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When this year’s Executive Board assumed leadership of the Helvidius Group, our goal was to increase the variety of content we make accessible to our readers while maintaining our rigorous selection criteria. We hoped that, in an often confusing and rapidly changing political climate, the Journal would incorporate top-of-mind issues that have not yet been grappled with in an academic context or may be systematically underrepresented therein. Our essays this semester reflect this aim.

This issue’s Guest Essay, written by Columbia Professor Van C. Tran, considers the effect of hyper-selected immigrant groups on contemporary perceptions of U.S. racial categories. The essay is an excerpt from a peer-reviewed article, co-authored with Jennifer Lee, Oshin Khachikian, and Jess Lee. It will appear in the Special Issue on Immigration and Identities: Race and Ethnicity in a Changing United States, soon to be published by the The Russell Sage Foundation Journal of the Social Sciences.

The Fall 2017 Tomassi Essay, written by Jeremy Daniel Selland, quantitatively analyzes the effect of targeted killings via drone strikes on non-state actors’ targeting and attack methodologies. While most literature on drone strikes applies the international relations theory of deterrence by punishment to civilian populations, Selland assesses the efficacy of drone strikes by considering the relationship between non-state actors and the military. His paper looks at targeted killings’ effects on the state in Pakistan, arguing that targeted killings erode non-state actors’ abilities to strike hardened military targets.

In this semester’s Institute of Latin American Studies (ILAS) paper, Andrew O’Donohue examines the impact of constitutions written under outgoing authoritarian regimes on the prospects for survival of subsequent democratic states. Helvidius and ILAS applaud O’Donohue for his contribution to our understanding of democratic transitions in Latin American countries such as Brazil and Argentina. His essay challenges conventional wisdom that political pacts designed to preserve interests and reduce unpredictability during democratic transition make transitional democracies less likely to break down.

In the context of the Black Lives Matter movement, Thamara Jean analyzes examines the contrast of the self-affirming ideals of the Negritude Movement with those of Afro-Pessimism to determine whether the Vitalist tradition often employed by social movements seeking to combat oppression needs restructuring in order to succeed. Jean will continue her research in political theory at the University of Oxford as a Rhodes Scholar next fall.

Grigory Khakimov’s essay examines the way in which Vladimir Putin controls contemporary Russia’s civil society. He employs Antonio Gramsci’s conception of the “dual” state which combines co-optation of loyal civic groups with coercion against those inconsistent with the regime. His research reveals that, although independent non-governmental organizations are systematically persecuted and inspected by the Russian Ministry of Justice, they successfully avoid coercive legislation and even cooperate with the state.

In his essay, Marko Palaming de Guzman studies the social meaning of remittances amongst Filipino live-in caregiver mothers (FLCMs) in Montreal, Canada. He concludes that remittances symbolically build intimacy between mothers and children leading to continued maternal sacrifice and pointing to the need to bolster financial literacy among migrants.

Finally, Merrit Stüven interrogates the United States’ failure to ratify the United Nations Convention to Eliminate All Forms of Discrimination Against Women (CEDAW). She examines U.S. exceptionalism with regard to international human rights documents as well as domestic debates surrounding women’s health and reproduction as factors that have led to U.S. non-ratification. She compares 1994 and 2002 Senate Foreign Relations Committee reports to reveal how the conversation regarding these topics have evolved over time to prolong the United States’ non-ratification.

Beyond publishing exceptionally insightful undergraduate articles, this semester’s Editorial Board hosted an alumni panel in New York and a talk with French public intellectual Bernard-Henri Lévy.

I would like to thank every member of the Editorial Board for your hard work, which allowed us to publish the Fall 2017 edition of the Journal of Politics & Society. I truly enjoy working with you, and I look forward to continuing to do so as we proceed with the Journal’s Spring 2018 edition.

Jordan Singer
Editor in Chief
New York
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HYPER-SELECTIVITY AND ASIAN RACIAL MOBILITY

Van C. Tran

Today’s immigrants hail from more diverse national origins than ever before in our country’s history. As a result, race and immigration have become inextricably linked in the United States; one can no longer understand the complexities of race without considering the role of race and immigration. Not only are immigrants diverse with respect to national origin, but they are also diverse with respect to selectivity. At one end of the extreme are Asian Indians, Chinese, Nigerians, Cubans, and Armenians who are, on average, hyper-selected; not only are they more likely to have graduated from college compared to their non-migrant counterparts in their countries of origin, but they are also more likely to have a college degree compared to the U.S. mean. At the other end of the extreme are groups like Mexicans who are hypo-selected; they are less likely to have graduated from college compared to their non-migrant Mexican counterparts, and are also less likely to hold a college degree than the U.S. mean.

In this essay, we shift the focus to hyper-selected immigrant groups, and ask how they may be changing our perceptions about U.S. racial categories in the twenty-first century. We approach this by addressing two research questions. First, how does hyper-selectivity affect the educational outcomes of the second generation? Second, how have the achievements of hyper-selected immigrant groups changed the social construction of race? We tackle these research questions by focusing on patterns of educational attainment among four hyper-selected groups—Chinese, Cubans, Nigerians, and Armenians who are racialized as Asian, Hispanic, Black, and White, respectively, in the U.S. context.

Our essay is organized as follows. First, we begin with an overview of the diversity and hyper-selectivity in contemporary immigration trends. Here, we illustrate how the change in immigrant selectivity among Chinese immigrants buttressed the status of Chinese, which, in turn, resulted in the “racial mobility” of Asians—the change in status and/or group position of a racial group. Second, we draw on recent data to document patterns of educational attainment by immigrant generation for these groups. Third, we consider why hyper-selectivity may operate differently for the four groups by focusing on the relative proportion of the immigrant groups in relation to their U.S. proximal hosts. Because hyper-selectivity is a new theoretical concept, we present a comparative analysis of four distinct immigrant groups to explain the conditions under which hyper-selectivity may change the social construction of U.S. racial categories and affect patterns of ethnoracial identification.

This essay is an excerpt from a peer-reviewed article, co-authored with Jennifer Lee, Oshin Khachikian, and Jess Lee, in the Special Issue on Immigration and Identities: Race and Ethnicity in a Changing United States, forthcoming from The Russell Sage Foundation Journal of the Social Sciences. In this essay, “we” refers to the co-authors of the article.

IMMIGRATION, DIVERSITY, AND HYPER-SELECTIVITY

The influx of new immigrants to the United States became possible with the passage of the Hart-Celler Act in 1965, which eliminated quotas based on national origin and opened the door to newcomers from non-European countries. The change in U.S. immigration law altered the national origins of immigrants so dramatically that today, more than four in five hail from Latin America, Asia, Africa, or the Caribbean, and only one in seven comes from Europe or Canada. The shift in national origins—from Europe to Latin America, Asia, Africa, and the Caribbean—is the single most distinctive feature of the country’s “new immigration.” The change in the national origins of today’s newcomers has made an indelible imprint on the country’s ethnoracial landscape, transforming it from a largely Black-White society at the end of World War II to one consisting of a kaleidoscope of new ethnoracial groups. Since 1965, Latinos and Asians
have more than quadrupled in number from four and one percent of the population to eighteen and six percent, respectively. Latinos are now the largest minority group, and Asians, the fastest growing group in the United States. Driving the growth of the Asian population is immigration; two-thirds of U.S. Asians are foreign-born, a figure that increases to four-fifths among Asian adults. Among Latinos, just over one-third (thirty-five percent) are foreign-born. While the total Black population increased by only one percent (from eleven to twelve percent) since 1965, the foreign-born Black population grew to one-tenth of the U.S. Black population, up from a mere one percent. The group that has decreased in size since 1965 is non-Hispanic Whites. While they remain, by far, the largest group in the country who account for two-thirds of the population, their proportion has steadily declined since 1970, when they comprised five-sixths of the U.S. population.

National origin and ethnoracial diversity are only two dimensions of contemporary immigrant diversity. Today's newcomers are also diverse with respect to socioeconomic status, legal status, selectivity, and phenotype—all of which affect patterns of immigrant and second-generation integration. For example, Asian Indians, Chinese, Koreans, Cubans, Nigerians, and Armenians are hyper-selected. Their positive selectivity places them and their U.S.-born children at a more favorable starting point in their quest for socioeconomic attainment compared to other second-generation groups, and even compared to third-and-higher-generation Whites and Blacks.

Hyper- and hypo-selectivity have cultural, institutional, and social psychological consequences for the educational attainment of the second-generation.4 The hyper-selectivity of Chinese immigrants can enhance the educational outcomes of the second-generation, even among those from working-class families in ways that defy the classic status attainment model. For example, Chinese immigrants who arrive with high levels of education and socioeconomic resources create ethnic capital in the form of supplemental education programs, SAT prep courses, and tutoring services that are accessible to working-class co-ethnics.5 Moreover, the high-achievers become the role models and mobility prototypes to which group members aspire, and the reference group against whom they measure their success. These co-ethnic resources and cross-class social ties give second-generation Chinese—including those from working-class backgrounds—a leg up compared to other groups.

In addition, hyper-selectivity has social psychological consequences, which affect in-group and out-group perceptions. For example, the hyper-selectivity of Chinese immigrants drives the perception that all Chinese are highly educated, smart, hard-working, and deserving.6 And critically, because of the racialization process that occurs in the United States, perceptions of Chinese extend to other Asian immigrant groups such as Vietnamese, even though the latter are not hyper-selected. These are the “spillover effects” of hyper-selectivity, which has resulted in the “racial mobility” of Asian Americans—the change in status and/or position of a racial group.7 Here, we draw from Saperstein’s “racial mobility perspective,”8 which accounts for the shift in an individual’s racial status based on changes to their social status. We build on this perspective by noting that racial mobility can also occur at the group level as a result of changes in an ethnoracial group’s immigrant selectivity and/or socioeconomic status. These changes can affect out-group perceptions, alter the group’s position in the U.S. hierarchy, and lead to racial mobility for both the ethnic group as well as their proximal host racial group.

This is precisely what happened in the case of U.S. Chinese and Asians. Less than a century ago, Chinese immigrants were described as illiterate, undesirable, and unassimilable foreigners, full of “filth and disease,” and unfit for U.S. citizenship. In 1882 Senator John F. Miller, Republican of California, told the Senate on February 28, “It is a fact of history that wherever the Chinese have gone they have always taken their habits, methods, and civilization with them; and history fails to record a single example in which they have ever lost them. They remain Chinese always and everywhere; changeless, fixed and unalterable.” Senator Miller added, “If the Chinese could be lifted up to the level of the free American, to the adoption and enjoyment of American civilization, the case would be better; but this cannot be done,” he concluded. “Forty centuries of Chinese life has made the Chinaman what he is. An eternity of years cannot make him such a man as the Anglo-Saxon.”9

As “marginal members of the human race,” they were denied the right to naturalize, denied the right to intermarry, residentially segregated in crowded
PATTERNS OF IMMIGRANT AND SECOND-GENERATION EDUCATIONAL ATTAINMENT

Examining educational attainment among the four ethnic groups reveals two distinctive characteristics—hyper-selectivity and intergenerational mobility. Figure 1 presents descriptive results on the proportion with a bachelor’s degree or higher within each ethnic group in the U.S. while contrasting these proportions with the educational attainment among the non-migrant in the sending countries. Among the population aged twenty-five and older, first-generation immigrants in the United States report significantly higher percentages of having a bachelor’s degree or higher compared to their non-migrant counterparts in their respective home countries. This achievement gap is most striking between Chinese non-migrants and Chinese immigrants in the United States, but the difference is also substantial for the other three groups. While only 3.6 percent of non-migrant Chinese report having a college education in China, 52.7 percent of Chinese immigrants hold a bachelor’s degree in the United States. This hyper-selectivity ratio of seventeen to one between immigrant and non-migrant Chinese means that immigrants are disproportionately well-educated compared to non-migrants. In contrast, this ratio is about eight to one for Asian Indians. This gap is also quite stark among Nigerians. Immigrant Nigerians (63.8 percent) are six times more likely than non-migrant Nigerians to report having a bachelor’s degree or more (11.5 percent). Their hyper-selectivity ratio is about six to one. Similarly, 23.5 percent of immigrant Cubans report having a college degree compared to only 14.2 percent of non-migrant Cubans, a gap of nine percent. Among Armenians, the corresponding gap between immigrants and non-migrants is about ten percent.

Figure 1: Educational Attainment by Ethnoracial Origin and Immigrant Generation


Notes: Combined sample is limited to population aged 25 and older. Non-migrant data for Chinese, Cubans, and Armenians are extracted from United Nations Educational, Scientific and Cultural Organization (UNESCO). Non-migrant data for Nigerians are extracted from Education Policy and Data Center (EPDC).
Between the first and second generation, there is also clear intergenerational mobility. A significantly higher proportion of the second generation from four ethnic groups reports having a bachelor’s degree or higher than their immigrant first generation. Among Chinese, this number increased from 52.7 percent to 61.2 percent between the two generations. Among Cubans, 23.5 percent among first-generation immigrant reports having a college education, but this number jumps to 40.6 percent for the second generation. Among Armenians, this number increased from 34.5 percent to 57.6 percent. For Nigerians, we observe similar robust patterns of mobility with 73.5 percent of the second generation having a college education, approximately 10 percentage points higher than the first generation. The overall pattern is clear for these four ethnic groups: the first generation is significantly more selective than the non-migrants in the country of origin, and the second generation reports even higher educational achievement compared to the first.

