

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

Special Feature:
**GOVERNMENT
JURISDICTION
AND OBLIGA-
TION**

*with a contribution from
Corey Brettschneider*

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This edition of the Journal of PPE is dedicated to our cherished friend and peer, John Owen Habib. John Owen was an integral member of our community and a dear friend to many. John Owen's contributions to the Journal were insightful, thought-provoking, and engaging. He was a talented editor and critical thinker, and we were fortunate to have him as a member of our team.

We will always remember the light he brought into the lives of those surrounding him.

VISION STATEMENT

The Brown University Journal of Philosophy, Politics, and Economics (JPPE) is a peer reviewed academic journal for undergraduate and graduate students that is sponsored by the Center for Philosophy, Politics, and Economics at Brown University. The JPPE aims to promote intellectual rigor, free thinking, original scholarship, interdisciplinary understanding, and global leadership. By publishing student works of philosophy, politics, and economics, the JPPE attempts to unite academic fields that are too often partitioned into a single academic discourse. In doing so, the JPPE aims to produce a scholarly product greater than the sum of any of its individual parts. By adopting this model, the JPPE attempts to provide new answers to today's most pressing questions.

— Julian D. Jacobs '19 and Daniel Shemano '19

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FOREWORD

Contemporary issues continue to underscore the importance of a foundational understanding of the intersections of philosophy, politics, and economics – from fundamental distributive questions about the American welfare state and banking sector, to political struggles to unite fractious caucuses or fulfill irredentist expansionist goals, to the role of incarceration and the education system in perpetuating hierarchies of power. With the Consolidated Appropriations Act terminating the continuous enrollment provision of Medicaid, a policy from the beginning of the COVID-19 pandemic, as of April 1, many states have begun to “unwind” their continuous enrollment. As a result, between 8 and 24 million people could lose their Medicaid coverage.¹ This loss of insurance coverage, if people are unable to find other coverage, could have devastating costs for the public health system.

The question of whose responsibility it is to provide for the welfare of U.S. citizens has been long debated since the origins of modern public health systems in the early 20th century. This issue raises political questions about welfare systems, policy questions about cost-effectiveness, and normative and Constitutional questions about the responsibilities of the government. [In our conversation with Corey Brettschneider, an expert on constitutional law, we explore how the balance between individual rights and governmental responsibilities in the context of health has evolved over time and in response to the pandemic.

In the same spirit, this edition of the *Journal of Philosophy, Politics, and Economics* seeks to contextualize a number of contemporary issues in the broader theories and practices of philosophy, politics, and economics. Articles such as “Determinism & Public Policy” seek to situate the U.S. welfare state between deterministic and indeterministic philosophical frameworks; “Decommodifying Power: The Difference between Positive and Negative Power” connects different understandings of power to downstream impacts on theories of justice; and “The Poor Prisoner’s Dilemma: How Monetary Incentives Perpetuate U.S. In-

¹ Jennifer Tolbert and Meghana Ammula, “10 Things to Know About the Unwinding of the Medicaid Continuous Enrollment Provision,” KFF, June 9, 2023, <https://www.kff.org/medicaid/issue-brief/10-things-to-know-about-the-unwinding-of-the-medicaid-continuous-enrollment-provision/>.

carceration” highlights theoretical and empirical actuations of state justice objectives, and its harm to moral norms and values.

These topics, and others including sex work, the Chinese real estate market, ethics in a post-truth world, continue to shape public discourse and evolutions in the understandings of philosophy, politics, and economics: we continue to believe that evaluating these issues through an interdisciplinary lens encourages the broadest and most fulsome debates on their merits.

Special Feature

Corey Brettschneider

Corey Brettschneider is Professor of Political Science at Brown University and he has been a visiting professor at the law schools of Fordham University, the University of Chicago, and Harvard University. His articles have appeared in top journals and law reviews, such as The American Political Science Review, Political Theory, and the Texas Law Review. He is a frequent contributor to The New York Times, Politico, and The Washington Post, as well as TV and radio programs like BBC Newshour, CNN and John Fuglsang's Tell Me Everything. His research interests include constitutional law and political theory with a focus on democracy, the presidency, free speech, and religious freedom. His books include: Democratic Rights: The Substance of Self-Government (Princeton University Press, 2007), When the State Speaks, What Should It Say? How Democracies Can Protect Expression and Promote Equality (Princeton University Press, 2012), and The Oath and the Office: A Guide to the Constitution for Future Presidents (WW Norton, 2018). Brettschneider holds a Ph.D. in politics from Princeton University and a J.D. from Stanford Law School.

JPPE: Can you start by introducing yourself and telling us a bit about your background and current research interests?

Brettschneider: I have a variety of interests that center around the meaning of democracy.

My first book [*Democratic Rights: The Substance of Self-Government*] is about the meaning of democracy and the role of courts in protecting it. My second book [*When the State Speaks, What Should It Say? How Democracies Can Protect Expression and Promote Equality*] is about free speech in democracy. My third book [*The Oath and the Office: A Guide to the Constitution for Future Presidents*] is about the duties of a president to “preserve, protect and defend” the Constitution.

And my newest book, out July 2024, talks about the threat to democracy that has historically been posed by the office of the presidency. The good news though is that the threat has often been overcome by citizen activists who work to defend a democratic understanding of the constitution by forming “constitutional constituencies” who rally behind “recovery Presidents” to repair the damage done by their predecessors.

JPPE: Let's talk a bit more about the ideas of value democracy and democratic persuasion

that states should engage in. How would those ideas function in the real world? Can you give some examples of how the state might go about persuading its citizens?

Brettschneider: In my book, *When the State Speaks, What Should It Say?*, I defend an idea I call “democratic persuasion.” I argue that the government has both a duty to protect a broad idea of free speech but also to promote the values of liberal democracy.

For example, government isn’t neutral when it uses public holidays. It is celebrating the democratic values that underlie the state. We celebrate Martin Luther King Day but not “Bull Connor Day.” Think also of school curricula. We do not and should not teach the Civil Rights Movement as the equal of the counter-reaction to it.

More controversially, I argue that if you’re a hate group, that you shouldn’t be subsidized through getting tax deductible charitable donations. For example, The Westboro Baptist Church shouldn’t get tax-exempt status just because it’s a church.

JPPE: How should we distinguish between state speech and the speech of individuals who are a part of the state, such as legislators, court judges, etc.? What happens when representatives themselves, the people making decisions about state speech, propagate hateful ideas?

Brettschneider: This is a puzzle that became prominent in the administration of Donald Trump, when you had the President of the United States saying that Mexico is not sending us their best people and using stereotypical, pejorative language to describe Chicano Americans. The Muslim ban, I think, was also both an act of animus in the moral and the technical legal sense. But as I see it, Trump isn’t a counterexample to the argument of *When the State Speaks*. It’s an example of why it’s so important to hold what government officials **do** say to a standard about what they **should** say. *When the State Speaks* offers a normative account that can be used to criticize government speech like Trump’s.

JPPE: In the past few years, the Roberts court has made a lot of very controversial decisions regarding issues like affirmative action and the right to abortion that have run against majority public opinion. First, does the court have any obligation to pay attention to public opinion on a particular issue? Second, do you think that this overruling of precedent has affected public perception of the court’s legitimacy?

Brettschneider: I don’t think that democracy is as simple as “the courts should look at public opinion.” Instead, I think that there’s an obligation to read the

Constitution as a democratic document. My argument in *Democratic Rights* is that the doctrine of substantive due process is a part of democracy, not just because public opinion likes these rights, but because they're fundamental to living life as an equal and autonomous citizen. And the Roberts Court's assault on substantive due process in its *Dobbs* opinion is chipping away at those values. That's the sense in which I'd say it is acting contrary to democracy.

JPPE: College campuses have become a hotbed for protests regarding controversial public policy issues, which we've seen at Brown and many other institutions. These protests have sparked discussions about the role of college administrations and campuses in fostering free speech while being inclusive and educating young adults who will become citizens in a democracy. What do you think are the responsibilities of college administrators towards its students as well as the broader public?

Brettschneider: On the one hand, I agree with the Chicago principles of free speech, which talk about neutrality in the sense that, when it comes to punishment, we should be extremely protective of student speech. But it's also the job of a university to educate students. And viewpoints that are inimical to the basic ideas of truth shouldn't be neutral when they are challenged. What I say about government also applies to universities: they should protect all student viewpoints from punishment, but hate speech is rightly met with some official condemnation. More generally, universities should take a strong stand when it comes to defending ideas of equality and condemning factual inaccuracies and attacks on those most basic ideals of pluralism.

JPPE: Some might argue that private universities especially if they, for example, have some sort of religious doctrine that conflict with those broader values, should be able to determine what they want to teach and what values they want to instill in their students. Do you think that there is a legitimate interest in allowing universities to determine their own teachings or is there an obligation to society and the broader public?

Brettschneider: Yes, there will be some differences in how universities defend their values. But I don't want to be too relativist about it. Some ideas of the university have to be universal if they are worthy of that name. If a university is promoting white supremacy, I doubt that it is worthy of the title "university." And as the *Bob Jones University* case made clear, even if government should not shut down such universities through force, they shouldn't be subsidized or supported by government. And they are rightly criticized for flouting the basic values of knowledge and inclusion that have to be part of education in a democracy.

JPPE: What do you think we should do if a student, for example, says something problematic that goes against those democratic values and it doesn't meet the level of a targeted threat or incitement of violence, but other students around them still feel that it's harming their education or creating a barrier in their access to the university? How do we balance the interests of students against each other, such as the free speech interests of one and the right to an education of another?

In Germany or Canada, they draw the line very differently: there's a famous case in Canada, the *Keegstra* case, about a teacher who's teaching a hateful lesson and isn't just fired, but is put in prison. What I'm suggesting is that criminal punishment isn't the right way to respond. I agree this teacher should have been fired. But I reject the criminal response. As for student speech the obligation of a university is to educate, so I reject expulsion of students, even in cases of expressions of vile viewpoints. A university has an obligation not just in trying to educate a student once admitted. It should engage in a promotion of values.

Determinism and Public Policy

Alex del Valle

I. Introduction

One of the biggest problems citizens have been faced with since the popularization of welfare states around the globe is the extent to which they should operate. As welfare states began to develop over the 20th century, while political scientists and historians have been focused on *why* and *how* they emerged, it is the political philosopher's job to ask how they *ought* to work. A lot has been done in recent decades to create a system to guide the operations of welfare states, what principles dictate when they should interfere and how. Some of the most influential have been the theories of Joseph Heath's "Public - Economic" model, Lande & Neron's "relational egalitarianism" model, and the "luck egalitarianism" model as normative approaches to the welfare state. However there has been no academic consensus on which of the models we should adopt in our societies going forward, and this is for good reason. Simply put, each of the theories have had faults, gaps, and inconsistencies identified that make them undesirable for implementation, and thus there is a call for a new angle on the debate, one which perhaps tackles the problem from an interdisciplinary perspective. The disciplines of politics and philosophy have run parallel on the issue for some time, but have not been truly intertwined to understand the issue on a deeper, more nuanced level. Furthermore, I believe that politics and philosophy should work hand-in-hand to guide policy, and so I will attempt to utilize both in the analysis in this paper.

Since the beginning of philosophy, the question of free will, whether or not humans have any agency over our choices, has been a heavily discussed topic. Philosophers from Aristotle and Marcus Aurelius to Hobbes, Spinoza, Nietzsche, and Einstein have all been intrigued by the topic. Until now the discussion was largely metaphysical, without having any real implications for everyday life, and especially not in the field of public policy. I believe, however, that this timeless metaphysical debate may have something of value to contribute to the discussion around the function of the welfare state.

The belief that all events and choices are determined by previously existing causes has come to be known as “determinism” and its opposite “indeterminism”. If we take the theory of determinism as true, it could be used to create a new normative model of responsibility, where the emphasis is put more onto institutional and systemic responsibility rather than the personal responsibility which the previous theories like luck egalitarianism presuppose. In other words, the acknowledgment that all areas of human society (crime, education, health, employment, etc), are not at all in the hands of the individual, and are phenomena entirely predetermined by one’s circumstances and environment, allows our welfare state to explore a far broader range of responsibilities than in other models, in which it is supposed that individuals are responsible for some of their own actions. A practical application of this may be less development of prisons and police (institutions which presuppose human agency) and more emphasis on quality and free education, healthcare, and rehabilitation (which acknowledge that it is the institutions and other uncontrollable factors which are the underlying causes of the problem). In this paper, we will review the models of Heath and Lande & Neron, reconstruct, and analyze the theory of determinism, and building off the concept of luck egalitarianism, discuss if the theory of determinism can act as a more concrete way to understand public welfare and create a normative model for the welfare state.

II. A History of Normative Models

In Joseph Heath’s influential text “three normative models of the welfare state”, he sets out to create a reconstructive theory of how the welfare state emerged and at the same time a normative model to describe how the state *ought* to act (Heath 2011). Although it is his final model that is the most relevant to us, to give a holistic understanding of the history of this debate I believe it necessary to briefly summarise the other two. Firstly, Heath identifies what he calls the “redistributive model” of the welfare state. In this model, the market economy is “extremely successful at producing wealth... but ends up being very unequally distributed” (Heath 2011), and as such, the welfare state is a strategy of simply redistributing the wealth to maintain stability, or in some views, as a method of the bourgeoisie to prevent a proletarian revolution. The problem with limiting the normative responsibility of the state to redistribution is exactly that - it is limiting. The welfare state performs many more actions than simply redistribution, such as insurance, and much more as we will see. This model is identified by Heath as the most popular, especially “among political philosophers”, and that it comes from a “prestigious lineage” of thinkers (Heath 2011, pg. 16), however, as a normative model we can look at to guide the operations for the welfare state, it is incomplete, and thus fails.

The second model that Heath identifies is the communitarian model. As pre-

viously mentioned, the state does more than simply redistribute, but also *provides*, things such as universities, a police force, hospitals, etc. As Heath says, “if the goal was merely redistributive, this could be achieved more efficiently through the economist’s preferred method of taxation and cash redistribution” (Heath 2011, 19), so how do we account for all the other services and products the state provides? According to this theory, the welfare state ought to protect basic human needs through communal provision. In other words, whether or not a particular economic activity should be handled by the private or the public sector is whether “commodification of that good or service is morally permissible” (Heath 2011, 19). There are again some problems with this model though, on one hand, what is “morally permissible” is very rarely agreed upon by all in a society - take the buying and selling of organs as an example. This makes it incredibly difficult for this model to give specific welfare solutions. In this sense, this model is both too vague, and not universally consistent, as well as is unable to describe fully all of the responsibilities of the welfare state again fully, and for these reasons, cannot be used either.

Now we arrive at the final, and Heath’s preferred model, the public goods model. The premise of this model is fairly straightforward: that liberal states create the market economy, however, these markets cannot always create the most pareto efficient or optimal outcomes, and so the welfare state intervenes only where the market is less efficient. Heath describes this as the “most useful set of principles” to guide the welfare state, but the model is of course not without its problems (Heath 2011, 41). One critique that Heath himself brings up, is that the model is intuitively the least ethical of the models. At its core, this way of thinking prioritizes efficiency over equality, justice, or fairness, and as a normative model of the welfare state, may benefit only the privileged few in the long run. Although efficiency is certainly necessary for our welfare state to work, many feel strongly that it should not be treated as the ultimate goal of our state. I believe our welfare state has to consider efficiency, but not prioritize it, that one of our goals is to create an ethical, useful, and holistic conception of the duty of the welfare state.

Of course, there have been more authors than Heath to attempt to create a normative model for the welfare state. In Landes & Neron’s (2015) text they attack one theory of how the welfare state should operate, luck egalitarianism, in favor of another, relational egalitarianism. For the sake of this paper, we will be focusing on the formulation of luck egalitarianism, which is defined as the “set of theories sharing the premise that redistribution of resources should acknowledge the split between choices and circumstances” (Landes & Neron 2015, 142). The argument essentially rests on 2 claims, firstly the responsibility claim which is that individuals “are not responsible for inequalities that stem from circumstances” and the redistributive claim which states that “individuals are entitled to compensation

for inequalities that stem from circumstances” (Landes & Neron 2015, 142). The paper also emphasizes that bad luck owing to circumstances is not the same as bad luck owing to poor choices and that the latter is not included in the circumstances on which the theory is based. There are many aspects of this theory that I believe to hold true, but also many aspects I would like to challenge on the basis that determinism is true. Before doing so, however, I will give a brief summarization of what I mean by determinism and what formulations it takes, and then elaborate and in what ways the two theories are compatible and in what ways they are not.

III. Explanation of Determinism

As previously mentioned, determinism can be described as the belief, or rather the acknowledgment that “actions are inevitable given circumstances which are inevitable given other circumstances”, and that this trail of responsibility goes back beyond our control, to where we cannot decide, prevent, or change it (Pereboom 1995). But the definition has also seen multiple interpretations and formulations throughout the years. One specific formulation has been defined as behaviorism, the belief that all human behavior can be traced to specific causes, and this has come to be known as “nature-based determinism” (Watson 1997): this will be one of the most important formulations of determinism that we use in this essay. Dutch philosopher Derek Pereboom is recognized as a specialist in this field, and in his influential paper “determinism al dente” (1995) expresses a further nuance of the definition. He emphasizes that determinism does not necessarily have a single understanding but rather exists on a spectrum between “soft” and “hard” determinism, this distinction has also been made by William James (1884). The softest version of determinism maintains that “we possess the freedom required for moral responsibility. That this freedom includes the ability to do otherwise than what one actually will do”, and the hardest version of determinism claims that since determinism is true, “we lack the freedom required for moral responsibility, and hence, not only do we never deserve blame, but moreover, no moral principles or values apply to us” (Pereboom 1995, 21). However, it is important to note these are the more extreme views, which the author himself opposes, and that in the “conceptual space of both hard and soft determinism there is a range of alternative views” (Pereboom 1995). The view I will be defending in this paper finds itself softer than the hardest version, where individuals cannot take full responsibility for their actions, and the emphasis is instead placed on institutions and the environment. I will illustrate this in the coming paragraphs.

To give an example of how our formulation of determinism would operate, I will again be drawing inspiration from the work of Pereboom (1995) by prompting the reader to consider 2 hypothetical scenarios in which a certain Mr. Green has murdered a Ms. Peacock for some personal advantage. To be specific, the act of

murder was committed under desires that are genuinely his, and his desire conforms to his second-order desires - or in other words as said by Harry Frankfurt “that the will by which one was moved when he did it was his will because it was the will he wanted” (1971).

Scenario A

Mr. Green is an ordinary human being except that he was created by neuroscientists, who although cannot control him directly, have programmed him to be a rational egoist, so that, in any circumstances like those in which he now finds himself, he is causally determined to undertake the reason responsive process and to possess the set of first and second-order desires that results in him killing Ms. Peacock. His reasoning process is reason responsive because it would have resulted in different choices in situations in which the egoistic reasons were otherwise.

Although in this scenario Mr. Green is not being directly controlled, intuitively we would say he is not morally responsible because his actions were determined by virtue of the neuroscientist’s actions, which are *beyond his control*. Now allow us to consider another scenario:

Scenario B

Mr. Green is an ordinary human being, except that he was determined by the rigorous training practices of his home and community, his cultural background, and his current environment to be a rational egoist. His training took place at too early an age for him to have had the ability to prevent or alter the practices that determined his character. Mr. Green is thereby caused to undertake the reason responsive process and to possess the first and second-order desires that result in his killing Ms. Peacock.

If one were to argue that Mr. Green is morally responsible for his actions in Scenario B but not scenario A, they would need to identify a morally relevant feature that exists in one and not the other, which is difficult to detect. As in Scenario A, the Mr. Green of Scenario B acts under desires and circumstances that are *beyond his control*. The only difference is that instead of neuroscientists programming him, it is his community and environment, and thus I would argue that those institutions which compose the community and environment are more responsible for the act of murder caused than Mr. Green is himself. Author Yuval Noah Harari (2019) puts it clearly, “if by ‘free will’ you mean the freedom to do what you desire – then yes, humans have free will. But if by ‘free will’ you mean the freedom to

choose what to desire – then no, humans have no free will”.

IV. Determinism VS Luck Egalitarianism: A New Normative Model

Now that we have a better understanding of what determinism is, we can adequately compare it to luck egalitarianism to analyze the compatibility and differences in order to show determinism as the preferable normative model. If we are to use determinism to practically guide welfare arrangements, then we initially find a lot of similarities with the model, primarily with the two theoretical claims. Our deterministic normative model agrees with claim 1 that “individuals are not responsible for inequalities that stem from circumstances” and claim 2 that “individuals are entitled to compensation” for such circumstances (Landes & Neron 2015). We agree with these claims because, as Segall (2010, 10) asserts, “it is unjust for individuals to be worse off than others due to outcomes that it would have been unreasonable to expect them to avoid”, which could also be formulated as outcomes that are *beyond their control*. The issue I hope to make clear in this paper is that it is unreasonable to expect individuals to avoid *any* of their actions as their actions are determined by the institutions and environment around them, and the split between “choices and circumstances” that luck egalitarianism maintains, does not exist. Landes & Neron themselves identify that luck egalitarianism “struggles to account for the way institutions create or perpetuate inequalities between individuals”, and it is exactly this problem of institutions that I wish to focus on for the remainder of this paper.

V. Public Policy and Responsibility

Equipped with an understanding of determinism, and a normative model based on the theory, we can start applying it to the institutions, structures, and systems that govern the decisions we make. Although the argument could be made that if determinism is true, then even these institutions have no moral responsibility, I find a few problems with this claim. Primarily being that it is an argument from hard determinism, and is exceedingly impractical. As Immanuel Kant argued it, engaging in a process of deliberation requires that one suppose that more than one choice for action is possible (Kant 2019, part 3 Ak4 448). In other words, even if individual action is largely predetermined, one cannot make rational, informed decisions if one thinks in this hard deterministic fashion, and so for calculating the best and most efficient welfare arrangements and public policy, it is simply impractical to hold this position. We could go further and further back through the line of responsibility, but would ultimately end up nowhere helpful. What this paper is attempting to do is use determinism as a practical method for understanding and developing public policy, and so for this reason, we will focus on institutions and structures.

Now I would like to offer the reader some examples to visualize how a change in our understanding of free will and responsibility can have substantial effects on public policy. I will start by describing the situation as it is in the world today, show why it is wrong and inefficient when considering determinism, and then using scientific backings, suggest policy change that would be both more efficient and more ethical. As a precursor, I must disclose that in the examples I give I will be speaking a majority of the time about situations in the Western world unless specified otherwise.

Crime, Jails, and Education

Let us begin with perhaps the most obvious or predictable case of existing policy presupposing indeterminism: prisons and the prison industrial complex. Prisons in most liberal democracies today operate under a very specific philosophy: that human beings who commit crime must take responsibility for their actions through punishment. Prisons work by attacking the deepest and most vulnerable aspects of human nature, in particular our innate necessity for meaningful human connection, as well as physical safety and comfort. It is clear then that prisons are intended to punish prisoners and instill within them the fear to never commit a crime again, and with over 11.7 million people incarcerated worldwide, this is not an uncommon practice (Webster 2021).

This has been the approach to prisons for most of history thus far and doesn't seem to be disappearing anytime soon. However, there is no lack of scientific studies which have now come to show the absolute ineffectiveness of our prison systems. For example, studies done in Connecticut found that 63% of offenders were rearrested for a different crime in the first 3 years after being released (OPM 2009), California found a 61% recidivism rate (CDCR 2014), 65% in New York (James 2009), 59% in France, and 66% after 3 years in the UK (World Population Review 2021). With such high percentages of re-offenders, it's clear that we have got something wrong in the way that we perceive prisons, and I believe that it is where we place the responsibility.

Despite our hyper fixation on personal responsibility, and the common social narrative that prisoners and offenders are lazy, evil, or made poor choices, studies seem to show that institutions more than anything else affect the level of crime. A quantitative research paper published in 2000 finds that a greater prevalence of recreation centers leads to a lower rate of violent crime in the most economically disadvantaged areas, and concludes that "local communities may help to reduce their crime problems by developing a larger internal institutional base" (Peterson et al 2000). Furthermore, there is already a thorough body of literature that points to the fact that education is a leading contributor to crime rates, and that the best way to decrease crime, *is to improve education* (Lochner 2020, Hjalmarsson & Loch-

ner 2012). Finally, a comprehensive study done by Fajnzylber et al (2002) identifies education among other variables such as income inequality and GDP growth as the most prevalent causes of crime. I'm sure it is intuitive that factors of education, one's income at birth, and the GDP growth of one's country, are all completely beyond the individual's control (particularly education, as most studies refer to up to secondary school education as being the most important for suppressing crime). When one is young, uneducated, and in poverty, to what extent can we really believe they are responsible for committing a crime?

Thus, if a policymaker were to wish to reduce crime (as I hope all policymakers do), our formulation of determinism would guide them to look at institutions as the main underlying problem, and the quantitative analyses seem to support this claim. Instead of focusing on punishing offenders for their crime, invest instead in quality public education, unemployment benefits, and stronger redistributive policies to decrease wealth inequality. These are proven to be more efficient in reducing crime, and at the same time, do not unfairly punish individuals under the false presupposition that they are ultimately responsible for their own actions.

Social Insurance and Universal Basic Income

A lot of welfare programs already exist which can be said to recognize this separation of responsibility. The entire concept of social insurance is to level the playing field in terms of opportunities, which is essentially what our deterministic normative model is attempting to do. Programs such as social security in the US, disability benefits, rehabilitation centers, the pension system, veteran care, are all examples of programs that acknowledge the responsibility not of the individual but of external factors (such as growing old, getting a disability, etc). What I hope has been made clear in this paper is that the same reasoning we give disability benefits or pensions - because the circumstances are *outside of the individual's control* - is the same reason we should give any other number of social provisions.

Unemployment benefits are a common scheme, but they are often too low or too short term to make a significant impact, as if it were the individual's fault that they are without work. One way that we could guarantee (at least to an extent) equality of opportunity for all in society would be through a modest but unconditional income to all citizens, or a universal basic income. This policy would partially level the playing field and alleviate a lot of the inequalities and negative externalities that appear from inefficient institutions. It would mitigate some of the problems which arise from being born in a poor family, having a worse education, having illnesses, or suffering from addiction. It could be the answer that our deterministic model of the welfare state is ultimately striving towards, to ease as much as possible the circumstances that are out of the individual's control. This is accentuated in Van Parijs' robust defense of universal income, where he argues

that the concept is a “strategy against both poverty and unemployment” as well as a way to realize true social justice “as the fair distribution of the real freedom to pursue the realization of one’s conception of the good life, whatever it is” (Van Parijs 2004). If we cannot have the freedom to choose what we desire, then we should at least strive for freedom, as Van Parijs would argue, from the institutions prohibiting us to live to the fullest.

VI. Conclusion

In the words of Yuval Noah Harari (2018), “unfortunately, ‘free will’ isn’t a scientific reality. It is a myth inherited from Christian theology. Theologians developed the idea of ‘free will’ to explain why God is right to punish sinners for their bad choices and reward saints for their good choices”. I do not believe that our modern societies have drifted too far from the Christian dogma of punishment and reward on which they were built, and thus we see the same values in the institutions, systems, and processes that govern our lives. In my eyes, it is our responsibility to rid our institutions of the myth of free will, and only then can we create fair, just, and effective policies to live under. For as long as we believe that the individual is responsible for their actions, our prisons will be full, our children hungry, and our people unhappy.

In this paper I summarized the history of normative models of the welfare state in order to situate this paper in the broader context, I gave a brief overview of the main argumentations for determinism, offered an alternative normative model of looking at the welfare state, and gave some examples of policy that could potentially be affected and why. Although the argumentation may at first seem overly convoluted, I am a believer in the way our metaphysical understanding of concepts like free will can have an impact on governance and public policy. I hope to have convinced the reader of the importance of the notion in policymaking, or at least opened their mind to the question of freedom and in what ways it should impact our society. This paper did not have a research question so much as a research aim, which was to discuss if the theory of determinism could act as a more concrete framework to understand public welfare and create a normative model for the welfare state, and I believe in this sense we have accomplished what we set out to do at the beginning of the paper. I believe the research into free will and its implications is far from over, as William James said, there is “no subject less worn out, or in which inventive genius has a better chance of breaking open new ground” (James 1884).

VII. Closing Remarks

Finally, I want to thank those at the URS for taking the time to read this

paper, I appreciate the amazing opportunity to have even a small abstract of my work read and critiqued, and the most valuable part of this experience will undoubtedly be what I can learn and improve, so all feedback and criticism is of course not only welcome, but encouraged.

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What is Moral Actualism?

Marta Bax

Sofia intends to have a child. She has recently been offered a promotion in New York, which has left her with an important decision to make. She could choose to move, and pursue a fulfilling career, or she could stay in Manchester, where she knows her mother would help with the new-born. Suppose she chooses the latter. When asked by her colleagues why she passed on the opportunity, Sofia replies “it was the best option for the people involved. I’m not too attached to this particular job, and I think it would benefit my daughter to have her grandparents around. My wife is also staying in Manchester, and although she supports me unconditionally, I know she’d prefer to avoid long-distance. I’d also like to stay close to her, if possible.” Most people would think this a reasonable response.

Kalani has also been promoted. She too would like to have children someday. If she chooses to stay in her home city, Liverpool, she and her partner will try for a baby. If she moves to New York, however, she has decided to refrain from conceiving for a few years. Suppose Kalani opts for the latter. When asked by her neighbour why she passed on the chance to conceive, she replies “it was the best option for the people involved. This job will bring me financial stability, and living elsewhere is a great opportunity I might not get later in life. Waiting until I am back in Liverpool to conceive means my partner won’t have to live far from his child, and that I get the childcare support I need.” Now suppose her neighbour retorts “but you haven’t chosen the best option for all the people involved – your decision not to conceive was bad for the baby that would have been born if you had stayed in Liverpool, who would have had a good life. Because of your decision, he will not be born!”

Both Sofia and Kalani explain their actions by appealing to the interests of the people affected by their decision. The concern Kalani’s neighbour has however raises a question for justifications of this kind: who counts as a person affected? Why do the interests of Sofia’s future child, in part, determine the outcome of her decision? Why should this not apply to Kalani’s case?

Here's a relatively intuitive assumption: in order to be affected by an action, a person must first exist. Here's a more intuitive assumption: this person need not exist at the time the action first takes place. A sufficient condition for being affected by an action is that one exists whilst the effects of that action take place. When Sofia chooses to stay in Manchester, her future child does not exist. However, the consequences of Sofia's choice to stay in Manchester will affect said child. Therefore, the child's eventual interests contribute to Sofia's decision. Kalani is not in the same position as Sofia. When she chooses to leave for New York, her future baby *does not and will never exist*. As a result, the effects of Kalani's actions cannot violate that child's interests. She is under no obligation to consider the interests of this child, due to the fact that she –or he– *will never be affected by her actions*.

If you share these intuitions, you might find yourself drawn to a particular moral doctrine.

(*Moral Actualism*) The moral status of any action a_j –actual or not– is determined by whether its outcome is better or worse for the people who exist given action a_j , than the outcomes of other available actions.¹

In other words, what makes an option morally better than its counterpart is that its outcome is better for the people who actually exist, given that action is performed.

