines seem to have nearly one percent of the labor force working in cultivation for each additional famine, suggesting famines may inhibit development of industries other than agriculture and cultivation. Our instrumental variables estimates confirm this. Puzzlingly, land tenure does not seem to be related to this very much at all.

Gini Index: The coefficients for the number of famines seem to be difficult to interpret as both those for the specification with no controls and with both sets of controls are statistically significant with similar magnitudes yet opposite signs. The confidence interval for the latter is slightly narrower. This is probably because the true estimate is zero or extremely close to zero, and the inclusion or exclusion of controls is enough to narrowly affect the magnitude to as to flip the sign of the coefficient. In order to clarify this, more data is needed – i.e. for more of the districts in colonial India to be matched in our original sample. At the very least, we can say that land tenure clearly has a large and significant positive association with inequality. Unfortunately, this association cannot be confirmed as causal due to the lack of an instrument for land tenure which covers enough districts of British India. However, as Iyer and Banerjee (2014) argue, the assignment of tenure systems itself was plausibly random (having been largely implemented on the whims of British administrators) so that one could potentially interpret the results as causal with some level of caution.

Intergenerational income mobility: Similarly, we do not find evidence of an association between the number of famines suffered by a district in the colonial era and social mobility in the present day, but we do find a strong impact of land tenure, which makes sense to the reported institutional benefits of tenant-favorable systems in encouraging development as well as the obvious benefits for the tenants and their descendants themselves. Each one-percent increase in the share of villages in a district that uses a tenant-favorable system in the colonial era is associated with anywhere from ten to thirteen percent higher expected income percentile for sons whose fathers were at the 25th percentile in 1989 although the estimates presented in Table II are an upper bound.

College education: We find *extremely* limited evidence that famines in the colonial period are associated with less human capital in the present day, with a near-zero effect of additional famines on the share of adults in a district with a college degree (in fact, rounded to zero with five to six decimal places). Land tenure similarly has very little or no effect.

Electrification, access to medical care, bus service: All three of these infrastructure and public goods variables show a negligible effect of famines, but strong impacts of historical land tenure.

Ultimately, we find that famines themselves seem to have some positive impact on long-term development despite also being associated with many negative outcomes, such as a greater share of the workforce employed in agriculture (i.e. as opposed to more developed activities such as manufacturing or service). Another finding of note is that while famines do not seem to have strong associations with all of our measures, land tenure does. This suggests that the relationship between land-tenure and famine is worth looking into.

The existence of bias in the recording of famines, as well as the potential for factors that both cause famines while simultaneously affecting long-term outcomes, present a possible problem with these estimates. We have already attempted to account for one of those, namely historical land tenure systems. Indeed, in most of the specifications, including tenure in the regression induces a decrease in the magnitude of the coefficient on famine. As the effect of famine tends to be extremely small to begin with, the relationship is not always clear.

Other errors are also possible. For example, it is possible that a given district experienced a famine in a given year, but insufficient records of its occurrence remained by 1968. Then, Srivastava (1968) would have assigned that district a code of 0 for that year, but the correct code should have been higher. Indeed, as described in section three, a code of 0 corresponds to a code of “not mentioned”, which encompasses both “not mentioned at all” *and* “not mentioned as being affected by famine” (Donaldson and Burgess 2010). While measurement error in the dependent variable is usually not a problem, error in the independent variable can lead to attenuation bias in the coefficients since the ordinary least-squares algorithm minimizes the error on the dependent variable by estimating coefficients for the independent variables. The greater this error, the more the ordinary least-squares method will bias the estimated coefficients towards zero in an attempt to minimize error in the dependent variable (Riggs et al. 1978). For these reasons, we turn to instrumental variables estimation in section five in an attempt to provide additional identification.

Table 2 – Ordinary Least-Squares Estimates

<i>Control specification:</i>	(a)	(b)	(c)	(d)
<u>Dependent variable:</u>				
Log absolute magnitude per capita				
Estimate	0.038***	0.018*	0.036***	0.007
tandard Error	(0.011)	(0.010)	(0.011)	(0.011)