HYPER-SELECTIVITY AND THE SOCIAL CONSTRUCTION OF RACE

Our analyses point to the positive association between hyper-selectivity and second-generation educational attainment. The hyper-selectivity of first-generation Chinese, Cubans, Nigerians, and Armenians has led to even higher college completion rates among the second.

While hyper-selectivity positively affects college graduation rates for the second generation, what remains to be seen, however, is whether this advantage will last beyond the second-generation. Drawing from research on immigration and race/ethnicity, we consider how hyper-selectivity may affect third- and later-generation Chinese, Cubans, Nigerians, and Armenians, and theorize what this suggests about the effects of hyper-selectivity on the social construction of race and patterns of ethnoracial identification. We contend that the effects of hyper-selectivity differ for groups depending on how they are racialized in the U.S. context, as well as the status of the proximal host group in relation to the hyper-selected immigrant group.

Here, we note that the size of the hyper-selected immigrant group in relation to their proximal host matters for changing the social construction of race, and also has implications for ethnoracial identification among descendants of immigrants. For example, in spite of the hyper-selectivity of Nigerian immigrants and the extraordinarily high level of education attained by the second-generation, Nigerians comprise only one percent of the total U.S. Black population. This mere fraction is not enough to change the social construction of blackness, which was born out of the legacy of slavery, entrenched by Jim Crow laws, and embedded through the de jure and now de facto practice of the one-drop rule of hypo-descent. Because of the distance between Nigerian and Black American identity, Nigerians in the United States sometimes work to distinguish themselves from Black Americans, and strategically emphasize their ethnic and immigrant identities over their racial identities.\footnote{\textsuperscript{11}}

Hyper-selectivity operates differently for Chinese immigrants than it does for Nigerians. Chinese immigrants are the largest Asian immigrant group, and Chinese Americans, the largest Asian ethnic group, which affects the social construction of both the ethnic category Chinese as well as the racial category Asian. Foreign-born Chinese comprise one-fifth of all foreign-born Asians, and first- and second-generation Chinese account for 18 percent of the total Asian American population. Because Chinese are a larger share of the U.S. Asian population compared to Nigerians as a percentage of the U.S. Black population, the former will more strongly affect the social construction of race compared to the latter. In short, the hyper-selectivity of Chinese immigrants and the high educational attainment among the second-generation affect Americans’ perceptions of not only U.S. Chinese but also Asian Americans.

\textbf{Percent with Bachelor’s Degree or More}
Furthermore, the perceived similar status of Chinese and Asian identity in the United States explains why Chinese do not strongly reject the racial label of Asian American (as Nigerians reject the black American one), but, instead, use ethnic and racial identifiers interchangeably.

Today, Asian Americans are the most highly-educated racial group in the country such that academic achievement has become racialized as the province of Asians. The racialization of achievement signals that the effects of hyper-selectivity may extend well beyond the second-generation for Chinese and other Asian ethnic groups. This possibility is even more likely considering that Chinese and Indian immigration to the United States—two extremely hyper-selected immigrant streams—drives Asian immigrant replenishment. Finally, that two-thirds of the Asian American population is foreign-born (a figure that reaches four-fifths among Asian adults) means that immigrant hyper-selectivity will influence the social construction of race for Asian Americans. We contend that it has already led to the racial mobility of Asian Americans.

DISCUSSION AND CONCLUSION

Our comparative framework yields findings that dispel the popular myth of Asian Americans as the model for high academic achievement. While the media and pundits racialize achievement as the province of Asians, Nigerians are the most highly educated. Nearly two-thirds (sixty-three percent) of Nigerian immigrants have attained a bachelor’s degree, compared to just over half (fifty-three percent) of foreign-born Chinese. Moreover, the most highly educated second-generation group are also Nigerians, seventy-four percent of whom have attained a bachelor’s degree or higher, followed by second-generation Chinese at sixty-one percent. While college graduation rates for second-generation Cubans and Armenians are evenly matched at forty-five percent, the former have made the most intergenerational mobility; second-generation Cubans nearly double the college graduation rates of the first generation (forty-one percent versus twenty-four percent). Critically, based on predicted probabilities, each group is more likely to have graduated from college compared to their U.S. proximal hosts.

Our decision to focus here on Chinese, Cubans, Nigerians, and Armenians is analytical because we aim to highlight how hyper-selectivity facilitates racial mobility for ethnic groups that are differentially racialized in the U.S. context. While Nigerians immigrants are the most highly educated, the Chinese are the most hyper-selected, revealing that educational outcomes alone do not change the construction of U.S. racial categories. By juxtaposing the largest and most hyper-selected Asian ethnic group—Chinese—with relatively smaller and more recently arrived groups such as Nigerians and Armenians, we underscore the significance of group size and how it affects perceptions of an ethnoracial group’s relative standing and status. These perceptions of racial mobility and immobility affect the social construction and changing meaning of racial categories in the U.S. context, and also affect patterns of ethnic and racial identification among hyper-selected immigrant groups and their second-generation children.

The choice of four ethnic groups from different U.S. racial categories also shows how assimilation of contemporary immigrant groups into American society is intricately linked to the outcomes and mobility of the proximal host groups. Because Chinese as an ethnic group do not have a proximal host, the racial mobility of Chinese and Asian immigrants and their children has fundamentally shifted the public perception of this group. In this sense, Chinese and Asians are not burdened by negative stereotypes often associated with native minority groups. At the same time, however, Chinese and Asians are often perceived as the “perpetual foreigners” because they are not immediately associated with or recognizable as a native ethnoracial group. The public perception towards and perceived status of ethnoracial groups, in turn, profoundly affect how individuals from these ethnic groups might choose to identify themselves, either as Chinese, Asian, Chinese American or Asian American.

This paper broadens the concept of hyper-selectivity by applying it to four ethnic groups with diverse origins from different parts of the world. By linking the achievements of immigrants and their children in the host society to the positive selection from the sending societies, it opens up the black box of immigrant selectivity by showing how immigrants from these ethnic groups arrive with specific class-based resources that facilitate their assimilation into American society. Instead of treating immigrants as “blank slates” upon arrival in the United States, hyper-
selectivity as a concept provides both a theoretical and empirical link between home and host societies, while highlighting how it matters for second-generation achievement. More consequentially, it also reveals the global nature and origins of the social construction of U.S. racial categories as well as patterns of ethnoracial identification.

Finally, our analyses highlight the salience of a globally comparative context in the study of immigrant assimilation, educational achievement, and racial classifications. By adopting a comparative framework, our analyses show how hyper-selectivity and racial mobility interact to change the social construction of U.S. racial categories and the choice of ethnoracial identities among the first and second generation. In doing so, we unveiled the centrality of race in the U.S. context. Despite their exceptional achievement, first- and second-generation Nigerians remain the exception—rather than the norm—among U.S. Blacks. Highly-achieving and upwardly-mobile Nigerians still find themselves on the other side of the rigid Black-White divide. On the other hand, the racial mobility among Chinese and Asians have begun to blur the White-Asian boundary and the racial distinctions between these groups. Asian Americans are transforming the U.S. mainstream and remaking race in the process, whereas a similar process has yet to unfold for Cubans, Nigerians, and Armenians and their proximal hosts.

Works Cited


EFFICACY OF TARGETED KILLINGS IN PAKISTAN
DRONES, BLOWBACK, AND EFFECTS ON THE STATE

JEREMY DANIEL SELLAND, LOYOLA MARYMOUNT UNIVERSITY (2017)

ABSTRACT

Do targeted killings via drone strikes shift non-state actors’ targeting and attack methodologies and, if so, how? This study applies a long-standing theory in International Relations—deterrence by punishment—to examine the new age of targeted killings in Pakistan. So far, the main body of research on the efficacy of targeted killings has applied the theory of blowback after punishment techniques in order to analyze drone strikes’ effects on civilian populations. This research differs, however, by applying blowback post-punishment to the relationship between non-state actors and the military. Building upon the work of Lyall (2015), and Price (2012), this study looks at targeted killings’ effects on the state itself, arguing that targeted killings erode non-state actors’ abilities to strike at hardened military targets due to the loss of top-level planners and foot soldiers. The analysis incorporates data from the University of Maryland’s Global Terrorism Database and New America’s Drone Wars database to carry out disaggregated, administration-level statistical analyses of the relationship between drone strikes and attacks on military installations and personnel in Pakistan. It is found that drone strikes do not in fact degrade the capacity of militant organizations to strike against the Pakistani Military.

INTRODUCTION

Late on June 17, after talking on a satellite phone with a Pakistani journalist, a former Taliban fighter became the first individual killed in a U.S. drone strike in Pakistan.¹ Nek Muhammad, along with four other men, was sitting in a courtyard in the midst of dinner when a U.S. missile struck their location; the force of that attack immediately killed all five of them and left a six foot by six foot crater.² This strike was the new “shot heard around the world;” the U.S. had seemed to violate foreign sovereignty, killing a foreign national outside of the scope of an armed conflict while using an armed drone to do so. This strike led to a protracted and covert U.S. drone program in Pakistan, a program which many opponents claim takes place outside of a declared theater of war and instead exists in a murky shadow realm. Legality aside, this program has sparked outrage within Pakistan as well as internationally, severely harming U.S. international standing and U.S.-Pakistani relations.³

Eleven years later, in early September 2015, Pakistan joined a short list of four countries to employ drone technology in a targeted killing. It further became the second country to do so within the confines of its own borders, striking and killing three high value targets with its domestically produced Burraq drone in the Shawal Valley of North Waziristan.³ Michael Boyle (2015) argues that this domestic strike by Pakistan shows not only the influence of the precedent that was set by the U.S. in employing drones for targeted killings, but also the ability of this precedent to spread...
internationally, a fact that “should give Washington pause.”

Accordingly, retired Pakistani Brigadier General Shaukat Qadir expects drone technology to play an increasingly larger role in Pakistan’s decade long battle with its domestic insurgency.\(^5\) If Pakistan is insistent on utilizing drone technology in its internal conflict with domestic terrorists, then a comprehensive and statistically robust study that addresses how drone strikes might impact the Pakistani military and militant organizations is necessary. This paper attempts to fill this void in previous quantitative studies of drone usage, which have been primarily focused on the impact that drone strikes have on the militant-civilian relationship, by asking a question fundamentally important to Pakistan: What effect do U.S. drone strikes have on the relationship between insurgent groups and the Pakistani Military?

**BACKGROUND**

Since the outset of armed conflict, warfare has constant evolved as organizations have attempted to find and exploit new technological advantages on the battlefield. Armed conflict in the twenty-first century is marked by this evolution of arms. The most noticeable and controversial evolution is the employment of drones on the battlefield. While drones saw sparse use under the Bush administration from 2001 until 2007, there was an exponential increase in employment during Bush’s last years and under the Obama administration. At the outset of the wars in Iraq and Afghanistan (2001), the United States’ Predator fleet numbered only ten, and was mainly employed for reconnaissance missions, due to their ability to loiter over targets for longer periods than conventional aircrafts.\(^6\) At first, Bush was reluctant to utilize this limited fleet of drones due to geopolitical fears of backlash and a lack of adequate human-intelligence networks from which to draw actionable intelligence in the Afghan and Pakistani areas.\(^7\) But this more limited usage did not last long. In 2007, the United States’ Predator fleet numbered more than 180 aircrafts, and there were plans in place to double this number over a five-year period.\(^8\) As of January 2014, the United States’ Predator fleet numbered 246 and the total United States’ drone fleet numbered close to 10,000 units, a mixture of small surveillance drones and larger strike-capable drones.\(^9\)

How are drones specifically used within the theater of armed conflict? Anderson takes care to divide drone usage into two distinct categories: signature strikes and targeted killings.\(^10\) Signature strikes are those employed against, as Anderson explains, “a group of armed fighters in the back of a truck heading to the Afghan border.”\(^11\) In these strikes, commanders analyze intelligence, paying careful attention to behavioral traits (i.e. organized groups of armed men), in order to distinguish hostile forces. The second employment of drones is in the form of targeted killings. Here drones are used to kill a high value target (HVT) who is usually a top-level, and increasingly a middle-level, insurgent leader. These strikes are the end result of a long intelligence process, and while drones contribute to gathering this intelligence, their main role is to provide the “kinetic” completion of the activity. Boyle argues that signature strikes are leading to an increasingly indiscriminate nature of drone usage, as the main body of all drone strikes takes the form of signature strikes.\(^12\) Since signature strikes utilize specific behavioral patterns to identify targets rather than confirmed identities, Boyle believes that their adoption and use makes indiscriminate killings a matter of American policy and negates the selective nature of violence that drones might provide.\(^13\)

Furthermore, because drones allow for a more selective level of violence and increased discrimination in time, manner, and targeting versus other platforms, they can offer a greater degree of protection for civilians in harm’s way when compared to the more traditional forms of aerial bombardment and denial.\(^14\) Since drones are not subject to the same time constraints that conventional aircraft are bound to and are capable of loitering “on station” for hours at a time, a commander has more choices as to when force will be applied against a prospective target, increasing the likelihood of the strike’s accuracy. Additionally, because of the advanced surveillance packages drones are equipped with, commanders are better able to distinguish between combatants and noncombatants. Commanders can take greater care to strike when casualties are within acceptable parameters, whereas conventional aircraft have a much narrower window in which to strike.\(^15\) However, it is important to note that Zenko fails to find evidence of greater selection and discrimination when it comes to drone strikes. He specifically notes that drone strikes appear to be thirty times more likely to result in civilian fatality when compared to traditional aircraft.\(^16\)

The selectiveness of drone technology is able
to maximize insurgent deaths while simultaneously ensuring reduced violence against noncombatants, when compared to other forms of aerial bombardment and conventional aircraft.\textsuperscript{17} This serves as one of the primary arguments for armed drone technology employed in armed conflicts. Scholars seem to be torn when it comes to a definitive answer on the surgical nature of drone strikes. Since a deep and effective intelligence network has been developed in the Afghan and Pakistani areas, the increase in drone strikes can be seen as the implementation of existing technology to the evolving security situation. For Anderson, this is a positive effect, since drones, working in conjunction with high-quality intelligence, offer a more exact means of striking directly at terrorist organizations without the need for conventional forces that leave a large footprint.\textsuperscript{18}

At its foundation, the utilization of drones in these capacities is based on accepted and widely known theories in international relations: punishment and deterrence. Drone strikes punish insurgent organizations by killing both high-ranking and rank-and-file members, creating a sense of fear and uncertainty within the organization. Walsh considers this a direct effect against insurgent organizations, forcing members to change their behavior which in turn makes it difficult to instigate new violence.\textsuperscript{19} Additionally, drone strikes are capable of deterring future insurgent attacks by threatening renewed violence against the organization. This is the indirect effect that selective violence creates, which further degrades the organization as potential recruits are deterred from joining and the long-term capacity of the organization suffers.\textsuperscript{20} These effects, taken together, enhance each other. If the employment of selective violence can be undertaken for a long enough duration (and with enough accuracy), an organization can be degraded and unable to achieve its aims.\textsuperscript{21} Debates concerning the practicality of these overarching theories as applied to the research question will be discussed in the literature review.