In this essay I defend moral actualism from a particular attack launched by philosopher Caspar Hare. Hare's counter paints actualism in untenable colours - he argues that the position ultimately is not a reliable moral doctrine because it occasionally leads to deontic absurdity. We should reject it and look for a different way to evaluate the moral status of actions, particularly those concerning future generations.

I want to provide actualists with an alternative. Instead of abandoning what feels like an intuitive moral doctrine, they need only *revise* their position to defend it from attack. This revision is made possible by the vagueness of the terms 'actual' and 'exist'. It's evident that in his characterisation of moral actualism, Hare assumes that to be actual is to exist in the modal sense: existence is satisfied by membership in the actual world. I'm going to argue –contra Hare– that this alone is not a sufficient condition for existence. To be actual is also to exist in the *temporal sense*: existence is satisfied by *present* membership in the actual world.

This revision is not only prompted by a need to defend actualism against Hare's counter. In fact, before explaining how temporal actualism is invulnerable to Hare's argument, I motivate the position without reference to Hare. Ultimately, we should favour *temporal moral actualism* not just because it is the version of actualism that overcomes Hare's counter, but because careful consideration shows that

¹ Adapted from Hare:2007, p502-503.

it aligns better with our general intuitions about morality.

A word of warning: this paper lies at the intersection of ethics and metaphysics. As such, many of the labels I use have appeared in different debates associated with both these areas of philosophy. ‘Modal Actualism’ and ‘Actualism’ are examples.² In the context of this essay, please treat any label with the word ‘actualism’ in it as meaning a version of *Moral Actualism*, the position outlined above.

Section 1: The Problem

§1.1 - Hare’s Moral Actualism

Let’s begin by getting clear on some actualist essentials i.e. those beliefs that fall directly out of the definition provided in the introduction. The first concerns the concept of the good. Moral actualists think goodness is relational: an action is good if it is *good for a particular person* (or people), compared to alternatives.³ Often these approaches to morality are rights-based: moral duties are generated by agents’ right to determine what actions are imposed on them. To act correctly is to do nothing more than respect these rights.

The second obvious credo to moral actualism is this: rights –such as the right to have one’s interest count towards moral deliberation– are strictly reserved for *actual* people: individuals who exist in the world the relevant action takes place in.⁴ Existence is crucial supposedly because it is a pre-requisite for having interests, which is in turn a pre-requisite for having rights.⁵ For an action to be good for someone, that someone must first *exist*.

What exactly is *existence*? Who counts as an actual person, according to actualism? The answer to these questions doesn’t seem to fall directly out of (*Moral Actualism*).

Caspar Hare thinks that existence for the actualist must extend to future people who *will* be born as well as current people who are *already* alive, given a_j is performed.⁶ His concept of existence is *modal*: a person exists insofar as they are alive –at some point in time– in the *real* world as opposed to a *merely possible* world.⁷ Both present people who are alive at the time a_j takes place and future people who will live in the world created by a_j therefore have the right to have their interests contribute to that action’s moral status. After all, these are the people who risk being harmed by a_j . For Hare, then, actual people and non-actual people are mutually exclusive. All actual people, like Sofia’s child, exist (in the sense that they exist in

2 See Hare:2007, p499; Cohen & Timmerman:2020.

3 Hare:2007, p499.

4 Ibid

5 Ibid., p509.

6 I won’t be focusing on past people for the purposes of the essay, although it’s worth mentioning that for Hare past people are also actual: they share the property of existing, at some point in time.

7 Hare:2007, p498.

the real world), and all possible people (like Kalani's child) *don't*.

Let's allow for now that this characterisation of existence is exactly what moral actualists are after when they call a person actual. If this is correct, they should exclusively worry about the interests of current people and *future people who will be born* when deciding between possible actions. Put a different way: only individuals who are presently alive or⁸ will be alive in the future have the right to demand their interests be considered when it comes to moral deliberation.

§1.2 - Hare's Counter

In compliance with his characterisation of moral actualism, Hare launches into a critique of the position to conclude that it inevitably leads to deontic absurdity. His counter starts with a thought experiment:

Imagine there is a person Kate, who has to decide between two actions:

a_1 - bring relentlessly miserable Jack into existence.

a_2 - bring relentlessly miserable Jane into existence.

Assume both Jack and Jane would prefer not to exist than to exist miserably.⁹

Kate doesn't know what to do, since both options seem equally bad.

Here's actualism again:

(*Moral Actualism*) The moral status of any a_j is determined by whether its outcome is better or worse *for actual people*, than the outcomes of other available actions.

And here's a question: what should actualism say about Kate's dilemma?

Remember that moral actualism generates *rights-based* moral obligations: an action is better than its counterpart *if it respects the right of actual people to have their interests count towards deliberation*. The action that is better for actual people therefore is the action that Kate should perform.

As per the thought experiment, a_1 and a_2 will create separate worlds: a_1 will create a world containing the actual individual Jack (call this S_{a_1})¹⁰, whereas a_2 will create a world containing the actual individual Jane (S_{a_2}).¹¹ A world where Jack is actual hence is a world where Jane is merely possible; a world where Jane is actual is a world where Jack is merely possible. Actualism will therefore say that Jack has the right to have his interests contribute to Kate's decision only if Kate picks a_1 ; vice-versa for Jane. Kate, however, exists in both worlds. She retains the right to have her interests count towards the decision-making process, regardless of what

8 Inclusive 'or'.

9 Hare:2007, p503-504.

10 Hare:2007, p504.

11 Ibid.

action she ultimately picks.

The problem materialises the second we are told to assume that both Jack and Jane prefer non-existence over miserable existence. Imagine the actualist trying to help Kate decide what action to perform. She knows only to pick a_1 if it is the best option available for actual people. The actual people given a_1 are Kate and Jack. To call a_1 a *better* option for Kate than a_2 would be a stretch: both actions –from Kate’s perspective– *aren’t great*; both force her to create a miserable child. However, assuming Kate doesn’t have a preference for gender, one might reasonably assume Kate is indifferent with regards to whether a_1 gets performed over a_2 . To recommend performing a_1 therefore would not violate *her* interests. Things however change when we consider the interests of Jack. He *does* have a specific preference between a_1 and a_2 , and it’s for a_2 to be performed since this would mean escaping miserable existence. a_1 therefore cannot be the best option for the people who exist in Sa_1 (the actual people) since a_2 is equally as good for Kate, and a_2 is *better* for Jack. If Kate chooses a_1 , then, actualism will say she has done the wrong thing; the interests of actual people were such that she *should have picked a_2* .

What happens if the actualist recommends a_2 ? Once again, a_2 can only be picked if it is the best option for actual people. Once again, Kate is indifferent about a_2 being performed over a_1 , so her rights are not violated when a_2 is performed. However, *this time*, it’s not the interests of Jack that contribute to decision-making because Jack ceases to be actual, given a_2 . The actual people in Sa_2 are Kate and Jane. But Jane, like Jack, *prefers non-existence*, i.e., the outcome of a_1 is better for her than that of a_2 . a_2 is therefore not the best option for the people who exist in Sa_2 (the actual people) since a_1 is equally as good for Kate, and a_1 is better for Jane. If Kate chooses a_2 , actualism will *also* say she has done the wrong thing; the interests of actual people were such that she *should have picked a_1* .

This means that *whatever Kate does, she does the wrong thing*.¹² Moral actualists are committed to telling Kate not to pick either a_1 or a_2 , when picking one of these options is required of her. In other words, their verdict – to not perform either action– is *deontically absurd*, i.e., it violates a deontic principle of obligation: *if given alternatives $\{x, y\}$, x ought not to be done, then, given alternatives $\{x, y\}$, y ought to be done*.

¹³These are the grounds on which Hare abandons the position, altogether.

Another way of putting the issue is this: Hare’s *Kate* case shows that moral actualism is internally incoherent. The two founding principles of actualism –(1) to have people’s interests contribute to decision-making and (2) to only consider the interests of actual people– contradict. Jack’s interest not to exist only counts when he is actual. But the second Jack is made actual, his interest not to exist gets vio-

¹² Hare:2007, p503-504.

¹³ Hare:2007, p504-505.

lated. In fact, for both Jack and Jane, they become actual when it is too late: Jack's interest to not-exist only counts when we bring him into existence, as does Jane's.

Now at this point one might wonder whether the principle of deontic absurdity is so convincing as to lead us to such a conclusion. Might there not be tragic situations in which one is faced with two options equally as bad as each other so that the correct verdict is that one ought to perform neither? And if the thought experiment demands a decision be however made, could it not be acceptable to perform an action whilst contemporarily realising that it should not have been performed? One might want to judge both actions as *equally* bad, since both are bad for the relevant people affected. Kate is therefore free to arbitrarily choose from either a_1 or a_2 . It's not that a_1 (for example) should be picked because it is *best*, but because it is *no worse* than a_2 .¹⁴ As Hare notes, this solution, though superficially inviting, would spell ruin for the actualist.

Say Kate does use this reasoning to pick a_1 . When questioned about why she purposefully chose to perform an action that was worse for Jack, she justifies herself by saying that *not* performing it would have been *equally as bad* for Jane. This is a roundabout way of making a_1 permissible because, although it harms Jack, it avoids a harm to Jane. The problem is that according to the actualist's own doctrine, the interests of merely possible people can never count towards moral deliberation. Jane (given a_1 is chosen) does not and will never exist. She is not an actual member of Sa_1 , and therefore does not have the right to have her interests count towards the enactment of a_1 .¹⁵ To justify picking a_1 because of the equally tragic entailment of a_2 is to allow for the interests of possible people to count towards deliberation. And that is enough to violate actualism irreparably.

Section 2: The Solution

The key to resisting Hare's counter is understanding that this modal characterisation of existence is a product of *Hare's* conviction, not the actualists'. With §2.1 I aim to provide an alternative reading of actualism, one which understands existence in more than simply modal terms. I think this is the proper way (*Moral Actualism*) should be understood. The first reason for this is that temporal actualism by itself seems to me an intuitive moral doctrine. To really drive this point home, I consider an argument against adopting temporal actualism, but ultimately explain that the best this counter can do is weaken the position a little. I comment on why this weakening of actualism might actually work in its favour.

The second and most pressing reason to adopt temporal actualism over Hare's modal interpretation is to ensure that Hare's counter fails to get off the ground.

¹⁴ Hare:2007, p505.

¹⁵ Ibid.

§2.2 explains why it is that moral actualism –understood in temporal terms– is invulnerable to Hare’s counter.

§2.1 - Temporal Moral Actualism

What does it mean to exist? Hare provides us with one option: to exist is to be a member of the *actual world*, at some point in time. But there’s another option: to exist could also mean to be a member of the actual world, *in the present*. This kind of existence is determined by one’s temporal status as well as their modal status. An actual person –under this interpretation– is a *present person who exists in the actual world*. Possible people, then, are people who don’t presently exist in the actual world. Temporal actualism implies that modally actual people and possible people are *not* mutually exclusive. Some possible people *will become* actual, like Sofia’s child. Others, like Kalani’s, will not.

This would make it the case that people only gain the right to have their interests contribute to moral decision-making *once they are born*.¹⁶ Moral agents only have a duty to consider the interests of future people *once those people exist in the present*.

Why think the temporal interpretation is what moral actualists are after when they call a person actual?

Here’s one reason: temporal actualism parallels the way rational people tend to think about when duties should come into effect, in real life. I might think that my future soulmate is already out there in the world, and that, whoever they are –*once I notice them*– I will be completely monogamous. Does this generate a duty in me *now* to be monogamous to that person who I will eventually meet, pre-encounter? Most people would think not: I do not owe that person any particular loyalty until I get into a relationship with (or at least meet) them. Similarly, just because someone *will eventually* become a moral agent, does not mean that they are to be treated like one in the present.

On the other hand, the idea that we have no obligations whatsoever towards future people could lead to highly *unintuitive* conclusions; the kind that require further explanation. If the interests of future people no longer count towards deliberation, how can we make sense of an obligation to conserve, rather than deplete, the planet’s resources?¹⁷ Similarly, if we no longer count future people’s interests towards moral deliberation, how can Sofia justify her decision to stay in Manchester in part by saying it is good for her daughter?

One solution is to bite the bullet. Temporal actualists could concede that,

¹⁶ This mirrors how rights-based approaches in ethics tend to distribute rights, anyway. Rights are the kinds of things reserved for people interacting with people in the present actual world.

¹⁷ See Roberts & Wasserman:2019, p81-83.

given their notion of goodness is strictly relational, the intuitions that might work in favour of conservation (for example) are just misguided. A different –and better– solution involves adjusting actualism so as to allow that sometimes, the moral status of actions is determined by something *other* than the individual interests of actual people. Actions that conserve or do what’s best for future generations might be good *not because they are good for future people*, but because they are considered good, simpliciter.

Let’s stick with the *conservation vs depletion* example. This is meant to be a problem for my proposed solution, because presumably the (intuitive to some) decision to conserve the planet’s resources is justified by the interests of future people (people who are actual in the modal sense), alone. Firstly, this might not be true. There are authors who argue that the decision to conserve stems more from the aesthetic interests of temporally actual people more so than it does the interests of future people.¹⁸ Secondly, even if it is performed with the sole benefit for future generations in mind, the decision to conserve could still be explained by appealing to the interests of current people, only. To commit to something with someone’s benefit in mind is not necessarily to act in accordance with their interests. Instead, one might reasonably hold themselves to a general moral standard to do what’s best for future generations in the same way they might believe one should always act with kindness, where possible. There are general moral standards that aren’t strictly relational. They are not generated by the interests of any individual, but by a collective interest, or a pre-constructed moral code. There is no particular person that can claim the general right to conserve the planet’s resources, or the right to act with kindness, but current people might still believe and do act as though these standards are of genuine moral concern. The concern with conservation need not be justified by the actual interests of future people, but by the perceived interests of current people regarding future people.

Parallel this thought to the *Soulmate* example. What causes me to want to be monogamous to my soulmate is not generated by an understanding of what’s good *for them*: for all I know, my soulmate could want an open relationship. The duty I think I have is instead generated by an accepted *general* social standard for good relationships: monogamy.

Now this solution does come with a minor internal cost to the original actualist position. In order to protect the idea that the moral status of actions is determined by the interests of temporal actual people, actualists might find themselves letting go of the idea that goodness is exclusively relational (something is good if it is good for a particular individual). Instead, sometimes actions are the result of absolute moral rules generally accepted by a society that might not be good for any

18 See Bennett:1978, p61-73.

particular individual at the time. I don't think this is much of a cost to actualism. If it is, I suggest actualists view it as a welcome cost - one that avoids deontic absurdity and seems more intuitive than the idea we started out with (that there are only relational duties).

Relational and absolute moral doctrines are often pitted against each other, as if only one can fully determine the moral status of actions. But often, our real-life intuitions consider *both* duties we have to one another as well as duties we have, simpliciter. We sometimes think an action is only right if it's good for specific people, and we sometimes think an action is right regardless of who it will benefit. Temporal moral actualism leaves space for both.

Finally, I want to clarify on exactly how this solution affects the original motivating case for actualism. I originally framed Sofia's future child's interests as a partial motivator towards her decision to stay in Manchester. This new version of actualism appears to deny that the future child has any right to moral consideration. Whilst this is true –and, I believe, reflective of real life– Sofia's assertion can still be actualist if what she really intends to say is that she wishes to enact an absolute moral rule she endorses i.e., the moral rule to do what is best for your future children, whomever they might be. It is not that a particular future individual has a right to moral consideration which creates an obligation in Sofia to stay in Manchester, but instead Sofia's own belief that that course of action is best which results in her final decision.

What I find particularly interesting is that this directly mirrors Hare's own non-actualist solution to Non-Identity problems.¹⁹

*“Mary does wrong because she has a certain kind of impersonal responsibility – a responsibility to nobody in particular. Some argue that this is a responsibility that any person has – e.g., to avoid bringing about suffering. Others argue that this is a special kind of responsibility that only parents have – to avoid creating children whose lives will have certain features. This seems to me broadly the right way to approach the problem.”*²⁰

I see little difference between Hare's 'impersonal responsibilities' and the absolute ('general') moral rules I have been talking about. Hare suggests that these are truly what motivate people like Sofia when a decision is claimed to be made 'for the benefit of a future child'. I only want to add that this in principle is not incompatible with actualism, once we allow that there can be relational *and* absolute duties.

§2.2 - The Temporal Response to Hare's Counter

As mentioned in the introduction, the biggest reason to interpret (*Moral Ac-*

¹⁹ Hare:2007, p513-514.

²⁰ Ibid.

tualism) temporally is that this characterisation successfully avoids Hare's counter. To see why, remember that temporal actualism says that *if* the moral status of an action is determined by a relational duty –that is, a duty owed to specific people, as opposed to a duty in its own right– *then* that duty is owed only to *actual* people; people who presently exist in the actual world.

a_1 ought only be realised if it is the best option available for the actual people in Sa_1 . a_2 similarly ought only be realised if it is the best option available for the actual people in Sa_2 . But here's the difference between Hare's actualism and temporal actualism: whereas Hare's actualism judges the actual people in Sa_1 to be *Kate and Jack*, the actual person in Sa_1 under temporal actualism is just *Kate*. Hare's actualism judges the actual people in Sa_2 to be *Kate and Jane*, but under temporal actualism, the actual person in Sa_2 is, again, just *Kate*. It is therefore only *Kate's* interests that must be considered under temporal actualism. We know that *Kate* is indifferent about whether a_1 or a_2 gets performed (remember that both options to her just mean that she'll birth a miserable child). Neither a_1 nor a_2 is the *better* option for *Kate* - both are equally bad as each other because both are equally bad *for her*. Therefore, actualism will say that she is free to choose either option.

This means that *whatever Kate does* under temporal actualism, *she does a permissible thing*. a_1 and a_2 truly are arbitrary: a_1 is better/worse for no one in Sa_1 , and a_2 is better/worse for no one in Sa_2 . a_1 and a_2 therefore have equal moral status, which makes either option permissible for *Kate* to choose. Therefore, the actualist verdict –to pick from a_1 or a_2 – escapes deontic absurdity.

What temporal moral actualism does is deny a key assumption of Hare's argument: when *Kate* chooses to bring *Jack* or *Jane* into existence, this is meant to be morally significant because the interests of two *future* actual people conflict in a way which generates a dilemma. But Hare never once considers that for actualism to survive, the interests of future people need not be relevant to decision-making. By ignoring the temporal interpretation of 'existence', Hare creates a strawman. He assumes freely that rights-based duties are owed to future people when they need not be.

Conclusion

With these final points I conclude my defence of actualism with respect to Hare's counter. I hope to have at least shown that temporal moral actualism is an available refuge for any actualist threatened by Hare. A stronger possible conclusion I've given some evidence for is that temporal actualism is a more *intuitive* moral theory than Hare's actualism, even without thinking about his counter from absurdity. Temporal actualism matches our intuitions about the kinds of people who can claim to have rights, i.e., *people who exist in the present*. Finally, I've suggested that actualists might need to make space for both relational and absolute

conceptions of the good to account for instances where we think the right action need not necessarily be what is right *for specific individuals*. I imagine next steps for temporal actualism will involve an enquiry into when relational goods are more appropriate than absolutist goods, and pitting actualism against other moral doctrines to further investigate any compelling alternatives.

If there was a key take-away from the discussion, I'd say it was the power of carefully crafted thought experiments. With little information and a fake scenario, Hare manages to convince us that future people, under actualism, are deserving of the same kinds of rights reserved for present people. When it comes to thought experiments generally –but especially in the literature on future generations– we need to be more careful. Ask yourself what assumptions the author is making, and who's perspective the experiment relies on. Otherwise, we risk generating conclusions that lead us to abandon a perfectly viable moral doctrine.

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Decommodifying Power: The Difference Between Positive and Negative Power

Jacob Starobin

Contemporary American political consciousness often conceptualizes power in its negative sense, as the ability to constrain. However, this conceptualization overwrites the positive aspect of power: the ability to define. In this paper, I compare the conceptions of power held by three prominent sociopolitical thinkers—Martin Luther King, Jr., Michel Foucault, and Patricia Hill Collins—to argue that positive and negative conceptions of power produce distinct conceptions of justice, particularly as related to the integration or separation of oppressors and oppressed groups. Using race in the United States as a reference point for the question of integration or separation, I conclude that negative conceptions of power require integrationist ends while positive conceptions of power allow for separatist goals.

The concept of power transcends the concept of dominance. Contemporary American political memory often identifies power in exclusively dominant positions: “white power” often serves as a battle cry for white supremacist groups campaigning to maintain control over communities of color, “patriarchy” refers to a hierarchical and therefore domineering social arrangement of people by gender, and even “Black power” signifies movements to reverse or redistribute present allocations of political and economic dominance to the advantage of Black Americans. In his “Letter from a Birmingham Jail,” American civil rights activist Martin Luther King, Jr. responds to the power structure of Jim Crow segregation with one such understanding of power as the presence of domination, or the ability to constrain. However, King’s analytical frame of power as negative omits power’s positive aspect—namely, the ability to define. Throughout his work, French philosopher and political activist Michel Foucault argues that this alternate facet of power not only exists but deserves prime attention from any social analyst seeking to chart a course for social change. American sociologist Patricia Hill Collins

applies Foucault's relational analysis of power in her sociological theory of Black women in America as "outsiders within," where she upholds Black women's social positionality as a source rather than a deficit of their power to define and resist white supremacist patriarchy.¹ The juxtaposition between King's and Collins's conceptions of power provides an explanation for King's integrationist approach to racial justice: while King fights for the civil rights of Black Americans on the basis of their intrinsic humanity, he paradoxically adopts an understanding of power that conditions Black Americans' subjectivity on their ability to constrain the consciences of their white neighbors. By contrast, a positive understanding of power assumes subjectivity as inherent in every individual and thus does not require social recognition to empower the subject, leaving social separation as a viable form of racial or gender justice.

I. Negative Power as the Kingian Position

In his "Letter from a Birmingham Jail," Martin Luther King, Jr. frames his call to activism in opposition to an entirely negative power structure. To King, the status quo of Jim Crow appears as a web of violent constraints and domineering social conditions imposed upon Black Americans. He characterizes these conditions in a long sequence in his letter, listing, "you have seen vicious mobs lynch your mothers and fathers...you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty...you are forever fighting a degenerating sense of 'nobodiness.'"² King traces these unjust conditions as originating from a "power majority group"—presumably white American voters—that "compels a minority group"—Black Americans—"to obey" segregationist laws.³ This idea of a "power majority" implies that power is a rivalrous commodity rather than an intrinsic quality of individuals or groups. Power may transfer from one group to another or even grow in abundance for all social entities, but power cannot be shared among those entities; if it could, the "majority" would diffuse by other groups' joint access to the power in question and ultimately disappear. This commodity definition of power reinforces King's broader view of power as negative since scarcity, an intrinsic property of any commodity by definition, is a constraint in itself on access to a given resource.

King's additional critique of white church alignment with broader racist power structures further clarifies the distinctly negative framing of power that he

1 Patricia Hill Collins, "Learning from the Outsider Within: The Sociological Significance of Black Feminist Thought," *Social Problems* 33, no. 6 (1986): S14, <https://www.jstor.org/stable/800672>.

2 Martin Luther King, Jr., "Letter from a Birmingham Jail [King, Jr.]," ed. Ali Ali-Dinar, African Studies Center - University of Pennsylvania, 2015, https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html.

3 King, "Letter."

presents in his letter. In writing of his former hope that white church leadership would “serve as the channel through which [Civil Rights activists’] just grievances could reach the power structure,” King suggests that racial power in America only exists at the source of racist domination by white Americans.⁴ King does not include himself or his fellow Black activists in this “power structure” because he believes they lack, at least at present, the ability to constrain their white neighbors to anti-racist behavior. This view explains why King insists on a nonviolent strategy to “arouse the conscience” of the oppressor.⁵ For King, without the ability to limit the set of behaviors available to the oppressor, the oppressed can only empower themselves by motivating the oppressor to redistribute power of their own accord. This view of power neither advances nor impairs King’s pursuit of justice—the view simply determines the nature of the pursuit.

II. The Positive Alternative: Power in Subjectivity

In contrast to King, Michel Foucault proposes a conception of power that accounts for one’s positive ability to define, not just one’s negative capacity to constrain. Instead of identifying power in principally “legal” frameworks of domination between the powerful and powerless, Foucault characterizes power as “employed and exercised through a net-like organisation” in which individuals at every position in the web exert and experience power in some way.⁶ The power that individuals exert derives from their perpetual engagement and experiential exchange with others in their networks. As individual subjects iterate or struggle against patterns of behavior, they collectively constitute the patterns circumscribing their actions, affirming their subjectivity as social participants and yet simultaneously transforming themselves and others “into objects of knowledge” of their operative social or political systems.⁷ For Foucault, this generative process of definition and redefinition of subjects into objects and vice versa is the true essence of power, such that “there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations.”⁸ In this view, all individuals exist as “vehicles of power” rather than mere “points of application” in their social systems, regardless of the perception of any particular individual’s degree of social dominance.⁹

4 King, “Letter.”

5 Ibid.

6 Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, ed. Colin Gordon, trans. Colin Gordon, Leo Marshall, John Mepham, and Kate Soper (New York: Random House, 1980), 97-98.

7 Michel Foucault, *Discipline and Punish*, trans. Alan Sheridan, 2nd ed. (New York: Random House, 1995), 28.

8 Foucault, *Discipline and Punish*, 27.

9 Foucault, *Power/Knowledge*, 98.

Foucault's conception thus challenges King's problem of power scarcity by viewing power as nonrivalrous and inherent rather than commodified and competitive. King's "power majority" does not apply to the network of mutuality that Foucault outlines because in Foucault's view, power is not an attribute one can acquire or possess, only a description of relational influence.¹⁰ Furthermore, since this positive conception of power regards individuals' experiential and relational adaptations to power structures as the instances where power manifests its "real effects," this conception necessitates a methodology of social analysis where one understands power "at its extremities, in its ultimate destinations, ... in its more regional and local forms and institutions," rather than at the origins of domination.¹¹

Patricia Hill Collins's theory of Black women holding the position of the "outsider within" exemplifies such a methodology.¹² In her seminal essay "Learning from the Outsider Within: The Sociological Significance of Black Feminist Thought," Collins outlines a process through which Black women can challenge white supremacist patriarchal knowledge production by defining themselves as "human subjects" in the face of dehumanizing social norms.¹³ Following Foucault, Collins begins her analysis with an assessment of race-gender power dynamics in their "local" manifestations: the unique restrictions and access points that Black women tend to encounter in American society.¹⁴ She argues that throughout American history, Black women have often held unusually informative social vantage points, occupying positions of "nearness" to white elites who often "confide" in them "in ways [white elites] never would with each other."¹⁵ At the same time, Black women have tended to wield unusual clarity in their social observations because they lack both the consoling "illusions" of many white women "that their whiteness will negate female subordination" and the prospect for Black men to appeal "to manhood to neutralize the stigma of being Black."¹⁶ With neither racial nor gender privilege to obscure their social analysis, Collins contends, Black women generally hold epistemically empowered positions from which to formulate social critiques. The method Collins presents for Black women to develop these critiques aligns exactly with the process of subjective self-definition that Foucault ascribes to power—a process that depends on oppressed individuals' reexamination of their own lived experiences, the "ultimate destinations" of power in the oppressive systems they confront.¹⁷

10 Foucault, *Power/Knowledge*, 105.

11 Ibid., 96-97.

12 Collins, "Learning from the Outsider Within," S14.

13 Ibid., S17.

14 Foucault, *Power/Knowledge*, 96.

15 Collins, "Learning from the Outsider Within," S15.

16 Ibid., S19.

17 Foucault, *Power/Knowledge*, 96.

The production of Black feminist thought “by Black women” can thus be understood as an exertion of positive power.¹⁸ Through this practice, Black women can reclassify themselves as subjects rather than only objects in the dominant power-knowledge paradigm of American society, even without achieving social dominance themselves. This reclassification does not occur through the oppressed group’s replacement of negative stereotypes with positive ones—for instance, an exchange of “negative” images of Black women as misaligned with traditional American “femininity” with new images of Black women as “stereotypically ‘feminine.’”¹⁹ Like Foucault, Collins recognizes that when external actors define the social images of a particular group, “the function of the images is to dehumanize and control.”²⁰ Rather, instead of replacing one stereotypical image with another, the oppressed can reclassify themselves and resist external social control through their engagement in the original production of their own self-images. In the case of Collins’s study, when Black women define and analyze their own experiences as subjects, they disrupt the production of white supremacist patriarchal power-knowledge by “[rejecting] the taken-for-granted assumption that those in positions granting them the authority to describe and analyze reality”—in this case, white men—“are entitled to do so.”²¹ This process can produce new fields of knowledge regardless of the will or whim of the oppressor.²² Thus, unlike King’s strategy, Collins’s positive approach to empowerment does not depend on the oppressor’s cooperation.

III. Divergent Means, Divergent Ends

A comparison of Collins’s theory of power with King’s reveals a fundamental difference between the kind of justice that each theory implies. King’s negative conception of power as domination applies not only to the structures he criticizes but also to the activists he commends. After all, the “sit inners and demonstrators of Birmingham” and the broader Civil Rights Movement acted to disrupt and arouse the collective white American conscience in order to catalyze a scrupulous reaction of tolerance by the dominant racial group.²³ King’s strategy is coherent—it never fails to locate power in the same exclusionary spaces of white supremacy, changeable only by disruption of the dominator’s interest in exclusion. However, because the success or failure of King’s movement depends entirely on the social calculus of the dominator, King’s movement does not immediately challenge the

18 Collins, “Learning from the Outsider Within,” S16.

19 Ibid., S18.

20 Ibid., S17.

21 Ibid.

22 Foucault, *Discipline and Punish*, 27.

23 King, “Letter.”

subject-object relationship of the white supremacist power-knowledge paradigm he seeks to destroy. In contrast, realizations of Collins's positive conception of power do not depend on the behavior of the dominant social actor at all. For Collins, the act of self-definition empowers Black women regardless of white Americans' receptiveness to their endeavors. Collins's positive theory of power thus decouples empowerment of the oppressed from toleration by the oppressor, inviting separatist visions for racial or gender justice in opposition to King's integrationist goal.

IV. Conclusion

Power cannot be said to exist solely in its negative conception; positive power exists as a clearly alternate facet to the hierarchical domination that the term "power" often signifies. Intrinsic to all individuals, the positive conception resists slippage into tyrannical monopolizations of power by resisting power's commodification and the resultant potential for the coalescence of a "power majority," whether composed of a whole racial group or a single despot. Negative power accommodates this commodification, so negative power structures and the agents that seek to navigate them not only tolerate but depend on systems of domination. To avoid tyranny or oppression, the negative conception of power requires an equal distribution of the ability to constrain across all social subjects. Since redistribution of domination can only be achieved through the consent of the dominator, the negative conception thus demands continual exchange between the needs of the oppressed and the conscience of the oppressor—namely, integration. The positive conception imposes no such condition, enabling the oppressed to pursue ends entirely independent of their oppressors.

That being said, power in the positive sense does not necessarily achieve more desirable outcomes for its wielders or its resisters than its negative counterpart. The difference between the forms of justice implied by King's negative conception of power and Collins's positive conception, for example, does not suggest an inherent difference in the value of these forms of justice. King's dream of living in a nation where people are not "judged by the color of their skin but by the content of their character" suggests a normative motive of equality (for all people), not just a motive of empowerment (for Black Americans), and therefore cannot be evaluated for its moral worth in terms of power alone.²⁴ Power can be relational, not just dominating and exploitative, but power dynamics alone are not sufficient determinants of justice.