Log consumption per capita				
Estimate	-0.007	-0.009*	-0.001	-0.001
Standard error	(0.005)	(0.005)	(0.004)	(0.004)
Share of workforce in cultivation				
Estimate	0.009***	0.009***	0.006***	0.005**
Standard error	(0.002)	(0.002)	(0.002)	(0.002)
Gini index				
Estimate	0.003*	0.002	-0.001	-0.004**
Standard error	(0.002)	(0.002)	(0.002)	(0.002)
Intergenerational income mobility				
Estimate	0.050	-0.289*	0.207	-0.204
Standard error	(0.178)	(0.151)	(0.148)	(0.185)
Percent of adults with college degree				
Estimate	0.00003*	0.00008*	-0.00007	-0.00004
Standard error	(0.00001)	(0.00001)	(0.00001)	(0.00001)
Percent of villages with full electrification				
Estimate	-0.002	-0.004	0.004	-0.002
Standard error	(0.007)	(0.006)	(0.007)	(0.006)
Percent of villages with medical center				
Estimate	0.002	-0.005	0.015	0.005
Standard error	(0.005)	(0.007)	(0.010)	(0.009)
Percent of villages with bus service				
Estimate	0.009	-0.004	0.015***	0.004
Standard error	(0.007)	(0.004)	(0.005)	(0.004)

Notes: Independent variable is number of with recorded famines (famine code of 2 or above). Control specifications: (a) no controls, (b) land-tenure control (proportion of villages with tenant-ownership land tenure system), (c) geographic controls (see section three for enumeration), (d) both land-tenure and geographic controls.

Source: Author calculations. These are more table notes. The style is Table Notes.

*** Significant at the 1 percent level or below ($p \leq 0.01$).

** Significant at the 5 percent level ($0.01 < p \leq 0.05$).

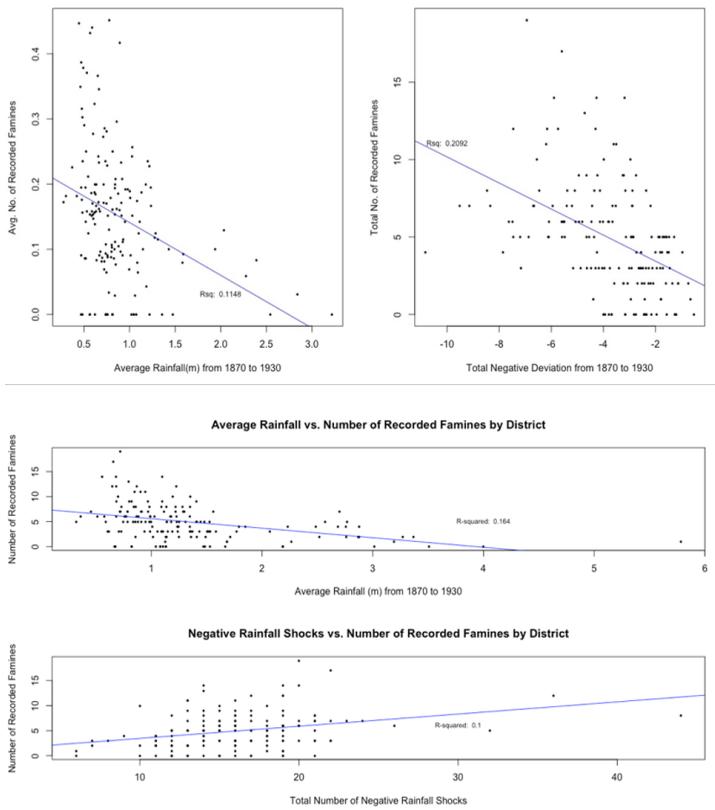
* Significant at the 10 percent level ($0.05 < p \leq 0.1$).

5. Weather Shocks as an Instrument for Famine Severity

As explained in section two, there are many possible reasons why recorded famine data may not be exogenous. In any case, it would be desirable to have a truly exogenous measure of famine, for which we turn to climate data in the form of rainfall shocks. Rainfall is plausibly connected to the occurrence of famines, especially in light of the colonial government's laissez-faire approach to famine relief (Bhatia 1968). For example, across all districts, mean rainfall averaged around 1.31m in years without any famine and around 1.04m in districts which were at least somewhat affected by famine (code 1 or above). Figure 2 below shows that there is a very clear association between rainfall activity and famines in colonial

India, although variability in climate data as well as famine and agricultural policy means that there are some high-rainfall districts which do experience famines as well as low-rainfall districts which do not experience as many famines, as noted in section three.

Figure 2: Associations between famine occurrence and rainfall trends



It should be clear from the first three scatterplots above that there is a negative relationship between the amount of rainfall a district receives and the general prevalence of famine but more importantly, the *total size of the rainfall shocks* and the total occurrences of famine in that district. From the final plot we see that when we classify low-rainfall years by ranking the deviations from the mean, counting the number of years in which these deviations are in the bottom fifteenth percentile corresponds well to the actual number of recorded famines for each district.