This study is divided into five distinct sections. First, literature relevant to the drone debate is examined. This initial section details data issues that make quantitative studies on this topic difficult and discusses relevant quantitative studies. The second section details this paper’s theory, describing the four primary hypotheses of this study. The third section presents the study’s methodology, describing the variables, the creation of the data set, and the quantitative model employed. The fourth section discusses the regression findings at the three administrative levels employed. The fifth and final section concludes the paper by offering implications for the findings, generalizations that can be drawn, and makes country specific recommendation.

\textbf{LITERATURE REVIEW}\n
\textbf{Data Issues in Quantitative Studies}\n
The efficiency of drone strikes is a hotly contested issue within the international relations field. Critics of the program often argue that, because terror organizations are large and resilient enough to withstand the deaths of their members, drone strikes are an inefficient tool.\textsuperscript{22} Additionally, any degradation that the organization suffers is outweighed by their ability to use civilian casualties as recruitment points, casualties that they claim are only increasing, inhumane, and detrimental to foreign relations.\textsuperscript{23} Proponents of drone strikes argue that the selective use of force that drone strikes provide is a much cleaner and more effective form of warfare, and reduces military commitment via ground forces.\textsuperscript{24} James Walsh, in providing context for both of these positions, states that there is little evidence that either of these positions are correct, and notes that very little is known about the effectiveness of drone strikes due to the clandestine nature of targets and poor reporting in the regions where strikes predominantly take place.\textsuperscript{25} He further argues that most models employed in analysis show evidence of both positive and negative effects.\textsuperscript{26} Therefore, these issues boil down to the data itself employed in quantitative studies.

The most common dependent variable employed in quantitative studies that investigate the impact of drone strikes is the number and frequency of terror attacks. But using the number and frequency of terror attacks as the dependent variables provides a limited analysis of how drone strikes have affected the militant organization, as these measurements do not take into account other acts of violence or the organization’s capacity.\textsuperscript{27} For Walsh, the fault falls on the lack of adequate data and appropriate analytical techniques which match the complex nature of observed interactions.\textsuperscript{28} It seems as if the disparity in findings is more an issue of data problems than conflicting viewpoints or hypotheses.

Data issues are inherent to quantitative field
studies; a better question is whether the issues with the data taint findings so far as to make them unreliable. Price has explained that the limited and incomplete nature of the data makes analysis difficult, stating that the Global Terrorism Database (GTD) has tagged 36 percent of attacks to no group, marking them as unknown in the database. When over a third of all incidents that contribute to a dependent variable are tagged as unknown, creating a statistically powerful and predictive model becomes increasingly difficult. This difficulty is further compounded by the classified, and often unreported, nature of drone strike targets and casualties. Walsh points out that the New American Foundation has only been able to positively identify less than two-thirds of drone strike targets, due to the difficulty in gaining access to the remote areas where strikes take place. Bergen and Tiedemann conclude that the poor access and inability to prove targets and casualty numbers independently force data codifiers to count on the often unreliable media accounts that come out of the regions where strikes take place. Additionally, the reported data itself varies widely from database to database. As Boyle warns, there is no precise information regarding either the number of strikes or the casualties from these strikes. It is also imperative to note that what little information media reports, and indices then obtain, is susceptible to spin before it gets to the public. Bergan and Tiedemann note that, for instance, Washington will claim that almost all those killed in strikes were militants and combatants while insurgent groups will claim that victims were civilians. It is important to keep these limitations in mind as the analysis moves forward.

**Quantitative Studies on Drone Usage**

The majority of quantitative studies on drone strikes address the efficiency of their usage in counterterrorism and counterinsurgency operations. Anderson posits that “drone strikes make planning for attacks years down the road difficult if you might be struck down at a moments notice,” whereupon he notes that the unpredictability of strikes, often noted in captured communications, has a significant impact on an organization’s ability. In discussing the quantitative findings on the effectiveness of drone usage, it is important to recall the limitations with real-world data described above. Even so, the quantitative examination of drone policies allows for an investigation on the effectiveness of punishment and deterrence as they pertain to drone strikes.

Peter Bergen and Katherine Tiedemann contribute to this dissent from the status quo with their research, finding disappointing statistics about the efficiency of drone strikes. According to Bergen and Tiedemann, one in seven drone strikes kills a militant leader, and less than 2 percent of attacks have resulted in the death of Al Qaeda or other group leader. This means that either signature strikes or unsuccessful leadership decapitation attempts account for the remaining 98 percent of attacks. They further note that as drone strikes have risen, so too has militant violence; there were 150 attacks in 2004 and 1,916 in 2009, all while successfully killing thirty-three leaders. In fact, the increase in the number of strikes has contributed to an increase in the number of low level militants killed and civilian deaths. To Bergen and Tiedemann, it appears that strikes are not damaging insurgencies like the theory advances; instead, strikes are counterproductive because they stoke anti-American anger. This is quantified by the fact that the United Nations states that as many as 80 percent of suicide attackers come from tribal areas, which suffer from the bulk of drone strikes. It is important to note that the data presented in this study did not come from, nor was confirmed by, regression analysis but instead from simple statistical inference. Because of this statistical inference, additional contributing factors could not be controlled for and the data, and subsequent conclusions, could be tainted. Though Bergen and Tiedemann did not use regression analysis to confirm their results, O’Loughlin, Witmer, and Linke utilized complex spatial-statistical methods of analysis to show that drone strikes drive militants into major cities which contribute to the increase in violence in the interior of Pakistan. These findings by O’Loughlin et al. show that drone strikes could be responsible for the increased violence in areas like Karachi, Islamabad, and Lahore, which are distant from the epicenter of drone strikes.

The targeting of high-level leadership in warfare

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iii The Global Terrorism Database is maintained by the National Consortium for the Study of Terrorism and Responses to Terrorism at the University of Maryland, College Park. It is the most comprehensive database of terror attacks and is widely used in academia, and as the basis for other databases and indices.

iv The New American Foundation, has compiled the most extensive database of drone strikes to date.

v This view is not universally held, both Michael Boyle (2013) and Raiyan Khan (2011) dissent in their analysis. Boyle (2013, 3) sees drones as a corrosive element effecting the stability and legitimacy of host nations, driving further recruitment for insurgent networks, and degrading American perception abroad.
is not a new development. One of the uses of armed drones is targeted strikes against militant leadership. In Targeting Top Terrorists, Price examines leadership decapitation and its ability to reduce a group's operational capacity by removing both leadership and skilled members, forcing the group to divert time and resources for high value target protection. Price explains that decapitation both disrupts organizational routine and deters others from assuming the reins, further creating intra-organizational turmoil; he finally argues that, after controlling for other factors, leadership decapitation significantly increases the mortality rate of terror groups. For decapitation to be effective, two conditions must be met: first, group leaders must be important, and second, succession must be difficult. Since terror groups possess both of these characteristics, they are more susceptible to difficulties in leadership succession and can be more easily crippled by leadership decapitation. In his study, Price utilizes survival models to look at the mortality rates of 207 terror groups from sixty-five countries active from 1970 to 2008, observing 299 instances of leadership change. Price excludes instances of killings or the capturing of high-ranking members who are not the leader. After controlling for the presence of allied and rival groups, counterterrorism capacity, regime type, other forms of leadership turnover, ideology, and the presence of multiple leaders, Price finds that terror groups that experienced a loss of a leader had higher mortality rates and were between 3.6 and 6.7 times more likely to end as those that did not experience a decapitation. While Price does not expressly study drone strikes, his findings have applicability and support the theory of punishment and its application in leadership decapitation.

Daniel Hepworth does expressly examine drone strikes, specifically against member organizations of the Al Qaeda Network (AQN), in order to determine if following targeted killings of high-ranking members the AQN alter or increase attacks. Hepworth structures his analysis by pulling data from the GTD, and only utilizing attacks which were unambiguous and expressly marked for the AQN. He creates a very robust regression model by providing a dichotomous variable of government and civilian targets, controlling for the type of attack and its success, and utilizing fatalities used instead of the number of injuries. Hepworth observes 305 recorded terrorist attacks by the AQN over the sixteen months studied. These attacks are split even between two months prior (152, fourteen by the target's group) and two months after (153, eighteen by the target's group). Hepworth's results were surprising, as he found that in groups led by a dispatched leader, there was a slight increase in the number of overall attacks, but no significant change in tactics indicative of retaliation, and only a light indication of a decrease in professionalism, shown by the decrease in the average number of fatalities per attack. This study demonstrates evidence of a small change, absent of retaliation, following a targeted killing, and indicates that the practice might be effective when employed as a part of a larger strategy to combat insurgencies.

These findings are further confirmed by Patrick Johnston and Anoop Sarbahi in The Impact of U.S. Drone Strikes on Terrorism in Pakistan. Here they investigate what effect drones have on terrorism in the Federally Administered Tribal Areas (FATA) by looking at four distinctive measures of terrorist organization capacity, chiefly the numbers of overall attacks, deaths, Improvised Explosive Device (IED) attacks, and suicide attacks. Johnston and Sarbahi find a simple positive correlation between drone strikes and measures of violence, but after employing a fixed-effects estimation model, this relationship becomes negative. The evidence demonstrates that the higher the frequency of drone strikes, the lower the incidence of militant attacks. Once again it is seen that drones strikes, though morally dubious, do in fact produce positive tactical benefits, namely a reduction in the frequency of militant attacks against civilian populations.

THEORY

Previous studies have examined the effectiveness of drone strikes by examining how insurgent organizations modify their tactics. But these studies, in a large part, tend to focus on how these shifts affect civilian populations. This study differs in that it addresses the effect upon the military after drone strikes instigate shifts in militant tactics; chiefly it looks at how the changes in frequency, lethality, methodology, and attack targeting affect the Pakistani military.

As a relatively unexplored area of research, this relationship can provide a greater understanding of the costs and implications of continued drone policy, specifically for Pakistan's reliance on the Burraq
drone in its domestic counterinsurgency operations. Additionally, Brandt and Sandler show that terror groups gravitate toward softer targets when the opportunity to strike at harder targets becomes less available.\textsuperscript{53} This gravitation, shifts militant targets from military to civilian targets. It is postulated that this gravitation takes place within the spectrum of military targets as well. As such, the insurgent-military relation offers a unique area of analysis, as drone strikes might create changes in the frequency, lethality, methodology, and target selection of strikes against the military.

Two main effects have been attributed to drone strikes: disruption and degradation. While both effects can create changes in frequency, lethality, methodology, and target selection, disruption most notably creates changes in the frequency and lethality of attacks while degradation is generally thought to contribute to changes in the methodology and target selection of groups. The first effect that is addressed is disruption.