Rather, the distinction between theories of positive and negative power may

24 Martin Luther King, Jr., "I Have a Dream," in *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King, Jr.*, ed. James M. Washington (New York: Harper Collins, 1991), 219.

help agents of social change clarify their goals and optimize their tactics, especially agents who seek to resist negative power structures with positive tools. Positive conceptions of power enable oppressed groups to resist domination and claim the dignity of subjectivity even when they cannot dethrone their dominators in the near future. For instance, the exercise of positive power offers oppressed communities an immediate means of response to entrenched systems of racialized wealth inequality, even in the absence of a clear path to rectifying the material inequality at hand. Negative conceptions of power better serve activists seeking to identify and dismantle the material and legal instruments that perpetuate these systems, as these instruments often regulate commodity allocation at least as much as they regulate social norms. Ultimately, the ways in which resisters conceptualize the power structures they face inform not only the methods of resistance they adopt but also the ends they pursue.

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To What Extent Has ‘OnlyFans’ Changed the Role of Sex Work in the Sexual Contract?

Joe Killick

The sexual contract is a theoretical framework that explains how gender relations distribute power. It asserts that sex work is an institution that assists in constructing patriarchal relations, as the market satisfies the male demand for ready sexual access to a woman, normalising civil and sexual domination.¹ ‘OnlyFans’, a popular platform for sex work, has changed the industry both as a market and the surrounding culture, which could be seen to further the arguments made by critics of the sexual contract. Considering this development, the claim that hierarchy is truly inherent in sex work must be reassessed. This paper will demonstrate that whilst ‘OnlyFans’ helps to reduce the domination and stigma directed towards sex workers, it does not fundamentally change the role of sex work in how it assists gender hierarchy.

To develop and defend my thesis, the paper will be structured as follows. Section I introduces the sexual contract as an important framework in which the role of sex work in gender relations should be assessed. This section does not intend to describe the dynamics of other institutions or to enter a debate regarding prohibition. Rather, it draws upon the works of radical feminists to detail the interesting theory that claims sex work is an institution that assists gender hierarchy in normalising the sexual and social subordination of women.

Section II follows with a description of ‘OnlyFans’ in how it emerged, how it acquired its reputation and the key changes it has made within the industry. Of course, not all sex workers use ‘OnlyFans’ nor is it likely that other modes of sex work are likely to cease within the foreseeable future. However, it has provided new market conditions for sex work and has also had industry wide effects in de-stigmatising sex work.

Finally, Section III considers how the developments made by ‘OnlyFans’ have furthered critiques of the sexual contract, leading us to revisit them. This paper

¹ Carole Pateman, *The Sexual Contract* (Stanford, CA: Stanford University Press, 2018).

will show that the improved agency offered by ‘OnlyFans’ has uniquely helped to reduce the exploitation of sex workers and the stigma surrounding the industry. However, these developments fail to prevent the industry from supplementing gender hierarchy by protecting sexual dominance for men. First, the improved safety and reduced exploitation of sex workers only impacts the benefits and burdens produced by the immediate transaction. It is ineffective in deconstructing the male assumption of sexual dominance over a woman’s body which is readily available. Thus, it fails to deconstruct the assumed control in wider gender relations that are sustained partly by objectification. Beyond this, ‘OnlyFans’ has reduced the stigma of sex work in a way that has for long been practically inconceivable. However, this too fails to emancipate women from objectification and rather it entrenches assumed access to the female’s sexuality for men as a norm. Thus, the sexual contract continues to be a convincing and important framework in assessing the role of sex work in gender relations and stands up against criticism even with this development in the industry.

For clarity, in this essay the term ‘sex work’ refers to the sale of a sexually explicit act or content; this can be virtual, a depiction (like a nude magazine) or physical. A ‘sex worker’ is used to describe any person who sells this content.

I

The sexual contract is a term coined by Carole Pateman to describe the political and sexual power men have over women, perpetuated, and upheld by many institutions and norms. Pateman’s original framework has been a major influence in feminist studies, prompted as an opposition to social contract theory which presumes that society is fair and free of undue dominance when based on the principles of individual rights and consensual exchange.² Many scholars have since built into and extended the concept, asserting that reducing an analysis of power to consent produces great ignorance of the persisting domination derived from social relations, such as gender.³ Pateman’s analysis is one of the most important and prominent works for the context of this paper, but this paper furthers the framework by including relevant scholars. Though the concept is broad, this essay assesses the theory within the relevant context, describing how sex work assists in upholding gender hierarchy.

The sex worker is conventionally pictured as a woman, an idea replicated but not reliant on the fact that most sex workers are women. Prostitution and sex work has long been a common transaction in many societies, including the UK,

2 Pateman, 2018.

3 Sharon Thompson et al., “The Sexual Contract 30 Years on: A Conversation with Carole Pateman - Feminist Legal Studies,” SpringerLink (Springer Netherlands, March 20, 2018), <https://link.springer.com/article/10.1007/s10691-018-9368-1#citeas>.

that ensures men ready access to a woman's body. Different forms have been legal, illegal or criminalised at different points, though regardless it always adapts to exist.⁴ Today, it is estimated that there are over 72,000 sex workers in the UK, 88% of whom are women.⁵ 11% of men between the ages of 16-74 are believed to have paid for sex on at least one occasion.⁶ Technological innovation has made the sex industry particularly accessible, with mobile phones capable of streaming porn in high quality.⁷ 1 in 3 adults are estimated to have accessed 'Pornhub.co.uk' in September 2020 alone, a popular porn streaming site that receives 77% of its traffic from mobile phones.⁸

A common mistake in the discourse surrounding sex work is to assume the discussion takes place within the supply-side, typically questioning the morality of women who enter the industry and whether they should be able to. Critiques of institutionalised domination, such as the sexual contract, do not refute the idea that a woman may want to enter the market, but rather intend to highlight the entrenchment of a damaging social association through this norm. Focusing solely on the woman's choice allows the demand-side of the market to escape scrutiny, a side effectively made up of men demanding ready access to women's bodies in the marketplace.⁹ Exploring the nature of this demand-side exposes the domination hidden in the institution.

It is impossible to completely divide the person from the sex worker's body (her product) as the 'contractarian' would propose, for the transaction has particular inescapable consequences.¹⁰ Dr. Michael Kimmel argues that young men are often conditioned to equate their masculinity with the sexual domination of women. Young men often feel pressured to compete against each other in order to take or win sexual partners to demonstrate their manhood. This pressure is embedded through images in the media of male virginity being a symbol of weakness or unpopularity whilst the man who has sex with lots of women is praised. Thus, from an early age, women are objectified in the boy's pursuit to achieve manhood.¹¹

The purpose of sex work as an institution is to validate and satisfy masculini-

4 Pateman, 2018.

5 Belinda Brooks-Gordon et al., "Production, Income, and Expenditure in Commercial Sexual Activity as a Measure of GDP in the UK National Accounts," Birkbeck Institutional Research Online (Office for National Statistics, July 1, 2015), <https://eprints.bbk.ac.uk/id/eprint/17962/>.

6 "House of Commons Home Affairs Committee Prostitution Third Report of Session 2016-17," Home Affairs Committee, accessed April 19, 2023, <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/26/26.pdf>.

7 Gail Dines, *Pornland: How Porn Has Hijacked Our Sexuality* (Boston, MA: Beacon, 2010).

8 "Online Nation 2021 Report," June 9, 2021, https://www.ofcom.org.uk/__data/assets/pdf_file/0013/220414/online-nation-2021-report.pdf.

9 Pateman, 2018.

10 Ibid.

11 Michael S. Kimmel, *Guyland: The Perilous World Where Boys Become Men* (New York: Harper Perennial, 2018).

ty, by providing whatever ‘type’ or ‘style’ of woman and sex is desired. This heavily gendered transaction facilitates the use of a woman’s body for the man’s particular satisfaction, embedding it as an expectation.¹² In porn for example, production companies target a comprehensive range of male sexual desires, from parodies of Hollywood blockbusters all the way through to the popular genre of ‘gonzo’, where the woman is punished and demeaned in a range of painful sexual acts, and storylines resembling or literally portraying rape.¹³ Moreover, the sheer variety and numbers involved in sex work mean that if consumers have the relatively little money required, a man can always buy access to a woman’s body whether it be at a strip club, on a street corner or in a magazine.¹⁴ It is this expansiveness, of availability and accessibility that constantly operates as a reminder for men that they are owed such access, with boys accessing porn for the first time before their 12th birthday on average.¹⁵ This transaction does not require or seek to sexually satisfy the woman; sexuality is dominated by men during the practice of sex work to explore their own desires using the woman. This domination, practiced so young and so often, constructs a culture of assumed control, in which it is not a service being sold that is possibly separated from the person, for the very meaning of a woman’s sexuality becomes something to be owned. Thus, the male client streams, calls and pays the female worker in order to buy both her submission and her body which are inseparable ideas.¹⁶

Both men and women have social behaviour and arrangements associated with each. In its most simple understanding, consider the commonly observed tradition of Sunday afternoons among the working-class population in England. The wives and mothers dedicate themselves to the preparation of an impressive ‘roast’, while their husbands typically gather at worker’s social clubs to engage in debates, games and enjoy a few drinks. Although this practice may not be as familiar to younger generations, it was a commonplace occurrence for decades. This is a tradition steeped in the expectation of where each ‘belongs’, as the woman is expected to serve her husband in the domestic sphere. Now consider how such operates when an institution reinforces the idea that women are an object of male sexual pleasure. It demotes them to a lower civil standing as an ‘object’ and deems them not worthy of equal respect regarding the ‘sex act’.¹⁷ Institutional domination diffuses into gender relations outside of the transaction and causes all women, not just sex workers, to be exposed to subordination more widely with

12 Pateman, 2018.

13 Dines, 2010.

14 Pateman, 2018.

15 Dines, 2010.

16 Pateman, 2018.

17 Ibid.

disastrous consequences.¹⁸ Women often share the common experience of ‘cat-calling’, workplace harassment and so on; men feel ‘entitled’ to assert their sexual and social dominance in their interactions with women and are largely held unaccountable for such behaviour.¹⁹ Furthermore, male aggression validated through mediums such as ‘gonzo’ porn has been shown to exacerbate male aggression and sexual violence towards women outside the transaction.²⁰ Objectification has also been found to induce mental health disorders in women, conditioning them into servitude along with the persistent entitlement presented by men in the previous examples.²¹

This paper does not claim objectification, mental health disorders and rape would cease to exist without sex work. Nor does it seek to enter a debate regarding prohibition. Rather, the sexual contract shows how the resulting social climate of female subordination is assisted by the institution of sex work as it establishes the social norm that men should feel entitled to dominate women.²² Thus, this paper seeks to review if the differences made to the industry by ‘OnlyFans’ have changed how sex work operates in constructing gender hierarchy.

II

‘OnlyFans’ is an example of a ‘digital patronage’ platform. These are not exclusive to sex workers, but rather a marketplace where users pay a subscription fee to access other users’ restricted content, with a percentage of the fee extracted by ‘OnlyFans’.²³ Rather than discriminating in favour of one theme of content, ‘OnlyFans’ provides a space for ‘content creators’ to upload liberally, subject to copyright, data protection and minor moderation.

What is unique about ‘OnlyFans’, however, is the nature in which it earned its cultural reputation that other sites using a similar business model have not acquired despite sexualised content also being made available there. Created in 2016, ‘OnlyFans’ is relatively new compared to its predecessors, such as Patreon, which was founded in 2013, and older sites like YouTube and Twitch that have come to endorse the model of ‘digital patronage’.²⁴ However, the platform emerged as a

18 Jennifer Einspahr, “Structural Domination and Structural Freedom: A Feminist Perspective,” *Feminist Review* 94, no. 1 (2010): pp. 1-19, <https://doi.org/10.1057/fr.2009.40>.

19 Kate Manne, *Entitled: How Male Privilege Hurts Women* (London: Penguin Books, 2021).

20 Rita C. Seabrook, L. Monique Ward, and Soraya Giacardi, “Less than Human? Media Use, Objectification of Women, and Men’s Acceptance of Sexual Aggression.,” *Psychology of Violence* 9, no. 5 (2019): pp. 536-545, <https://doi.org/10.1037/vio0000198>.

21 Einspahr, 2010.

22 Pateman, 2018.

23 Lauren Rouse and Anastasia Salter, “Cosplay on Demand? Instagram, OnlyFans, and the Gendered Fantrepeneur.” *Social Media+ Society*, 2021, <https://journals.sagepub.com/doi/full/10.1177/20563051211042397>.

24 Ross Bonifacio and Donghee Yvette Wohn, “Digital Patronage Platforms,” *Conference Companion Publication of the 2020 on Computer Supported Cooperative Work and Social Computing*, 2020, pp. 221-226, <https://doi.org/10.1145/3406865.3418332>.

space for 'sexualised' and, crucially, sexually explicit content when the COVID-19 pandemic forced many workers to seek avenues of replacing lost income, as 'OnlyFans' saw a 75% increase in 'model' sign-ups in early April of 2020, many of whom had not previously engaged in sex work.²⁵ Since, 'OnlyFans' has grown in cultural relevance, featuring as lyrics in chart music and being understood as an opportunity for any woman to have a chance at replacing or improving their income through selling sexualised content in a safe and protected way.²⁶

Crucial to recognise here is how 'OnlyFans' differs from pre-existing modes of sex work. Broadly, these can be categorised as changes to the market and culture of sex work.

For the workers, first, the conditions of the market have changed. Digital patronage platforms do not 'employ' workers in the same way as the traditional firm, or even on a zero-hour basis. Instead, creators produce content as and when they wish.²⁷ More crucially, prostitution in its current largely unprofessional state has built a valid reputation of being a coercive industry difficult to leave once you have entered, with the profits often largely captured by the pimp.²⁸ The porn industry too is not immune to similar stories.²⁹ 'OnlyFans', however, takes away this dangerous barrier to exit; no debt is owed as the worker is in control of their content and profits, besides the 20% fee paid to the platform. Furthermore, the work is exposed to tighter regulations in uneasy areas, as 'OnlyFans' takes on the role of a social media platform. Creators can upload liberally with protection from pirating, underage access and a flagging system in order to protect users from the abuse of others.³⁰ The work itself has also changed through 'OnlyFans'. Without a producer or pimp, 'OnlyFans' has become a leading platform for a range of more creative sexual content, such as sexualised cosplay where the creator dresses up as a fictional character.³¹ That is not to say all pimps and producers restrict creativity or choice entirely, but the very structure of 'OnlyFans' facilitates expressions of creativity from the worker as they seek to capture a like-minded community.

The crucial innovation in the culture of the work that has taken place on 'OnlyFans' is how the 'customer' has been repackaged as a 'fan'.³² Some of the practical functions are similar to pre-existing 'live-cam' chats, where the worker builds a

25 Rouse and Salter, 2021.

26 Matilda Boseley, "Everyone and Their Mum Is on It': Onlyfans Booms in Popularity during the Pandemic," *The Guardian* (Guardian News and Media, December 22, 2020), <https://www.theguardian.com/technology/2020/dec/23/everyone-and-their-mum-is-on-it-onlyfans-boomed-in-popularity-during-the-pandemic>.

27 Bonifacio and Wohn, 2020.

28 Siddharth Kara, *Sex Trafficking* (Columbia University Press, 2017).

29 Dimes, 2010.

30 Boseley, 2020.

31 Rouse and Salter, 2021.

32 Paul Ryan, *Male Sex Work in the Digital Age: Curated Lives* (Cham: Springer International Publishing, 2019).

relationship with their fans with direct interactions over messages or a live stream. Unlike before, the lines are greatly blurred between the sexual nature of the work and the personality of the ‘fantrepreneur’.³³ The ‘community’, consisting of the sex worker and their ‘fans’, may interact in different contexts such as video games, fan-art and updates on their life outside the transaction, or even co-produce with creators that do not engage in sex work.³⁴ Again, the structure of the site facilitates this as, despite age restrictions, sexually explicit content is produced on the same platform as other non-sexual interests. This differs from previous modes of sex work where sexually explicit content has often been separated from the ‘softcore’ and mainstream and the relation ends as the transaction is complete.³⁵

The development of sex worker to ‘content creator’ has in turn helped to de-stigmatise sex work. As mentioned, not all sex workers use ‘OnlyFans’ and it is unlikely other forms of sex work will cease to exist anytime soon. However, with its proximity to other non-sexual content, the terms ‘sex worker’, ‘prostitute’, ‘porn star’ and so on have been replaced by ‘content creator’ on the platform. The language used to describe sex work, a powerful tool in sustaining the domination assisted by the industry and to shame the woman, has previously always debased the worker. Furthermore, the ‘sex act’ was before a very private transaction, with many men wishing to consume in secrecy.³⁶ Fetishising cartoon characters was once a shunned taboo suitable for a hidden corner of the internet; now it is labelled as a ‘community’ of ‘fans’ on these mainstream platforms.³⁷ In addition to the creativity and variety expressed on the site, A-list celebrities have come to use the platform, famously including Bella Thorne.³⁸ Celebrity nakedness was once scandalous, now it is a common by-product of fame. All this considered, the line between mainstream culture and sex work has been heavily blurred, reducing the stigma and isolation of sex work.

Therefore, ‘OnlyFans’ poses itself as an interesting development to sex work that challenges assumptions made by scholars who insist sex work will always be degrading and sustain gender power imbalances. Whilst more traditional forms of sex work continue to operate, such as prostitution, it has provided new conditions and choices for the sex worker and accelerated the tightening of sexually explicit material with the mainstream media. Some of these developments, particularly how it has helped to de-stigmatise sex work, would have been thought as impossible by some proponents of sexual contract theory. With this, it is important to

33 Ibid.

34 Rouse and Salter, 2021.

35 Pateman, 2018.

36 Ibid.

37 Rouse and Salter, 2021.

38 Sophie Sanchez, “The World’s Oldest Profession Gets a Makeover: Sex Work, OnlyFans, and Celebrity Participation.” *Women Leading Change: Case Studies on Women, Gender, and Feminism*, January 18, 2018, pp. 4-17.

revisit the framework to test it against these changes.

III

‘OnlyFans’ makes two distinctive challenges to the sexual contract that should invite scholars to revisit preceding critiques. First, the difference in conditions compared to other sex work reduces the domination and exploitation of sex workers. Second, the platform helps in normalising sex work, bringing it towards mainstream culture. This paper must now assess the extent to which these differences have changed the role of sex work in assisting gender hierarchy.

For many, including some feminists, sex work can simply resemble any other market and is not a problem, as ‘there is a free exchange between prostitute and customer’ no different from an employment contract.³⁹ This ‘contractarian’ line recognises the current flaws of exploitation and coercion surrounding sex work, often regarding trafficking and false promises, but insists the industry is redeemable through legalisation, professionalisation and reform to achieve ‘sound prostitution’. The argument follows that if this was to be achieved, where harms faced by the sex worker were not exceptional when compared to other industries, it would cease to be an ‘immoral’ and exploitative industry.⁴⁰ Despite doubts, this line of thought considers harm reduction as generally achievable, with preventative, educational and legal reform shown by research to be effective when practiced in tackling the likes of violence and STD transmission associated with the industry.⁴¹ For example, porn studios may ensure STD checks for all performers and actively oppose trafficking in the industry and so on. Or, perhaps, the government and authorities could more tightly regulate the industry, ensuring the possibility of consent to be withdrawn for example, dealing harshly with customers that abuse such a right.⁴² Even some socialists assess that with such, prostitution ceases to be exploitative in any way different to all wage-labour.⁴³

Yet, the sexual contract is indeed understood best when presuming a context of ‘sound prostitution’ where consent and the safety of the worker are protected. In this context considered, it falls short of challenging how sex work sustains gender hierarchy, as it only considers a division of ‘benefits and burdens’ between the sex

39 Pateman, 2018, 191.

40 Lars Ericsson, “Charges Against Prostitution: An Attempt at a Philosophical Assessment.” *Ethics* 90, no. 3 (1980): 335-366. *The University of Chicago Press Journals*, accessed April 20, 2023, <https://www.journals.uchicago.edu/doi/10.1086/292165>.

41 Michael Rekart, “Sex-Work Harm Reduction,” *The Lancet* (Elsevier, December 1, 2005), <https://www.sciencedirect.com/science/article/pii/S014067360567732X?via%3Dihub#aep-abstract-id3>.

42 Hallie Rose Liberto, “Normalizing Prostitution versus Normalizing the Alienability of Sexual Rights: A Response to Scott A. Anderson,” *Ethics* 120, no. 1 (October 2009): 138-145, <https://www.jstor.org/stable/10.1086/644624>.

43 Pateman, 2018.

worker and her customer.⁴⁴ The sexual contract instead describes the transaction as helping to sustain wider domination. Critiquing only coercion (into a contract) and exploitation (whilst in a contract) as the damaging features of markets overlooks the subordination that institutions enact.⁴⁵ Domination refers to control and the imbalance of power, even if it is asserted somewhat empathetically. Rather than a division of benefits and burdens, this framework of analysis seeks to expose the inequality in respect and control between men and women that conditions cultural norms and behaviour.⁴⁶ As described earlier, societal conditions can greatly determine behaviour and arrangements. The ‘empathy’ of the company or desire of government does not fundamentally challenge the power dynamic constructed in sex work. Men being ensured ready access to a woman in order to satisfy their sexual desires is sustained regardless of a possible reduction in harm to the sex worker.⁴⁷ Therefore, the culture of entitlement and domination is sustained.⁴⁸

An interesting development proposed by ‘OnlyFans’ is a challenge to the dynamic described by increasing levels of choice and expression for the worker. Structurally, the new conditions described heavily reduce the possibility of exploitation and empower the sex worker with a level of choice over the content created. Rather than relying on the chance that their producer or pimp is ‘empathetic’ and allows for some expression on screen or to set out an extensive list of desires for clients, it is a built-in feature of ‘OnlyFans’. The sex workers have no boss and they can refuse any clients. The platforms’ proximity to other modes of expression and leisure allows for the content produced to be as varied and creative as desired. With this, the platform can be seen to further Ericsson’s argument of ‘sound prostitution’ to challenge the radical feminist response. The development made by ‘OnlyFans’ shows how reform can challenge domination of the sex worker and not just the division of benefits and burdens.

However, this challenge is exclusive to the sex worker and does not do enough in deconstructing the wider gender hierarchy the industry assists. ‘OnlyFans’ has helped to reduce domination of the worker’s creativity and control, showing Ericsson’s conception to be more possible than previously thought. Though it does not question the male demand for ready sexual access to a woman’s body, as ‘OnlyFans’ continues to condition women into relinquishing their own sexual desires for sustenance.⁴⁹ Male customers are still able to act on their sex-right by purchasing a subscription to access the woman’s sexuality, who still fundamentally must capture

44 Carole Pateman, “Defending Prostitution: Charges Against Ericsson.” *Ethics* 93, no. 3 (1983):561-565, <http://www.jstor.org/stable/2380632>.

45 G.D.H. Cole, *Self-Government in Industry* (Routledge, 2017).

46 Einspahr, 2010.

47 Pateman, 1983.

48 Einspahr, 2010.

49 Einspahr, 2010.

the male desire, not her own, in the industry. The background conditions do not fundamentally alter the transaction as it is unrealistic to suggest the majority of men who watch porn, hire prostitutes or go to strip clubs do extensive background checks to ensure the woman involved had creative input. Still, the sex worker represents to them the sexuality of a woman that they are entitled to control. By continuing to satisfy this demand, 'OnlyFans' does not contribute to changing the role of sex work as described by the sexual contract despite the clearly improved conditions.

The more interesting challenge proposed by the rising prevalence of 'OnlyFans' is how the platform has changed the culture surrounding sex work, furthering its normalisation. This change in the industry provokes a revisit to the argument provided best by Martha Nussbaum, suggesting that sex work does not inherently sustain gender hierarchy and that the extraction of the stigma attached can achieve such a deconstruction.⁵⁰

Older debates surrounding the industry regarded the 'morality' and often the 'cleanliness' of the workers themselves, whilst more contemporary discussions take place with the aim of protecting the worker.⁵¹ However, persistent was the notion that the sex worker is 'exceptional' in how they are degraded by commodifying their 'sacred' sexuality.⁵² Other professions faced a similar challenge that has since been overcome. Opera is an example of this, as female opera singers were once thought to be lowering themselves by expressing passionate emotion for money, though this would appear nonsensical today as it is now a well-respected profession. Whether out of disgust or pity, prostitutes are regarded by both traditionalists and radical feminists as a degraded character. In this way, a woman's sexuality has always been presented as a problem and something that must be controlled. By this meaning being attached to a woman's sexuality in either way, Nussbaum argues, it does not help in deconstructing gender hierarchy but rather it shapes sex as an oppressive tool itself by denouncing the 'sexual' woman. Distinguishing between the sex worker and the rest of the labour force only further marginalises them. Normalising sex work does the opposite by extracting this stigma and freeing the woman to sell sex as a 'worker' and not a 'fallen woman'.⁵³ The argument thus concludes that if sex work was normalised it would just happen to be a job mostly done by women, like cleaning, and they would earn the respect of any other worker.⁵⁴ Therefore, sex work would not be seen as having a particularly important

50 Martha C. Nussbaum, "'Whether from Reason or Prejudice': Taking Money for Bodily Services," *Gender and Rights*, 2017, pp. 451-482, <https://doi.org/10.4324/9781351157728-20>.

51 Pateman, 2018.

52 Nussbaum, 2017.

53 Nussbaum, 2017.

54 Ibid.

role in sustaining gender hierarchy.

'OnlyFans' is then the culmination of a growing social permissiveness regarding sex work that at first appears to demonstrate Nussbaum's argument. The transition from 'sex worker' to 'content creator' has closed the gap between popular entertainment, social media and sexually explicit content. With celebrities providing the most obvious example, the term 'sex worker' has seemed to lose its meaning as women selling sexually explicit content often have other skills they demonstrate whilst the judgement of doing such would appear to have fewer consequences socially. Thus, it could be argued, no longer are they perceived as a 'whore' or victim, but rather a female worker simply selling a service like any other. By extending this argument, 'OnlyFans' could then be thought to have changed the role of sex work in the sexual contract by improving the perception of women who sell sex, as the taboo of sex itself is diluted. Following this logic, the developments of 'OnlyFans' would mean sex work no longer operates as a distinctly oppressive institution, as it is no different to the typical free exchange on the labour market.

This argument, even in the context of 'OnlyFans', falls short of convincing. The 'normalisation' argument fails to identify accurately how sex is distinct from other 'tasks' and conflates 'free love' and sex work too easily. As far as 'OnlyFans' has normalised sex work as an option for women to make money, it cannot demystify the role sex occupies in our society. First, consider bluntly how sex compares to other tasks one may do as a job. 'OnlyFans' shows how a sex worker can be perceived differently, as a female worker that expresses creativity or other talents. Extending this logically though, that sex can be normalised to the same extent as any other task done for money such as moving boxes, it becomes apparent quickly why sex is not 'sacred' but 'different'.⁵⁵ It is unimaginable to think of sex as just another task at work. A worker may have a list of tasks, not described in their contract, to help their boss manage their workload such as moving boxes and filing paperwork but 'hand relief' or sending sexually explicit photos is not a possible addition to this list as it is intuitively an infringement of privacy and simply offensive. To call back to the opera singer example, being asked to sing a song as a favour may appear weird, but certainly less uncomfortable or traumatising than being asked to have sex as a favour. This is not the same as shaming a woman for expressing their sexuality, but rather showing awareness that sexuality is a sensitive and distinct activity from others that can be asked as a mere favour or addition to the average workload.⁵⁶ When the worker goes to the market, they give up and exchange liberty, such as time, for a return. In the case of 'OnlyFans', which nor-

55 Scott A Anderson, "Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution," *Ethics* 112, no. 4 (2002): 748-780, <https://doi.org/10.1086/339672>.

56 Anderson, 2022.

malises and de-stigmatises sex work as an avenue to sustenance far greater than the industry has before, it threatens the exemption of sexual autonomy from this exchange. Again, this is not a debate regarding prohibition, but it is important to clarify that sex operates on a distinct level of abstraction compared to other goods and services offered in trade.

Consider further the gendered relation built within sex work after recognising the importance of sex in society. De-stigmatising a woman's sexual freedom and de-stigmatising sex work are two distinct things. 'Free love' is the act of exploring sexual desires, usually with others, unbound by societal judgement. Sex work is typically the purchasing of access to a woman's body for a man's sexual satisfaction. Regardless of the individual woman's relationship with sex, the new 'liberalised' attitude towards sex work is not an empowering development for all women but rather a new, expansive avenue for men to access a woman's body as their dominance of a wife, or partner, is outlawed and socially disgraced. 'OnlyFans' invites all women to the market of satisfying a man's desires; it is merely an adaptation to sustain the dominance of male sex-right. The 'OnlyFans' content creator, a role undertaken more casually by women in this age, may not be shun or disgraced, but their sexuality and the idea of their person is still owned on the phones and laptops of men. A man purchasing access to a woman through an avenue once disgraced or hidden is being normalised, not a woman's sexual freedom.⁵⁷ Sex workers may enjoy the new 'freedoms' found on 'OnlyFans'. However, this does not contest how entrenching access to a woman's body as an expectation for men influences gender relations more widely, given its profound effects.⁵⁸

Sex and sexuality, to reiterate, is a distinct idea with particular consequences. Whilst other work too is gendered, builders are 'strong' men and cleaners are 'motherly' women, the threat of sexual autonomy has many specific implications.⁵⁹ It helps to further establish the norm that men are entitled to take such from women, as they are more susceptible than ever to a socially acceptable offer. Thus, the normalisation exacerbated by 'OnlyFans' sees men also escape judgement in partaking in the trade, encouraging their entitlement to the 'commodity'. 'OnlyFans' does not change the role of sex work as described in the sexual contract, as sex work persists to assist the domination of the particularly sensitive and powerful relation of sex. It has merely taken on a new face to adapt to the increased freedom of the 'wife' in order to ensure the subordination of women.

Conclusion

57 Pateman, 2018.

58 Einspahr, 2010.

59 Pateman, 2018.

This paper has assessed that the developments made by ‘OnlyFans’ are ineffective in challenging how sex work assists gender hierarchy. Sexual contract theory demonstrates how different institutions shape inequitable power dynamics between men and women. Sex work is one of these institutions, as it constructs an assumption that men are entitled to the sexuality of women. ‘OnlyFans’ has made several interesting changes to the industry which proposes a challenge to sexual contract theory. The platform, first, has changed the market by introducing new roles and protections for the worker, most interestingly in the designated control over the content produced. ‘OnlyFans’ has also furthered a growing normalisation of sex work, closing the gap between normal work, mainstream culture and the industry. Whilst the new market conditions and lessened stigma can be regarded as favourable for the sex worker physically, materially and perhaps even spiritually, ‘OnlyFans’ continues to assist gender hierarchy. The improved agency of sex workers only serves to redistribute the benefits and burdens produced by the immediate transaction. The safety and choice ‘OnlyFans’ provides fail to deconstruct the impact it has in sustaining the male assumption of access to a woman’s body and the subsequent harmful impacts. Furthermore, ‘OnlyFans’ has destigmatised sex work radically, however this too fails to emancipate women from objectification. Instead, it entrenches assumed access to the female’s sexuality for men as it becomes normal for the sexuality of a larger number of women to be purchased and used according to the man’s will. Thus, the sexual contract proves its strength as an important framework in light of these developments. Sex work assists the domination of women by fostering objectification and male entitlement. This persists to be the case regardless of the safety of the transaction, or the stigma attached to it.