In order to use this to measure famine exogenously, we first estimate (2) (see below, section two and section three) where we predict the number of famines from the number of negative rainfall shocks as represented by deviation from the mean in the bottom fifteen percent of all deviations before estimating (1) using this pre-

dicted estimate of famine in place of the recorded values. Our reduced form¹¹ estimates, where we first run (1) using the number of negative rainfall shocks directly, are presented on the following pages in Table III. The reduced form equation is shown as (4) below as well:

$$\hat{famine}_i = \lambda + \theta * rainfall_i + X_i^T \eta + v_i \quad (2) \rightarrow$$

$$y_i = \alpha + \beta * famine_i + X_i^T \gamma + \varepsilon_i \quad (1)$$

$$y_i = \alpha + \beta * rainfall_i + X_i^T \gamma + \varepsilon_i \quad (4)$$

Table 3 – Reduced form estimates for IV

<i>Control specifics:</i>	(a)	(b)	(c)	(d)
<u>Dependent Variable:</u>				
Log absolute magnitude per capita				
Estimate	0.177***	0.112**	0.056	-0.015
Standard Error	(0.054)	(0.051)	(0.049)	(0.050)
Log consumption per capita				
Estimate	-0.060***	-0.065***	-0.045**	-0.044**
Standard error	(0.018)	(0.020)	(0.017)	(0.018)
Share of workforce in cultivation				
Estimate	0.028***	0.027***	0.032***	0.030***
Standard error	(0.009)	(0.009)	(0.011)	(0.010)
Gini index				
Estimate	0.020***	0.017**	-0.012	-0.014
Standard error	(0.008)	(0.008)	(0.011)	(0.011)
Intergenerational income mobility				
EES				
Estimate	1.660**	0.871	0.557	-0.145
Standard error	(0.734)	(0.658)	(0.604)	(0.576)
Percent of adults with college degree				
Estimate	-0.001**	-0.001**	-0.001***	-0.001***
Standard error	(0.0004)	(0.0004)	(0.0001)	(0.0001)
Percent of villages with full electrification				
Estimate	0.002	0.007	0.005	-0.046**
Standard error	(0.022)	(0.029)	(0.024)	(0.020)
Percent of villages with medical center				
Estimate	0.002	0.007	0.005	-0.046**

11 While reduced form estimates – that is, estimating the outcomes as direct functions of the exogenous variables rather than via a structural process – are often not directly interpretable, they can serve to confirm the underlying trends in the data (for example, via the sign of the coefficients), which is why we choose to include them here.

Standard error	(0.022)	(0.029)	(0.024)	(0.020)
Percent of villages with bus service				
Estimate	0.046	0.020	-0.001	0.002
Standard error	(0.031)	(0.015)	(0.013)	(0.015)

Notes: Independent variable is number of years in which deviation of rainfall from the historic mean is in the bottom fifteenth-percentile. Control specifications: (a) no controls, (b) land-tenure control (proportion of villages with tenant-ownership land tenure system), (c) geographic controls (see section three for enumeration), (d) both land-tenure and geographic controls.

Source: Author calculations. These are more table notes. The style is Table Notes.

*** Significant at the 1 percent level or below ($p \leq 0.01$).

** Significant at the 5 percent level ($0.01 < p \leq 0.05$).

* Significant at the 10 percent level ($0.05 < p \leq 0.1$).

From Table III, it would appear that negative rainfall shocks have similar effects on the outcome variables as do recorded famines in terms of the statistical significance of the coefficients on the independent variable. There is also the added benefit that we can confirm our very small and slightly negative effects of famines on the proportion of adults with a college education: for each additional year of exceptionally low rainfall in a district, the number of adults with a college education in 2011 decreases by 0.1%. In addition, whereas the coefficients in Table II were conflicting, Table III provides evidence in favor of the view that additional famines increase inequality in a district as measured by the Gini index.

However, the magnitudes of the effects of famines or low-rainfall years are predominantly larger than their counterparts in Table II to a rather puzzling extent. While we stated earlier in section three that famines and rainfall are not perfectly correlated, it might be that variation in historical rainfall shocks can better explain variation in outcomes in the present day. In order to get a better understanding of the relationship between the two, it would first be wise to look at the coefficients presented in Table IV, which are the results of the two-stage least-squares estimation using low-rainfall years as an instrument for recorded famines.