**Frequency and Lethality**

A 2015 study by Johnston and Sarbahi found that drone strikes are associated with a decrease in the incidence and lethality of attacks.\textsuperscript{54} Moreover, they find that drone strikes reduce militants’ ability to operate in a cohesive, efficient manner and control local areas, because drone operations represent an increased security risk to militants operating in that area.\textsuperscript{55} This increased risk can be expected to create a disruption leading to a decrease in the frequency and lethality of militant attacks. This position is echoed by Abrahms and Mierau who note that both decapitation and strikes appear to erode the quality of violence the insurgent organizations are able to undertake.\textsuperscript{56} If this erosion is legitimate, a marked decrease in the lethality and frequency of attacks should be notice as the militant organization becomes less professional. Furthermore, Neumann, Evans, and Pantucci find that mid-level leaders are responsible for communication between higher leadership and individual cells and even between multiple cells, playing such an important role that their elimination can frustrate day-to-day operations.\textsuperscript{57} This frustration will lead to a decrease in the frequency of attacks and professionalism as communication between leadership and foot-soldiers is compromised. This view is echoed by Price who found evidence that removing top level leaders degrades organizations rendering them less lethal and professional.\textsuperscript{58} Hepworth also acknowledges that drone attacks strike fear into the hearts and minds of remaining leaders and key insurgent members shifting their attention from attacking to staying alive.\textsuperscript{59}

While these findings have been primarily concentrated on the militant-civilian relationship, this paper postulates that they can be effectively extended to the militant-military relationship as well. Drone strikes create a fear based reaction which disrupts the frequency of militant attacks. Additionally, the culling of top-level and mid-level leaders reduces the lethality of attacks as organizations become less professional, communication is hindered, and remaining militants focus simply on surviving. This leads to the first set of hypotheses:

\textbf{H}\textsubscript{1}: Drone strikes lead to a reduction in the frequency of militant attacks against Pakistani military targets

\textbf{H}\textsubscript{2}: Drone strikes lead to a reduction in the lethality of militant attacks

**Attack Methodology and Target Selection**

According to Hepworth terror leaders are responsible for planning and coordinating attacks, and the removal of a leader or key member should theoretically damage the group’s ability to operate even if their removal constitutes simply a moral blow.\textsuperscript{60} As such, strikes can create a noticeable shift in lethality, methodology, and target selection. Johnston and Sarbahi further address the degradation effect noting that terrorism is reduced by removing leaders and key organizational members from the battle field as the organization loses an operator with valuable skills, resources or connections.\textsuperscript{61} In fact, this loss is so detrimental that the organization loses the ability to continue producing violence at the same rate and capacity as before. As such, degradation reduces the frequency of attacks. Additionally, the loss of operators with valuable skills predicates a shift in target selection and methodology as organizations lack the skills required to maintain high levels of professional and concentrated levels of violence.

Abrahms and Mierau further opine on the relationship between degradation, militant leadership, and the quality and methodology of militant attacks. They demonstrate that targeted killings diminish leadership of militant groups and provide the impetus for indiscriminate organizational violence as tactical
control is ceded to foot soldiers, in effect eroding the tactical selectivity of insurgents.\textsuperscript{62} Lyall echoes these findings by positing that airstrikes cripple insurgent organizations through leadership decapitation, command degradation, and rank-and-file attrition, reducing their ability to conduct optimal attacks.\textsuperscript{63} He specifically notes that insurgent war-fighting is about absorbing blows and then inflicting costs to demonstrate that a political solution is preferable to a continuation of grinding, and futile, war.\textsuperscript{64} Even though insurgents are rational actors the increasing degradation and disruption caused by drone strikes would lead them to choose tactically and politically sub-optimal targets as their capacity is weakened. By applying the assumption that insurgents are rational actors who will find alternative tactics when others are closed, a shift in target selection can be expect. Specifically, since soft targets are easier to attack than hard targets logic follows that if organizations want to continue attacks against the state they will choose softer military targets. Because leadership is often older, more experience, and more tactically minded, their removal will empower younger foot soldiers who might choose tactically suboptimal targets, such that a shift in the selection of military targets similar to a shift toward the targeting of civilians should be observed.

Wilner found quantitative evidence for this theory in his study of insurgent activities in Afghanistan post targeted killing. Here he found ample evidence of a marked simplification in levels of sophistication (small arms fire vs. suicide attacks) and target selection (soft vs. hard), confirming the theory that drone strikes and targeted killings fundamentally alter the ability of insurgent groups and the complexity of their attacks.\textsuperscript{65} Specifically, Wilner finds that suicide attacks are the most preferred method, but they are also the most sophisticated type of violence.\textsuperscript{66} Improvised Explosive Devices (IED) attacks are the next preferred method of attack, as they offer a less controllable form of violence and are often defeated by adequate armor and triggered by passing civilians.\textsuperscript{67} The least preferred method of attack is small arms or rocket attacks, as they are easily mitigated and repelled; though small arms or rocket attacks are easily organized they provide the worst results.\textsuperscript{68} The spectrum of both targets and attack methods can be seen in Table 1. These considerations lead to the final two hypotheses:

\textit{H3: Drone strikes will reduce the sophistication of terror attacks}

\textit{H4: Drone strikes will shift the selection of targets from hardened targets to softer targets}

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|}
\hline
\textbf{Military Target} & \textbf{Hardest Target/ Most Sophisticated Attack} & \textbf{Softest Target/ Least Sophisticated Attack} \\
\hline
Barracks/Base/Headquarters/ Check post & \\
Checkpoint & Units During Patrol/ Convoy \\
Recruiting Station/Academy & Transportation/Vehicle Military Personnel \\
\hline
\textbf{Attack Type} & Suicide Attack & Firearm Rocket \\
Remote Detonated/Controlled devices & Grenade \\
Time Delayed Explosives & Mine (Non-IED) \\
Pressure Triggered Explosives & \\
\hline
\end{tabular}
\caption{Relative Sophistication/Hardening of Attacks/Target}
\end{table}

In short, it is expected that the use of drones as an instrument of U.S. foreign policy and a counterinsurgency tool creates a noticeable shift in insurgents’ tactics and lethality. In particular, a shift in the type of targets that insurgents attack within the military spectrum is anticipated, notably shifting from secure military targets to less secure military targets. It is also expected that a marked simplification will be observed in the method of violence that insurgent organizations employ as organizational degradation takes effect. Additionally, drone strikes should cause a disruption in militant organizations which in turn reduces their lethality and the frequency of their attacks.

\textbf{METHODOLOGY}

In order to address the above hypotheses, this study utilizes time-series regression analysis conducted at three distinct levels: the week-district, week-province, and week-national levels. This holistic approach allows for a much deeper and more robust measure of the effect of drone strikes in militant group tactics. The study looks at both drone strikes and militant attacks over a six-year period starting on January 1, 2009 and ending on December 30\textsuperscript{13}, 2014. This time frame was selected because it provided an adequate length for time-series regression techniques and because the GTD has, so far, only codified militant attacks in Pakistan up until December 30, 2014. Data on drone strikes was taken from the New American Foundation’s Drone Wars Pakistan (DWP) database.
while data on militant attacks was taken from the GTD. In the GTD dataset, incidents outside of the scope of study were dropped, including attacks against North Atlantic Treaty Organization forces.

Dependent Variables

In this analysis the lethality, the frequency, the sophistication, and the selection of militant attacks constitute the dependent variables. Frequency represents the total number of militant attacks within a given day or week. Lethality represents the total number of fatalities in each militant attack taken from the GTD. Attack sophistication is a binary variable taking a value of one if the attack was undertaken by suicide attack, remote detonation explosive, time delayed explosive, or pressure triggered explosives; it takes a value of zero if the attack was carried out by utilizing firearms, rockets, grenade, or non-IED mines. Target Selection is also a binary variable which took the value of one if the target was a military unit on patrol, a convoy, a military transport or vehicle, or a military member; the variable took the value of zero if the target was a barrack, a base, a military headquarters, a check post or checkpoint, or a recruiting station or academy. The dependent variables were created within the GTD dataset.

Independent Variable

The independent variables in this analysis are the frequency of drone strikes. It is important to recall the fundamental limitations inherent in using the frequency of drone strikes as an independent variable. Due to both geographic constraints and dangers to the press and other independent reporting bodies, both the frequency and lethality of drone strikes could be skewed by inaccurate and biased reporting. Additionally, the frequency of signature strikes and strikes which would constitute targeted killings were not disentangled, as it was noticeably difficult to identify which attacks were targeted killings in nature and in which attacks a leader died as a byproduct of being a “unknown militant” in the vicinity of the strike. Even in light of these limitations, the frequency of drone strikes presented the best independent variable possible to examine the relationship between drone strikes and following militant behavior. The independent variable was created within the DWP dataset.

Control Variables

In order to control for seasonal variation in drone strikes and militant attacks, a series of seasonal controls were generated. Specific binary controls were created for each militant attack depending on if the attack took place in the winter, the spring, the summer, or the monsoon season; these controls are described in Table 2 where the variable took the value of one if the attack occurred in the specific time frame and a zero if it did not. Additionally, a control was created for the total number of individuals killed in each drone strike, without regard to whether they were civilian, militant, or their status was unknown. Because of the conflicting reports surrounding the number and status of those killed in drone strikes, the total number of those killed was chosen in order to ease in the analysis of the data. The controls, except the total number of individuals killed in the strike, were created within the GTD dataset.

<table>
<thead>
<tr>
<th>Seasonal Control</th>
<th>Monthly Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winter</td>
<td>December- February</td>
</tr>
<tr>
<td>Spring</td>
<td>March- May</td>
</tr>
<tr>
<td>Summer</td>
<td>June-September</td>
</tr>
<tr>
<td>Monsoon</td>
<td>October-November</td>
</tr>
</tbody>
</table>

Windowed Leads

After independent variables, dependent variables, and controls were created weekly counts were generated for the district, provincial, and national level. For example, the district level weekly count of lethality was generated by summing the lethality of all attacks in a one-week period with each district. Next, duplicate week-district, week-provincial, and week-national observations were dropped and a time-series was created. In this time series two-week, four-week, six-week, eight-week, ten-week, and twelve-week windows were generated for each dependent variable. For example, the four-week window for attack sophistication at the provincial-level would be the sum of the count of attack sophistication for the initial week and the following three weeks. These windows were generated in order to examine the temporal effect of drone strikes on each dependent variable.

The Model

Due to the nature of the data and the time frame in question a more traditional panel series linear
regression would have produced biased and statistically insignificant results. But if the variables are thought of as counts, or even as ratios, then a count regression model can be used. Militant attack frequency (or drone strike frequency) should be considered as the number of attacks (or strikes) in an administrative unit in a specific time value. Further, attack (or strike) lethality can be considered as the number of individuals killed in the attack (or strike) in an administrative unit in a specific time value. Additionally, attack sophistication or target selection should be viewed as the number of attacks in an administrative unit in a specific time value that utilized a sophisticated weapon or struck at a hardened target. By viewing the independent and dependent variables in this light a more accurate and statistically powerful regression model can be utilized.

Due to the panel series nature of the data, clustered on the week-administrative unit level, only two count model regressions could be used with STATA 14: the Poisson regression, and the negative-binomial regression. The main difference between these two models is that the negative binomial regression loosens the Poisson restriction that the variance of the data is equal to the mean of the data. To distinguish between these two models, the STATA command `countfit` was utilized.\(^7\) It was found that across all the regressions employed a fixed-effects Poisson regression preformed, on average, much better and had more statistically powerful test statistics. That said, there were cases where the negative binomial regression outperformed the fixed-effects Poisson regression, or times when neither regression provided a quality test statistic. However, to ease in the comparison of results across temporal windows, administrative units, and dependent variables the best regression model was chosen.

The fixed-effects Poisson regression follows the log-linear model detailed in Equation 1.

\[
(1) \quad \log(\lambda_{it}) = \beta_0 + \beta_1 x_{1it} + \beta_2 x_{2it} + \beta \delta_i + \varrho_i
\]

Where \( i \) denotes the specific administrative level (district, province, or national), and \( t \) denotes the specific week of investigation. In this equation, \( \lambda_{it} \) is the count of the dependent variable in question at the administrative level-week. The count of drone strikes at the administrative level-week is denoted by \( x_{1it} \). Next, \( x_{2it} \) denotes the count of individuals killed in the drone strike at the administrative level-week. Fixed-effects are denoted by \( \delta_i \), while \( \varrho \) denotes the fixed seasonal effect. Results from these regressions are reported in two ways, in the standard estimated Poisson regression coefficients and in the incidence rate ratio, which is the rate at which the ratio of expected counts is changing. These interpretations can be found in the respective appendix for each level of analysis, along with a table detailing the regression outputs. Reported in the main body of the paper is a streamlined analysis of these regression outputs and their impact on the four primary hypotheses.

**DISCUSSION OF FINDINGS**

**National Level**

The national level of analysis provides a 30,000-foot view of drone strikes’ effect on militant activities in Pakistan. Taken as a whole, and across Pakistan, how is the militant-military relationship changing? The results of the fixed-effects Poisson regression of weekly drone strikes on each of the dependent variables (frequency, lethality, sophistication, and selection) for each temporal window used in the study can be found in Table\(^\text{vi}\). Table 3, describes the change that a one-unit increase can be expected to produce on each dependent variable for each temporal window.

The effect of a one-unit increase in the weekly frequency of drone strikes on the frequency of militant attacks at the national level is described in the first column of Table 3. Here it can be seen that there is a long-term negative effect on militant attack frequency. While this negative relationship continues from the one-week window to the ten-week window, statistical significance is only retained through the six-week window. During the initial week of the drone strike, it can be expected that militant organizations will suffer a 12 percent reduction in the frequency of their attacks. This capacity reduction effect is retained for six weeks after the initial drone strike but its effect decreases with time, dropping to 10.1 percent, 6.75 percent, and 4.46 percent at the two-week, four-week, and six-week windows respectively. Taken together, this trend indicates not only that a long-term trend exists for drone strikes effect on militant attack frequency, but also that this trend decreases as time goes on. There is, in fact, a temporal relationship between drone strikes and the capacity of a militant organization to wage violence as time goes on, the organization is

\(^{vi}\) The explicit regression outputs for the provincial level analysis can be found in Appendix 1 along with detailed explanations on how they can be interpreted.
affected less and less by the initial strike. This could potentially be an aspect of organizational resilience as the militant group is able to suffer the initial blow and slowly recover until they reach pre-strike capabilities.