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The Happiness of Nations: Analyzing Happiness in Danish and American Societies

Matthew Sher

Throughout the world, nations aim to maximize well-being. In its endeavor to quantify well-being, economics often mistakenly equates well-being and Gross Domestic Product (GDP). Per contra, GDP is not a welfare metric. GDP is a standardized output metric. Although useful, an increasing abundance of social science research has provided extensive evidence that traditional economic measures like GDP have a unidimensional approach to people's well-being. In lieu of GDP, other studies conducted in the social sciences – ranging from psychology to economics – indicate happiness as a holistic alternative that directly measures life satisfaction.

The problem with happiness is that it is intangible for economists to quantify and policymakers to enact. For example, current literature on happiness struggles to understand the relationship between happiness and wealth as discussed in “Easterlin’s Paradox.” Easterlin’s Paradox refers to a paradox of a positive wealth-happiness correlation at a fixed moment in time, but a stagnant or negative wealth-happiness correlation across countries and over time. Donning the motto “money doesn’t buy happiness,” it challenges the traditional economic assumption that higher income leads to higher well-being. Given the intangible nature of happiness, social science dreams of an elusive desire – systemized happiness. Such lofty ambitions demand extensive comprehension of the mechanics of human happiness and its systematization into societal structures.

To bridge the gap, we present a need-based structure to understand what is necessary for happiness; explore current policies for the systemization of happiness; to consider what additional information may be relevant indicators of social progress. First, Maslow’s Hierarchy dissects the multifaceted nature of happiness into two stages: meeting materialistic needs

and meeting self-actualization needs. Second, we compare how the United States and Denmark, a leader in both happiness and economic success, fulfill each component. By doing so, the end goal is to identify what factors contribute to happiness and structurally optimize for such factors in systems of government.

Happiness: Structured by Hierarchy

Happiness is best relegated to the field of psychology which examines emotions, behaviors, and subjective experiences. In 2013, Martin Seligman founded positive psychology to explain the mental processes underlying happiness with evidence-based interventions to promote happiness in individuals and society as a whole. Most relevant to our inquiry, positive psychology provides a structured definition of happiness that is observable over time. Seligman defines happiness as “the experience of joy, contentment, or positive well-being, combined with a sense that one’s life is good, meaningful, and worthwhile.” Cultivating sustainable happiness includes short-term euphoria and long-term satisfaction. Individuals are encouraged to have positive emotions, engage in absorbing activities, genuine relationships, meaning beyond themselves, and accomplishments (PERMA). Notably, Seligman’s advice is a general recommendation not tailored to guarantee happiness for each person because of individual preference. To each his own, people with different desires or cultural backgrounds have different perceptions of what a fulfilling life means. No single formula makes everyone happy. For example, Westerners value, promote, and experience high arousal emotions more than low arousal emotions, whereas the vice versa is true for Easterners. To systematize individual happiness, Abraham Maslow’s hierarchy is introduced to structure Seligman’s PERMA suggestions in Western societies.

Maslow proposes a hierarchy of needs split between deficiency needs and growth needs based on individual circumstances. Deficiency needs are primary lower-level needs that must first be satisfied; physiological and safety needs such as food and shelter are prerequisites for higher-level needs. A failure to satisfy deficiency needs makes a person deficient in their full capacity to live; without food one experiences malnutrition; without shelter one is threatened by extreme weather conditions. Once all deficiency needs are met, a foundation of survival and security enables individuals to find deeper meanings in life that generate long-term life satisfaction. These higher-level needs are growth needs: cognitive, aesthetic, and self-actualization need components beyond survival. Examples may include pursuing creative endeavors and engaging in meaningful work. Altogether, achieving sustainable happiness over time is a two-step process of meeting deficiency needs and addressing growth needs. In policy, a nation’s success in promoting happiness is judged by its ability to fulfill citizens’ deficiency needs and provide

them with the capacity to yearn for and achieve growth needs as well.

Meeting Deficiency Needs: A Comparison of the U.S. and Denmark

Meeting nation-wide deficiency needs refers to a nation's capability to both generate and redistribute wealth, as both factors are essential in addressing poverty and providing basic necessities. The majority of lower-level needs in Maslow's hierarchy, such as physiological and safety needs, are basic and quantifiable, which makes them easier to address in an economic context. In contrast, higher level needs such as love and belonging, esteem, and self-actualization needs are more subjective and less easily quantifiable. Hence, deficiency needs are best relegated to the field of economics. We move from a psychological definition of happiness into an economic analysis of the Enlightenment, which introduces the modern novel perspective on wealth creation. This period saw the emergence of new governance, economics, and society that paved the way for economic growth and prosperity. Formal and informal institutions transformed their belief systems which continue to shape how wealth is created and distributed today. By understanding these historical developments in formal and informal sectors, we can compare Danish and American policies in the context of meeting deficiency needs.

Informal Institutions: The Enlightenment

In informal institutions, specifically cultural identities, a prime removal of discord in the population was a prioritization of financial gain over religious animosity. Before the mid-1700s, religious animosity and cronyism were the law of the land. For perspective, historical economists Douglass North, John Wallis, and Barry Weingast say the most natural way for states to function, "both in history and many parts of the world today, is for elites to agree not to plunder and kill each other, in exchange for which they are awarded a fief, franchise, charter, monopoly, turf, or patronage network." Societies were feudal, agrarian, and hierarchical where social quotas were inescapable and conformity was a central virtue. The informal institutions utilized religiopolitical interests to legitimize inherited political powers or economic wealth. Thus, the norm was an adherence to religious intolerance persecuting deviations from conformity. Majority religious groups clashed with minority religious groups characterizing an era of religious animosity. If individuals were not concerned with restricting others, they were concerned with their salvation in this secluded religious perspective.

From the mid-1700s, the Enlightenment represented a breaking of conformity towards a culture of commerce and self-reliance. Worldviews shifted from solely religious concerns to wider scopes for human happiness and well-being. The Enlightenment philosophers — John Locke, Jean-Jacques Rousseau, and Immanuel Kant — advocated for individual rights, freedom, and happiness as new cultural

values for informal institutions. The Enlightenment rewrote the ethical system to prioritize a new *summum bonum*, the highest good, within 18th-century Europe's worldview: "How can I be saved?" to "How can I be happy?" Commerce was central to this shift in informal culture from inward introspection to an outward initiative in the name of happiness; morality became no longer defined by self-centered salvation. In other words, religion supported commerce because it benefitted one another. Rather than bicker over religious divisions or shame merchants for moral superiority, commerce united all. In effect, 18th-century culture snipped the thorns of religious animosity, allowing "the Jew, the Mahometan, and the Christian to transact together as tho' they'd all professed the same religion." Thus, informal institutions underwent a transvaluation of self-interest as a virtue, not a vice. Reasons and energies that went into mutual harm transposed into a mutual benefit. Translated to policy, it stands to reason that nations that embody a culture of collaboration and mutual benefit will be more successful on the happiness scale than those that do not. Accordingly, informal institutions are to be compared in Danish and American societies.

Modern Informal Institutions: Promoters or Underminers of Trust

Today, nations observe the benefits of cooperation for financial gain, and yet, the most successful nations are those that have culturally removed other areas of discord. In Denmark, the nation's culture of unity instills a sense of general societal trust, which is the ability to trust people you have never met before. People are assumed to be honest and reliable unless they somehow show that they are not. On a stroll around Copenhagen, one walks past cafes where parents leave children sleeping outside in baby prams, lost wallets are returned with money inside, and a word is a word when doing business. To an American, these occurrences are strange if not criminal. The reason is that American culture promotes a high level of distrust, with 79% of Americans saying they have little faith in one another, especially between different racial groups, ethnicities, geographic regions, and income classes. This distrust has been largely presented by America's history with mass media. American journalism is rife with instances of Fox News-type bias, from the Sedition Acts of our Founders' time to the sensationalist yellow journalism of the late 19th century to the antipodal media coverage of the 2020 election. The problem has widened over time from 1997 to 2016 with trust in mass media decreasing from 53 percent to 32 percent. When news is perceived as biased, it erodes trust in the credibility and integrity of the news source, deepens societal divides, and leads to skepticism. In effect, comparative analyses show that the American media environment is much more polarized than that of other Western democracies. American culture appears to be a pervasive culture of distrust, further fueling the flames of cultural discord in stark contrast to Danish culture.

Formal Institutions: The Enlightenment

Returning to the Enlightenment, the impact of formal institutions pair with changes in culture. Open economies gave the cultural trend of commercial cooperation a means of success with tradable goods and self-regulation. As informal institutions removed cultural discord, formal institutions removed systematic discord. The old economic system of mercantilism was ousted by free markets, whose merits are laid out by Adam Smith in his magnum opus, *The Wealth of Nations*. Initially, 16th to 18th-century nations followed mercantilism, a measure of economic prosperity based on the hoarding of gold and silver. A nation's wealth and power were measured in precious metals accumulated through international trade. A zero-sum system arises when nations must export more than they import to gain metals at the expense of other nations. One nation must lose for another to win. To stop gold from leaving the country, governments used protectionism by subsidizing exports and restricting imports through trade tariffs. Ergo, mercantilism is a zero-sum game of winners and losers, neither willing to cooperate.

In free markets, wealth is no longer a limited supply of metals, but rather a changing supply created from labor specialization and trade. Trade makes wealth growable rather than stagnant. The economy becomes a positive-sum or a win-win game where all parties involved can potentially achieve favorable outcomes. More valuable than gold or silver, only labor can produce goods and services that are tradable. If we “consider what a variety of labor is employed about each (good or service), we shall be sensible that without the assistance and cooperation of many thousand, the very meanest person in a civilized country could not be provided.” Tradable goods create value because a division of labor increases productivity; a marketplace enables workers to specialize. Governments are incentivised to break hierarchies for collaboration and wealth. Furthermore, the costs of regulation and government intervention are lower with self-regulating self-interests. Adam Smith's “invisible hand” is the societal benefit of self-interest that optimizes maximal gain without set quotas. On the supply side, long-term self-interest prevents firms from abusing customers by charging extreme prices or offering low-quality products. On the demand side, customers invest in stable and profitable firms. Therefore, free markets are led by alliances and regulated by the “invisible hand” to create maximum value equilibria in contrast to mercantilism's fixed wealth and poverty.

In relation to meeting deficiency needs, free markets have been powerful reducers of poverty. Consider this phenomenon in different countries with time fixed in the 19th century, and time variable for the average country since then. Across countries in the Industrial Revolution, the English were the first to adopt free markets to the critique of the French as Napoleon viewed England as “a nation of

shopkeepers.” In comparison, “Britons earned 83 percent more than Frenchmen and enjoyed a third more calories, and we all know what happened at Waterloo.” Over time, population growth and the consequent diminishing of returns overwhelmed the influx of new ideas necessary for the growth of wealth. This meant the wage in unchanging homeostatic equilibrium was \$3 a day, but jumping to 2011, the inflation-corrected U.S. resident consumes \$132 a day, sixty-six times more housing, food, education, and furniture than in 1620—a betterment of 6,500 percent. Over time, trade has created international wealth, diminished global poverty, and increasingly met material sufficiencies. Comparing today’s policies to meet deficiency needs, we look at the policies of formal institutions and their alignment with free markets in Denmark and America.

Modern Formal Institutions: Free Markets and Redistribution

Applied to Denmark and the U.S., both countries are wealthy through their highly free-market positions on several measures. While both countries embrace self-interest in free markets, they differ in their choices to meet deficiency needs. As the sociologist David Brady writes, “Societies make collective choices about how to divide their resources. These choices are acted upon in the organizations and states that govern the societies, and then become institutionalized through the welfare states.” Where poverty is low, equality has been institutionalized. Where poverty is widespread, as most visibly demonstrated by the United States, there has been a failure to institutionalize equality. However, in countries like the United States, where poverty is widespread and the welfare state less developed, there has been a failure to institutionalize equality despite being similarly wealthy and free-market oriented as Denmark. Denmark’s comprehensive social welfare system offers unemployment, disability, old-age, and survivorship benefits at virtually no charge to all Danes. The emphasis on redistribution lies in the Danish constitution: “Any person unable to support himself or his dependents shall, where no other person is responsible for his or their maintenance, be entitled to receive public assistance.” Denmark invests a larger share of its GDP into social welfare programs with public social spending as a percentage of GDP at 28.3% in 2019, compared to the United States at 19.1%. Conclusively, both nations are wealthy due to free markets but Denmark meets basic needs more effectively due to an active choice for wealth redistribution.

However, Denmark’s economic system has the caveats of a social democratic system. The benefits include extensive social welfare programs and strong labor protections at the cost of high progressive taxation. The top 10% of income earners in Denmark paid an average of 47.9% of their income in taxes, while the bottom 10% paid only 24.8% in 2018. In the United States, the top 10% paid 34.2% of

their income in taxes, while the bottom 10% paid 28.8%. The United States with a long-standing tradition of individualism, free-market capitalism, and laissez-faire government intervention in the economy may conflict with redistributive economic practices.

Meeting Growth Needs: A Comparison of the U.S. and Denmark

Growth needs for happiness are different from material needs — quantity matters less than quality. After escaping poverty through basic needs, the quantitative checklist gives way to the qualitative experience. Martin Seligman's positive psychology finds that long-term happiness is not merely having new experiences, it's continually experiencing what you already have in new and different ways. Three dimensions of experiencing life compound towards increasing life satisfaction: the Pleasant Life, the Good Life, and the Meaningful Life. In the sum of all three, the Full Life is overall happiness through relishing basic pleasures and finding meaning in one's work, for the service of others. These definitions underscore the difference between Danish and American formal and informal institutions. Danish culture openly discusses happiness with the vocabulary to distinguish between its short and long forms. Similarly, Danish government systems grant their citizens the financial capabilities to pursue meaningful and happy lives by supporting their major life decisions.

In the Pleasant Life, we savor and appreciate short-lived basic pleasures including companionship, the natural environment, and our bodily needs. However, the impasse of this stage is the "hedonic treadmill" — the psychological habituation of enjoyment and a genetic predisposition determining 35-50% of our ability to experience pleasure.¹ In other words, people repeatedly return to their baseline level of happiness, regardless of what happens to them. From an evolutionary standpoint, a gradual decline in our emotional reactions allows us to distinguish between new and important stimuli from old and less significant ones that should fade into the background. Unfortunately for policy, institutions have a limited capacity to change one's ability to experience pleasures because increases in pleasure inevitably fall back to natural levels determined by birth.

In deeper dimensions of happiness, we can go on to experience the Good Life, which is achieved by discovering our unique virtues and strengths and employing them creatively to enhance our lives. In finding value within ourselves, modern theories of self-esteem dictate that life can only be genuinely satisfying if we discover value within ourselves. Expanding our sense of purpose in a Mean-

¹ Dfarhud D, Malmir M, Khanahmadi M. Happiness & Health: The Biological Factors- Systematic Review Article. *Iran J Public Health*. 2014 Nov;43(11):1468-77. PMID: 26060713; PMCID: PMC4449495.

ingful Life, the greatest sense of fulfillment is employing our unique strengths for a purpose greater than ourselves. Together, happiness is the full life, basic pleasures, and the value we find in our strengths, used in serving others. Hence, a nation's happiness is its ability to meet growth needs by providing pleasures and meaning in its institutions.

Informal Institutions: Growth Needs

Informal institutions fulfill growth needs via taught perceptions of happiness. Cultural surroundings inherently shape how citizens approach basic pleasures or pursue meaning. To study these inherent ideas, we can use language – what words and phrases they unconsciously choose and combine – to better understand ourselves and why we behave the way that we do. In Denmark, Danes incorporate vocabulary outside the English lexicon to emphasize pleasure and meaning. For example, Danes relish the common pleasures of “hygge”, the art of creating a nice atmosphere. It is as defining a feature of Danish cultural identity as freedom is to Americans, thoroughness to Germans, and the stiff upper lip to the British, *hygge* is to Danes. Restaurants store blankets, dinners are circles of candle-lit faces, and the toughest leather-clad biker will recommend a bar based on its ‘hygge’ factor. It serves as “the antidote to the cold winter, the rainy days, and the duvet of darkness.” Hygge is the element in Danish daily lives where people experience comfort, pleasure, and togetherness. Over time, that accumulates to a higher sense of life satisfaction. Secondly, Denmark distinguishes between sustainable and unsustainable pleasures; “lykke” is elusive happiness that cannot be chased; “glad” is a joyful everyday mindset despite nothing being extraordinarily special. By separating everyday pleasures from rare, once-in-a-lifetime pleasures, citizens feel they can choose “to be glad at times rather than sort of trying to chase happiness because that seems like it’s never going to happen that way.” Conversely, Americans associate happiness with the word feeling, when feelings are not happiness but evidence of happiness; “that’s like saying your Thanksgiving dinner is the *smell* of the turkey.” It misses the causes of happiness that “hygge” or “glad” attempts to convey. The effect of having a distinction in everyday dialogue is a constant reminder of how to approach happiness. Danish culture opens the acumen of happiness with an open dialogue of pleasure and meaning, for the art of creating cozy comforts is much different from a fleeting feeling of elusive happiness.

Formal Institutions: Growth Needs

The specific impacts of formal institutions on happiness can be measured on individual and collective scales, respectively PERMA and the World Happiness Report. Using an example of social welfare — Christina’s social security — we can understand how government support increases both personal and societal compo-

nents of happiness. For individuals, the five elements of PERMA (Seligman, 2012) are positive emotion, engagement, relationships, meaning, and accomplishments. Christina's ability to transfer into another field directly increased positive emotions, engagement, meaning, and accomplishments; Christina chose a job that allows her to explore, savor, and artistically integrate positive emotions into daily life (Tugade & Fredrickson, 2004). The meaning of her work increased as she has the personal freedom to choose her work; the increased engagement in her flow, the loss of self-consciousness and complete absorption in an activity found in a combination of challenge and skill (Csikszentmihalyi & LeFevre, 1989). Altogether, her dedication and choice into being an artist increase her chances of accomplishment in life. A formal institution granted Christina the financial leeway to live her happiest life as an individual. Generalized over the entire population, Denmark's laws increase collective happiness in terms of income, generosity, freedom, and trust as measured by the World Happiness Report. The freedom to choose increases individual happiness; trust increases "as Nordic society cultivates that trust by providing basic services for everyone"¹¹; life satisfaction increases generosity to others; income increases with Smith's marketplace enabling specialization. This chain of events shows the expansive overlaps between individual and collective happiness, and between each component as well. Denmark's formal institutions have not targeted each specific component and yet score highly due to a holistic social welfare program.

Meeting the growth needs that define happiness is both an informal and a formal project. Informally, cultures should aim for the perceptibility of happiness with an open dialogue of pleasure and meaning. Formally, institutions should provide holistic social welfare programs on the grounds of emotional and economic well-being. Jointly, the golden standard of Danish citizens paves the path for future societies. Individuals are taught by culture how to relish basic pleasures and find meaning in their work and the service of others, with social welfare providing the financial means for a happier, wealthier society.

Conclusion

Attaining happiness in society is a chronological two-step process: meeting deficiencies, and then meeting growth needs. Meeting deficiencies entails material necessities, whereas growth needs are means of experiencing pleasure and finding meaningful work, for oneself and others. (3 dimensions of happiness, Seligman) Analyzing Denmark's success delves into both junctions of obtaining happiness, and the formal and informal systems that perpetuate it.

Initially, the history of meeting deficiency needs or decreasing poverty points to an informal removal of discord by putting mutual financial gain over religious animosity and a formal shift from mercantilism to free-market economies. Both

the U.S. and Denmark embrace free-market structures and culturally tout self-interest. However, Denmark's culture removes more discord from their society, albeit somewhat through racial homogeneity; collectivism and social trust thrive, proven by examples of Scandinavian sauna culture and low levels of theft. Conversely, American culture promotes discord through a polarizing history of commercial news. Allowing more Americans to meet material needs means society cannot be antagonistic towards their fractions, as attention and resources are drawn away from their sustenance.

Meeting growth needs or experiencing pleasure and meaning comes from an informal discussion of long-lasting happiness and a formal financial support system to grant flexibility to its workers. Culturally, Denmark successfully incorporates knowledge of cutting-edge happiness reports in their definitions of pleasures ("Hygge") and approaches to happiness ("Lykke" and "glad"). Legally, their social welfare grants personal freedom to make major life choices and supports unemployment, childcare, healthcare, and education. With the example of Christina Kørhørsen, the value of social welfare is understood in the context of individual (PERMA) and collective (World Happiness Report) happiness assessments. Thus, meeting growth needs is the knowledge of happiness and the capability of pursuing happiness. With regard to the U.S., American culture ought to incorporate more emotional education to understand the workings of our psyche (Alain de Botton), and national social welfare should be more supportive of all citizens.

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China's Real Estate Debts and the "Three Red Lines" for Real Estate Development Debt Financing

Kelly Zhang

Introduction

In 2019, the Goldman Sachs Group estimated that Chinese homes and existing inventory collectively surpassed 52 trillion USD in value – twice the size of the United States' residential real estate market.¹ Compared to 1979, the country's housing market has ballooned as a result of rapid urbanization throughout the 1990s. Housing and land reforms toward privatization paved the way for housing speculation and a construction boom which contributed to double-digit growth rates in real home prices and land prices.² While China's housing industry seemed poised to continue its robust expansion, a combination of mismatched real estate development and demand, overleveraged property developers, and insufficient financial regulations in real estate have thrown the industry into turmoil. This paper reviews the progression of China's housing market and segues into an assessment of the current chaos characterizing the industry in the aftermath of the Three Red Lines policy initiated in late 2020.³

Historical Context: Growth in the Housing Industry as an Economic Goal

China's population size and distribution have undergone significant shifts over the last half-century.⁴ Until 1994, remnants of the Maoist centrally planned economy assigned workers to company-owned housing and charged rental fees far below the true rental value: there was no real estate market.⁵ In 1994,

1 Xie, Stella Yifan, and Mike Bird. "The \$52 Trillion Bubble: China Grapples With Epic Property Boom." *The Wall Street Journal*, 17 July 2020, <https://www.wsj.com/articles/china-property-real-estate-boom-covid-pandemic-bubble-11594908517>.

2 Glaeser, Edward, et al. "A Real Estate Boom with Chinese Characteristics." *Journal of Economic Perspectives*, vol. 31, no. 1, Feb. 2017, pp. 93–116. *DOI.org (Crossref)*, <https://doi.org/10.1257/jep.31.1.93>.

3 Its date of implementation is marked with a red vertical dotted line in plots in Appendix III.

4 See Appendix I.

5 Kroeber, Arthur R. *China's Economy: What Everyone Needs to Know*. Second edition, Oxford University Press, 2020.

however, Premier Zhu Rongji's state-owned enterprise (SOE) reform program permitted employees living in state-owned apartment units to purchase them at below-market prices.⁶ These transactions amounted to privatizing the housing industry and were designed to transfer wealth to state employees, spur residential property development, and incentivize market-driven home prices.⁷ Additional incentives to purchase homes followed, setting the foundation for economic growth targets relying on real estate investments and construction.

In the mid-1990s, banks began offering 20-year mortgages to help consumers purchase homes that they could not afford with their savings alone.⁸ Then, in 1998, the central bank (People's Bank of China, abbreviated PBC, or 中国人民银行) began formalizing the process for obtaining residential mortgages and lowered already subsidized interest rates 5 times between 1998 and 2002.⁹ The PBC also widened the scope of real estate loans and allowed developers to presell homes before they were finished or before construction even commenced, laying the groundwork for a home construction boom and encouraging homeowner investment in the housing market.^{10 11}

To capitalize on the housing industry's potential in driving the Chinese economy, China's Five-Year Plan for 2001 to 2005, the tenth of its kind, designated urbanization as the main driver of demand and economic growth.¹² For nearly two decades, the property sector soared due to a steadily expanding urban population and growing economy. With few investment opportunities, a cultural custom of early marriage preparation, and average annual economic growth rates of 10% over the last 40 years,¹³ households gradually learned to treat homes as investments, seeking units they believed would appreciate.¹⁴ Similarly, real estate developers sought to purchase land in locations they believed would fetch high home prices, and local governments were eager to profit from land sales. These anticipations naturally directed interest toward major cities, where steady economic development was most likely, and high-end housing units, the new goal for the expanding middle class.

Investment in China's real estate industry significantly boosted the country's economic growth. According to the Reserve Bank of Australia's estimates,

6 Amstad, Marlene, et al., editors. *The Handbook of China's Financial System*.

7 Kroeber, Arthur R. *China's Economy: What Everyone Needs to Know*. Second edition, Oxford University Press, 2020.

8 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?" *YouTube*, uploaded by CNA Insider, 26 September 2022, <https://www.youtube.com/watch?v=jNRtOEujfQc>.

9 Amstad, Marlene, et al., editors. *The Handbook of China's Financial System*.

10 Ibid.

11 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?"

12 Amstad, Marlene, et al., editors. *The Handbook of China's Financial System*.

13 See Figure 5.

14 Amstad, Marlene, et al., editors. *The Handbook of China's Financial System*.

between 2003 and 2017, Chinese investment in its real estate sector contributed “2 percentage points to GDP growth” or more than “one-fifth of the average increase in real GDP.”¹⁵ To maximize this young and, thus far, flourishing, industry, the Chinese government instituted little legal oversight. It reasoned that the best way to balance growth and regulation in unfamiliar circumstances is to make progressive changes once issues necessitating policy interference arose. The risks posed by the industry’s extreme growth, fueled by speculative land and housing purchases and incessant construction, became prominent when real estate developers continued to borrow credit without bounds. In many cases, developers took out new loans to pay off old loans and used homebuyers’ mortgage payments and prepayments from one construction project to fund others. Such bad practices put the massive industry and national economy in great peril because the Chinese financial-legal system is relatively nascent and the government was unprepared to alleviate developers’ failing financial health. In such a situation, the central government resorted to experimenting with different policies targeting different groups (e.g. homebuyers versus developers) and ultimately settled on a set of strict borrowing requirements for real estate developers commonly known as the Three Red Lines.

Problem: Overspeculation in the Housing Market

Low mortgage rates, easy loans and land purchases for developers, male homeownership as a prerequisite for marriage, and rampant optimism in the value of homes brewed a highly speculative housing market. A large share of homebuyers purchased homes for investment rather than living. As a result, China’s house prices, total home loan balance, and developers’ debt balance ballooned starting in the mid-2000s. Meanwhile, construction has targeted high-value rather than affordable housing projects. Families who missed the opportunity to purchase discounted state-owned apartment units in 1994 or units before home prices soared missed out on the biggest wealth transfer in modern history.¹⁶ In some cases, these same people lost the chance to afford a home and get involved in one of the main sources of household wealth in modern China.

Perhaps more concerning than the increasing unaffordability of houses in China is the rationale underpinning the pattern. Between 2010 and 2023, average house prices increased by more than 6,500 yuan (approximately 1,000 dollars) per square meter across all city tiers and more than doubled in first-tier cities from roughly 20,000 to 43,000 yuan per square meter.¹⁷ In addition, the

15 Amstad, Marlene, et al., editors. *The Handbook of China’s Financial System*.

16 Ibid.

17 See Figure 2.

ratio of urban house prices to median household income has steadily risen since 2015 and currently ranges from a factor of 10 to 25 times household income, depending on a city's tier level,¹⁸ which is significantly higher than the recommended range of 3 to 5.¹⁹ This particular inflation in residential property values is dangerous because it is not supported by a proportional increase in fundamental value. Since real estate investments constitute more than 60% of Chinese families' collective wealth, the population's heavy investments in real estate are unstable.²⁰ Wang and Zhang found that the usual determinants of house prices, such as land supply, construction costs, and urban hukou costs, do not explain China's rising house prices.²¹ Therefore, households are severely overpaying for housing units, but the average Chinese house buyer does not know that home prices are overinflated. They believe that house prices will continue to rise as they always have, so they are eager to secure a unit while they can still afford one. For two decades, this positive feedback loop between rising home prices and expectations of rising home prices fed China's real estate and economic growth. Unknown to consumers, though, was that much of developers' construction projects is financed by 13 trillion yuan or 1.8 trillion dollars of debt that they are unable to repay.²²

China's mounting mortgage balance and developers' liabilities form a dangerous combination. Developers require funding to finance new residential and commercial units, and homeowners continue to take out home loans to finance such projects under expectations that house prices will continue to increase. As discussed earlier, many Chinese real estate developers used homebuyers' down payments and prepayments to finance other construction projects or repay existing loans.²³ Lamentably, many of these construction projects now exist as ghost towns or vacant units because developers miscalculated consumers' interest in their units.²⁴ ²⁵ According to data from 2012, house vacancy rates in first-tier cities are on average around 18% while those for lower tier cities hover around 13%.²⁶ Over time, this scheme created a backlog of construction projects and a plethora of unsold units, especially in smaller cities where demand is lower. This

18 See Figure 3.

19 Fidelity Viewpoints. "How Much House Can I Afford?" *Fidelity*, 1 June 2022, <https://www.fidelity.com/viewpoints/personal-finance/before-buying-house#:~:text=Key%20takeaways,lower%20part%20of%20that%20range>.

20 *China Household Wealth Survey Report 2019*. China Economic Trends Research Institute, China Economic Trends Research Institute, Economic Daily, 2019.

21 Wang, Zhi, and Qinghua Zhang. "Fundamental Factors in the Housing Markets of China." *Journal of Housing Economics*, vol. 25, Sept. 2014, pp. 53–61. DOI.org (Crossref), <https://doi.org/10.1016/j.jhe.2014.04.001>.

22 See Figure 4.

23 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?"

24 See Figure 8.

25 Amstad, Marlene, et al., editors. *The Handbook of China's Financial System*.

26 See Figure 8.

was sustainable from a business standpoint before the COVID-19 pandemic, when China's expanding middle class was confident in the country's real estate industry and rising house prices, but became an outsized risk as the global economy slowed down. Developers encountered difficulties in taking out loans, selling new units, and finishing construction projects as lenders braced for uncertain economic conditions and pandemic restrictions banned large group gatherings²⁷ (including construction crews), leading some to default on loans and most to delay construction. While China's zero-COVID-19 measures stalled construction, real estate developers were overleveraged, and banks faced moderate to high risks of default on many of their loans to developers.²⁸ Furthermore, houses were still unbelievably unaffordable for many. Recognizing the severity of this sudden downturn in a national economic pillar, the Chinese central government implemented new policies to contain property developers' access to financing.

Solution: Policy Intervention Attempts to Curb Overleveraging

The central government recognized the need to rein in the real estate industry more than a decade earlier and enacted a series of measures to tame property price inflation. Prior to the COVID-19 pandemic, the combination of mounting developer debt, high land and home prices, and a cyclical real estate market urged authorities to impose purchasing restrictions on homebuyers. However, these restrictions were ineffective due to rumors, false advertising, and noncompliance.²⁹ ³⁰ In 2007, 2009, 2013, and 2016, the central government leveraged households' *hukou*, or residency status, to limit the number of apartments they were permitted to purchase.³¹ Authorities also increased mortgage rates and down payment ratios to make purchasing homes on credit more expensive, in order to discourage home buying.³² ³³ However, the central government later reversed these policies, most strikingly between 2014 and 2016, to correct for overly depressed house prices and construction activity, and some local govern-

27 See Appendix II.

28 Liu, Pearl. "Sunac China Holdings Defaults on US\$741.6 Million Bond, Snared by 'Three Red Lines' Policy and Sputtering Home Sales amid Covid-19 Outbreaks." *South China Morning Post*, 12 May 2022, <https://www.scmp.com/business/china-business/article/3177428/sunac-china-holdings-defaults-us7416-million-bond-snared>.