Table IV follows the patterns established in Table II and Table III with regards to the significance of the coefficients as well as their signs; famines have a statistically significant and positive impact on nighttime luminosity, a significant negative impact on rural consumption, and a positive impact on the percent of the labor force employed in agriculture. The results with respect to Table II, concerning the impact of famine on the proportion of adults with a college education, are also very similar. Most other specifications do not show a significant effect of famine on the respective outcome with the exception of access to medical care. Unlike in Table II and Table III, each additional famine is associated with an *additional* 11.2 to 12.5 percent of villages in that district having some form of medical center or service readily accessible (according to the specifications with geographic con-

trols, which we argue are more believable than the ones without). However, this relationship breaks down at the level of famines seen in some of our districts; a district having suffered nine or ten famines would see more than 100% of its villages having access to medical centers (which is clearly nonsensical), suggesting we may need to look for nonlinearity in the effects of famine in section six.

Unfortunately, unlike in Table III, it seems that we cannot conclude much regarding the effect of famines on intergenerational mobility as the coefficients are contradictory and generally not statistically significant. For example, the coefficient on famine in the model without any controls is highly significant and positive, but the coefficient in the model with all controls is not significant and starkly negative. The same is true for the effect of famines on the Gini index. One possibility is that the positive coefficients on famine for both of these dependent variables are driven by outliers as our data was relatively limited due to factors mentioned in section 2

The magnitudes of the coefficients in Table IV are generally smaller than those presented in Table III but still significantly larger than the ones in Table II. For example, in Table II, the ordinary least-squares model suggests that each additional historical famine is associated with an additional 0.5 to 0.9 percent of the district's workforce being employed in cultivation in 2011, but in Table IV, these numbers range from 1.5 to 4.3 percent for the same specifications, representing almost a tenfold increase in magnitude in some cases. One reason for this is the possibility attenuation bias in the ordinary least-squares regression; here, there should not be any attenuation bias in our results as the use of instruments which we assume are not correlated with any measurement error in the recording of famines excludes that possibility (Durbin 1954). On the other hand, the Hausman test for endogeneity (the econometric gold standard for testing a model's internal validity) often fails to reject the null hypothesis that the recorded famine variable taken from Srivastava (1968) and Donaldson and Burgess (2012) is exogenous. To be precise, in one sense the test fails to reject the null hypothesis that the rainfall data add no new "information", which is not captured in the reported famine data.

It is possible that our rainfall instrument, as used in equation (2) is invalid due to endogeneity with the regression model specified in equation (1) despite being excluded from it. The only way to test this possibility is to conduct a Sargan-Hansen test¹² on the model's overidentifying restrictions; however, we are unable to conduct the test as we have a single instrument. It follows that our model is not actually overidentified.

Table 4 –Instrumental Variables Estimates

¹² The Sargan-Hansen test works very similarly to the Durbin-Wu-Hausman test, but instead uses a quadratic form on the cross-product of the residuals and instruments.

<i>Control specification:</i>	(a)	(b)	(c)	(d)
<u>Dependent Variable:</u>				
Log absolute magnitude per capita				
Estimate	0.094**	0.066*	0.051	0.007
Standard Error	(0.040)	(0.040)	(0.073)	(0.084)
Log consumption per capita				
Estimate	-0.041***	-0.048***	-0.066	-0.083
Standard error	(0.015)	(0.017)	(0.041)	(0.058)
Share of workforce in cultivation				
Estimate	0.015***	0.015**	0.044**	0.052*
Standard error	(0.006)	(0.006)	(0.020)	(0.028)
Gini index				
Estimate	0.010*	0.010	-0.016	-0.024
Standard error	(0.005)	(0.006)	(0.012)	(0.017)
Intergenerational income mobility				
EEs				
Estimate	1.007*	0.553	0.142	-0.487
Standard error	(0.523)	(0.481)	(0.921)	(1.089)
Percent of adults with college degree				
Estimate	-0.0001	-0.0002	-0.002*	-0.002
Standard error	(0.002)	(0.001)	(0.001)	(0.001)
Percent of villages with full electrification				
Estimate	0.027*	0.010	0.005	-0.019
Standard error	(0.015)	(0.013)	(0.030)	(0.036)
Percent of villages with medical center				
Estimate	0.026	0.022	0.112**	0.125*
Standard error	(0.016)	(0.018)	(0.054)	(0.074)
Percent of villages with bus service				
Estimate	0.034**	0.017	0.028	0.012
Standard error	(0.014)	(0.012)	(0.024)	(0.025)

Notes: Independent variable is number of years with recorded famines (famine code of 2 or above), instrumented with number of low-rainfall years (rainfall deviation from historic mean in bottom fifteenth percentile). Control specifications: (a) no controls, (b) land-tenure control (proportion of villages with tenant-ownership land tenure system), (c) geographic controls (see section three for enumeration), (d) both land-tenure and geographic controls.

Source: Author calculations. These are more table notes. The style is Table Notes.