The second column of Table 3 details the effect that a one-unit increase in drone strikes has on the lethality of militant attacks at the national level. These results have a peculiar trend, namely statistical significance at the four-week, eight-week, and twelve-week windows. This trend could be an indication that the analytical model fails to adequately fit the available data or that drone strikes have a monthly cyclical effect on the lethality of militant attacks. While the former is certainly plausible, in order to continue this investigation, this analysis will assume that the latter is correct. This once again brings to light one of the main issues with quantitative studies of this nature: even the most ideal or appropriate model that is used in the study might not adequately fit the data at hand. From the second column, it can be seen that this monthly cyclical trend is steadily decreasing throughout those months where statistically significant results were found. In the four weeks following a one-unit increase in drone strikes, the lethality of militant attacks can be expected to be reduced by 8 percent, for the eight weeks after a one-unit increase lethality can be expected to be reduced by 4.86 percent, and in the twelve weeks following a one-unit increase the lethality of militant attacks can be expected to increase slightly by 1.47 percent. This is most likely an effect of time; over twelve weeks, a geographically diffused organization operating in a wide territory can effectively recover from a drone strike, whose effect is geographically constrained, instigating attacks which have greater lethality than before the strike in order to save face with their advisors. It seems that the culling of top-level and mid-level leadership does tend to reduce the professionalism of the organization, in turn reducing the lethality of the organizations attacks. But the organization is able to recover from the effect of the leadership culling at twelve weeks, actually increasing the lethality of their attacks by 1.47 percent, indicating that the reduction in lethality is only a short-term effect of drone strikes.

The third column details the Poisson regression results when militant attack sophistication is the independent variable. Here it is seen that, at the national level, drone strikes do not appear to have any statistically significant disruptive effects on the specific sophistication of militant attacks patterns. It seems that at the national level militant groups are able to absorb the disruptive impact of drone strikes and retain the relative sophistication of their attacks.

The relationship between drone strikes and the specific targets that militant organizations tend to attack is described in the fourth column. It is important to remember that target selection was a binary variable that took the value of one when the target attacked was soft and a value of zero when the target attacked was hardened. It can be said that there is a statistically significant, but decreasing, trend in the regression results from the one-week to the six-week window. Specifically, in the first week, militants are 9.76 percent more likely to strike at a hardened target after a one-unit increase in drone strikes. In the two-week window, militants are 9.55 percent more likely to strike at a hardened target after a one-unit increase in drone strikes. This trend continues for the four-week and six-week windows, indicated respectively by a 6.92 percent and 4.07 percent likelihood of strikes at hardened targets. These findings run counter to the theory presented in this paper and the conventional theory that militants transition to softer targets as their organization is degraded. At the national level of analysis, drone strikes appear to have no significant impact on the relative sophistication of follow-on militant attacks.

Table 3: Effect of a one-unit increase in drone strikes on dependent variables over specified temporal windows at the national level

<table>
<thead>
<tr>
<th>Temporal Windows:</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One-week</td>
<td>-12.00% ***</td>
<td>-0.746%</td>
<td>-10.8%</td>
<td>-9.76% **</td>
</tr>
<tr>
<td>Two-week</td>
<td>-10.1% ***</td>
<td>-1.04%</td>
<td>-8.26%</td>
<td>-9.55% ***</td>
</tr>
<tr>
<td>Four-week</td>
<td>-6.75% ***</td>
<td>-8.00% ***</td>
<td>-2.30%</td>
<td>-6.92% ***</td>
</tr>
<tr>
<td>Six-week</td>
<td>-4.46% **</td>
<td>-1.72%</td>
<td>-2.14%</td>
<td>-4.07% *</td>
</tr>
<tr>
<td>Eight-week</td>
<td>-2.73%</td>
<td>-4.86% ***</td>
<td>-4.97%</td>
<td>-1.79%</td>
</tr>
<tr>
<td>Ten-week</td>
<td>-0.0260%</td>
<td>-0.472%</td>
<td>-0.907%</td>
<td>1.04%</td>
</tr>
<tr>
<td>Twelve-week</td>
<td>1.08%</td>
<td>1.47% *</td>
<td>-0.759%</td>
<td>2%</td>
</tr>
</tbody>
</table>

All regressions included seasonal controls and fixed-effects

\* p<0.01, \*\* p<0.05, \*\*\* p<0.1

How do these findings correspond to the four primary hypotheses? Under the assumptions that drone strikes have a degrading and disrupting effect on militant tactics, where they reduce the frequency and the lethality of militant attacks, while simultaneously eroding tactical capacity as described by the sophistication of attacks and the selection of targets, drone strikes actually have mixed effects. In
regard to the frequency of attacks, at the national level, the effect of drone strikes is very much time dependent. On average, they tend to decrease the frequency of militant attacks significantly in the six weeks following the initial strike, and insignificantly after that. When it comes the militant attack lethality at the national level, drone strikes continue to have a degrading effect but only after one and two months. At three months, however, though there is a reversal of signs on the regression coefficient indicating that strikes are actually increasing the lethality of militant attacks. These two findings on militant lethality taken together indicate that drone strike’s effect on lethality is dependent on time and that, in the long term, strikes do increase the lethality of militant attacks. This is an interesting finding, but it lacks significance. The phenomena could be an issue of the regression model not adequately fitting this subset of the larger dataset, an indication that a more robust statistical model is needed. With regard to militant attack sophistication, it is found that drone strikes have no significant degrading effect at the national level on how militants chose to attack their targets.

For militant attack selection at the national level, it is found that drone strikes actually shift militant attacks toward more hardened targets, significantly so within the six weeks following a strike. In the week of a drone strike, at the national level, 9.76 percent of attacks can be expected to shift toward hardened targets. This is an astounding finding. One explanation is that militants, behaving rationally, tend towards more hardened targets in order to show that they are still viable opponents, in an attempt to recruit more members, or in an attempt to nullify their tactical losses. These are still rational actions but not ones that conform to the theory in this study that drone strikes will degrade the capacity of their organizations exert violence, drawing them to attack softer targets of opportunity.

These findings at the national level do illustrate how drone strikes are affecting the relationship between militants and the Pakistani Military, but they are just a glimpse of the total effect. The seriousness of the question and its implication for the Pakistani military begs for further and deeper analysis.

Provincial Level

If the national level of analysis provides the 30,000-foot view, then the provincial level of analysis provides the 15,000-foot view. This examination asks how drone strikes are changing militant tactics at the second largest administrative level. Pakistan consists of four provincial regions which are analogous to states (Balochistan, Khyber Pakhtunkhwa, Punjab, and Sindh), the federal capital territory (Islamabad Capital Territory), two autonomous zones (Azad Jammu & Kashmir, and Gilgit-Baltistan), and the federally administered tribal area (FATA). The issue with a provincial-level time series analysis of the effect of drone strikes on the four primary dependent variables is the distribution of the data. The geographic distributions of both militant attacks and drone strikes at the provincial level are described in Graph 1 and Graph 2, respectively. Graph 1 demonstrates that the provincial localities with greatest frequency of militant attacks are Khyber Pakhtunkhwa, the FATA, and Balochistan. Of the 2,264 militant attacks during the observed six-year period, Khyber Pakhtunkhwa saw 778 attacks, 34.36 percent of all attacks, the FATA saw 540 militant attacks, 23.85 percent of all attacks, and Balochistan saw 535 militant attacks, 23.63 percent of all attacks. Graph 2 shows the provinces in which drone strikes have occurred. Of the 262 drone strikes over the observed six-year period, 260 strikes took place in the FATA while only two strikes have taken place in Khyber Pakhtunkhwa, a region directly bordering the FATA. This uneven distribution of drone strikes makes the creation of a count dependent regression model inherently difficult. Because the Poisson regression models the relationship between the counts of the dependent and independent variables, those provinces with no independent variable counts will either not fit the model, or drastically skew the results of the regression. Therefore, the Poisson regression should only be run on the provinces with both counts of militant attacks and drone strikes. In this case, the FATA was chosen because it had high counts of both militant attacks and drone strikes.

The impact of a one-unit increase in the weekly frequency of drone strikes on each of the dependent variables is detailed in Table 4. Looking at the first and third columns, it can be seen that a one-unit increase in drone strikes is associated with statistically significant changes within the one-week window alone. Specifically, a one-strike increase in the weekly frequency of drone strikes is expected to produce a 28.80 percent reduction in weekly frequency of militant attacks within the one-week window,
immediately after the initial drone strike. Drone strikes are also expected to produce significant changes in the relative sophistication of militant attacks at the district level. More specifically, a one-strike increase can be expected to decrease the likelihood of militants utilizing a sophisticated form of attack (e.g. a suicide attack, remote detonated or controlled devices, time delayed explosives, or pressure triggered explosives) by a factor of 53.90 percent. This huge change, albeit a short-term one, clearly conforms to the hypothesis that the professionalism of militant organizations is degraded by drone strikes. But it also affirms the concept that terror organizations are able to quickly recover due to their inherent malleability and organizational resilience.

There is also a statistically significant trend in regard to the lethality of militant attacks through the one-week to ten-week windows. Initially, within the one-week window, a one-unit increase in drone strikes can be expected to reduce the lethality of militant attacks by 50.60 percent. This trend continues with significant reductions in militant lethality of 25.40 percent at the two-week window, 19.70 percent at the four-week window, 14.60 percent at the six-week window, 10.30 percent at the eight-week window, and 3.19 percent at the ten-week window. It can be seen that the effect of drone strikes on militant lethality is time-dependent, eroding the lethality of militant attacks by lesser degrees as time goes on. One explanation of this trend is that militant organizations are degraded substantially in the first few weeks after the drone strike, but organizations are able to slowly recover from the initial strike to the point that its effect becomes little felt after twelve weeks, where no statistically significant findings were found.

It is important to note that due to the model employed and the subsequent the selection of the subset of data, these findings and trends are based on the FATA alone. This may cloud the statistically applicability of the findings on the FATA, an area which saw only 540 militant attacks and 260 drone strikes during the six years in question. That being said, much can be learned about the four primary level there is not sufficient evidence to accept three of the four hypotheses. It also appears that H2 can be confidently accepted, as drone strikes do appear to decrease the lethality of militant attacks in the tribal areas up to ten weeks after the initial drone strike. Although there is evidence to claim that in the first week drone strikes reduce the frequency and the sophistication of militant
attacks, after the first week $H_1$ and $H_4$ are unable to be accepted. Moreover, the regressions fail to find any evidence that drone strikes have a significant effect on how militant groups are choosing their targets. Therefore, $H_3$ must be rejected as well. These results once again beg for a deeper investigation.

**District Level**

The district level of analysis is the 5,000-foot view; here, the effect of drone strikes is examined at the administrative level that most individuals would interact with on a daily basis. How are drone strikes changing militant tactics at the smallest statistically practical administrative level? Just as with the provincial level, the distribution of the data is also troubling at the district level. The local distribution of both militant attacks and drone strikes at the district level are described in Graph 3 and Graph 4, respectively. The districts with the greatest frequency of militant attacks are: Karachi, the capital of the Sindh province; Peshawar, the district which contains the capital of the Khyber Pakhtunkhwa; Quetta, the provincial capital of Balochistan; and Khyber, a district within the FATA, as Graph 3 shows.

**Graph 3. Frequency of Militant Attacks by District for All Years of Study Where Attacks Number More Than 50**

It is logical that the top three districts for militant attacks are capitals of populous provinces. Of the 2,264 militant attacks during the observed six-year period, Karachi saw 294 attacks, 12.99 percent of all attacks, Peshawar saw 268 militant attacks, 11.84 percent of all attacks, and Quetta and Khyber both suffered 191 militant attacks, 8.44 percent of all attacks. The district level breakdown of drone strikes are detailed in Graph 4. Of the 262 drone strikes over the observed six-year period, 194 strikes took place in the district of North Waziristan and fifty-four strikes took place in the South Waziristan district. Once again, encountering an uneven distribution of the data will lead to a difficult and statistically unsound series of regressions. Therefore, the Poisson regression should only be run on the districts with high counts of both militant attacks and drone strikes. As such, the district level analysis will focus on the North and South Waziristan districts.

While at the national and provincial administrative levels, the effect of drone strikes on militant behavior do appear to have mixed, but positive, effects, at the district level the picture does not seem so rosy. Specifically, no statistically significant regression results were found for any temporal window of militant attack frequency, sophistication, or selection. Militant attack lethality accounted for only the dependent
variable for which statistically significant results were found, specifically a significant, but non-linear, trend throughout all temporal windows observed. This trend is described in column two of Table 5.\textsuperscript{vii} In the first week after a one-unit increase in the frequency of drone strikes, the lethality of militant attacks can be expected to decrease by 85.10 percent, and then by 92.90 percent for the two-week window. The trend declines even farther to 44.70 percent, 45.00 percent, and 25.60 percent for the four-week, six-week, and eight-week windows respectively when the weekly frequency of drone strikes incurs a one-unit increase. At the ten-week and twelve-week windows militant attack lethality can be expected to decline by 54.10 percent and 51.10 percent, respectively, when the weekly frequency of drone strikes increases by one-unit.