29 *China's Three Red Lines*. UBS, 11 Jan. 2021, <https://www.ubs.com/global/en/assetmanagement/insights/thematic-viewpoints/apac-and-emerging/articles/china-three-red-lines.html>.

30 Reuters Staff. "Four Cities in China Move to Restrict Property Purchases." *Reuters*, 2 Oct. 2016, <https://www.reuters.com/article/us-china-property/four-cities-in-china-move-to-restrict-property-purchases-idUSKCN1220EJ>.

31 Eftimoski, Martin and Kate McLoughlin. *Housing Policy and Economic Growth in China*. Reserve Bank of Australia, 21 Mar. 2019, <https://www.rba.gov.au/publications/bulletin/2019/mar/pdf/housing-policy-and-economic-growth-in-china.pdf>.

32 See Figure 7.

33 Eftimoski, Martin and Kate McLoughlin. *Housing Policy and Economic Growth in China*, 3.

ments in Tier 2 and Tier 3 cities extended subsidies to homebuyers to sell vacant units.³⁴ By 2016, the stability of investments in the industry was uncertain, and property prices continued to increase, especially in medium and small cities that imposed restrictions and higher down payment requirements.

After the central government failed to combat house price inflation, local governments and policymakers adopted stricter stances in 2016. They avoided reversing policy and rate changes like the central government, and many cities began requiring homeowners of new units to hold them for two to three years before reselling them.³⁵ Local governments also expressed dissatisfaction with developers who held onto purchased land for extended periods and urged them to begin constructing new residences soon after land sales: governments intended to signal that developers should not make speculative land purchases without carrying through on their agreements to build new apartment units.³⁶ However, to boost sales, at least 45 developers and intermediaries attempted to fuel speculation “via false advertising, the spreading of rumors, and breaking presale rules.”³⁷ The failure of policy intervention on both the local and national scale necessitated a firmer stance against speculation in the housing market, focusing on developers since their excessive borrowing threatened the stability of the national economy.

The Culmination of Policy: The “Three Red Lines”

The dire debt crisis among real estate developers during the pandemic pushed the central government to aim restrictive borrowing policies at developers. In August 2020, the State formally passed a new set of criteria categorizing developers’ abilities to finance themselves through debt based on three conditions or “red lines” (三红线): (1) liability to asset ratio, excluding advance receipts, of no more than 70%, (2) net gearing ratio capped at 100%, and (3) cash to short-term debt ratio of at least 1.³⁸ Developers have until June 30, 2023 to meet all three conditions to remain in good favor with the central government and financial institutions.³⁹

These three conditions mandate developers to prove that no more than 70% of their company’s assets are made up of liabilities, that their net liabilities do not exceed equity value, and that they are able to pay off short-term debts without

34 Eftimoski, Martin and Kate McLoughlin. *Housing Policy and Economic Growth in China*.

35 Ibid.

36 Reuters Staff. “Four Cities in China Move to Restrict Property Purchases.” *Reuters*, 2 Oct. 2016.

37 Ibid.

38 *China’s Three Red Lines*. UBS, 11 Jan. 2021.

39 Bloomberg News. “China May Ease ‘Three Red Lines’ Property Rules in Big Shift.” *Bloomberg*, 5 Jan. 2023, <https://www.bloomberg.com/news/articles/2023-01-06/china-may-ease-three-red-lines-property-rules-in-drastic-shift#xj4y7vzkg>.

taking out additional loans. Meeting all three criteria grants a developer up to 15% in annual debt growth while each violation deducts 5%.⁴⁰ These restrictions drastically reshape the borrowing terms for developers, who previously received easy approvals for loans on new projects and faced little legal consequence for misallocating loans and mortgage payments to projects for which the funding was not intended. The regulation also serves as a harbinger for a more strictly controlled credit environment in the future.

The passage of the Three Red Lines marks a dramatic shift in the central government's tone on real estate development and steeper borrowing barriers for developers. The industry will remain a pillar of the Chinese economy for historical and cultural reasons, but the central government will no longer tolerate the threat of overleveraged developers and unaffordability of urban homes to national financial stability as it plans for longer-term economic growth. The policy is a good start to address the real estate industry's vulnerabilities and the Chinese financial system's shortcomings, but it will take time and additional legislation to strengthen China's economic sustainability.

Aftermath: Effects of the Three Red Lines

The Three Red Lines is a well-intended piece of legislation that fortifies China's lagging financial legal system, but its implementation has yielded mixed results. The reality is that the policy's conditions are unattainable for a sizable fraction of developers. It abruptly cut off credit lines to the majority of Chinese real estate developers, pushing them to meet the conditions by "cutting [house] prices to boost sales and asset turnover, controlling ... debt growth ..., seeking operational cost efficiencies, and disposing of assets or stakes in businesses not related to core property development."⁴¹ A few months after the policy went into effect, in January 2021, Standard and Poor (S&P) estimated that only 6.3% of China's rated developers fully comply with all three criteria.⁴² Thus, it was reasonable to expect a sharp curtailment in loans to developers accompanied by a severe slowdown in construction. Indeed, Figure 10 reveals a sharp decrease in real estate developers' combined funds between 2021 and 2022 from 20 trillion yuan to 15 trillion yuan (about 2.8 trillion dollars to 2.1 trillion dollars) from multiple sources, including domestic loans, homeowner deposits and prepayments, self-fundraising efforts, and mortgage payments. And in July 2022, S&P Global Ratings estimated that about 40% of Chinese developers were in "financial distress" and had stopped construction on 20% of their ongoing projects.⁴³

40 *China's Three Red Lines*. UBS, 11 Jan. 2021.

41 *Ibid.*

42 *Ibid.*

43 Zhong, Yiran, et al. *China's Mortgage Strike Puts Almost RMB1 Trillion In Bank Loans At Risk*. S&P Global

Should these poor-performing developers go bankrupt and their stalled projects go “rotten tail” (烂尾楼) or remain unfinished, homebuyers will suffer a catastrophic loss since they presumably began prepaying their mortgages when mortgage rates were higher; some may not even receive the home that they were promised. In 2022, Bloomberg estimated that Chinese developers defaulted on at least 140 bonds and missed payments on “a combined \$50 billion in domestic and global debt.”⁴⁴ The long-term impacts of the Three Red Lines remain to be seen, but recent data indicate that the policy has been effective in decreasing loan issuings to developers.

As intended, expansion in Chinese real estate developers’ loan balances has slowed. Their collective loan balance flattened to around 13 trillion yuan following the passage of the legislation,⁴⁵ and in 2021, their year-over-year total loan balance growth rate decreased to zero while their year-over-year housing development loan growth rate dipped into the negatives.⁴⁶ This signifies that the total loan balance for home development shrank compared to the previous year, which implies that some combination of developers paying back their outstanding loans, going bankrupt and having their loan balance nullified, being denied new loan requests, and decreasing loan requests for residential projects must have occurred. However, the growth and size of total liabilities still outweigh those of total equity, which implies that developers as a whole are struggling to attain the second red line.⁴⁷ But growth in both liabilities and equity is slowing, so perhaps reaching the second red line will become easier.⁴⁸ Although the number of real estate developers operating in China has not yet declined,⁴⁹ it may decrease as the global economy recovers and as the Chinese central government reigns in real estate development and housing speculation. Overall, Chinese real estate developers appear to be less overleveraged than before the policy went into effect, signaling that they are leaving behind their overborrowing habits.

That said, improved borrowing habits do not equate to improved financial health. The stringent borrowing requirements severely threatened the viability of some major domestic real estate developers. Most notably, China’s second-largest real estate developer, Evergrande, defaulted on its debt repayments a year after the Three Red Lines went into effect in December 2021 because it was unable to

Ratings, 26 July 2022, <https://www.spglobal.com/ratings/en/research/articles/220726-china-s-mortgage-strike-puts-almost-rmb1-trillion-in-bank-loans-at-risk-says-report-12453848>.

44 Bloomberg News. “China May Ease ‘Three Red Lines’ Property Rules in Big Shift.”

45 See Figure 4.

46 See Figure 9.

47 See Figure 12.

48 Ibid.

49 See Figure 13.

secure funding to pay off outstanding loans.⁵⁰ This triggered a worldwide confidence crisis in Chinese real estate developers' financial health. Alarmed, a small minority of homeowners paused mortgage payments, offshore investors panicked about whether the default would set off another global financial crisis this time stemming from the Chinese housing market, and lenders exercised more caution when dealing with developers, making funding even more inaccessible.⁵¹ ⁵² Other developers, including Kaisa, China's second-largest developer by dollar bonds issued after Evergrande, and Sunac, the country's fourth-largest developer by sales in 2021, also defaulted in 2021 and 2022, respectively.⁵³ ⁵⁴ These defaults dragged down one of the world's hottest bond markets.⁵⁵ From this perspective, the Three Red Lines perhaps went too far to deleverage real estate developers. In its first two years, it was so effective at vetting developers for new loans that it caused some to lose the ability to fund ongoing projects, let alone new ones for which they had already begun collecting payments. But an estimated more than thirty developers, including behemoths Vanke and Longfor, were able to meet the three conditions by June 2022.⁵⁶

The effects of the policy on homebuyers have also been mixed. The defaults of some real estate titans shook homebuyers, plummeting home sales by the "most in at least two decades" and causing house prices to fall for fifteen consecutive months.⁵⁷ Furthermore, a minority of homebuyers are finding that their in-progress homes will take longer than expected to finish as developers struggle to finance their completion. This problem became a bigger concern when some dissatisfied homebuyers went viral on social media for voicing their anger and boycotting mortgage payments, prompting censorship by the State to prevent a contagion of boycotts that would further starve developers.⁵⁸ ⁵⁹ In essence, while the Three Red Lines' more stringent borrowing requirements for developers in theory should have restored public confidence in developers, the precarious financial state of some big conglomerates is making Chinese homebuyers warier of placing their savings into Chinese real estate. To some degree, this caution may have helped tame speculation in the domestic housing market, but it is not

50 See Appendix II.

51 Ibid.

52 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?"

53 Bloomberg News. "China May Ease 'Three Red Lines' Property Rules in Big Shift."

54 Liu, Pearl. "Sunac China Holdings Defaults on US\$741.6 Million Bond, Snared by 'Three Red Lines' Policy and Sputtering Home Sales amid Covid-19 Outbreaks."

55 Bloomberg News. "China May Ease 'Three Red Lines' Property Rules in Big Shift."

56 Ibid.

57 Ibid.

58 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?"

59 *Why Some Homebuyers in China Are Boycotting Their Mortgage Payments*. Goldman Sachs, 15 Aug. 2022, <https://www.goldmansachs.com/insights/pages/why-some-homebuyers-in-china-are-boycotting-their-mortgage-payments.html>.

reassuring that the trend stems from fear.

Following the ratification of the Three Red Lines, the country's mortgage balance continued to expand albeit at an increasingly slower pace. The national outstanding mortgage balance escalated from 33.3 trillion RMB in 2004 to 38.9 trillion RMB⁶⁰ in 2022 but slowed in growth after the policy was implemented; year-over-year mortgage balance growth rates dropped from 16% before the policy went into effect to their lowest point of the last two decades at nearly 0% in the first quarter of 2023.⁶¹ This phenomenon is occurring even as home financing has become more affordable; average primary and secondary home mortgage rates have declined since the end of 2021, from roughly 5.5% to 4% and 5.8% to 5%, respectively, as of the first quarter of 2023.⁶² This mismatch between affordable credit and less robust borrowing may be partially explained by Figures 2 and 3, which reveal that average house prices continued to inch higher and are more unaffordable relative to the median annual household income than before the Three Red Lines went into effect. Furthermore, the COVID-19 pandemic's detrimental impact on business likely resulted in lower incomes for many, delaying near-term plans to buy a house. Despite the global economy recovering, clampdowns on the private sector and real estate industry over the past few years may have encouraged some Chinese to seek opportunities abroad, where they feel their savings and investments will be safer from capital controls. In addition, China may suffer from the relocation of some foreign companies' manufacturing businesses to other countries. At present, there is not enough data to accurately predict the trajectory of the national mortgage balance. We should thus be cautiously optimistic about the slowdown in mortgage balance growth because it is ambiguous as to whether it echoes permanent decreased speculation in the housing market or temporary reactions to the uncertain global economic state and COVID-related disruptions.

Future Outlook: Post Implementation of the Three Red Lines

Similar to the “grab the big, let go of the small” (抓大放小) industrial reforms of the late 1990s, the Three Red Lines policy starves small, poor-performing developers of debt financing to prioritize larger, better-performing companies. For developers that survive, adhering to higher financial standards will attract both domestic and foreign investment. Then, their financial accounts will stabilize so that they can meet project deadlines and build trust with homeowners and investors. For developers that perish, their end state would have

60 See Figure 4.

61 See Figure 9.

62 See Figure 7.

been the same without the implementation of stricter debt financing conditions, so the policy spares them the time and trouble of experiencing a slow decline. Their absence will shift business opportunities to more financially fit developers, recovering some of the economic loss and confidence crisis the policy is bound to unleash early on. To increase their chances of prevailing, developers may choose to merge with competitors to gain the favor of the central government, which likes to carve out and support a handful of “national champions” in highly lucrative industries. Doing so will also help them expand market share and geographic coverage and potentially pool funds together. Regardless of how developers restructure themselves, the Chinese State has made clear its intention to reduce house and land prices to more evenly urbanize China and promote economic growth.⁶³ Therefore, the aim of this policy to deleverage developers is sensible in the long run because they cannot continue to finance their debts with more debt and because both housing and land prices need to stabilize to spur urbanization in Tier 2 and Tier 3 cities,⁶⁴ but its implementation could certainly have been smoother.

The central government’s long-term vision prizes a self-sustaining real estate industry where speculation is not the primary determinant of prices and where developers responsibly repay loans and allocate funds. The Chinese government wants to stabilize home prices, encourage developers to buy land only when they have plans ready for it, and encourage development in lower-tier cities. As motivation for this vision, these outcomes will support younger adults and families and distribute the benefits of urbanization more evenly across the country. Thus, these small goals confined to the real estate industry are pathways to achieving the Communist Party of China’s fundamental mission to serve the people. Such goals will help alleviate the dilemma between the country’s rapidly aging population and dwindling birth rate as well as enhance the standards of living, quality of life, and wealth of its citizens. However, its decision to fully enforce the Three Red Lines has, at once, severely threatened the viability of some major domestic real estate developers, specifically one of its largest, Evergrande, and the policy has instigated a global panic.

Instead, the Chinese central government can achieve the same desired stable and affordable housing market more smoothly by enforcing incrementally stricter borrowing conditions. It may start by publicizing its policy plans for real estate development financing and a timeline detailing approximate dates when conditions go into effect. Such measures will give companies time to respond

63 Sun, Li. *Housing Affordability in Chinese Cities [WP20LS1]*. Lincoln Institute of Land Policy, Apr. 2020, https://www.lincolninstitute.edu/sites/default/files/pubfiles/sun_wp20ls1.pdf.

64 See Appendix II.

to new lending requirements and gradually deleverage while minimizing delays in current construction projects. It may be even more helpful for developers if the government establishes a series of increasingly restrictive conditions that converge to each of its planned policies and share a timeline for those sub-goals. Transparent communication and gradual policy shifts may best guide developers that have only ever known a lending environment that welcomes their business and a homebuyer base that trusts the stability of the real estate industry. To prevent developers from rushing to take out more loans before new requirements go into effect, the government can instate temporary limits on loan applications and offer resources to help developers plan how to deleverage over the span of a few years. Likewise, the country needs to appeal to investors to encourage them to purchase homes but not treat houses as investments.

To reform the Chinese real estate industry into a well-regulated, price-stable market, consumers need to accept cultural changes and be receptive to government stimuli. China should relinquish the expectation of home ownership as a marriage prerequisite for males because the country's mother-in-law economy⁶⁵ directly contributes to speculation by adding pressure to purchase homes far in advance of marriage plans.⁶⁶ An equally pressing permanent aim is to reduce the cost of home loans and tame house prices. Both the central government and local governments can help by extending more financial support to first-time homeowners to lower the financial burden of owning a home and promote a culture of seeking suitable homes rather than investment opportunities. In addition, they can offer subsidies, tax cuts, or other incentives to developers to construct more affordable apartment complexes. The Three Red Lines and its chaotic aftermath will also likely spur policies that support consumers and nudge them to make smarter financial decisions, given the major weight of the real estate industry on the national economy and household investments.

Recent announcements from the State suggest that it admits its implementation of the Three Red Lines was too hasty. In early January 2023, multiple news outlets reported that the State plans to loosen some of the Three Red Lines and implement additional measures to boost the battered industry. Regarding developers, Bloomberg News reported that the central government is deliberating "easing borrowing caps" and extending the original June 30, 2023 deadline by at least six months on a case-by-case basis depending on a developer's current progress toward achieving the Three Red Lines.⁶⁷ Nikkei Asia also

65 A real concept in which China's severe gender imbalance lends prospective brides' mothers considerable power to demand home and vehicle ownership from suitors before marriage.

66 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?"

67 Bloomberg News. "China May Ease 'Three Red Lines' Property Rules in Big Shift." *Bloomberg*, 5 Jan. 2023, <https://www.bloomberg.com/news/articles/2023-01-06/china-may-ease-three-red-lines-property-rules-in>

reported that the changes would apply to thirty well-performing systemically important developers, a vague status level that the central government has yet to publicly define.⁶⁸ Furthermore, the government increased support for developers by permitting private equity funds to fundraise for residential developers and pledging 200 billion yuan, or 29 billion USD, in special loans to complete stalled projects.⁶⁹ Additionally, it sought to bolster demand by placing an upper limit on broker fees, decreasing down-payment requirements, and lowering mortgage rates for first-time homebuyers if new house prices fell for three months straight.⁷⁰ The central government has also expressed that it will provide more support to the industry. However, it is crucial to remember that in accordance with its priority to tamp down property price inflation and overleveraged real estate developers, the central government will eventually resume more restrictive policies to dampen credit growth. Union Bank of Switzerland (UBS) posits that it will tighten select financing channels, such as trust loans,⁷¹ within the near future to protect homeowners and further force developers to abandon their bad habits of overborrowing and repaying old debts with new debt.⁷² More restrictive lending conditions will be necessary to support the country's accelerating social mobility and increasingly complex domestic housing market. But the central government must learn from the meltdown following the Three Red Lines' implementation and past policy failures,⁷³ how to better introduce new policies to ease stable and permanently effective transitions into a more intricate financial legal system.

Appendix I: Burgeoning Urbanization in China

Between the 1950s and 1978, only 18% of the Chinese population resided in cities, but as industrialization in cities intensified, rural farmers increasingly looked to cities in search of higher pay in what became known as the “biggest [internal] migration in human history.”⁷⁴ ⁷⁵ Gradually, the urban population swelled upward to its current share of 64%.⁷⁶ Figure 1 illustrates the changes in population allocation between urban and rural areas in China from 1949 to 2021. The vertical dotted line at 1995 marks when the Chinese rural population began to

drastic-shift#xj4y7vzkg.

68 Doi, Noriyuki. “China Relaxes ‘red Lines’ on Property Sector Borrowing in Policy Pivot.” *Nikkei Asia*, 14 Jan. 2023, <https://asia.nikkei.com/Business/Markets/China-debt-crunch/China-relaxes-red-lines-on-property-sector-borrowing-in-policy-pivot>.

69 Bloomberg News. “China May Ease ‘Three Red Lines’ Property Rules in Big Shift.”

70 Ibid.

71 Loans from households to firms.

72 *China's Three Red Lines*. UBS, 11 Jan. 2021.

73 See Appendix II.

74 Kroeber, Arthur R. *China's Economy: What Everyone Needs to Know*.

75 Du, Wei. “The Great Fall Of China's Housing Market: Who Will Pay The Price?”

76 Ibid.

steadily decrease and urban population began to grow at a faster pace. And the vertical line extending from 2010 marks when the urban population overtook the rural population. It is worth noting that the hukou system has to some effect restrained migration by preventing free mobility from rural to urban settings and denying access to social services in cities for workers' family members.⁷⁷ But even with this constraint, the influx of migrant agricultural-turned-industrial laborers into urban centers strained existing city systems, necessitating additional housing and infrastructure, including sewage, water, electricity, and road systems. These labor-intensive projects ramped up in the late 1990s and, in turn, attracted even more workers to cities. Such demographic shifts reliably increased demand for *affordable* urban housing, but there existed little to no motivation to meet demand with additional supply.

Appendix II: The Chinese Housing Industry's Recent Crisis Signals

By the mid-2010s, units in most Tier 1 cities, like Beijing, Shanghai, and Guangzhou, and some province-level or vice provincial-level cities, like Tianjin and Hangzhou, were priced at 11 to 16.9 times, or 58% to 67%, the city's median annual household income.⁷⁸ Even in lower-tier cities, such as Chengdu, Suining, Tangshan, Kaiping, and Jinan, units exceeded 5 times or 30% of the local median household income.⁷⁹ These high prices will be unattainable in the long run for most home buyers. But while the housing frenzy persisted, developers rushed to build expensive luxury apartment complexes in hopes that consumers would be eager to snag these units. To do so, developers borrowed from banks, bondholders, and material suppliers. A rising supply of high-end housing and largely stagnant supply of affordable urban housing compounded with the economic slowdown and strict Zero-COVID policy paused construction projects and only highlighted the affordable housing crisis.⁸⁰

The creeping uncertainty of the global economic outlook and completion timeline of new homes in China is generating a confidence crisis in the Chinese housing market and suppressing new home sales. Goldman Sachs estimates that this crisis is pushing approximately 2% of holders of outstanding mortgages to boycott mortgage payments, slowing cash flows to developers even further.⁸¹ Pre-COVID-19, the majority of homebuyers who took out mortgages were able to make timely payments on their home loans; however, the global economic

77 Amstad, Marlene, et al., editors. *The Handbook of China's Financial System*.

78 Sun, Li. *Housing Affordability in Chinese Cities [WP20LS1]*.

79 Ibid.

80 Wakabayashi, Daisuke, and Joy Dong. "China's Once-Sizzling Property Market Has Started to Cool." *The New York Times*, 20 June 2022, <https://www.nytimes.com/2022/06/20/business/china-housing-real-estate-economy.html>.

81 *Why Some Homebuyers in China Are Boycotting Their Mortgage Payments*.

slowdown from the outbreak left many jobless. China's official unemployment rate ticked up from 5.2% to 6.2% — its highest on record since tracking formally started in 2016 — between December 2019 and February 2020.^{82 83} But these percentages underestimate the country's true unemployment rate as they exclude migrant workers, many of whom worked in factories that closed indefinitely to curb the spread of COVID-19 or whose paychecks were delayed or unpaid.⁸⁴ As a result, mortgage payments became more burdensome for some households now surviving on considerably less income stretched across the same set of expenditures: their current home(s), daily needs, and future home(s).

At the same time, developers struggled to finance their unfinished projects. Though it opened financing channels at the height of the pandemic to fund developers, the central government's stringent COVID-19 policies and updated borrowing conditions for developers decreased cash flows and widened funding gaps for projects, forcing some developers to pause or delay construction.⁸⁵ Moreover, according to Assistant Professor Maggie Hu of real estate and finance at the Chinese University of Hong Kong, mortgage payments should be held in escrow accounts overseen by a trustee, but Chinese developers misappropriated funds to finance other projects.⁸⁶ To pay off interests on existing debt and complete unfinished projects, developers borrowed even more. Figures 9, 10, and 12 reveal this trend of developers taking on more loans and bulking up further between 2016 to 2019. Figure 11 shows that although the cumulative revenues and operating profits of developers increased between 2014 and 2018, the total operating profit was 3 to 5 times smaller than total revenues which may reflect the misuse of homeowners' funds for other projects and loan repayments. This cycle of borrowing money to finance past borrowings is exactly what led to China Evergrande Group's (中国恒大集团) demise.

Majority owned (70.73%) by Xin Xin (BVI) Limited, which is wholly owned by Xu Jiayin (许家印, also known as Hui Ka Yan),⁸⁷ Evergrande is continental China's second-largest real estate developer with 1,000+ projects spanning 200+ cities.⁸⁸ In late 2021, it was the first major Chinese developer to default on its

82 Tang, Frank. "Coronavirus: China Unemployment Rate Rose More than during US Trade War." *South China Morning Post*, 16 Mar. 2020, <https://www.scmp.com/economy/china-economy/article/3075411/coronavirus-china-unemployment-rate-rose-more-during-us-trade>.

83 National Bureau of Statistics of China. "National Economy Withstood the Impact of COVID-19 in the First Two Months." *National Bureau of Statistics of China*, 16 Mar. 2020, http://www.stats.gov.cn/english/PressRelease/202003/t20200316_1732244.html.

84 Tang, Frank. "Coronavirus: China Unemployment Rate Rose More than during US Trade War."

85 Baptista, Eduardo, and Xiaoyu Yin. "In China, Home Buyers Occupy Their 'Rotting', Unfinished Properties." *Reuters*, 26 Sept. 2022, <https://www.reuters.com/markets/asia/china-home-buyers-occupy-their-rotting-unfinished-properties-2022-09-26/>.

86 Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?."

87 See Figure 6.

88 Garrahan, Daniel. "Evergrande: the end of China's property boom." *YouTube*, uploaded by Financial

debts after not being able to borrow enough to pay off the interest on its loans.⁸⁹ Its 3 billion USD of debt to banks, bondholders, and suppliers is equivalent to 2% of China's GDP, so the central government needs to devise a plan for how it can bail out Evergrande and other highly levered companies as well as prevent overborrowing.⁹⁰ This is a major concern because China, and the rest of the world, does not want another financial crisis like the one in 2008 that nearly collapsed the West's entire economy. And it puts into jeopardy consumers' confidence in big-name developers, which may stymie investment in the housing market that has propelled Chinese economic growth in the past forty years.

Appendix III: Figures

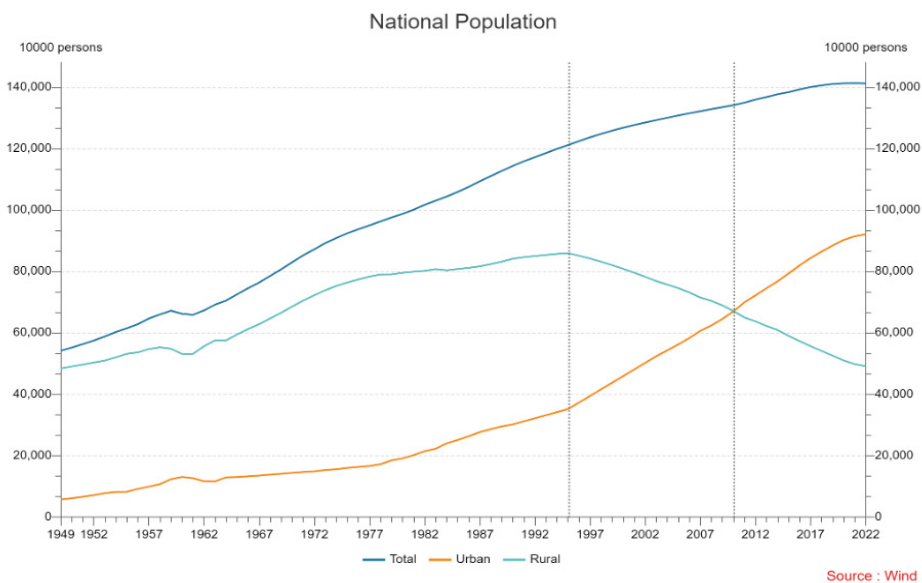


Figure 1: China's population through urbanization

Times, 9 March 2022, https://www.youtube.com/watch?v=dnP_MxXY9qs.

⁸⁹ Du, Wei. "The Great Fall Of China's Housing Market: Who Will Pay The Price?"

⁹⁰ Ibid.