*** Significant at the 1 percent level or below ($p \leq 0.01$).

** Significant at the 5 percent level ($0.01 < p \leq 0.05$).

* Significant at the 10 percent level ($0.05 < p \leq 0.1$).

We also need to consider the viability of our instrumental variables estimates. Table V on the following page offers mixed support. While the weak-instrument test always rejects the null-hypothesis of instrument weakness, for models with

more controls, namely those with geographic controls, the first-stage F-values – the test statistics of interest – are relatively small. Which is not encouraging as generally a value of ten or more is recommended to be assured of instrument strength (Staiger and Stock 1997)¹³. In Table IV, we show confidence intervals obtained by inverting the Anderson-Rubin test, which accounts for instrument strength in determining the statistical significance of the coefficients. These are wider in the models with more controls, although not usually wide enough to move coefficients from statistically significant to statistically insignificant.

However, additional complications arise when considering the Hausman tests for endogeneity. The p-values in Table V suggest that around half of the regression specifications in Table IV do not suffer from a lack of exogeneity, meaning that the ordinary least-squares results are just as valid for those specifications. A more serious issue is that the Hausman test rejects the null-hypothesis of exogeneity for four out of nine outcome variables. Combined with the fact that the first-stage F-statistics are concerningly low for the specifications with geographic controls, this means that not only are the ordinary least-squares results likely to be biased, but the instrumental variables estimates are also likely to be imprecise. This is most concerning for the results related to rural consumption and percent of the workforce in agriculture. Conversely, the results for nighttime luminosity are not affected as the Hausman tests do not reject exogeneity for that outcome variable.

While we might simply use the ordinary-least squares results to complement those obtained via two-stage least-squares, the latter are lacking in instrument strength. More importantly, the differences in magnitude between the coefficients presented in Table II and in Table IV are too large to allow this use without abandoning consistency in the interpretation of the coefficients. Ultimately, given that the Hausman tests show that instrumentation is at least somewhat necessary, and the actual p-values for the weak-instrument test are still reasonably low (being less than 0.05 even in the worst case), we prefer to uphold the instrumental variables results as imperfect as some of them may be. We argue that it is better to have unbiased estimates from the instrumental variables procedure (IV), even if they may be less unreliable, than to risk biased results due to endogeneity problems present in ordinary least squares (OLS).

Table 5 – Instrumental Variables Diagnostics

<i>Control specification:</i>	(a)	(b)	(c)	(d)
<u>Dependent Variable:</u>				

¹³ To be precise, this heuristic is technically only valid with the use of a single instrument, which is of course satisfied in our case anyway.

Log absolute magnitude per capita				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.085	0.151	0.864	0.968
Log consumption per capita				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.013	0.008	0.018	0.020
Share of workforce in cultivation				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.152	0.170	0.001	0.001
Gini index				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.204	0.233	0.162	0.123
Intergenerational income mobility				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.027	0.047	0.900	0.718
Percent of adults with college degree				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.772	0.824	0.032	0.038
Percent of villages with full electrification				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.224	0.439	0.679	0.480
Percent of villages with medical center				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.224	0.439	0.679	0.480
Percent of villages with bus service				
First-stage F-statistic	25.56	21.96	5.591	3.967
Weak-instrument test p-value	<0.0001	<0.0001	0.012	0.048
Hausman test p-value	0.022	0.029	0.682	0.862

Notes: The weak-instrument test p-value is obtained from comparison of the first-stage F-statistic with the chi-square distribution with degrees of freedom corresponding to the model (number of data points minus number of estimands). Independent variable is number of years in which deviation of rainfall from the historic mean is in the bottom fifteenth-percentile. Control specifications: (a) no controls, (b) land-tenure control (proportion of villages with tenant-ownership land tenure system), (c) geographic controls (see section three for enumeration), (d) both land-tenure and geographic controls.

Source: Author calculations.

6. Discussion

Our data suggest that there are long-run impacts of historical famines. Tables II, IV, and VII clearly show that the number of historical famines has a [72] [73] [MOU74] statistically significant, though small impact on the following: average level of economic development as approximated by nighttime luminosity, the share of the population employed in cultivation, consumption, inequality, and the provision of medical services in contemporary Indian districts. There appear to be no discernible effects on intergenerational income mobility or basic infrastructure such as electrification. The effects are quite small and are generally overshadowed by other geographical factors such as climate (i.e., latitude and temperature). They are also small in comparison to the impact of other colonial-era policies such as land-tenure systems. Nevertheless, they are still interesting to observe given that the famines in question occurred nearly a hundred years prior to the measurement of the outcomes in question. We contend that they reveal lasting and significant consequences of British food policy in colonial India. Table IV suggests that a hypothetical district having suffered ten famines - which is not atypical in our data - may have developed as much as ninety-four percent more log absolute magnitude per capita, around forty percent less consumption per capita in rural areas, 150% percent more of the workforce employed in cultivation, and a Gini index nearly ten percent greater than a district which suffered no famines. As to the question of whether or not the famines were directly *caused* by British policy, the results suggest that, at the very least, British nineteenth-century laissez-faire attitudes to disaster management have had long-lasting consequences for India. Moreover, these estimates are *causal* as the use of rainfall shocks as instruments provides a means of estimation which is "as good as random." Therefore, we can confidently state that these effects are truly the result of having undergone the observed famines.