\textbf{Table 5: Effect of a one-unit increase in drone strikes on dependent variables over specified temporal windows at the district level}

\begin{center}
\begin{tabular}{|c|cccc|}
\hline
\textbf{Temporal Windows:} & \textbf{(1)} & \textbf{(2)} & \textbf{(3)} & \textbf{(4)} \\
\hline
\textbf{Frequency} & -18.60% & -85.10*** & 19.60% & \text{-3.22%} \\
\textbf{Lethality} & -22.40% & -92.90*** & -6.76% & \text{-20.00%} \\
\textbf{Sophistication} & 4.18% & -44.70*** & 6.98% & \text{0.512%} \\
\textbf{Selection} & 0.484% & -45.00*** & -2.86% & \text{0.0636%} \\
\textbf{Eight-week} & 4.98% & -25.60*** & 2.88% & \text{3.65%} \\
\textbf{Ten-week} & -18.00% & -54.10*** & -22.60% & \text{-15.40%} \\
\textbf{Twelve-week} & -16.60% & -51.10*** & -25.20% & \text{-14.30%} \\
\hline
\end{tabular}
\end{center}

\textit{All regressions included seasonal controls and fixed-effects}

\textit{*** p<0.01, ** p<0.05, * p<0.1}

Even though the effect on lethality is substantive, it hardly outweighs the fact that drone strikes do not have a substantive effect on the section, sophistication, or frequency of militant attacks. It can be said that at the smallest practical administrative unit of analysis, the district, and the smallest practical time unit of analysis, the weekly, drone strikes are inefficient as a counterterrorism tool.

\section*{Conclusions and Implications}

What conclusions and practical implications can be drawn from this investigation? Do these findings conform with previous studies? The acceptance or rejection of the four hypotheses is detailed in Table 6. Across all administrative levels of study, it can be concluded that drone strikes fail to have a statistically significant effect on militant's behavior. While $H_1$ and $H_3$ can be accepted at the national level, their rejections at the provincial and district levels indicate that drone strikes do not have a measureable and statistically significant effect on attack frequency and sophistication in general. There was not sufficient evidence to accept $H_4$ at any of the administrative levels of analysis. The caveat to this bold statement is drone strikes' negative effect on lethality, $H_2$. This hypothesis can be accepted. At all administrative levels, drone strikes appear to degrade the organizational capacity of militant organizations. At the district and provincial levels, this is a long-term effect, wherein organizations are impacted by the drone strikes for the full twelve and ten weeks respectively. But taken at the national level, the effect is short-term, in which organizations actually increase the lethality of their attacks at the twelfth week. Through the culling of mid-level and high level leaders, the professionalism of the organization is diminished and command-and-control is relegated to less capable and experienced individuals; this effect is expressed as the reduction in the lethality of militant attacks.

The findings in this study do not correspond to previous findings. This could be due to the militant-military relationship studied in this paper versus the militant-civilian relationship commonly studied. This may also indicate that wholly new approaches and theories are needed to address how the militant-military relationship changes as result of drone strikes. While Johnston and Sarbahi found that drone strikes are associated with a decrease in the incidence of attacks,\textsuperscript{71} this conclusion cannot be reached from this data and the regression results. Additionally, Abrahms and Mierau and Lyall observe an erosion of the tactical selectivity of insurgents.\textsuperscript{72} This change in selectivity after drone strikes is not observed between militant organizations and the Pakistani military. Finally, Wilner found evidence of a simplification in the sophistication of attacks and the selection of targets after drone strikes.\textsuperscript{73} This study was not able to confirm these findings specifically with regards to the militant-military relationship. Taken together, these disparities suggest that either drones are ineffective as a counterterrorism tool, fundamentally failing to degrade militant organizations, or that a new theoretical construct is needed to describe how drones are changing the relationship. Future research should be focused on developing this theoretical construct or employing more advanced statistical methods.
to model the relationship with the current data and within the current framework.

<table>
<thead>
<tr>
<th>Table 6: Summary of Hypotheses</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Level</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>$H_1$ Frequency</td>
</tr>
<tr>
<td>$H_2$ Lethality</td>
</tr>
<tr>
<td>$H_3$ Sophistication</td>
</tr>
<tr>
<td>$H_4$ Selection</td>
</tr>
</tbody>
</table>

The negative effect that drone strikes have on militant attack lethality and the lack of impact they have on militant attack selection, sophistication, and frequency necessitates a reassessment of drone strikes’ ability to achieve the broader goals of counterinsurgency. One of the main tenants of counterinsurgency is the battle for the “hearts and minds” of the population, an idea espoused in the U.S. Army Counterinsurgency manual.\(^74\) In this model (COIN), the counterinsurgency operative is tasked with building a trusted network within the local populace which reinforces the idea that the best interests of the population are served by the success of the counterinsurgency operation (the “heart” aspect) and that the counterinsurgency force is best able to protect the population and that resisting it is practically pointless (the “mind” aspect).\(^75\) Over time, these trusted networks grow like “roots into the populace,” displacing enemy networks and thereby forcing them into the open where the military can seize the initiative and destroy the insurgency.\(^76\) These trusted networks are the essential backbone of the counterinsurgency fight; any action which builds the network supports the counterinsurgency, while any action which undermines trust or causes the networks to wither helps the enemy, even those that provide a definitive short-term military advantage such as drone strikes.\(^77\)

Critics of the COIN strategy argue that the United States should not adhere to the policy as it is impractical in modern warfare. Jeffrey notes that ground forces can push insurgents out of regions and deny them the ability to return, but they fundamentally fail to build the capacity\(^8\) of local institutions that can help move the population forward.\(^78\) In Pakistan, critics of COIN strategy find it far too politically and economically costly, necessitating the deployment of ground troops to assist in the capture and denial of insurgent strongholds and the capacity building of the Pakistani military. Additionally, the COIN strategy is a long-term commitment, not a politically attractive quick fix. Insurgents are not pushed out of regions and denied long-term access overnight, nor are trust in local institutions, security forces, and the central government built overnight. Drone strikes offer, what appear to be, a quick fix and low-cost solution to the insurgent question.

If the United States seeks to fight a “just” war and build the capacity of the Pakistani military, and the Pakistani military in turn seeks to build trusted networks within its population, then actions should be restricted to COIN strategies that attempt to prevent atrocities that could diminish support for counterinsurgency operations and undertake actions which are discriminate and proportional in order to create confidence in the counterinsurgency force.\(^79\) These actions exclude the use of drones in a strike capacity for reasons discussed below.

While there is sufficient evidence to conclude that drone strikes have a degrading effect on the lethality of militant attacks in Pakistan, this alone should not be taken as the primary reason for their continued employment, or expanded employment, in counterinsurgency operations. As drone strikes create no significant change in the other three factors, they offer only a short-term fix to one aspect of the insurgency problem, lethality. In the broader scope, they are inefficient and counterproductive, and should be excluded from the modern counterinsurgency operations.

There is additional evidence that the strikes are responsible for undermining the trusted network essential for a counterinsurgency operation to be effective. Boyle argues that drone strikes have a corrosive effect on the stability and legitimacy of the host nation’s government.\(^80\) Policy makers in the United States seem reluctant to measure the social effects of drone usage, only paying specific attention to the short-term military advantage that drone strikes offer. Boyle\(^ix\) notes that if policy makers assess the social effects of drone usage, it could be seen that

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\(^8\) Development is an essential, and often under-discussed, element of COIN strategy that involves developing competent local governments and security forces that are able to police and defend their areas upon U.S. withdrawal (Jeffery, 2015).

\(^ix\) These findings are further echoed by Khan (2011) and Bergen and Tiedemann (2011, 14), where it was shown that strikes are counterproductive in the long-run as they alienate local populations and encourage recruitment for militant groups as the local government starts to lose legitimacy in the eyes of the population.
 Strikes place high levels of political pressure on the central government that make tacit compliance with the United States a costly act, as local populations lose confidence in the government’s ability to police and protect its own territory. This is clearly detrimental to the establishment of the trusted network.

Although drone strikes might cripple the lethality of militant organizations, they are inefficient tools to deploy in counterinsurgency operations. Walsh notes that drones are a poor substitute for traditional counterinsurgency operations, as defined in the COIN doctrine, as they punish and deter the enemy but do not directly contribute to the overall strengthening of the nation’s capacity, nor do they reinforce the state’s legitimacy. Where drone strikes simply punish the enemy and try to beat them into oblivion, traditional counterinsurgency methods attempt to build the essential trusted networks by de-radicalizing, encouraging growth, and countering propaganda. To date, the American counterinsurgency policy in Pakistan has been far too drone-focused. The findings in this study, and others like it, have shown that drone strikes fail to sufficiently degrade insurgent groups and instead undermine the major thrust of the counterinsurgency operation. Instead of advancing good counterinsurgency goals, drone usage acts as a self-defeating action. What is needed instead is a return to the “hearts and minds” strategy in order to degrade insurgent groups. By building the capacity of the Pakistani military, encouraging good governance, denying sanctuary, supplies, and recruits, and developing trusted networks, the United States would be better positioned to advance its, and Pakistan’s, counterinsurgency objectives.

If drone strikes are undermining trust in the local government, driving insurgent mobilization, and increasing opposition to the political legitimacy of the central government while only offering a marginal and short-term strategic benefit, then it is a policy that clearly does not fit within the COIN framework and should no longer be employed. One can extend this argument to the domestic use of drones by the Pakistani military; drone strikes sow mistrust within the Tribal Areas, increase backlash against the central government, and drive recruitment into the very militant organizations that Pakistan seeks to eradicate. None of these possibilities build a trusted network in those areas where both drone strikes and counterinsurgency operations are concentrated. This has even more salient and practical implications for Pakistan because of its combat deployment of the Burraq drone in 2015 and its indication that it intends to use its domestically produced drone against militant organizations. As drone strikes appear to have little significant effect on militant behavior, especially at the district and provincial levels, Pakistan should more thoroughly examine the political, economic, and social costs and benefits of this policy.

The implications do not end there. The United States has utilized armed drones extensively in Pakistan; this study shows that this practice has not benefited its ally in its counterterrorism campaign and that policy makers should more extensively analyze the practice. More specifically, the next phase of research in light of these findings should be a cost-benefit analysis that examines the economic, strategic, and geopolitical costs of continued drone usage against the short-term benefit from the reduction in militant attack lethality. This study would allow policy makers and strategic planners to approach the use of drone technology as a surgical strike tool in a manner that accounts for both the short-term tactical advantages and the long-term strategic costs. Furthermore, the United States has insisted on the continued use of drone strikes in other theaters of conflict, including Yemen, Afghanistan, the Horn of Africa, and against targets in the Islamic State of Iraq and Syria. These conflicts, the deployment of armed drones in combat, and the findings in this study beg for additional investigations, similar in structure to this study, on the impact of drones on the militant-military relationship within these other theaters of war. The nature of these conflicts, civil war not counterinsurgency operations, may spur vastly different findings which could support the deployment of drone strikes within these theaters.

Drone strikes do not offer a noticeable military advantage on the battle field in Pakistan, failing to shift militant attack frequency, selection, or sophistication. Moreover, they fail to win the “hearts and minds” of the population, an essential tenant of modern counterinsurgency doctrine. Any further use by the United States, or domestic use by Pakistan, should be reconsidered in the light of these implications.

**APPENDIX 1: NATIONAL LEVEL REGRESSION RESULTS**

The regression results and incident rate ratios of the Poisson regression of weekly drone strikes on militant attack frequency across all seven of the temporal windows is show in Panel A and Panel B,
respectively, of Table A1. In the first row of Panel A, the effect that the frequency of weekly drone strikes has on militant attack frequency is detailed. In the first column is the one-week window, which notes the effect that drone strikes have within the week that the drone strike takes place, this coefficient should be interpreted as such: for a one-strike increase in the weekly drone strike frequency the difference in the logs of expected counts can be expected to decrease by 0.120 units, ceteris paribus. With this in mind it can be observed that, at a national level, the effect that drone strikes have on militant attack frequency is very much time dependent as the difference in the logs of expected counts decreases significantly by 0.120 units, 0.101 units, 0.0675 units, and 0.0446 units at the one-week, two-week, four-week, and six-week windows respectively. For the eight-week and ten-week windows, the difference in the logs of expected counts still produce negative coefficients, but they are not statistically significant. The twelve-week window produces a positive and statistically insignificant coefficient for the difference in the logs of the expected counts. Also in Table A1 Panel A the total number of individuals killed in a drone strike is observed having a significant and degrading effect on militant attack frequency. For a one-unit increase in total fatalities the difference in the logs of expected counts can be expected to decrease from between -0.00774 and -0.0218 units over a twelve-week window.