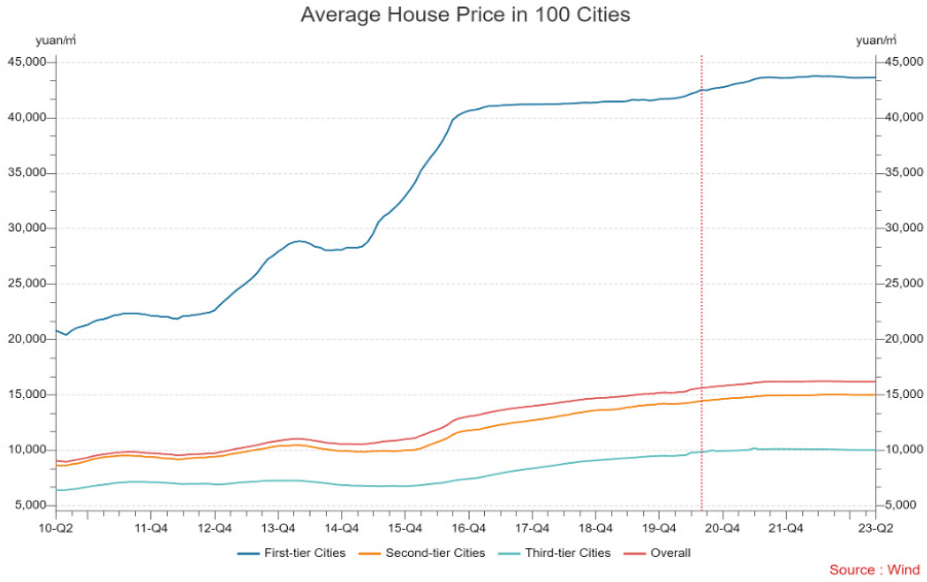


Figure 2: Average urban house price in China

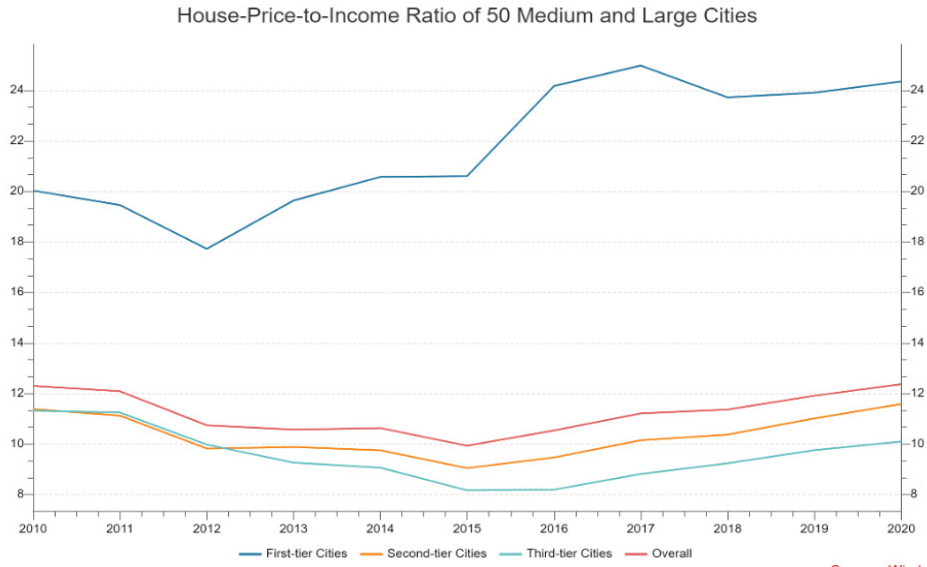


Figure 3: House price to income ratio in China

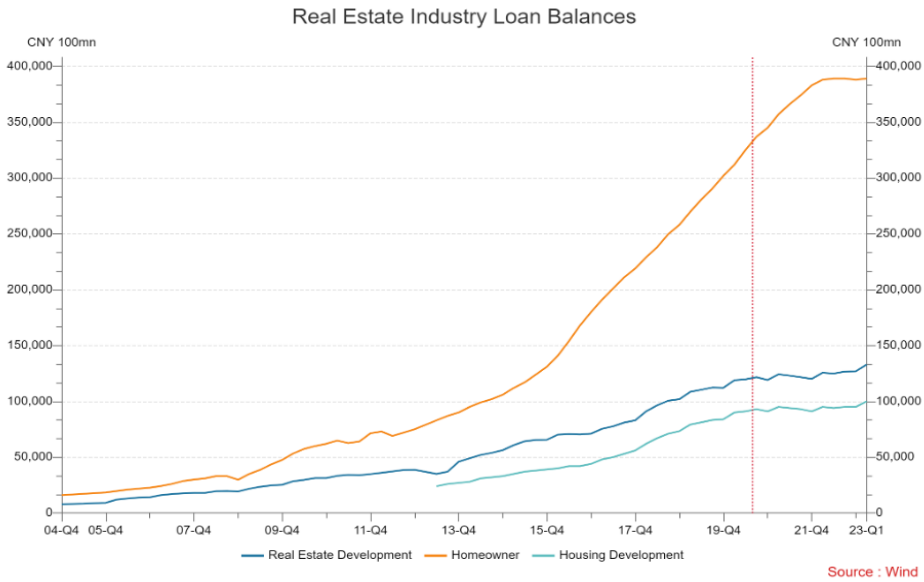


Figure 4: Homeowners’ mortgage balance versus developers’ loan balances

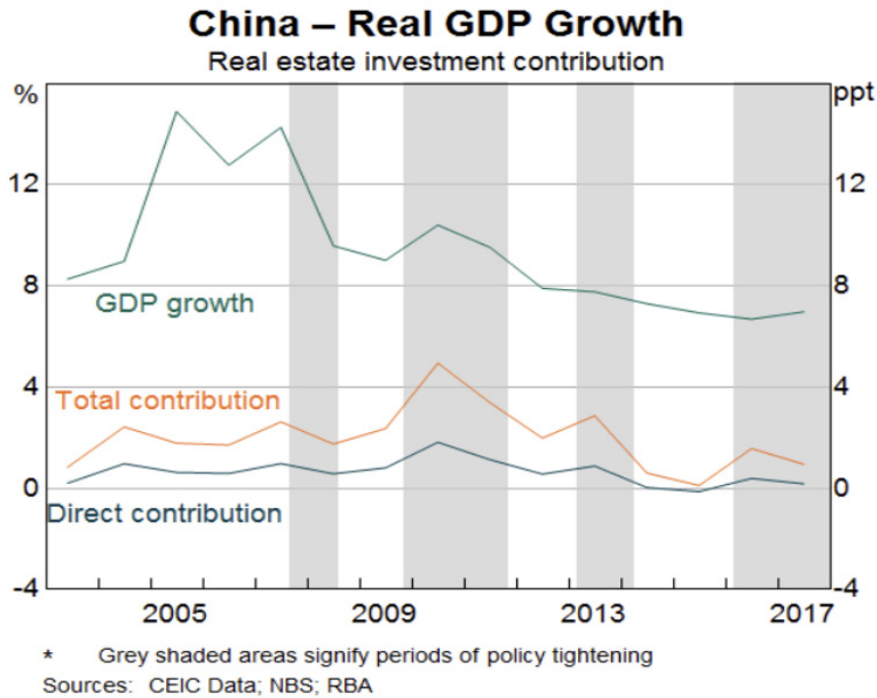
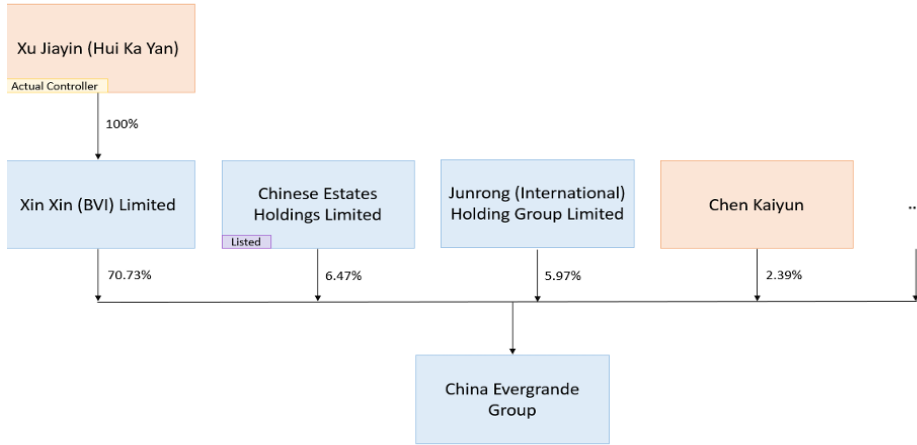


Figure 5: Real estate investment’s effect on China’s real GDP⁹¹

91 Eftimoski, Martin and Kate McLoughlin. *Housing Policy and Economic Growth in China*.



Source: Wind

Figure 6: Evergrande’s major owners⁹²

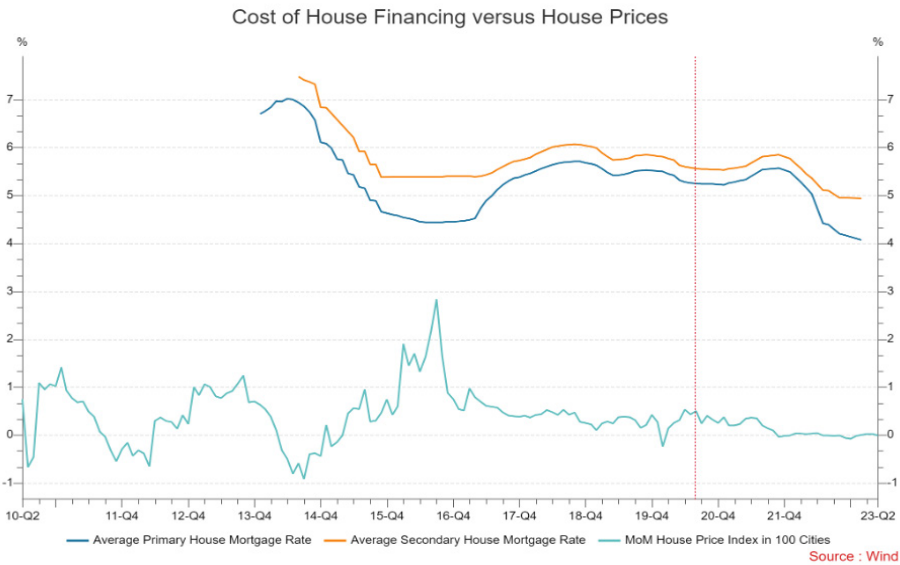
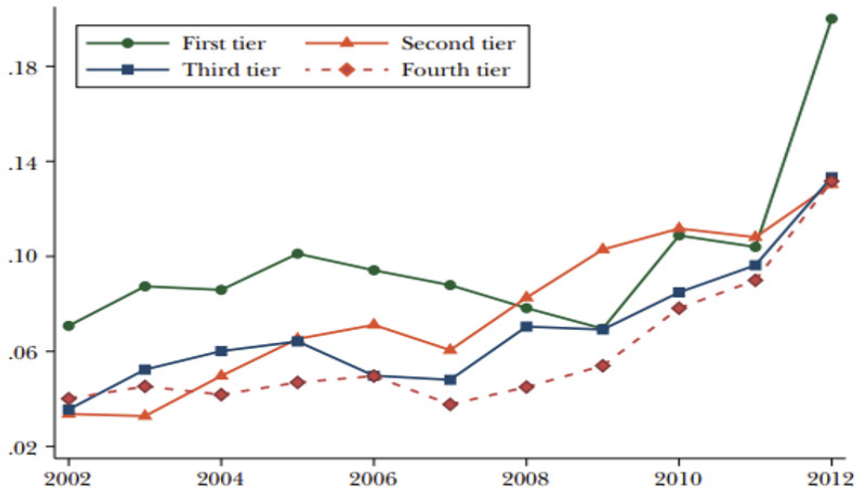


Figure 7: Average monthly mortgage rates and MoM changes in the House Price Index

⁹² Junrong (International) Holding Group Limited dissolved on October 26, 2018, but this Evergrande’s most up-to-date ownership structure housed in Wind’s economic database.

Household Vacancy Rates 2001–2012



Source: Data from China Urban Household Survey.

Figure 8: Urban housing vacancy rates⁹³

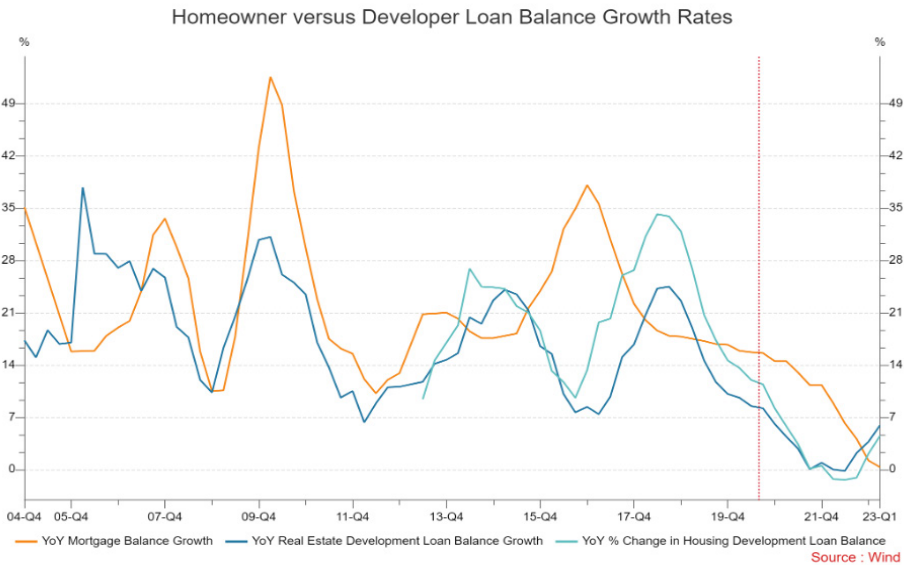


Figure 9: YoY changes in developers' and homeowners' loan balances

93 Glaeser, Edward, et al. "A Real Estate Boom with Chinese Characteristics."

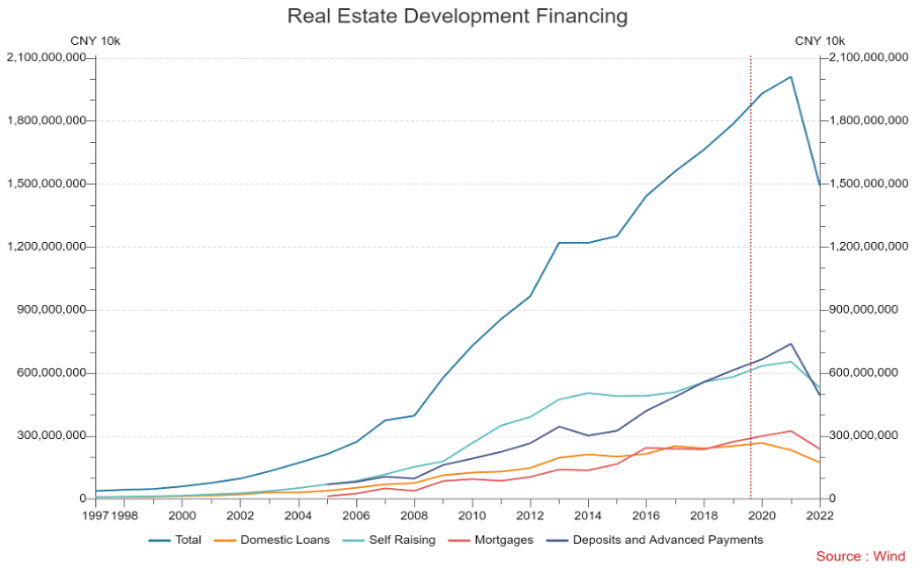


Figure 10: Real estate developers' funding sources

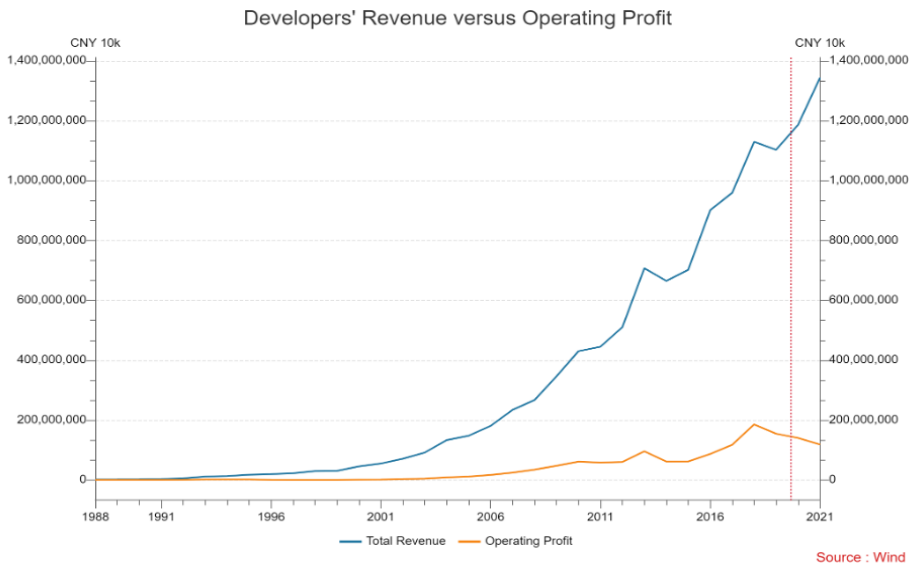


Figure 11: Real estate developers' revenue and operating profit

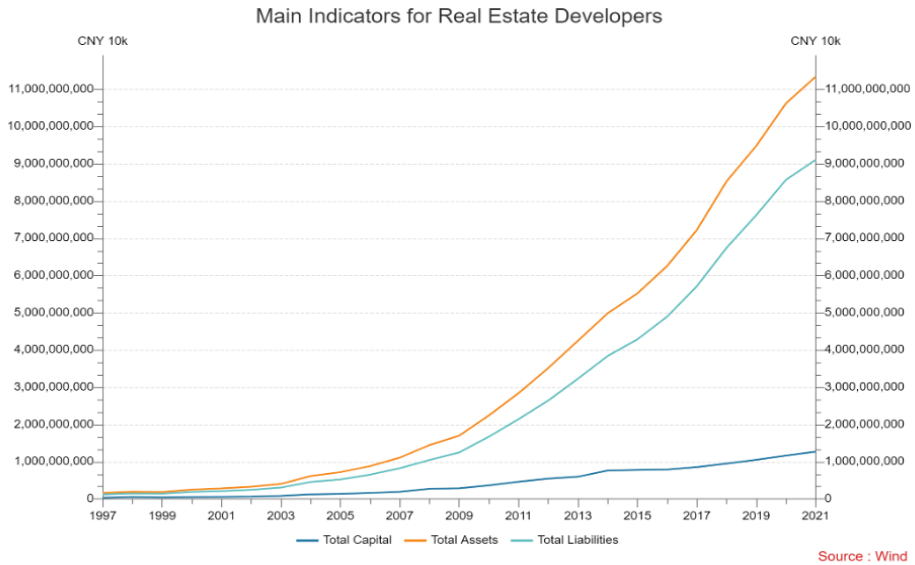


Figure 12: Assets versus liabilities of Chinese real estate developers

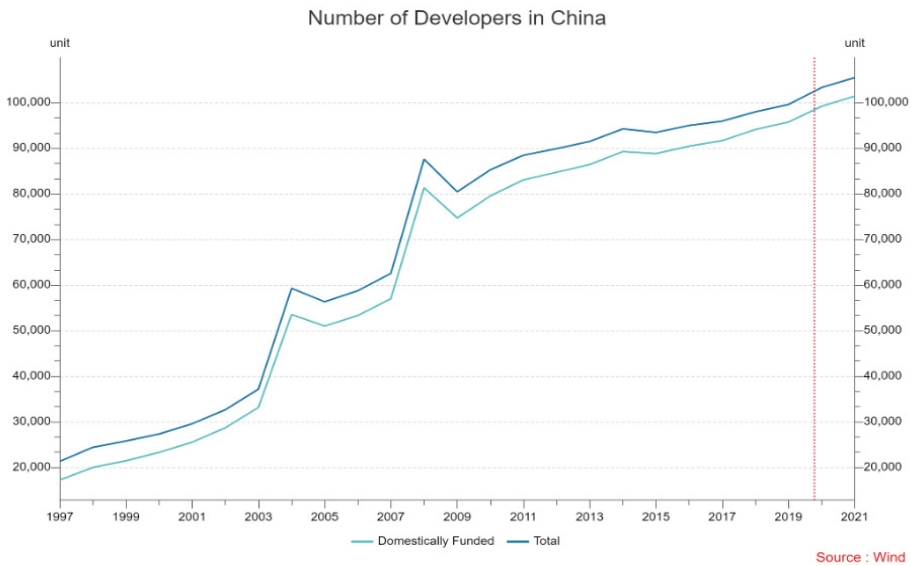


Figure 13: Count of real estate developers operating in China

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Cheap Transit Passes as Climate Policy: A Case Study of the 9-Euro-Ticket

Maddock Thomas

The 9-Euro-Ticket was implemented from June to August of 2022 following massive increases in energy costs. The ticket was incredibly popular and resulted in a massive increase in ridership on public transportation. This paper will evaluate the efficacy of the 9-Euro-Ticket in creating a modal shift towards public transportation and the subsequent climate benefits. An estimated 10% of trips taken with the 9-Euro-Ticket replaced car trips, generating a 1.8 million tonne reduction of CO2 emissions. As the German government looks to replace the 9-Euro-Ticket with a new offer, I hope to provide a strong case for keeping the price low. I will accomplish this by examining the price elasticity of transit passes as well as providing several models to financially reward a replacement ticket for its climate benefits. The ultimate aim of this case study is to provide evidence for the key role of affordability in shifting ridership to more sustainable modes of transport and the importance of public transportation to achieving climate goals.

Introduction

The 9-Euro-Ticket was announced by the German government in May of 2022 as a measure to counteract rising energy prices driving up the cost of living.¹ The ticket was valid for one month and granted users unlimited travel on local and regional rail and bus transport.² Though the program only ran from June to August of 2022, the 9-Euro-Ticket provides an excellent case study on the importance of cost to the accessibility of public transportation. There is substantial data showing that the 9-Euro-Ticket's low cost led to increased mobility and a shift from cars to public transportation. Despite these benefits and high public support, the

1 Kate Connolly, 'Germany Eases Cost of Living Crisis with €9 a Month Public Transport Ticket', The Guardian, 20 May 2022, sec. World news, <https://www.theguardian.com/world/2022/may/20/germany-public-transport-boost-9-euro-month-ticket>.

2 '9-Euro-Ticket' (Deutsche Bahn, 9 June 2022), <https://www.bahn.com/en/offers/regional/9-euro-ticket-en>.

scheme's 2.5 billion Euro price tag was deemed too costly for the German government to sustain. Subsequent discussions surrounding funding a potential successor ticket have been contentious and the compromise looks to be a 49-Euro-Ticket.³

A higher price tag will almost certainly reduce the ticket's efficacy in leading new people to ride public transport and replace car journeys. In addition, while the specter of cost looms large in government decision-making, raising the ticket price will not necessarily achieve the goal of increasing total ticket revenue. As we will examine in the first section, demand for rail transport is elastic. Consequently, a lower ticket price correlates with a proportionately greater increase in ticket purchases, resulting in an increase in total revenue.

However, even if a cheaper ticket can result in greater total revenue, it won't necessarily cover the total operating costs or the lost revenue from individual ticket sales.⁴ Nonetheless, the societal benefits that come with increased mobility, emissions reductions, and ease of mind for riders make cheap transit passes more than worth the cost. Subsequently, since subsidies for highways and automobile infrastructure already require a much larger expense and have a negative societal cost, there should be a reallocation of funding to transit. This is not only beneficial, but necessary, for a more equitable and sustainable future.

Yet, shifting funding to transit is a difficult task politically. This paper hopes to propose a mechanism to fund the cost of cheap public transportation by expounding on the value of its potential climate change benefits. A cheap national rail pass can significantly reduce carbon emissions by triggering a modal shift away from cars. However, this is only possible if the pass is sufficiently cheap and attractive to the public. By valuing the positive climate impact, we can create a monetary incentive to price rail passes more affordably and reward action on climate change. This will be addressed in section two, via the exploration of various potential methodologies.

Finally, while this paper will focus on the 9-Euro-Ticket in Germany, its findings are applicable elsewhere. Germany is far from the only country to have introduced such a measure. Austria introduced the KlimaTicket in 2021 as a climate-focused transit pass costing €1,095, or €91.25 per month.⁵ Spain is offering free travel on short- and medium-distance trains to customers willing to commit

3 Since the initial writing of this article in October 2022, the new "Deutschland-Ticket" was issued at the 49 Euro price point beginning in May 2023. Abi Carter, "The 49-Euro Ticket Is Coming: German States Agree on 9-Euro Follow-Up", *IamExpat*, 13 October 2022, <https://www.iamexpat.de/expat-info/german-expat-news/49-euro-ticket-coming-german-states-agree-9-euro-follow>.

4 Though it can come close. Benjamin Gehr's projections in "BILLIG IST BESSER" show that a 29€ ticket has a 1.8 billion Euro shortfall compared to a 3.1 billion Euro shortfall from a 49€ ticket.

5 David Burroughs, 'Austria Introduces KlimaTicket for Unlimited Public Transport Use', *International Railway Journal* (blog), 10 October 2021, <https://www.railjournal.com/passenger/main-line/austria-introduces-klimaticket-for-unlimited-public-transport-use/>.

to 16 or more trips between September and December.⁶ The applicability of this paper's findings and proposed climate-valuing methods also goes beyond nations that have already adopted such measures. Nations with low rail ridership where there remains excess capacity in the network, such as the United States, and nations where transit is underfunded would benefit from affordable nationwide transit passes and increased funding for public transportation infrastructure as a climate measure. For this paper, Germany's 9-Euro-Ticket was chosen as a case study due to its recent completion and the availability of data (even if still somewhat limited) to study the program.

How Effective Is Reducing Fare Price at Driving Demand?

Overview of 9-Euro-Ticket Results

Germany's 9-Euro-Ticket program saw 52 million monthly tickets purchased in addition to 10 million subscribers receiving the ticket for all three months.⁷ The ticket was extremely popular, with 83% of those surveyed by the Association of German Transport Companies (Verband Deutscher Verkehrsunternehmen in German, or VDV) rating the offer "extremely attractive overall" by the ticket's end.⁸ The program also resulted in a significant increase in ridership on public transportation; one in five who purchased a 9-Euro-Ticket was a new customer.⁹ Additionally, 26% were activated customers who previously used public transportation less than five times in half a year.¹⁰

The increase in transit ridership as consequence of the 9-Euro-Ticket is perhaps most visible in the number of trips taken by rail. According to data collected by Germany's Federal Statistics Office (Figure 1), rail transportation on trips 30km or longer surged by an average of 44% during the summer months when the 9-Euro-Ticket was active, as compared to the same period in 2019 (pre-pandemic) when it was not.¹¹ Compared to rail, road and air transport barely deviated from their overall 2022 trends during the summer months. Road transport has returned to 2019 levels while German domestic air transport remains considerably lower

6 Rosie Frost, 'Spain: Free Train Travel Scheme Extended until December 2023', euronews, 4 October 2022, <https://www.euronews.com/travel/2022/10/04/spain-short-and-medium-distance-trains-will-be-free-this-autumn-thanks-to-a-windfall-tax>. Spain's offering, like Germany's, comes in response to inflation and rising gas prices as well as climate concerns.

7 'Bilanz 9-Euro-Ticket' (Verband Deutscher Verkehrsunternehmen e. V. (VDV), 29 August 2022), <https://www.vdv.de/bilanz-9-euro-ticket.aspx>.

8 'Monatsbericht zur bundesweiten Marktforschung August 2022' (Verband Deutscher Verkehrsunternehmen e. V. (VDV) / Deutsche Bahn AG, 16 September 2022), 31-32. This figure increased from June (76%) through July (81%) and August (83%).

9 Ibid., 15.

10 Ibid., 15.

11 '9-Euro Ticket No Longer on Offer: Rail Travel Back to Pre-Crisis Level', Destatis (Statistisches Bundesamt, 8 September 2022), https://www.destatis.de/EN/Press/2022/09/PE22_377_12.html.

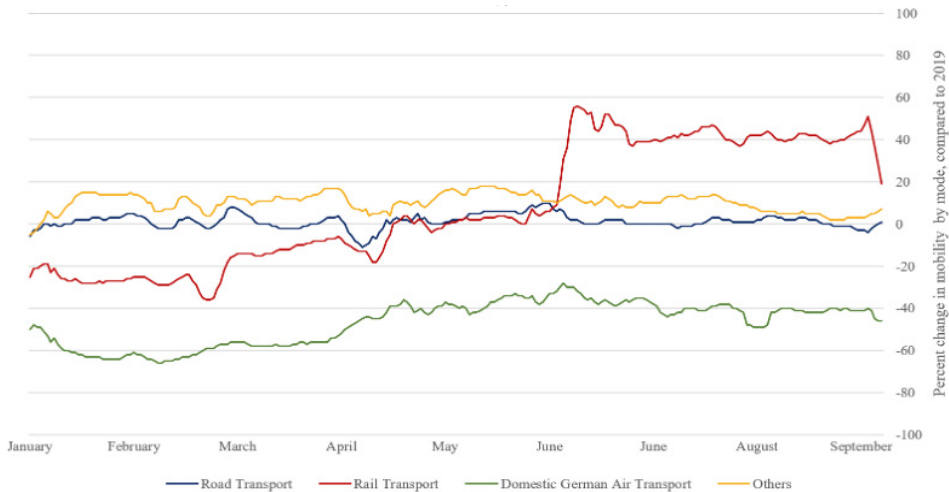


Figure 1. Change in mobility by means of transport, for distances of 30 kilometers or more, 2022 compared to 2019¹³

This large increase in rail transport, while other modes remained largely static during the same summer months, provides evidence of a significant increase in rail demand as a result of the 9-Euro-Ticket.

Assessing the Modal Shift versus Induced Demand

In Figure 1 it is clear the 9-Euro-Ticket resulted in induced demand, as one might expect when a service is suddenly provided at a much lower price. However, the presence of induced demand does not mean that the ticket was entirely unsuccessful at convincing people to replace cars with rail travel. One way to evaluate the ticket's influence on shifting journeys away from cars is to look at customers' reasons for purchasing the ticket in the first place. According to a survey by the VDV, the top three reasons for purchasing the 9-Euro-Ticket were:¹⁴

- (i) Cost savings/The low price (69%)
- (ii) The pass' flexibility for local transit (40%)
- (iii) Foregoing car trips/Leaving car at home (40%)

¹² Ibid.

¹³ Ibid. This graph uses a 7-day average due to data gaps resulting from technical problems on the part of mobile network operators who collected this data for the German Federal Statistics Office (Destatis). The data for the table was consolidated by Destatis.

¹⁴ 'Monatsbericht zur bundesweiten Marktforschung August 2022', 22. The question asked was phrased as follows: "Warum haben Sie sich ein 9-Euro-Ticket für den aktuellen Gültigkeitsmonat ... gekauft?" ("Why did you buy a 9-Euro-Ticket for the current month of validity?") Respondents were allowed to check multiple answers; hence the numbers do not add up to 100.

These choices tell us that 40% of people who purchased the ticket did so with at least some intention of reducing their car dependency—a significant number of riders considering 62 million people purchased 9-Euro-Tickets.¹⁵ But this survey does not reflect the actual number of car *trips* or *kilometers* replaced by the 9-Euro-Ticket.

For the month of August, the number of trips induced by the 9-Euro-Ticket was equal to the number shifted from another mode: 16% would not have been made without the ticket (induced trips) while 17% were relocated from another mode.¹⁶ Out of the trips that were shifted from another mode, 61% were shifted from road transport (cars/motorcycles).¹⁷ All-in-all, 10% of all 9-Euro-Ticket trips represent a modal shift away from cars—an estimated reduction of *15 billion road kilometers* driven.¹⁸ The number of people who drove their car “(almost) daily” decreased from 44% to 40% during the period of the 9-Euro-Ticket.¹⁹ This effect was much more pronounced among buyers of the ticket than non-buyers: among buyers, 9% fewer reported “(almost) daily” car usage compared to a 1% decrease among non-buyers during the period.²⁰ This shows that the mobility options offered under the 9-Euro-Ticket were effective at allowing customers to leave their cars at home more frequently and take public transportation instead.

The Primary Driver: Cost or Convenience?

The 9-Euro-Ticket had two important features that distinguished it from other transit offers: low cost and unlimited nationwide validity. It is important, when looking towards future implementation of similar schemes, to understand whether affordability or convenience is more important in heightening demand for public transportation.

15 The percentage of people purchasing the ticket to reduce car dependency was higher among activated customers (45%) and new customers (40%) compared to existing customers (37%), which makes sense since existing customers previously made extensive use of transit. Seeing such interest among activated and new users particularly is valuable in understanding the responsive use of transit that occurs when it suddenly becomes much more affordable. At the same time, among those who did not purchase a 9-Euro-Ticket, “prefer to drive a car” was the third-highest option (35%).

16 ‘Monatsbericht zur bundesweiten Marktforschung August 2022’, 53.

17 Ibid., 53.

18 Ibid., 110.

19 Ibid., 46.

20 Ibid., 46-48. This same pattern plays out inversely among modes of public transportation, as those with a 9-Euro-Ticket rode transit more, while those who didn’t buy the ticket stuck with their cars and rode transit less. This also reflects the fact that during the period, very few rode public transportation without buying the 9-Euro-Ticket since it was so much more affordable than any other option. One interesting area of deviation was with the IC/ICE service (Germany’s Intercity and high-speed Intercity Express services). These trains were not covered by the 9-Euro-Ticket and as such, their general ridership decreased as people shifted to regional services. However, new customers for the 9-Euro-Ticket rode the IC/ICE more, implying that exposure to transit helped push them to take advantage of other transit (IC/ICE) as well.