In considering whether to prefer our instrumental estimates or our least-squares estimates, we must mainly weigh the problems of a potentially weak instrument versus the benefits of a causal interpretation. We argue that we should still trust the IV estimates even though the instrument is not always as strong as we would like. First of all, the instrumentation of the recorded famine data with the demeaned rainfall data provides plausible *causal* estimation due to the fact that the rainfall measures are truly as good as random. Even if the recorded famine measure is itself reasonably exogenous as suggested by the Hausman tests, we argue that it is better to be sure. Using instruments for a variable which is already exogenous will not introduce additional bias into the results and may even help reduce attenuation bias from any possible measurement error. The Hausman test, after all, cannot completely eliminate this possibility; it can only suggest how likely or unlikely it

is. In this sense, the instrumental estimates allow us to be far more confident in our assessment of the presence or absence of the long-run impact of famines. Though the first-stage F-statistics are less than ten, they are still large enough to reject the null hypothesis of instrument weakness as shown by the p-values for this test in Table V. We argue that it is better to be consistent than pick and choose which set of estimates we want to accept for a given dependent variable and model. We made this choice because the differences in magnitude between the IV and OLS coefficients are too large to do otherwise.

A more interesting question raised by the reported coefficients in Table II, Table IV, and Table VII has to do with their sign. Why do districts more afflicted historically by famines seem to have *more* economic development yet worse outcomes in terms of rural consumption and inequality by our models? This could be due to redistributive preferences associated or possibly even caused by famines; Gualtieri et al. pose this hypothesis in their paper on earthquakes in Italy. We note that districts suffering more famines in the colonial era are more “rural” today in that they tend to have a greater proportion of their labor force working in cultivation. This cannot be a case of mere association where more rural districts are more susceptible to famine as our instrumental estimates in Table IV suggest otherwise. Rather, we explore the possibility that post-independence land reform in India was greater in relatively more agricultural districts. Much of the literature on land-tenure suggests that redistributing land from large landowners to smaller farmers is associated with positive effects for productivity and therefore, economic development (Iyer and Banerjee 2005, Varghese 2019). If the historical famines are causally associated with districts having less equal land tenure at independence, then this would explain their positive, though small, impact on economic development by way of inducing more land reform in those districts. On the other hand, if they are causally associated with districts remaining more agricultural in character at independence, and a district’s “agriculturalness” is only indirectly associated with land reform (in they only benefit because they have more agricultural land, so they benefit more from the reform), this would indicate that famines have a small and positive impact on economic development through a process that is less directly causal.

Although we are unable to observe land-tenure and agricultural occupations immediately at independence, we are able to supplement our data with additional state-level observations of land-reform efforts in Indian states from 1957-1992 compiled in Besley and Burgess (2010) and aggregate the district-level observations of famines in our dataset by state¹⁴. If our hypothesis above is correct, then

14 To be clear, the value of *famine* for each state is technically the average number of famines in the *historical* districts that are *presently* part of the state, since subnational boundaries were drastically reorganized along

we should see a positive association between the number of historical famines in a state's districts and the amount of land-reform legislation passed by that state after independence, keeping in mind that provincial and state borders were almost completely reorganized after independence. Although this data is quite coarse, being on the state level, it is widely available. However, the plot below suggests completely the opposite relationship as each additional famine across the state's districts appears to be associated with nearly 0.73 fewer land-reform acts. Even after removing the outlier of West Bengal, which underwent far more numerous land reforms due to the ascendancy of the Communist Party of India in that state, the relationship is still quite apparent; every two additional famines are associated with almost one fewer piece of land-reform legislation post-independence.