Panel B of Table A1 details the incidence rate ratio of both the weekly frequency of drone strikes and the total number of individuals killed in a drone strike; these ratios express the rate at which the expected counts are changing. In column 1 of Panel B the estimated rate ratios for both primary independent variables are detailed. Specifically, a one-strike increase in the weekly frequency of drone strikes at the national level would be expected to produce a change in the incidence rate of militant attacks in the one-week window by a factor of 0.887 (or a decrease of 12 percent), ceteris paribus. Therefore, it can be similarly surmised that a one-strike increase in the weekly frequency of drone strikes at the national level would be expected to produce a significant change in the incidence rate of militant attacks by a factor of 0.904 (decrease of 10.1 percent) for a two-week window, by a factor of 0.935 (decrease of 6.75 percent) for a four-week window, and by a factor of 0.956 (decrease of 4.46 percent) for a six-week window. For the eight-week, ten-week, and twelve-week windows it is once again found that, similar to the regression coefficients, the incidence rate ratio coefficients are not statistically significant. In regard to the number of individuals killed in drone strikes it should be noted that a one-death increase in the total number of fatalities should produce a significant change in the incidence rate of militant attacks for all temporal windows. Once again, both drone strikes and the total number of individuals killed in strikes have a degrading effect on the frequency of militant attacks, but for the frequency of drone strikes this effect is time sensitive.

The findings in regard to militant attack lethality paint a similar picture of time-dependence. In Table A2 Panel A the regression coefficients for the Poisson regression of weekly drone strike frequency and total number of individuals killed in a drone strike on militant attack lethality at the national level are listed. Here it is seen that, once again, the total number of individuals killed in a drone strike does in fact have a statistically significant and negative effect of the lethality of militant attacks for all temporal windows. But the actual drone strikes only have statistically significant effects at the four-week, eight-week, and twelve-week windows. From the data presented in both of the panels, it can be deduced that for a one-strike increase in the weekly frequency of drone strikes the incidence rate for militant attack lethality should decrease by a factor of 0.923 (decrease of 8.00 percent) for the four-week window. Additionally, for a one-strike increase the incidence rate can be expected to decrease by a factor of 0.953 (decrease of 4.86 percent) for the eight-week window and increase by a factor of 1.015 (increase of 1.47 percent) at the twelve-week window. It appears that that drone strikes decrease militant attack lethality for the first two months following a strike but after the third month the lethality of strikes are marginally increased by 1.47 percent.

Recalling that both militant attack sophistication and target selection were both binary coded with attack sophistication taking the value of one if it was a sophisticated attack and target selection taking a value of one if the target was a soft target, Table A3 and Table A4 detail with the regressions of these dependent variables. Table A3 lists the regression coefficients and incidence rate ratios from the regression of the primary independent variables on militant attack selection. Notice that there is a statistically significant
effect up to the six-week window. Remembering that this dependent variable takes the value of one if the target was soft, it should be noted that drone strikes seem to be shifting militant attacks toward more hardened targets, indicated by the negative signs on the statistically significant coefficients. Data from Panel A and Panel B taken together indicate that at the one-week window a one-strike increase in the weekly frequency of drone strikes can be expected to decrease the incidence rate of attacks against soft targets by a factor of 0.907 (shifting to hard targets by 9.76 percent). Additionally, at the two-week window a one-strike increase in the weekly frequency of drone strikes can be expected to decrease the incidence of attacks against soft targets by 9.76 percent.

### Table A1. Effect of Drone Strikes on Militant Attack Frequency at the National Level over Specific Windows

<table>
<thead>
<tr>
<th>Panel A. Regression Coefficients</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
<th>(7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VARIABLES</td>
<td>1-Week</td>
<td>2-Week</td>
<td>4-Week</td>
<td>6-Week</td>
<td>8-Week</td>
<td>10-Week</td>
<td>12-Week</td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>-0.120***</td>
<td>-0.101***</td>
<td>-0.0675***</td>
<td>-0.0446**</td>
<td>-0.0273</td>
<td>-0.00260</td>
<td>0.0108</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
<td>-0.00774***</td>
<td>-0.0118***</td>
<td>-0.0187***</td>
<td>-0.0204***</td>
<td>-0.0202***</td>
<td>-0.0212***</td>
<td>-0.0218***</td>
</tr>
</tbody>
</table>

### Table A2. Effect of Drone Strikes on Militant Attack Lethality at a National Level over Specific Windows

<table>
<thead>
<tr>
<th>Panel A. Regression Coefficients</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
<th>(7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VARIABLES</td>
<td>One-Week</td>
<td>Two-Week</td>
<td>Four-Week</td>
<td>Six-Week</td>
<td>Eight-Week</td>
<td>Ten-Week</td>
<td>Twelve-Week</td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>-0.00746</td>
<td>-0.0104</td>
<td>-0.0800***</td>
<td>-0.0172</td>
<td>-0.0486***</td>
<td>-0.00472</td>
<td>0.0147*</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
<td>-0.0129***</td>
<td>-0.0142***</td>
<td>-0.0132***</td>
<td>-0.0180***</td>
<td>-0.0109***</td>
<td>-0.0108***</td>
<td>-0.0121***</td>
</tr>
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</table>

### Table A3. Effect of Drone Strikes on Militant Attack Lethality at a National Level over Specific Windows

<table>
<thead>
<tr>
<th>Panel B. Incidence Rate Ratio Coefficients</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
<th>(7)</th>
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</thead>
<tbody>
<tr>
<td>VARIABLES</td>
<td>One-Week</td>
<td>Two-Week</td>
<td>Four-Week</td>
<td>Six-Week</td>
<td>Eight-Week</td>
<td>Ten-Week</td>
<td>Twelve-Week</td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>0.993</td>
<td>0.990</td>
<td>0.923***</td>
<td>0.983</td>
<td>0.953***</td>
<td>0.995</td>
<td>1.015*</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
<td>0.987***</td>
<td>0.986***</td>
<td>0.987***</td>
<td>0.982***</td>
<td>0.989***</td>
<td>0.989***</td>
<td>0.988***</td>
</tr>
</tbody>
</table>

Standard errors in parentheses
All regressions included seasonal controls and fixed-effects
*** p<0.01, ** p<0.05, * p<0.1

25
rate of attacks against soft targets by a factor of 0.909 (shifting to hard targets by 9.55 percent), at the four-week window the incidence rate is expected to decrease by a factor of 0.933 (shifting to hard targets by 6.92 percent). At the last statistically significant temporal window it is observed that a one-strike increase in the weekly frequency of drone strikes can be expected to decrease the incidence rate of attacks against soft targets by a factor of 0.960 (shifting to hard targets by 4.07 percent). Lastly, it must be noted that the total number of individuals killed in a drone strike also shifts militant attacks to more hardened targets.

Table A3. Effect of Drone Strikes on Militant Attack Selection at a National Level over Specific Windows.

<table>
<thead>
<tr>
<th>Panel A. Regression Coefficients</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
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<th>(6)</th>
<th>(7)</th>
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<tr>
<td>VARIABLES</td>
<td>One-Week</td>
<td>Two-Week</td>
<td>Four-Week</td>
<td>Six-Week</td>
<td>Eight-Week</td>
<td>Ten-Week</td>
<td>Twelve-Week</td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>-0.0976**</td>
<td>-0.0955***</td>
<td>-0.0692***</td>
<td>-0.0407*</td>
<td>-0.0179</td>
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<td>Total number killed in a drone strike</td>
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<td>-0.0167***</td>
<td>-0.0194***</td>
<td>-0.0203***</td>
<td>-0.0209***</td>
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<td>(0.00177)</td>
<td>(0.00159)</td>
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<thead>
<tr>
<th>Panel B. Incidence Rate Ratio Coefficients</th>
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<td>Two-Week</td>
<td>Four-Week</td>
<td>Six-Week</td>
<td>Eight-Week</td>
<td>Ten-Week</td>
<td>Twelve-Week</td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>0.907**</td>
<td>0.909***</td>
<td>0.933***</td>
<td>0.960*</td>
<td>0.982</td>
<td>1.010</td>
<td>1.020</td>
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<td></td>
<td>(0.0426)</td>
<td>(0.0314)</td>
<td>(0.0242)</td>
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<td>(0.0180)</td>
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<td>Total number killed in a drone strike</td>
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<td>0.991***</td>
<td>0.983***</td>
<td>0.981***</td>
<td>0.980***</td>
<td>0.979***</td>
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<td>(0.00239)</td>
<td>(0.00200)</td>
<td>(0.00173)</td>
<td>(0.00156)</td>
<td>(0.00143)</td>
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</table>

Observations | 135 | 135 | 135 | 135 | 135 | 135 | 135 |

Groups | 1 | 1 | 1 | 1 | 1 | 1 | 1 |

Standard errors in parentheses
All regressions included seasonal controls and fixed-effects
*** p<0.01, ** p<0.05, * p<0.1

Table A4. Effect of Drone Strikes on Militant Attack Sophistication at a National Level over Specific Windows.

<table>
<thead>
<tr>
<th>Panel A. Regression Coefficients</th>
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<td>Two-Week</td>
<td>Four-Week</td>
<td>Six-Week</td>
<td>Eight-Week</td>
<td>Ten-Week</td>
<td>Twelve-Week</td>
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<td>Weekly frequency of drone strikes</td>
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<td>-0.0826</td>
<td>-0.0230</td>
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<td>-0.0497</td>
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<td>(0.0786)</td>
<td>(0.0603)</td>
<td>(0.0459)</td>
<td>(0.0392)</td>
<td>(0.0341)</td>
<td>(0.0310)</td>
<td>(0.0284)</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
<td>-0.00731</td>
<td>-0.0179***</td>
<td>-0.0301***</td>
<td>-0.0350***</td>
<td>-0.0303***</td>
<td>-0.0355***</td>
<td>-0.0360***</td>
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<tr>
<td></td>
<td>(0.00687)</td>
<td>(0.00564)</td>
<td>(0.00461)</td>
<td>(0.00402)</td>
<td>(0.00342)</td>
<td>(0.00319)</td>
<td>(0.00293)</td>
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</table>

<table>
<thead>
<tr>
<th>Panel B. Incidence Rate Ratio Coefficients</th>
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<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
<th>(7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VARIABLES</td>
<td>One-Week</td>
<td>Two-Week</td>
<td>Four-Week</td>
<td>Six-Week</td>
<td>Eight-Week</td>
<td>Ten-Week</td>
<td>Twelve-Week</td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>0.898</td>
<td>0.921</td>
<td>0.977</td>
<td>0.979</td>
<td>0.952</td>
<td>0.991</td>
<td>0.992</td>
</tr>
<tr>
<td></td>
<td>(0.0706)</td>
<td>(0.0556)</td>
<td>(0.0448)</td>
<td>(0.0384)</td>
<td>(0.0325)</td>
<td>(0.0307)</td>
<td>(0.0281)</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
<td>0.993</td>
<td>0.982***</td>
<td>0.970****</td>
<td>0.966***</td>
<td>0.970***</td>
<td>0.965***</td>
<td>0.965***</td>
</tr>
<tr>
<td></td>
<td>(0.00682)</td>
<td>(0.00554)</td>
<td>(0.00448)</td>
<td>(0.00389)</td>
<td>(0.00331)</td>
<td>(0.00308)</td>
<td>(0.00283)</td>
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</table>

Observations | 135 | 135 | 135 | 135 | 135 | 135 | 135 |

Groups | 1 | 1 | 1 | 1 | 1 | 1 | 1 |

Standard errors in parentheses
All regressions included seasonal controls and fixed-effects
*** p<0.01, ** p<0.05, * p<0.1
Table A4 details the effect which drone strikes have on militant attack sophistication, where sophisticated attacks take the value of one. From the regression coefficients listed in Panel A it can be seen that the frequency of weekly drone strikes has no significant effect on militant attack sophistication. Even though regression coefficients have negative signs they lack significance at any of the conventional levels throughout all of the temporal windows. It seems that a one-strike increase in the weekly frequency of drone strikes has little to no tangible effect on how militants wage war on the national level. It is interesting though that, once again, the total number of individuals killed in a drone strike does have a degrading effect on militant sophistication. In fact, a one-death increase per week at the national level is associated with a shift toward less sophisticated attacks by between 1.79 percent and 3.60 percent after two weeks, depending on the temporal window observed.

APPENDIX 2: PROVINCIAL LEVEL REGRESSION RESULTS

The analysis of provincial level effects begins by examining how drone strikes are correlated with militant attack frequency, specifically in the FATA. Table A5 details the results of the Poisson regression of the weekly frequency of drone strikes on the windowed counts of militant attack frequency. From Table A5 it can be observed that drone strikes are correlated with a statistically significant decrease in militant attack frequency within the first week. Specifically, if the weekly frequency of drone strikes were to increase by one-strike the difference in the logs of expected counts should decrease by 0.288 units. This observation, combined with the data in Panel B, shows that for a one-strike increase in the weekly frequency of drone strikes the incidence rate of militant attack frequency would be expected to change by a factor of 0.750 (decreasing 28.8 percent). This is a substantial effect for the first week, but the effect does not hold as time increases. The total number of individuals killed in a drone strike also has a statistically significant degrading effect on militant attack frequency but only in the six to twelve-week windows, as a one death increase per strike changes the incidence rate by a factor of 0.990 (decreasing by 1 percent) for a six-week period, by a factor of 0.989 (decreasing by 1.08 percent) for an eight-week period, by a factor of 0.992 (decreasing by 0.853 percent) for a ten-week period, and by a factor of 0.991 (decreasing by 0.884 percent) for a twelve-week period.