Among those who purchased the 9-Euro-Ticket, 69% cited its low cost as a factor in their purchase—making low cost the most noted reason among buyers.²¹ However, the flexibility of the ticket was the second most-cited, with 40% saying it was a factor in their purchase.²² When asked to reflect on statements about the 9-Euro-Ticket, cost came through decisively with 90% calling the ticket “very attractively priced.”²³

However, cost and convenience are not necessarily opposed. In fact, convenience is deeply intertwined with cost. The 9-Euro-Ticket offered unlimited nationwide access to public transportation; the result was that the marginal cost of riding public transportation sank to zero, making the option vastly more attractive. This makes public transportation astronomically more convenient and flexible, because with a 9-Euro-Ticket you no longer must weigh paying a fare for each trip or transfer. Consequently, 9-Euro-Ticket owners rode transit more frequently. Out of all 9-Euro-Ticket buyers, 25% previously used single tickets.²⁴ If you look at just induced trips, the percentage of users who previously used single tickets jumps to 40%.²⁵ These are people who used public transportation before but were not committed to higher-priced commuter passes. After the 9-Euro-Ticket lowered the price for an unlimited transit pass, these users took advantage by traveling more since the cost of buying a ticket was no longer a consideration.

Transit Price Elasticity—Affordability Drives Demand

From the strong response to the 9-Euro-Ticket and subsequent surveys, it is evident that price plays an important role in determining demand for public transportation. This section aims to further investigate the centrality of price to demand for public transportation by examining existing studies on transport price elasticities and comparing them with additional surveys on Germans’ willingness to pay for a replacement of the 9-Euro-Ticket.

Wardman’s meta-analysis of transportation price elasticities in Great Britain, conducted in 2022, provided summary average long-run price elasticities for sub-urban and inter-urban rail of -1.01 and -1.10, respectively, which is roughly unit elastic.²⁶ This compares to average long-run elasticities of -0.59 and -0.65 for car

21 Monatsbericht zur bundesweiten Marktforschung August 2022, 22-24.

22 Ibid., 22-24.

23 Ibid., 29-31. This was the most-supported response in a field of 9 responses, where the surveyors selected each participant’s top two choices to display. As such, 90% finding the low cost as one of the key markers of the 9-Euro-Ticket is a very clear endorsement.

24 Ibid., 58-59.

25 Ibid.

26 Mark Wardman, ‘Meta-Analysis of Price Elasticities of Travel Demand in Great Britain: Update and Extension’, *Transportation Research Part A: Policy and Practice* 158 (April 2022): 4-5, <https://doi.org/10.1016/j.tra.2022.01.020>.

and bus respectively.²⁷ A separate analysis in Spain from 2007 modeled a price elasticity of -1.01 for rail travel, compared to -0.34 for road transport and -0.52 for air transport.²⁸ Overall, we see much higher price elasticities for rail than for road or air transport, suggesting the importance of low prices to demand for rail transportation.

It is also worth noting that the price elasticity of commuter trips is lower than that of leisure travel.²⁹ Similarly, longer-distance intercity rail travel, which is also more likely to be for leisure, has higher elasticity than urban rail travel.³⁰ In Wardman's meta-analysis of transport price elasticities in Great Britain, he distinguishes between commuting and leisure trips.³¹ The long-run price elasticities produced by Wardman's meta-model for inter-urban leisure rail travel were -1.03 (trips including London) and -1.21 (trips not including London).³² These leisure trip elasticities are significantly higher than the long-run elasticity of -0.90 for inter-urban commuting trips.³³ These differing elasticities point to the reason behind the prevalence of regional rail, which is less often used for commuting, among induced trips taken using the 9-Euro-Ticket.

The elasticities above show, broadly, a price elasticity for rail transportation above unit elasticity, and significantly higher than other modes of transportation. This provides context for the strong response to the 9-Euro-Ticket's low price. Fortunately, we also have data on the relationship between price and demand pertaining to the 9-Euro-Ticket itself as several organizations have conducted surveys to discern Germans' willingness to pay for a successor ticket. Five of these surveys, compiled by Gehrs for Greenpeace and displayed in Table 1, suggest an average of 19% of Germans would buy a 49-Euro-Ticket while 38% would buy a 29-Euro-Ticket.³⁴

27 Ibid., 4-5. Wardman notes that summary averages for price elasticities are susceptible to confounding variables, hence justifying the paper's meta-analysis (which is responsible for the elasticities discussed later in the commute/leisure travel section).

28 Pablo Coto-Millán et al., 'Price and Income Elasticities for Intercity Public Transport in Spain', in *Essays on Transport Economics*, ed. Pablo Coto-Millán and Vicente Inglada (Heidelberg: Physica-Verlag HD, 2007), 58-59, https://doi.org/10.1007/978-3-7908-1765-2_4. Interestingly, this study cites two American studies on price elasticities, including one, Winston (1985), which provided a price elasticity range of -1.58 to -1.20 for intercity passenger rail.

29 Wardman, 'Meta-Analysis of Price Elasticities of Travel Demand in Great Britain', 14.

30 Ibid., 10-14.

31 Ibid.

32 Ibid., 13-14.

33 Ibid., 13-14.

34 Benjamin Gehrs, 'BILLIG IST BESSER: Warum ein Klimaticket für 29 Euro den Staat nicht mehr als ein 49-Euro-Ticket kostet, aber Haushalte viel mehr entlastet' (Greenpeace Deutschland, 10 October 2022), https://www.greenpeace.de/publikationen/Kalkulation_Klimaticket.pdf.

TABLE 1—WILLINGNESS TO PAY FOR 9-TURO-TICKET SUCCESSOR (GREENPEACE)

	Up to 49€ Ticket	Up to 29€ Ticket	Increase in WTP for 29€ Ticket
RWI Leibniz Institute	12%	26%	+117%
TU München	25%	50%	+100%
Infratest dimap/ARD	26%	59%	+127%
Civey/t-online.de	12%	27%	+125%
Civey/Campact	20%	30%	+50%
Average	19%	38%	+104%

Notes: Values are partially rounded. The surveys were conducted using various methodologies, further investigated in the table's original source.

Source: Gehrs, 'BILLIG IST BESSER'.

The surveys in Table 1 show a high price sensitivity in people's willingness to pay for a new transit pass, with two times as many willing to pay for a 29€ than for a 49€ ticket. Using the averages from Table 1, we can calculate a point elasticity of -1.508 between 29€ and 49€ for a successor ticket. Though less reliable or broadly applicable than the price elasticities produced by the more-complex studies explored above, this point elasticity supports the same conclusion: rail transportation is elastic.³⁵

We can examine price points with the Infratest dimap/ARD survey, which was conducted August 29-31 at the very end of the 9-Euro-Ticket's validity and asked about Germans' willingness to pay for a successor ticket at different prices.³⁶ This survey asked Germans whether they would buy a successor ticket at four discrete prices (9€, 29€, 49€, and 69€) and yielded a higher willingness to pay at every price, relative to other surveys shown in Table 1.³⁷ The results of the Infratest dimap/ARD survey are in Figure 2 below.

³⁵ This point elasticity was calculated based on the given percentages at the two ticket prices, because we currently lack a stronger published data set to analyze. The nature of this elasticity is also somewhat different because we are comparing two transit passes at different prices (a product that allows access to multiple modes across the country), whereas Wardman and Coto-Millán et al. made comparisons between various modes of transportation. Nonetheless, we find their elasticities helpful to compare here, as passenger rail makes up the vast majority of intercity transit under the 9-Euro-Ticket. Additionally, our point elasticity of -1.508 falls in line with the American price elasticity of between -1.58 to -1.20 cited in the Coto-Millán et al. study as Winston (1985).

³⁶ WDR, 'Drei Viertel der Deutschen findet Nachfolge-Angebot für das Neun-Euro-Ticket richtig', 1 September 2022, https://presse.wdr.de/ploungue/tv/das_erste/2022/09/20220901_ard_deutschlandtrend_ticket.html.

³⁷ Ibid.

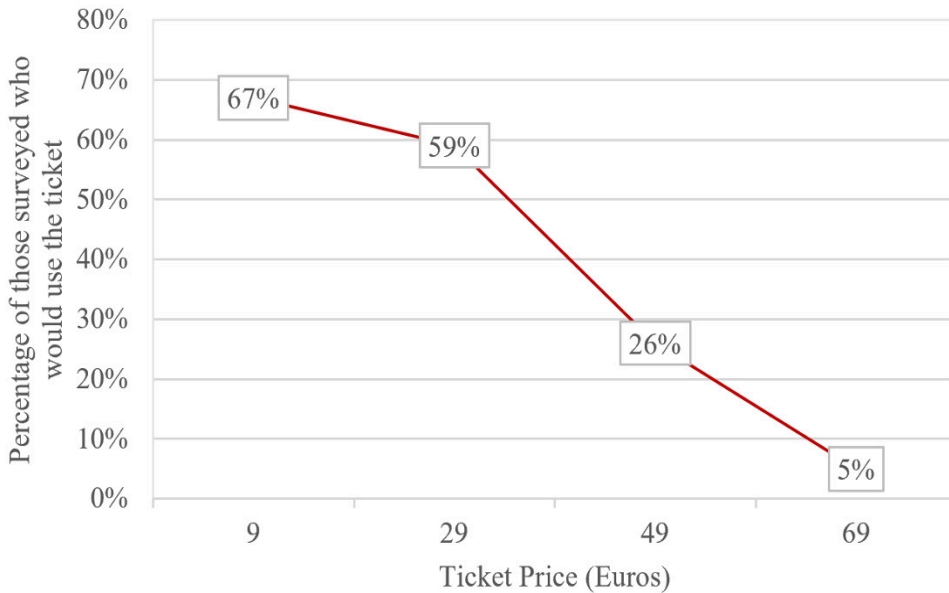


Figure 2. Willingness to pay for 9-Euro-Ticket successor (Infratest dimap/ARD)

From Figure 2, we see little difference in demand between a 9€ and 29€ ticket, while demand more than halves between 29€ and 49€, and only 5% of the country would buy a 69€ ticket.³⁸ These percentages for 29€ and 49€ tickets are nearly twice those from three of the other surveys in Table 1 (but fairly similar to TU München). The divergent results of these surveys can be partially accounted for by differently phrased survey questions and the fact that they were conducted at various points during the 9-Euro-Ticket's validity. However, we can judge their reliability, to some extent, by comparing these surveys' results to the empirical results of the 9-Euro-Ticket. According to the VDV, from June to August, just under 50% of the German population bought a 9-Euro-Ticket.³⁹ This percentage lines up with the average survey result showing 19% are willing to buy a 49€ ticket while 38% are willing to buy a 29€ ticket and with the Infratest dimap/ARD's finding that there is less of a difference between 9€ and 29€ than 29€ and 49€.⁴⁰

38 WDR, 'Drei Viertel der Deutschen findet Nachfolge-Angebot für das Neun-Euro-Ticket richtig.'

39 'Monatsbericht zur bundesweiten Marktforschung August 2022', 5–13. This 50% includes subscribers who either previously had a transit pass, which became a 9-Euro-Ticket, or subscribed to receive the 9-Euro-Ticket for all three months. The percentage of subscribers remained constant at 17-18% (within the margin of error), as one would expect, but the adoption of the 9-Euro-Ticket increased throughout all three months, with 28% purchasing the ticket in June, 30% in July, and 31% in August. In the last week of August, 49% of those surveyed owned a 9-Euro-Ticket and 1% still planned on purchasing one.

40 Logically, more consumers would be willing to purchase the 9-Euro-Ticket than either of the two more expensive proposed options. Thus, the numbers from the 9-Euro-Ticket corroborate those in the speculative surveys, at least to the extent that the surveys about willingness to pay for a successor ticket show a lower percentage of the population willing to buy a more expensive 29-Euro-Ticket (except Infratest dimap/ARD and

From an implementation perspective, there are two important factors that influence the differing willingness to pay between 29€ and 49€ tickets: social benefits allowance and relative desirability compared to existing transit offers. The first factor is simple: a 49€ ticket is above the standard 40.27€ rate for transportation expenses calculated in social benefits.⁴¹ Thus, a 49€ ticket would be too expensive for individuals on social benefits to purchase, even as they are some of the most likely to need and benefit from accessible public transit.

Secondly, cost matters more for expanding rail usage in rural areas, as evidenced by the strong response to the 9-Euro-Ticket: 44% of the 9-Euro-Ticket's new customers came from rural regions, while rural customers represented only 27% of existing customers.⁴² This is due to a combination of price and accessibility. For example, a Cologne monthly CityTicket costs 109.70€, so any amount below that will make the national transit pass worth buying for a city commuter.⁴³ However, in rural areas, few people buy a monthly pass for their commute (if one is even offered) and instead rely on a car. While in urban areas, a cheap national rail pass is an obvious choice if it is cheaper than the existing local pass, in rural areas, the national rail pass must be sufficiently cheap to attract occasional riders who must still rely on a car to travel where the trains don't go.

Addressing the Question of Funding

As with any government program, the question of how to fund a cheap transit pass to replace the 9-Euro-Ticket looms large. The German government recently made several announcements about the status of a replacement for the 9-Euro-Ticket—a proposition that continues to evolve. As of October 13, the German government and the federal states had agreed to a 49-Euro-Ticket as a successor to the 9-Euro-Ticket.⁴⁴ The ticket will be funded with 1.5 billion Euros each from the federal and state governments.⁴⁵ However, this plan will still leave a budget shortfall caused by lost revenue from other tickets coupled with higher costs related to running more service and rising energy prices.⁴⁶

The budgetary shortfall could be addressed, and a cheaper ticket offered, by simply reallocating money currently being spent to subsidize the car or fossil fuel

TU München's surveys which showed 59% and 50% respectively).

41 'Hartz IV Regelsatz 2022 - Ein Überblick', LpB (Landeszentrale für politische Bildung Baden-Württemberg, January 2022), <https://www.lpb-bw.de/regelsatz-hartziv#c66742>.

42 'Monatsbericht zur bundesweiten Marktforschung August 2022', 108.

43 'Ticket Prices and Price Categories for Buses and Trains in Cologne' (KVB), accessed 21 October 2022, https://www.kvb.koeln/en/tickets_prices/prices.html.

44 Abi Carter, 'The 49-Euro Ticket Is Coming: German States Agree on 9-Euro Follow-Up', IamExpat, 13 October 2022, <https://www.iamexpat.de/expat-info/german-expat-news/49-euro-ticket-coming-german-states-agree-9-euro-follow>.

45 Ibid.

46 Ibid.

industry. The German government plans to invest billions into the auto industry this year alone.⁴⁷ There is also the infamous *Dienstwagenprivileg* (company car privilege) that allows individuals to use company cars outside of work—the measure costs 5 billion Euros per year, more than enough to fund a cheaper transit pass.⁴⁸ Reallocating climate-harmful subsidies could be a potential solution to funding cheaper public transportation on its own. In addition to incentivizing public transportation, we could simultaneously reduce incentives to participate in behaviors that have a negative impact on the environment. Unfortunately, reallocating these subsidies is also politically contentious due to the car-centric culture that has developed in much of the world, including Germany, over the past century.⁴⁹ While we must overcome our attachment to car culture if we are to shift to a more sustainable society, I hope to provide in this paper a separate, attractive method to address the cost of funding cheap transit passes.

One particularly attractive method to address this budgetary shortfall would be to value the climate benefits of the modal shift induced by offering a cheap national transit pass. The method of valuing the carbon reductions for a cheap transit pass should be scaled to the number of tonnes of CO₂ removed via the pass' elimination of road journeys. This would incentivize providing a national transit pass at a price that maximizes the reduction in carbon emissions.⁵⁰ Given our conclusions about the price elasticity of demand for rail transport, a cheaper pass would receive more funding thanks to its greater climate impact, in addition to higher revenue from increased ticket sales.

Valuing the Environmental Impact

As discussed above, a significant modal shift to public transportation (and passenger rail in particular) can be achieved through a reduction in fare price. There is a meaningful decrease in carbon emissions from customers forgoing car journeys in favor of rail travel. Ten percent of all trips taken with the 9-Euro-Ticket would have otherwise been taken by car.⁵¹ Based on the calculations of the VDV, seen in Table 2, the 9-Euro-Ticket reduced greenhouse gas emissions by 600,000 metric tonnes of carbon dioxide equivalent (CO₂e) per month, or 1.8 million tonnes of CO₂ over the 3 months the 9-Euro-Ticket was valid.⁵²

47 Clara Thompson, 'The 9-Euro Ticket', American Institute for Contemporary German Studies, *AICGS* (blog), accessed 15 October 2022, <https://www.aicgs.org/2022/10/the-9-euro-ticket/>.

48 Ibid.

49 Ibid. In Germany in particular, the automobile industry is also a strong part of the national economy and wields significant influence. The same may be said of the United States and many other industrialized nations.

50 Assuming carbon emissions are properly priced in the funding mechanism to provide a strong incentive to lower the cost of transit by, at least, offsetting any lost revenue.

51 'Monatsbericht zur bundesweiten Marktforschung August 2022', 110.

52 Ibid., 110.

TABLE 2—CALCULATING THE CLIMATE IMPACT OF THE 9-EURO-TICKET

Number of 9-Euro-Ticket trips per month	1 billion
Proportion of trips shifted from cars	10%
Average distance of forgone car trips	50 kms
Total distance of foregone car trips per month	5 billion Pkms
Average passenger-km greenhouse gas emissions (assuming 1.5 passengers)	122g CO ₂ e/Pkm
Average savings of greenhouse gasses per month	600,000 tonnes CO ₂ e

Note: These calculations were performed based on market research carried out on behalf of VDV/DB and using the “TREMOD” (Transportation Emissions Model) of the German Federal Environmental Agency.

Source: ‘Monatsbericht zur bundesweiten Marktforschung August 2022’.

If the 9-Euro-Ticket were extended for an entire year, it would remove the equivalent of 7.2 million tonnes of CO₂ assuming a constant replacement of car travel. This impact, though significant for the environment, is not yet accounted for in the funding of a successor to the 9-Euro-Ticket.

While directly tying the emissions reductions of a cheap transit pass to its funding has not yet been proposed, Gehrs has implied the value of carbon reductions should be considered. Gehrs makes two important points.⁵³

- (i) If the German government does not meet its climate goals, it must purchase allowances from other countries.⁵⁴
- (ii) Carbon emissions impose a future social cost that the government will have to address.

The first point refers to Germany’s binding 2030 emissions targets; transportation emissions represent a significant portion of the emissions that must be reduced to meet the country’s goals. If Germany does not meet its 2030 goals, it is bound by law to purchase carbon allowances/credits from other countries.⁵⁵ Though the current cost of carbon is relatively cheap, purchasing allowances could become quite expensive by 2030 and beyond, suggesting that reducing carbon emissions now, at the cost of several billion Euros allocated to transit, is financially prudent.

The second point relates to the social cost of carbon emissions. The cited social price of carbon is 201€/tonne—the figure used by the German Environment

53 Gehrs, ‘BILLIG IST BESSER’, 7.

54 Samantha Gross, ‘Germany Is Becoming Ground Zero for the Challenges of Deep Decarbonization’, *Brookings* (blog), 28 May 2021, <https://www.brookings.edu/blog/planetpolicy/2021/05/28/germany-is-becoming-ground-zero-for-the-challenges-of-deep-decarbonization/>.

55 Gross, ‘Germany Is Becoming Ground Zero for the Challenges of Deep Decarbonization.’

Agency.⁵⁶ This price represents the discounted cost of future climate impacts that society will endure—impacts the future government will have to address. Reducing emissions now can save a greater amount of future spending. While both points are poignant, they fail to address the government’s short-term focus on justifying the cost of supporting a successor to the 9-Euro-Ticket.

Integrating carbon emissions reductions into funding directly clarifies the climate benefit of cheap transit and helps justify additional funding to increase public transportation’s carbon reduction impact. In the following section, I propose several potential methods for valuing the carbon reduction of a cheap transit pass via existing and new carbon-valuing systems.

European Union (EU) Emission Trading System

In Europe, the most obvious system to adapt for transit funding is the European Union’s Emission Trading System (EU ETS). The EU ETS is a limited cap and trade system that covers only a few high-emissions industry allowances, and an expansion into transportation and building emissions has been proposed.⁵⁷ One of the issues with using the EU ETS is that it has an oversupply of carbon allowances, with many given out for free.⁵⁸ This oversupply lowers both the carbon price and the pressure to reduce emissions, hence the current EU ETS would undervalue the carbon reduced by a cheap transit pass. Yet despite its shortcomings, the EU ETS is the largest existing carbon pricing framework, at least in Europe, that we could employ to fund transit passes. As such, this section will focus on four scenarios for funding transit passes using permutations of the EU ETS. However, this section is also intended to be generalizable to other carbon trading systems, providing a model globally applicable to account for the carbon reduction value of cheap public transport.

Scenario 1: The Existing EU ETS System –

The existing EU ETS system’s limited coverage of certain sectors makes it a poor choice for transit funding. However, the extension of EU ETS to maritime emissions in 2023 suggests that the system is not entirely incompatible with trans-

56 Gehrs, ‘BILLIG IST BESSER’, 7; ‘Gesellschaftliche Kosten von Umweltbelastungen’, Data, Umweltbundesamt (Umweltbundesamt, 10 August 2021), <https://www.umweltbundesamt.de/daten/umweltwirtschaft/gesellschaftliche-kosten-von-umweltbelastungen>.

57 ‘Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Amending Directive 2003/87/EC Establishing a System for Greenhouse Gas Emission Allowance Trading within the Union, Decision (EU) 2015/1814 Concerning the Establishment and Operation of a Market Stability Reserve for the Union Greenhouse Gas Emission Trading Scheme and Regulation (EU) 2015/757’, Proposal (European Commission, 14 July 2021), [https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2021/0551/COM_COM\(2021\)0551_EN.pdf](https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2021/0551/COM_COM(2021)0551_EN.pdf).

58 Juliana Reid, ‘Large Surplus Remains in EU Emissions Allowances’, Payne Institute for Public Policy, 12 May 2022, <https://payneinstitute.mines.edu/large-surplus-remains-in-eu-emissions-allowances/>.

portation.⁵⁹ Unfortunately, funding a cheap transit pass under the EU ETS would not be as simple as adding transportation to the ETS and allowing Deutsche Bahn or Germany's various other transit agencies to sell excess credits, because the reduction in carbon emissions comes from a modal shift towards public transportation and away from cars rather than the agency reducing its own emissions. If a cheap transit pass is successful, the agency's emissions could even increase from running more frequent services to meet increased demand. Though this increase would be negligible, the reduction from the modal shift would still not be recognized by simply including transit agencies under a standard cap and trade system.⁶⁰ The government could simply credit the emissions reductions to transit agencies and allow the agencies to resell the carbon allowances to businesses covered by the EU ETS. But this would be inefficient and exacerbate the issue of an oversupply of carbon allowances by adding more into the system. Clearly, the current EU ETS is not the best fit for our purposes.

Scenario 2: The Proposed "EU ETS2" System for Road Transportation –

The European Green New Deal, announced in 2019, includes a proposal to extend the EU ETS to building and road transport emissions.⁶¹ To avoid disrupting the existing EU ETS market, the expansion of emissions trading to building and road emissions would be carried out through a new emissions trading system ("ETS2") beginning in 2025.⁶²

Expanding the EU ETS to road transport has been criticized as ineffective because consumers' demand for transportation is broadly inelastic. As a result, a new EU ETS2 for road transport would raise mobility costs for the most vulnerable, who also lack alternatives to driving.⁶³ At the same time, wealthier consumers are already disproportionately high emitters whose habits are unlikely to change

59 'Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Amending Directive 2003/87/EC Establishing a System for Greenhouse Gas Emission Allowance Trading within the Union, Decision (EU) 2015/1814 Concerning the Establishment and Operation of a Market Stability Reserve for the Union Greenhouse Gas Emission Trading Scheme and Regulation (EU) 2015/757', 1–3.

60 'CO₂ Emissions from Cars: Facts and Figures (Infographics) | News | European Parliament', 22 March 2019, <https://www.europarl.europa.eu/news/en/headlines/society/20190313STO31218/co2-emissions-from-cars-facts-and-figures-infographics>. As a percentage of European Union transportation emissions in 2019, 71.7% was road transportation (60.6% cars) and a mere 0.4% was rail transportation. Even in a scenario in which rail transportation emissions double from increased ridership, the reduction in car emissions will be much greater. This is due to the greater efficiency of public transportation and electrification of much of the EU's railways.

61 Ibid.

62 Ibid., 19–20.

63 Dimitri Vergne, 'UNE FAUSSE BONNE IDÉE: WHY EXTENDING EMISSIONS TRADING (ETS) TO ROAD TRANSPORT AND BUILDINGS IS NOT RECOMMENDABLE' (The European Consumer Organisation, 15 February 2021), https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-011_une_fausse_bonne_idée_why_extending_emissions_trading_ets_to_road_transport_and_buildings_is_not_recommandable.pdf.

under a road transport EU ETS2.⁶⁴

Integrating a cheap transit pass with the existing EU ETS2 proposal can help address this issue of inequity while also boosting the system's climate impact. While overall consumer demand for mobility is inelastic (in the end, people must get to work and school), the elasticity of rail transport is much higher than road transport, at least in part because once you have committed to the capital cost of a car you are likely to continue using it even when fuel prices rise.⁶⁵ In order to combat this phenomenon, there must be affordable and reliable alternative means of transportation available to the public. By providing cheap public transportation via a pass like the 9-Euro-Ticket, using public transportation instead of a car becomes much simpler and more attractive.

Whereas EU ETS2 alone would simply provide a negative price signal for driving, an affordable transit pass provides a strong price signal encouraging the use of public transportation. Since the elasticity of demand for rail transport is higher than that of road transport, an affordable transit pass could be much more effective in triggering a modal shift and reducing road emissions than simply raising the price of fuel (the end effect of EU ETS2 alone).

The EU has recognized that there will be a disproportionate social impact of levying a carbon tax on building and road transport emissions, as we discussed above.⁶⁶ To address this disparity, the proposal for EU ETS2 includes a "Social Climate Fund" which will redistribute 25% of the auction revenues from the new system to support those most vulnerable to higher energy prices and mobility costs.⁶⁷ Supporting a cheap transit pass would achieve this goal of lowering the cost of mobility while also further benefiting the climate, making such a pass a superb use of the Social Climate Fund. However, though this has strong potential, the Social Climate Fund will not be funded until 2026 when carbon allowance auctioning begins under EU ETS2.⁶⁸ Thus, we require an alternative method for the immediate future.

Scenario 3: Carbon Removal Credits –

One potential alternative method is the provision of carbon removal credits. By 2050, each tonne of carbon emitted in the EU will have to be negated by a

64 Dimitri Vergne, 'UNE FAUSSE BONNE IDÉE.'

65 Coto-Millán et al., 'Price and Income Elasticities for Intercity Public Transport in Spain', 58-59; Wardman, 'Meta-Analysis of Price Elasticities of Travel Demand in Great Britain', 4-5.

66 'Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Amending Directive 2003/87/EC Establishing a System for Greenhouse Gas Emission Allowance Trading within the Union, Decision (EU) 2015/1814 Concerning the Establishment and Operation of a Market Stability Reserve for the Union Greenhouse Gas Emission Trading Scheme and Regulation (EU) 2015/757', 35.

67 Ibid., 35.

68 Ibid., 35-55.

tonne of carbon removed.⁶⁹ In order to achieve this goal, the EU is currently creating a system to certify carbon removal.⁷⁰ This system will recognize and certify each tonne of carbon removed from the atmosphere so that it can be sold into a more-developed EU ETS, with the goal of incentivizing new carbon capture projects. Integrating funding for transit into this system is unattractive for a simple reason: carbon removal credits (CRCs) are designed for carbon removal projects that sequester carbon long term, not simply reduce emissions. Issuing CRCs for the millions of tonnes of carbon emissions saved by cheap transit would create permits allowing for additional emissions. These emissions permitted by CRCs would replace the exact amount of emission reduced, zeroing out the original reduction.

In part, this reflects an issue with the way that our emissions trading systems are constructed. They are primarily designed either to reduce emissions in high-emissions industries or to provide a financial incentive for carbon capture and sequestration. Neither of these options accounts for the importance of shifting our consumption or behavior on a societal level. In our current socio-economic system, promising future carbon removal is more politically expedient than implementing policies to change our societal organization to be more sustainable.⁷¹ However, given the importance of *when* carbon is emitted, it is arguably much more important to make societal shifts that reduce emissions now than to rely on carbon sequestration in the *future*.⁷²

Scenario 4: A “Reverse Carbon Market” Payment –

One way to address this would be for governments to allocate funds proportional to the tonnes of CO₂ reduced in support of a cheap transit pass using the revenues generated from the sale of allowances under an emissions trading system. Such an approach would be agnostic to the details of the ETS itself (i.e. EU ETS vs ETS2 vs non-EU ETS). Allocating auction revenues equal to the amount of CO₂ reduced by the cheap transit pass would be a 1:1 ratio of one tonne of carbon credit auctioned to fund one tonne of carbon reduction from the transit pass, magnifying the impact of the ETS. This is, perhaps, the most straightforward way of recognizing and incentivizing the social benefits and emissions reductions reaped from an offer such as the 9-Euro-Ticket under an ETS framework.

This would differ from a Social Climate Fund, like the one proposed for EU ETS2, because the money would be not pulled from a pre-allocated pot of funds;

69 ‘COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: Sustainable Carbon Cycles’ (2021), 19–21, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0800&qid=1642671947257>.

70 Ibid.

71 Wim Carton, Jens Friis Lund, and Kate Dooley, ‘Undoing Equivalence: Rethinking Carbon Accounting for Just Carbon Removal’, *Frontiers in Climate* 3 (16 April 2021): 1, <https://doi.org/10.3389/fclim.2021.664130>.

72 Ibid., 4-5.

instead, funds would be provided to the transit agencies based on the amount of CO₂ removal achieved. This would essentially function as a reverse carbon market. As discussed in scenario 1, simply allocating carbon reduction credits to a transit agency for the transit agency to sell would be counterproductive in the long run by increasing the total number of available credits and decreasing the pressure to decarbonize. However, transit agencies could still be compensated under a reverse carbon market which pays out the equivalent auction price for each tonne of CO₂ removed by using funds from the ETS without disrupting the function of the carbon market itself. Unfortunately, this would still suffer from the same issue discussed above, in the underpricing of carbon within the EU ETS due to an oversupply of credits.

One potential solution to this underpricing would be to use the social cost of carbon (SC-CO₂) instead of a price set by the market. This could be crucial to shifting the financial calculus towards making policies that shift behavior/societal organization, if countries carry out accounting of their carbon budget and the implied future liabilities from climate change. A recent study estimated the social cost of carbon to be \$185 per tonne of CO₂ emitted (equivalent to approximately 189€).⁷³ This is near the 201€ figure used by the German Environment Agency in 2021.⁷⁴ The SC-CO₂ is substantially higher than the current EU ETS carbon price of 66.87€ per tonne.⁷⁵ The SC-CO₂ is also a more useful number when accounting for future liabilities because it factors in the cost of future climate change impacts on society, such as sea-level rise, mortality, and lost agricultural production.⁷⁶ These will all be costly for governments to address, thus there is a large financial incentive for near-term actions to reduce emissions and mitigate these impacts.