Figure 3: Historical Famine Occurrence vs Post-independence land reforms

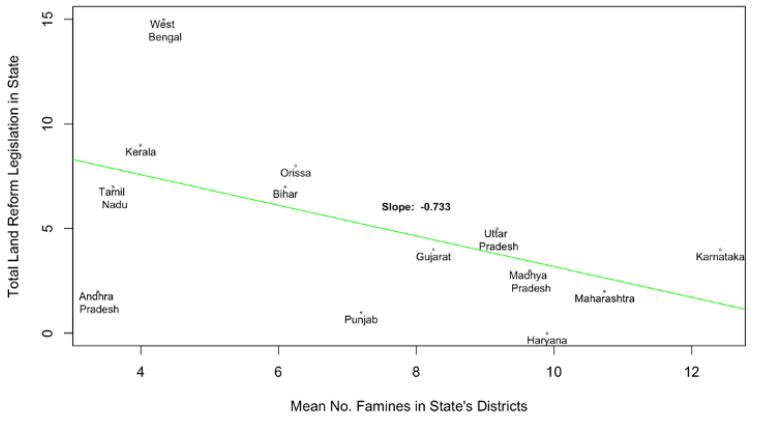
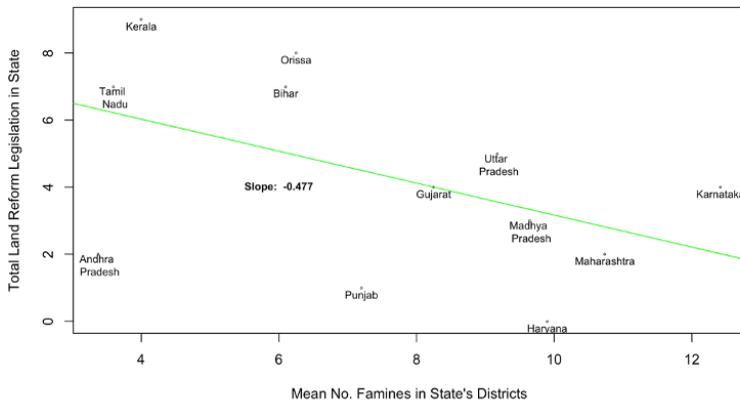


Figure 3 with West Bengal removed



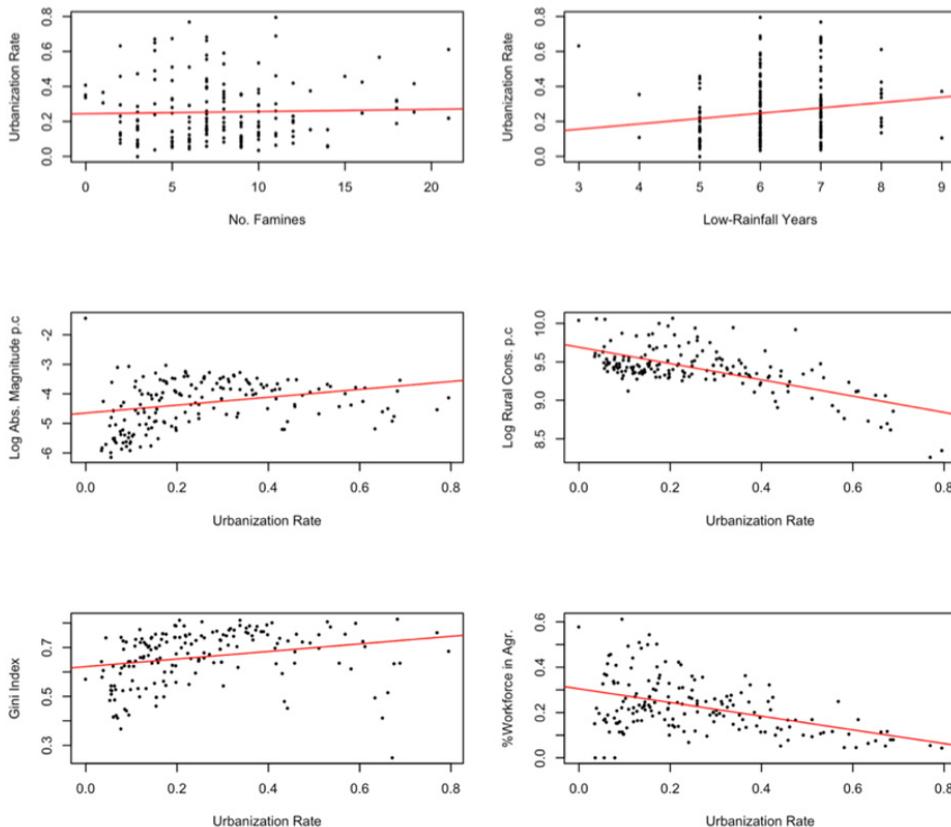
linguistic lines after independence.

Therefore, there seems to be little evidence that famines are associated with land-reforms at all. This is quite puzzling because it is difficult to see how famine occurrence could lead to positive economic development while hurting outcomes such as inequality, consumption, and public goods provision.

One potential explanation is that famines lead to higher *urban* development while hurting *rural* development, which would suggest a key impact of famine occurrence is the worsening of an urban-rural divide in economic development. This would explain how higher famine occurrence is linked with higher night-time luminosity, which would itself be positively associated with urbanization but is also linked with lower rural consumption, higher inequality (which may be the result of a stronger rural-urban divide), and a higher proportion of the workforce employed in the agricultural sector. For example, it is highly plausible that famines depopulate rural areas, leaving survivors to concentrate in urban centers, where famine relief is more likely to be available. Donaldson and Burgess (2012), who find that historical famine relief tended to be more effective in areas better served by rail networks, support this explanation. At the same time, the population collapse in rural areas would leave most of the workforce employed in subsistence agriculture going forward.

Thus, if famines do lead to more people living in urban areas while simultaneously increasing the proportion of the remaining population employed in agriculture, then they would also exacerbate inequality and worsen rural, economic outcomes. If the urbanization effect is of greater magnitude, this would also explain the slight increase in night-time luminosity and electrification. This is somewhat supported by the plots in Figure 4, in which urbanization is defined as the proportion of a district's population that lives in urban areas as labeled by the census. It appears that urbanization is weakly associated with famine occurrence (especially when using rainfall shocks) and positively associated with nighttime luminosity and inequality while negatively associated with rural consumption and agricultural employment as hypothesized above. However, instrumental estimates of urbanization as a result of famine detailed in Table VI only weakly support the idea that famine occurrence causally impacts urbanization as only the estimation without any controls is statistically significant.

Figure 4: Urbanization Rates vs. Famine occurrence and Development outcomes



Notes: The first two plots (in the top row) depict urbanization against famine occurrence and negative rainfall shocks. The rest of the plots depict various outcomes (discussed above) against the urbanization rate.

Table VI –Urbanization Vs. Famine Occurrence

Control specification:	(a)	(b)	(c)	(d)
Dependent Variable:				
Urbanization Rate				
Estimate	0.019**	0.015	0.017	0.013
Standard Error	(0.009)	(0.010)	(0.021)	(0.026)
Log consumption per capita				
Estimate	-0.041***	-0.048***	-0.066	-0.083
Standard error	(0.015)	(0.017)	(0.041)	(0.058)

Notes: Independent variable is percent of a district’s population that is urban as defined in the 2011 Indian census. Control specifications: (a) no controls, (b) land-tenure control (proportion of villages with tenant-ownership land

tenure system), (c) geographic controls (see section three for enumeration), (d) both land-tenure and geographic controls.

Source: Author calculations.

*** Significant at the 1 percent level or below ($p \leq 0.01$).

** Significant at the 5 percent level ($0.01 < p \leq 0.05$).

* Significant at the 10 percent level ($0.05 < p \leq 0.1$).

Nevertheless, this represents a far more likely explanation for our results than land reform, especially since the land reform mechanism implies that famine occurrence would be associated with better rural outcomes. In other words, if famines being associated with land-reform at independence was the real explanation behind our results, because the literature on land-reform suggests that it is linked with improved rural development, we would not expect to see such strongly negative rural impacts of famine in our results. Therefore, not only is the explanation of differential urban versus rural development as a result of famine occurrence better supported by our data, it also constitutes a more plausible explanation for our findings. While we do not have enough data to investigate exactly how famine occurrence seems to worsen urban-rural divides in economic development (for example, rural population collapse as hypothesized above), such a question would certainly be a key area of future study.

Conclusion

In this paper, we have shown that famines occurring in British India have a statistically significant long-run impact on present-day outcomes by using both ordinary least-squares as well as instrumenting for famine with climate shocks in the form of deviated rainfall. In particular, the occurrence of famine seems to exacerbate a rural-urban divide in economic development. Famines appear to cause a small increase in overall economic development, but lower consumption and welfare in rural areas while also worsening wealth inequality. This is supported by the finding that famines appear to lead to slightly higher rates of urbanization while simultaneously leading to a higher proportion of a district's labor force remaining employed in the agricultural sector.

Even though our ordinary-least squares measures are generally acceptable, we point to the similar instrumental variable estimates as stronger evidence of the causal impact of the famines. Ultimately, our results demonstrate that negative climate shocks combined with certain disaster management policies, such as British colonial *laissez-faire* approaches to famine in India, may have significant, though counter-intuitive, impacts on economic outcomes in the long-run.

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