In the context of funding a cheap transit pass, the number of tonnes of emissions reduced by the pass could be compensated for at the SC-CO₂. This method would directly fund public transportation in recognition of the carbon reduction achievable by making transportation more accessible. This funding could be justified using revenue from the EU ETS or ETS2, as mentioned above, or budgeted separately based on the implied liability of the country's carbon budget.⁷⁷

73 Kevin Rennert et al., 'Comprehensive Evidence Implies a Higher Social Cost of CO₂', *Nature*, 1 September 2022, 1–6, <https://doi.org/10.1038/s41586-022-05224-9>; 'USD To EUR: Convert United States Dollar to Euro', *Forbes Advisor*, accessed 20 October 2022, <https://www.forbes.com/advisor/money-transfer/currency-converter/usd-eur/>.

74 'Gesellschaftliche Kosten von Umweltbelastungen.'

75 'EU Carbon Permits', *Trading Economics*, accessed 20 October 2022, <https://tradingeconomics.com/commodity/carbon>.

76 Rennert et al., 'Comprehensive Evidence Implies a Higher Social Cost of CO₂'.

77 This would function similarly to the "reverse carbon market" proposed above, except instead of using the same cost of carbon, reductions outside of the scheme that are not easily incentivized under existing markets, like cheap transit, would be compensated at a separate rate (SC-CO₂) from the emissions trading system's

By reducing emissions now, cheap transit mitigates the future impacts of climate change which, in a business-as-usual scenario, represent a significant financial liability to the government. As such, current spending on affordable transportation should be seen not as a net increase in government spending, but as a pre-payment on a future liability. Paying down the national carbon debt now is the most cost-effective approach to mitigating climate change in the long run. Additionally, actions such as funding a cheap national transit pass have added social benefits from increased mobility—social benefits that don't come with carbon sequestration 30 years in the future.

Conclusion

The question of how to fund a successor ticket to the 9-Euro-Ticket continues to be discussed in Germany, though its price is likely to be 49 Euros. This paper hopes to contribute to that discussion, and also the broader global transportation space, by showing that a lower ticket price is not only better for society and the climate but can also be more financially prudent if issued correctly. With this paper, we have established that the price elasticity of demand for a 9-Euro-Ticket replacement is sufficiently high that transit agencies could earn more revenue from offering a cheaper pass. We have also established that a cheaper pass results in a greater reduction in CO₂ emissions, as more people will opt for transit over cars at a cheaper pass price.

In synthesizing these two findings, we have provided several options to recognize the importance of the carbon reductions achieved by triggering a modal shift away from cars financially. While the data is still evolving, considering the recency with which the 9-Euro-Ticket has ceased to exist, our findings support the conclusion that a cheaper transit pass is not only better for society and the environment, but with the right conditions, also better for the transit agency's top line.

The implications of this paper apply beyond Germany, or even Europe. Its findings could be applied to the United States, where people often complain about Amtrak's pricing, as its trips are priced above the cost of comparable distances in other parts of the world. At the same time, outside of the Northeast Corridor (NEC), and even within the NEC oftentimes, Amtrak has excess capacity on its trains. Lowering prices on its trains could have a similar effect to the 9-Euro-Ticket and contribute to shifting trips from highways to rail. Admittedly, there are numerous barriers to achieving lower fares, or a cheap monthly pass, on Amtrak between the company's mandate for profitability and already thinly-stretched budget. However, the effort is worth it to improve mobility and address climate

price—funds would simply come from the proceeds of carbon allowances. This concept is, of course, applicable globally, rather than just for the EU, with or without an established emissions trading system.

change. If we hope to build a sustainable future, the whole world will need to make efforts to provide sustainable transportation. A cheap transit pass is an important part of making that transportation accessible and competitive, and recognizing its climate benefits financially is a solid way to fund such a measure.

Afterword

While this paper focused on the 9-Euro-Ticket and its replacement, our findings are applicable to other countries and their transit systems, though some changes in results should be expected. Germany has a well-developed public transport system and rail network compared to other nations—future research should look at the degree to which the existing level of transit development plays into the price elasticity and responsiveness of the public to a cheap transit pass. The opportunity cost of providing public transportation at a lower price to customers versus investing in new capital projects is another subject ripe for further evaluation in the context of a cheap national rail pass. Ultimately, I believe it is not a strictly zero-sum game and that higher ridership from a cheap transit pass will beget stronger political support for new investment in rail and other forms of public transportation.

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The Poor Prisoner's Dilemma: How Monetary Incentives Perpetuate US Incarceration

Sarah Uriarte

Human history reveals an almost natural tendency to accept and encourage the use of currency as means of repenting for criminal offenses. Monetary influence is problematic, however, when it converts systems of criminal justice into economic games. Monetary fines do not communicate condemnation, nor do they allow discussion for understanding wrongdoings to take place. Furthermore, fixed costs are regressive and disproportionately impact lower-income individuals. The US criminal justice system must reconsider the use of money to censure crime.

Monetary fines are one of the most widespread forms of punishment in the US criminal justice system. Implemented by societies from as early as biblical times, this form of punishment has evolved into an intricate process of money extraction from offenders that funds the exact institutions that incarcerate them—inducing a cycle of poverty and tainting the integrity of criminal justice. The issue with coupling money and criminal justice is three-fold: (1) monetary influence makes the prison industrial complex highly profitable and thus incentivizes mass incarceration; (2) placing fines on crimes does not encourage moral reflection in offenders nor deterrence; and (3) monetary sanctions perpetuate cycles of poverty given the state of racial and income inequality in the US. The strong, highly complex relationship between money and criminal justice sustains many harms that provide grounds for questioning its continuation.

A Brief History of Monetary Sanctions and Bribery

Monetary sanctions have been a feature of criminal justice systems since ancient times. They have served both as compensation and punishment in ancient

societies, even for serious crimes such as murder.¹ Mere restitution was sufficient in redeeming crimes such as theft, but often the amount repaid by the thief would be higher than the amount stolen. If offenders could not afford financial penalties, they would be sentenced to penal servitude, imprisonment, or death. In addition to sentencing, currency was used to evade other forms of punishment through bribes. In early African states such as 19th century Buganda and 18th century Dahomey, bribing judges was common practice—in the form of men, women, cows, or coin—to influence sentencing.² In fact, the execution for severe offenses was often postponed to give offenders and their relatives or friends time to gather currency and offer a bribe. This “redemption money” was a significant source of income for the ruling elite.

History illustrates the power money has had in altering criminal punishment outcomes. Formal and informal bribes were encouraged ways to solve criminal conflicts because of their profitability. Other non-public-safety factors that allowed for monetary sanctions to flourish included: loose and unstable laws, lack of qualified judges, and heavy penalties that would otherwise be carried out. However, it is important to note that the prevalence of penal fines in society has depended on its socioeconomic state. Late 17th century Europe had infrequent usage of monetary penalties due to high poverty rates and income inequality.³

Financial gains realized by the wrongs of others create morally ambiguous dynamics of justice. Older societies were more transparent in acknowledging the conflicts of interest created by monetary incentives in criminal justice with their usage of bribes. The modern U.S. criminal justice system may not explicitly endorse bribery, but the industry is so profitable at every stage of the incarceration process that it cannot deny its ulterior motivation to arrest and charge its citizens.

Financial Incentives in the Criminal Justice System

Financial gain spurs each component of the criminal justice system to apprehend and incarcerate individuals with detracted regard for due process. Outlined are the ways money incentivizes incarceration in the three components of the criminal justice system: the police, the courts, and the corrections.

The Police

Police are the front-line force that is supposed to serve and protect the public from criminal actors. Ideally, police officers would only have to issue ad hoc ci-

1 Zamist, Ida, & Joyce Sichel. 1982. Review of United States Fines Literature. Fines in Sentencing. Working Paper no. 5. New York: Vera Institute of Justice.

2 Claessen, Henri J.M. “Aspects of Law and Order in Early State Societies.” *The Law’s Beginnings*, 2003, 161–79. https://doi.org/10.1163/9789004481602_012.

3 Zamist, Ida, & Joyce Sichel. 1982. Review of United States Fines Literature. Fines in Sentencing.

tations and arrests. This is not the case, however, when police quotas incentivize officers to apprehend a certain number of citizens within a specified time period regardless of the natural crime frequency. Police quotas are explicit or implicit numerical goals of tickets or arrests that officers have to meet in order to achieve certain financial benefits. Unprohibited in 24 states, quotas have led officers to commit misconduct by planting drugs on innocent people and falsifying tickets.⁴ Individuals who are ticketed or arrested may not actually be guilty but rather a victim of abuse of power by cops trying to meet quotas.⁵ The incentives to meet these implicit or explicit quotas come from promises of promotion or compensation for meeting them.⁶ Unreasonably high quotas can detract from the time officers would otherwise spend addressing more serious threats, and unreasonably low quotas would disincentivize officers from continuing diligent work once met.

Financial incentives influence the highest-ranking elected officers as well. Thousands of sheriffs have unchecked authority over arrests, incarceration, and civil enforcement in the U.S. Conflicts of interest are apparent when sheriffs expect financial compensation or campaign contributions from incarceration-specific businesses after awarding contracts that benefit incarceration. Donors with conflicts of interest include employed deputies, bail bonds companies, weapons dealers, and gun ranges. According to research by Common Cause, public officials in 48 counties received campaign contributions from several industries including construction companies and real estate businesses—who in return received contracts for the construction of jails and other facilities.⁷ Many of these conflicts of interest are not prohibited by law, so criminal justice enforcement can be freely motivated by forces other than public safety. One example of this is the infamous corruption scandal of the commissioner of the Department of Corrections Christopher B. Epps in 2014. Epps accepted more than \$1.4 million in bribes to keep jails full in order to increase profits for contracted businesses that service the facilities.⁸ One company involved with the scandal is GEO Group, one of the world's largest private prison companies, which was cited for numerous workplace violations by the Occupational Safety and Health Administration (OSHA) in 2011 while managing the East Mississippi Correctional Facility. The GEO Group's underemployment of correctional officers, undertraining of staff, and neglect of

4 Ossei-Owusu, Shaun, "Police Quotas" (2021). Faculty Scholarship at Penn Carey Law. 2835. https://scholarship.law.upenn.edu/faculty_scholarship/2835.

5 "Outlawing Police Quotas." *Brennan Center for Justice*, 6 July 2022, <https://www.brennancenter.org/our-work/analysis-opinion/outlawing-police-quotas>.

6 Ossei-Owusu, Shaun, "Police Quotas" (2021).

7 "The Paid Jailer: How Sherriff Campaign Dollars Shape Mass Incarceration." *Common Cause*, 2021, https://www.commoncause.org/wp-content/uploads/2022/01/CC_PaidJailer.pdf.

8 Bliss, Kevin. "Mississippi: More Indictments from Former DOC Commissioner Epps Corruption Scandal." *Prison Legal News*, 2019. <https://www.prisonlegalnews.org/news/2019/feb/5/mississippi-more-indictments-former-doc-commissioner-epps-corruption-scandal/>.

building maintenance contributed to unsafe conditions for both correctional officers and prisoners.⁹ This resulted in cell doors that could be opened by prisoners, staff working shifts without basic self-defense training, and attacks on correctional officers by prisoners, according to OSHA. Financially-incentivized quotas to over- or under-police and monetary bribes by corporations that endorse incarceration pose a danger to society.

The Courts

After arrest and processing, an arraignment is made where a judge determines whether the defendant can be released on bail or not until trial. Bail guarantees that a defendant will return and make all necessary court appearances, of which they get refunded if they do so. Cash bail systems dominated by commercial bail bond companies are unique to the U.S. with the exception of the Philippines.¹⁰ Bail bonding companies provide pledge money or property as bail in exchange for a nonrefundable fee of usually 10 percent of the bail amount.¹¹ If an individual cannot afford bail and does not opt for a private bail company, then they await trial in jail. Seventy percent of the U.S. jail population is composed of people awaiting trial.¹² This process is unjust because those who are offered bail but cannot afford it either have to remain in captivity or pay a nonrefundable fee to a third party, even if they show up to every court date and are found not guilty.

The prisoner's dilemma is a well-known thought experiment that illustrates the hard decision between cooperation for a mutual reward or betrayal for a higher, individual reward.¹³ The "innocent prisoner's dilemma," as described by Medwed, is a unique application of this phenomenon in which an innocent defendant is forced to make the difficult choice of pleading guilty to avoid heavy trial fees and receive a less-severe punishment or to maintain their innocence and pay heavy fines while also losing their possibility of parole.¹⁴ With the heavy consequences associated with proving their guiltlessness, one is discouraged from being honest and may admit to crimes they did not commit. According to the National Registry of Exoneration, 22 percent of exonerated individuals in 2021 pled.¹⁵ This percentage

9 Cutting Corners in America's Criminal Justice System. In *The Public Interest*, Apr. 2016, https://www.inthepublicinterest.org/wp-content/uploads/ITPI_CuttingCorners_Corrections_April2016.pdf.

10 Liptak, Adam. "Illegal Globally, Bail for Profit Remains in U.S." *The New York Times*, The New York Times, 29 Jan. 2008, <https://www.nytimes.com/2008/01/29/us/29bail.html>.

11 "The Paid Jailer: How Sheriff Campaign Dollars Shape Mass Incarceration." *Common Cause*.

12 Sawyer and Wagner. "Mass Incarceration: The Whole Pie 2022." *Prison Policy Initiative*, <https://www.prisonpolicy.org/reports/pie2022.html#slideshows/slideshow1/2>.

13 Forst, B. and Lucianovic, J. "The prisoner's dilemma: Theory and reality," *Journal of Criminal Justice*, vol. 5, no. 1, pp. 55-64, 1977. [https://doi.org/10.1016/0047-2352\(77\)90025-3](https://doi.org/10.1016/0047-2352(77)90025-3)

14 Medwed, Daniel S., The Innocent Prisoner's Dilemma: Consequences of Failing to Admit Guilt at Parole Hearings. University of Utah Legal Studies Paper No. 06-05, *Iowa Law Review*, Vol. 93, p. 491, 2008, Available at SSRN: <https://ssrn.com/abstract=960125>.

15 THE NATIONAL REGISTRY OF EXONERATIONS. *2021 Annual Report - University of Michigan*

varies by crime, increasing to 49 percent for manslaughter and 66 percent for drug crimes.¹⁶ Of the exonerated guilty-plea manslaughter cases, almost all of them started off as murder cases before being plea bargained down to manslaughter. As for the drug cases, the difference in incarceration time between the months before the trial and potential years if convicted is motivating enough to surrender one's innocence. On top of that, going to trial to defend oneself is extremely costly for the courts and for the defendant.¹⁷ The courts rely on plea bargains to avoid trial costs and close cases faster. For the defendant, a long trial comes with legal fees and extended periods of time off of work, which can negatively impact job security and income.¹⁸ This is an undesirable situation caused by underlying financial factors that persuade defendants towards false guilt, which works against the fair process of criminal justice and does not serve any protective function.

The Corrections

Twenty-six states and the federal government use private corporations to run their prisons.¹⁹ Private prisons generate profit primarily by earning a certain revenue per inmate that they incarcerate.²⁰ Given that the business model of private prisons depends on the number of inmates, their goals are not to rehabilitate prisoners or keep people out of prisons. A 2020 study found that increasing private prison beds per capita caused an increase in both sentencing lengths and the number of incarcerated individuals per capita.²¹ In addition, Mamun et al. found that private prisons result in higher recidivism rates compared to public prisons.²² This would benefit private prisons, since their revenue increases when fewer people permanently leave their institutions. There is a clear conflict of interest between maximizing profit and protecting society. Deterring crime and keeping the public safe is counter to their source of profit.

Law School. 12 Apr. 2022. <https://www.law.umich.edu/special/exoneration/Documents/NRE%20Annual%20Report%202021.pdf>.

16 National Registry of Exonerations. *Innocents Who Plead Guilty - University of Michigan Law School*. 24 Nov. 2015, <https://www.law.umich.edu/special/exoneration/Documents/NRE.Guilty.Plea.Article1.pdf>.

17 Schwartzapfel, Beth, et al. "The System: The Truth About Trials." *The Marshall Project*, The Marshall Project, 4 Nov. 2020, <https://www.themarshallproject.org/2020/11/04/the-truth-about-trials>.

18 Hunt, Russell. "Pleading Guilty to a Criminal Charge Can Cost More than You Think." *Russell D. Hunt Sr., Attorney at Law*, 28 Feb. 2022, <https://www.rhuntlaw.com/blog/2022/02/pleading-guilty-to-a-criminal-charge-can-cost-more-than-you-think/>.

19 Mackenzie Buday and Ashley Nellis, Ph.D. "Private Prisons in the United States." *The Sentencing Project*, 1 Nov. 2022, <https://www.sentencingproject.org/reports/private-prisons-in-the-united-states/>.

20 Wright, L.B. "The American Prison System: It's Just Business." *Fordham Journal of Corporate and Financial Law*, 9 Dec. 2018, <https://news.law.fordham.edu/jcfl/2018/12/09/the-american-prison-system-its-just-business/>.

21 Galinato, Rohla. "Do privately-owned prisons increase incarceration rates?" *Labour Economics*, Volume 67, 2020, <https://doi.org/10.1016/j.labeco.2020.101908>.

22 Saleh Mamun, Xiaoxue Li, Brady P. Horn & Janie M. Chermak (2020). "Private vs. public prisons? A dynamic analysis of the long-term tradeoffs between cost-efficiency and recidivism in the US prison system," *Applied Economics*, 52:41, 4499-4511, DOI: 10.1080/00036846.2020.1736501.

Around 4,000 corporations profit from mass incarceration.²³ Part of their revenue comes from charging prisoners cruel amounts for basic necessities at commissary, as well as through devious avenues such as charging \$25 for a 15-minute phone call²⁴ and co-pays for health services.²⁵ These fines are absurd when considering how little inmates earn through their labor, if at all—seven states do not pay incarcerated people for their labor. The average minimum daily wage before deductions is 86 cents, which is less than the 93 cents it was in 2001.²⁶ In 14 states, medical co-pays cost inmates the equivalent of charging minimum wage workers more than \$200 for a copay based on wage adjustment. In Colorado, it would take two weeks of wages to purchase a single box of tampons. Not only do prisoners have to struggle to pay off court debt, but the additional financial costs they face continue to penalize them over the duration of their sentences.

Efficacy of Monetary Sanctions

Some may argue that monetary fines are humane punishments that motivate people to not commit crimes in the first place. They are a non-physically-violent alternative that can be highly individualized and proportional to the offense and the individual's wealth or income. Monetary sanctions are less invasive than imprisonment and do not require lengthy state supervision; they are also reversible as payments can be refunded in the case of injustice.²⁷ Monetary fines may have their place in the criminal justice system for the reduction and replacement of incarceration. When considering the social environment of the modern U.S., however, the advantages of imposing monetary sanctions clearly diminish.

Recidivism and Deterrence

Recidivism rates in the U.S. are substantially high, with three-year reincarceration rates reaching levels as high as 64 percent (VADOC 2018; Durose et. al. 2014). When turning to financial penalties as a replacement for incarceration, outcomes do not seem to improve. Court-ordered monetary sanctions do not reduce recidivism; fines have been shown ineffective in preventing future offenses, and offenders who were fined were more likely to reoffend than those who did not receive a court-ordered punishment (Tostlebe 2017; Critelli & Crawford 1980).

23 Worth Rises. The Prison Industrial Complex: Mapping Private Sector Players. 2019, <https://static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/5cc7c27b9e3a8d00018649c5/1556595324791/The+Prison+Industrial+Complex+-+Mapping+Private+Sector+Players+-+2019.pdf>.

24 Ibid.

25 Sawyer, Wendy. "The Steep Cost of Medical Co-Pays in Prison Puts Health at Risk." *Prison Policy Initiative*, 2017, <https://www.prisonpolicy.org/blog/2017/04/19/copays/>.

26 Ibid.

27 Coca-Vila, Ivó. "What's Really Wrong with Fining Crimes? On the Hard Treatment of Criminal Monetary Fines." *Criminal Law and Philosophy* 16, no. 2 (2022): 395–415. <https://doi.org/10.1007/s11572-021-09623-3>.

Monetary sanctions may not reduce incarceration but rather perpetuate it.

In terms of deterring crime, evidence has been scarce. Littering fines have not decreased littering, albeit hard to enforce (Sells 2014). This suggests that fines are not enough to communicate censure to the public. Coca-Vila argues that monetary fines force offenders to reduce consumption and thus lower their standard of living and reduce their freedom.²⁸ This may constitute a punishment, but it does not serve the utilitarian function of deterrence in punishment. There also exists a “third party problem” in that monetary fines could be transferred to third parties who end up bearing the cost of the fine rather than the offender themselves.²⁹ Financial sanctions are not personal enough, so their transferability can shift the punishment away from the offender and thus not lead to any moral reflection nor motivation to abstain from crime. Individuals who have committed a crime may not understand the severity of their wrongdoing if their friends or family end up paying their bail.

The Exacerbation of Income Inequality

Pushing people into a cycle of poverty may be a questionable method of punishing severe crimes considering the growing income inequality in the U.S.³⁰ Monetary sanctions perpetuate this trend given the socioeconomic makeup of the U.S. population. According to 2023 Federal Reserve Data, the top one percent of households in the U.S. own 26 percent of the country’s total wealth.³¹ Lower-income individuals make up a higher percentage of incarcerated people and are more adversely impacted by the fines and fees associated with criminal justice system involvement.³²

Wealth inequality is also racialized, with White people owning 86 percent of wealth albeit only making up 60 percent of the population.³³ Furthermore, interactions with the criminal justice system disproportionately impact Black and brown people.³⁴ Black and Latinx Americans are incarcerated five and 1.3 times

28 Coca-Vila, I. What’s Really Wrong with Fining Crimes? On the Hard Treatment of Criminal Monetary Fines,” 395-415.

29 Ibid.

30 Semega, J., Kollar, M. (2022). “Increase in Income Inequality Driven by Real Declines in at the Bottom.” United States Census Bureau. <https://www.census.gov/library/stories/2022/09/income-inequality-increased.html>.

31 USAFacts. “How This Chart Explains Americans’ Wealth across Income Levels.” USAFacts, USAFacts, 28 Mar. 2023, <https://usafacts.org/articles/how-this-chart-explains-americans-wealth-across-income-levels/>.

32 Hayes, T., Barnhorst, M. “Incarceration and Poverty in the United States.” American Action Forum, June 2020, <https://www.americanactionforum.org/research/incarceration-and-poverty-in-the-united-states/>.

33 USAFacts. “White People Own 86% of Wealth and Make up 60% of the Population.” USAFacts, USAFacts, 23 Sept. 2020, <https://usafacts.org/articles/white-people-own-86-wealth-despite-making-60-population/>.

34 Craigie, Terry-Ann, et al. “Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality.” *Brennan Center for Justice*, 15 Sept. 2020, <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement->

the rate of White Americans.³⁵ Fixed monetary fines are regressive in that they are inconveniences for those with wealth and devastating for those without it.

Future Considerations

Monetary incentives fuel every level of the incarceration pipeline and come at incredible costs to offenders. Monetary sanctions are an unjust form of punishment when they do not impact people equally. While they do retain utility in minimizing incarceration, which is severely inhumane for people as well, the use of fines must be scaled fairly. Alternatives, such as restorative and transformative justice, must be sought in order to prevent the worsening of economic disparities among vulnerable populations. Reflection and questioning on the purpose of criminal punishment are due.

At least in behavioral experiments, victims become less punitive when they become increasingly compensated, and there is no increased desire to punish so long as participants are maximally compensated.³⁶ Since they may be partially restored by monetary compensation, restitution can be a valid form that monetary sanction can take in criminal justice to compensate the victim if the crime was theft-related. For different crimes, however, other avenues should be explored. Transactional monetary sanctions lack a very important emotional component in addressing crime that is important in making punishment decisions and restoring victims.³⁷ When victims express how they have been wronged, they punish less harshly because they may feel partially restored. An emotional outlet must be part of the justice process to minimize needed punishment and maximize victim well-being. The function of the criminal justice system should be revisited as well as the purposes of punishment: deterrence, retribution, just deserts, rehabilitation, incapacitation, and recently restorative justice as well as transformative justice.³⁸ Restorative justice has been found to be impressively effective at reducing recidivism.³⁹ Transformative justice outcomes also seem promising, with restoration

criminal.

35 Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." The Sentencing Project, 16 Dec. 2022, <https://www.sentencingproject.org/reports/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons-the-sentencing-project/>.

36 Heffner, J., Feldman Hall, O. "Why we don't always punish: Preferences for non-punitive responses to moral violations." *Sci Rep* 9, 13219 (2019). <https://doi.org/10.1038/s41598-019-49680-2>.

37 Xiao, Erte & Houser, Daniel. (2005). Emotion Expression in Human Punishment Behavior. Proceedings of the National Academy of Sciences of the United States of America. 102. 7398-401. 10.1073/pnas.0502399102.

38 "The Purpose of Criminal Punishment - Sage Publications Inc." *Ethics and the Criminal Justice System*, ch 5, 2004, pp. 103-126. https://www.sagepub.com/sites/default/files/upm-binaries/5144_Banks_II_Proof_Chapter_5.pdf.

39 Morris, Ruth (2000). "What is Transformative Justice?" Stories of Transformative Justice, *Canadian Scholars' Press*. Ch 1, pp.3-22. <https://www.law.umich.edu/special/exoneration/Documents/NRE%20Annual%20Report%202021.pdf>.

40 Kennedy, J. L. D., Tuliao, A. P., Flower, K. N., Tibbs, J. J., & McChargue, D. E. (2019). Long-Term

and rehabilitation offered to victim and offender, respectively, as well as other forces bolstering overall community improvement that deter individuals away from socio-economic motives for crime. None of these alternatives involve private, for-profit influences but are instead person-focused.

Conclusion

The U.S. criminal justice system has strayed away from upholding the moral norms and values of a society in order to protect its people. It has contorted into a business that profits off of the wrongdoings of civilians and forces them into lose-lose situations with hardly any support or rehabilitation to come from it. The poor prisoner is left without many options for reintegration into society or hope for financial freedom; the poor prisoner is trapped.

Criminal justice systems have been distanced from monetary influences in the past, with California and Illinois ending medical co-pays in prisons in 2019.⁴¹ ⁴² States that have outlawed police quotas, bail bonds, and private prisons have already begun decreasing the monetary influence on criminal justice. In California, risk assessment tools may replace cash bail, although the algorithms used may still be discriminatory.⁴³ More work is needed to research non-discriminatory ways to reform the criminal justice system, as well as explore alternative forms of punishment that are compatible with the values of a community and the wellbeing of its people. Some ways to reduce the discriminatory nature of monetary sanctions include the abolition of bail and the decriminalization of drugs. Perhaps monetary fines can be scaled to the wealth of the individual so as to punish without exacerbating income inequality. Leaning into transformative and restorative justice would also benefit society by emphasizing rehabilitation. Society must think beyond the limits of monetary sanctions in order to create a system of justice that is fair, unbiased, and effective in reducing crime.

Effectiveness of a Brief Restorative Justice Intervention. *International Journal of Offender Therapy and Comparative Criminology*, 63(1), 3–17. <https://doi.org/10.1177/0306624X18779202>.

41 Stone, Jones-Sawyer. “Eliminating Copays in California Jails & Prisons (AB 45).” *ACLU of Northern California*, 2019, <https://www.aclunc.org/our-work/legislation/eliminating-copays-california-jails-prisons-ab-45>.

42 “Bill Status of HB2045.” *Illinois General Assembly*, 2019, <https://ilga.gov/legislation/billstatus.asp?DocNum=2045&GAID=15&GA=101&DocTypeID=HB&LegID=117556&SessionID=108>.

43 Schuppe, Jon. “California may replace cash bail with algorithms — but some worry that will be less fair.” *NBC News*, 17 Oct 2020, <https://www.nbcnews.com/news/us-news/california-may-replace-cash-bail-algorithms-some-worry-will-be-n1243750>.

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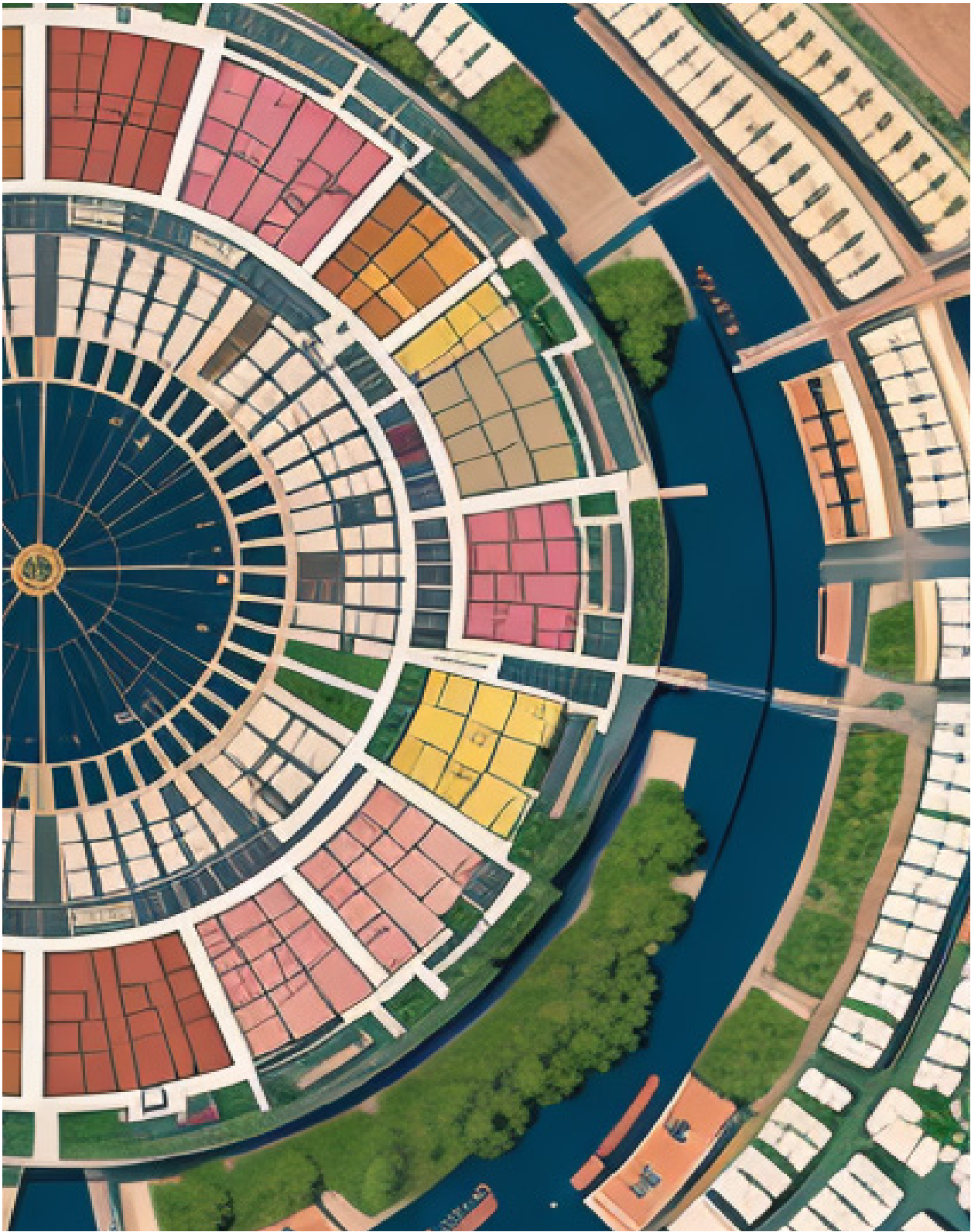
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