At the provincial level the effect of drone strikes on militant attack lethality is described in Table A6. By the statistical significance of both the weekly frequency of strikes it can once again be seen that the effect of drone strikes is time dependent as the effect

<table>
<thead>
<tr>
<th>Table A5. Effect of drone strikes of militant attack frequency within the Federally Administered Tribal Areas over specific windows.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dependent Variable: Count of militant attack frequency over</strong></td>
</tr>
<tr>
<td><strong>Panel A. Regression Coefficients</strong></td>
</tr>
<tr>
<td><strong>VARIABLES</strong></td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
</tr>
<tr>
<td>One-Week</td>
</tr>
<tr>
<td>-0.288***</td>
</tr>
<tr>
<td>(0.109)</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
</tr>
<tr>
<td>(0.0104)</td>
</tr>
<tr>
<td><strong>Panel B. Incident Rate Ratio Coefficients</strong></td>
</tr>
<tr>
<td><strong>VARIABLES</strong></td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
</tr>
<tr>
<td>(0.0821)</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
</tr>
<tr>
<td>(0.0105)</td>
</tr>
<tr>
<td>Observations</td>
</tr>
<tr>
<td>Number of Provinces</td>
</tr>
<tr>
<td>Standard errors in parentheses</td>
</tr>
<tr>
<td>All regressions included seasonal controls and fixed-effects</td>
</tr>
<tr>
<td>*** p&lt;0.01, ** p&lt;0.05, * p&lt;0.1</td>
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</tbody>
</table>
reduces in statistical significance at the ten-week window and becomes statistically insignificant at the twelve-week window. From both Panel A and B, it can be noticed that a one-strike increase in the weekly frequency of drone strikes changes the incidence rate by a factor of 0.603 (decreasing by 50.6 percent) for the one-week window. Additionally, a one-strike increase in the weekly frequency of drone strikes changes the incidence rate by a factor of 0.775 (decreasing by 25.4 percent) for the two-week window, by a factor of 0.821 (decreasing by 19.7 percent) for the four-week window, by a factor of 0.864 (decreasing by 14.6 percent) for the six-week window, and by a factor of 0.902 (decreasing by 10.3 percent) for the eight-week window.

### Table A6. Effect of drone strikes of militant attack lethality within the Federally Administered Tribal Areas over specific windows.

**Dependent Variable: Count of militant attack lethality over**

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<th></th>
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</thead>
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<tr>
<td>One-Week</td>
<td>-0.506***</td>
<td>-0.254***</td>
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<td>-0.103***</td>
<td>-0.0319*</td>
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<tr>
<td>Two-Week</td>
<td>(0.0593)</td>
<td>(0.0409)</td>
<td>(0.0295)</td>
<td>(0.0243)</td>
<td>(0.0208)</td>
<td>(0.0184)</td>
<td>(0.0162)</td>
</tr>
<tr>
<td>Four-Week</td>
<td>0.0314***</td>
<td>0.0140***</td>
<td>0.00981***</td>
<td>0.00283</td>
<td>-0.000440</td>
<td>-0.000283</td>
<td>0.000414</td>
</tr>
<tr>
<td>Six-Week</td>
<td>(0.00517)</td>
<td>(0.00394)</td>
<td>(0.00299)</td>
<td>(0.00245)</td>
<td>(0.00214)</td>
<td>(0.00195)</td>
<td>(0.00174)</td>
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<td>Eight-Week</td>
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<td></td>
<td></td>
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<tr>
<td>Ten-Week</td>
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<tr>
<td>Twelve-Week</td>
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<th></th>
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</thead>
<tbody>
<tr>
<td>One-Week</td>
<td>0.603***</td>
<td>0.775***</td>
<td>0.821***</td>
<td>0.864***</td>
<td>0.902***</td>
<td>0.969*</td>
<td>0.993</td>
</tr>
<tr>
<td>Two-Week</td>
<td>(0.0357)</td>
<td>(0.0317)</td>
<td>(0.0243)</td>
<td>(0.0210)</td>
<td>(0.0188)</td>
<td>(0.0178)</td>
<td>(0.0161)</td>
</tr>
<tr>
<td>Four-Week</td>
<td>1.032***</td>
<td>1.014***</td>
<td>1.010***</td>
<td>1.003</td>
<td>1.000</td>
<td>1.000</td>
<td>1.000</td>
</tr>
<tr>
<td>Six-Week</td>
<td>(0.00534)</td>
<td>(0.00400)</td>
<td>(0.00293)</td>
<td>(0.00246)</td>
<td>(0.00214)</td>
<td>(0.00195)</td>
<td>(0.00174)</td>
</tr>
<tr>
<td>Eight-Week</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Ten-Week</td>
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<tr>
<td>Twelve-Week</td>
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</table>

Observations: 84 84 84 84 84 84 84
Number of Provinces: 1 1 1 1 1 1 1

### Table A7. Effect of drone strikes of militant attack selection within the Federally Administered Tribal Areas over specific windows.

**Dependent Variable: Count of militant attack selection over**

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<th></th>
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</thead>
<tbody>
<tr>
<td>One-Week</td>
<td>-0.150</td>
<td>-0.0504</td>
<td>-0.0122</td>
<td>-0.00721</td>
<td>-0.00578</td>
<td>0.0261</td>
<td>0.0321</td>
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<tr>
<td>Two-Week</td>
<td>(0.115)</td>
<td>(0.0815)</td>
<td>(0.0576)</td>
<td>(0.0492)</td>
<td>(0.0424)</td>
<td>(0.0379)</td>
<td>(0.0348)</td>
</tr>
<tr>
<td>Four-Week</td>
<td>0.00882</td>
<td>-0.000491</td>
<td>-0.00144</td>
<td>-0.00775</td>
<td>-0.00639</td>
<td>-0.00584</td>
<td>-0.00689*</td>
</tr>
<tr>
<td>Six-Week</td>
<td>(0.0115)</td>
<td>(0.00857)</td>
<td>(0.00618)</td>
<td>(0.00532)</td>
<td>(0.00460)</td>
<td>(0.00417)</td>
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<td>Ten-Week</td>
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<td>Twelve-Week</td>
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<tbody>
<tr>
<td>One-Week</td>
<td>0.861</td>
<td>0.951</td>
<td>0.988</td>
<td>0.993</td>
<td>0.994</td>
<td>1.026</td>
<td>1.033</td>
</tr>
<tr>
<td>Two-Week</td>
<td>(0.0990)</td>
<td>(0.0775)</td>
<td>(0.0569)</td>
<td>(0.0488)</td>
<td>(0.0422)</td>
<td>(0.0389)</td>
<td>(0.0359)</td>
</tr>
<tr>
<td>Four-Week</td>
<td>1.009</td>
<td>1.000</td>
<td>0.996</td>
<td>0.992</td>
<td>0.994</td>
<td>0.994</td>
<td>0.993*</td>
</tr>
<tr>
<td>Six-Week</td>
<td>(0.0116)</td>
<td>(0.00857)</td>
<td>(0.00616)</td>
<td>(0.00528)</td>
<td>(0.00457)</td>
<td>(0.00415)</td>
<td>(0.00382)</td>
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<td>Ten-Week</td>
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<td>Twelve-Week</td>
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Observations: 84 84 84 84 84 84 84
Number of Provinces: 1 1 1 1 1 1 1

Standard errors in parentheses
All regressions included seasonal controls and fixed-effects
*** p<0.01, ** p<0.05, * p<0.1
window. Conversely, through the first month it seems that the total number of individuals killed in a drone strike has a negative impact of the lethality of militant attacks, serving to increase their lethality by between 3.14 percent and 0.981 percent.

Looking specifically at the FATA, it seems that drone strikes have little to no significant effect on either the sophistication or the selection of militant attacks. Table A7 details the effect of drone strikes of militant attack selection in the FATA, it can be seen that the frequency of drone strikes has no statistically significant effect on the selection of militant targets. Table A8 paints a similar picture for the effect of drone strikes on militant attack sophistication in the FATA. Any effect of drone strikes on attack sophistication is time dependent, with statistical significance confined to the first week with a one-strike increase in the frequency of drone strikes increasing the incidence rate by a factor of 0.584 (decreasing by a factor of 53.9 percent). Because attack sophistication was coded as a binary variable, this means that in the week which a drone strike took place 53.9 percent of attacks shifted towards less sophisticated means.

**APPENDIX 3: DISTRICT LEVEL REGRESSION**

It can be seen from Table A9, Table A11, and Table A12 that neither the weekly frequency of drone strikes nor the total number of individuals killed in drone strikes has any substantive statistical effect on militant attack frequency, the selection of their targets, or the sophistication of their attacks, respectively. In fact, it appears that the only statistically substantive effect that drone strikes have at the district level is the reduction of militant attack lethality in the districts observed. Table A10 shows that a one-strike increase in the weekly frequency of drone strikes changes the incidence rate of militant attack lethality by a factor of 0.427 (decreasing 85.1 percent) for the first week. This negative relationship continues up to the twelfth week after a drone strike. While there is a slight dip in the effectiveness at the eight-week window, in general it can be surmised that drone strikes decrease lethality of militant attacks by around 50 percent.
Table A9. Effect of drone strikes of militant attack frequency over specific windows in North and South Waziristan

Dependent Variable: Count of militant attack frequency over

<table>
<thead>
<tr>
<th>Panel A. Regression Coefficients</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
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<tbody>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>-0.186</td>
<td>-0.224</td>
<td>0.0418</td>
<td>0.00484</td>
<td>0.0498</td>
<td>-0.180</td>
<td>-0.166</td>
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<tr>
<td></td>
<td>(0.236)</td>
<td>(0.205)</td>
<td>(0.179)</td>
<td>(0.153)</td>
<td>(0.140)</td>
<td>(0.118)</td>
<td>(0.113)</td>
</tr>
<tr>
<td>Total number killed in a drone strike</td>
<td>0.0156</td>
<td>0.00860</td>
<td>-0.0257</td>
<td>-0.0214</td>
<td>-0.0282</td>
<td>0.00543</td>
<td>-0.000844</td>
</tr>
<tr>
<td></td>
<td>(0.0284)</td>
<td>(0.0245)</td>
<td>(0.0234)</td>
<td>(0.0201)</td>
<td>(0.0187)</td>
<td>(0.0144)</td>
<td>(0.0138)</td>
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</table>

Panel B. Incident Rate Ratio Coefficients

<table>
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<tr>
<th>VARIABLES</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
<th>(7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly frequency of drone strikes</td>
<td>0.830</td>
<td>0.799</td>
<td>1.043</td>
<td>1.005</td>
<td>1.051</td>
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Standard errors in parentheses
All regressions included seasonal controls and fixed-effects
*** p<0.01, ** p<0.05, * p<0.1

Table A10. Effect of drone strikes of militant attack lethality over specific windows in North and South Waziristan

Dependent Variable: Count of militant attack lethality over

<table>
<thead>
<tr>
<th>Panel A. Regression Coefficients</th>
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<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>-0.929***</td>
<td>-0.447***</td>
<td>-0.450***</td>
<td>-0.256***</td>
<td>-0.541***</td>
<td>-0.511***</td>
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<td></td>
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<td>(0.0775)</td>
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<td>Total number killed in a drone strike</td>
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<td>0.0893***</td>
<td>0.0418***</td>
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<td>0.0157*</td>
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<td>0.0371***</td>
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<td></td>
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<td>(0.0108)</td>
<td>(0.0105)</td>
<td>(0.00941)</td>
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Panel B. Incident Rate Ratio Coefficients

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<td>1.093***</td>
<td>1.043***</td>
<td>1.038***</td>
<td>1.016*</td>
<td>1.049***</td>
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Standard errors in parentheses
All regressions included seasonal controls and fixed-effects
*** p<0.01, ** p<0.05, * p<0.1
### Table A11. Effect of drone strikes of militant attack selection over specific windows in North and South Waziristan

**Dependent Variable: Count of militant attack selection over**

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<td>(0.300)</td>
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<td>(0.182)</td>
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<td>Total number killed in a drone strike</td>
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<td>-0.0293</td>
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<td>-0.00352</td>
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<td>(0.0300)</td>
<td>(0.0285)</td>
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<td>(0.0197)</td>
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<table>
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<th>Panel B. Incident Rate Ratio Coefficients</th>
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<td>Weekly frequency of drone strikes</td>
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<tr>
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</tr>
<tr>
<td>Total number killed in a drone strike</td>
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<tr>
<td></td>
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<tr>
<td>Observations</td>
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<td>Number of district</td>
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Standard errors in parentheses
All regressions included seasonal controls and fixed-effects

*** p<0.01, ** p<0.05, * p<0.1

### Table A12. Effect of drone strikes of militant attack sophistication over specific windows in North and South Waziristan

**Dependent Variable: Count of militant attack sophistication over**

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<th>VARIABLES</th>
<th>(1) One-Week</th>
<th>(2) Two-Week</th>
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<td>(0.456)</td>
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<td>(0.293)</td>
<td>(0.270)</td>
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<td>-0.0426</td>
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Standard errors in parentheses
All regressions included seasonal controls and fixed-effects

*** p<0.01, ** p<0.05, * p<0.1
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INTRODUCTION

From Brazil and Chile to Turkey and Thailand, outgoing authoritarian elites have written the constitution under which the new democracy would initially operate. This essay examines whether such “autocratic constitutions” affect the prospects for democratic survival. While the literature on democratic consolidation has extensively explored how economic and institutional factors affect the prospects of democratic survival, I argue that it has not adequately accounted for a crucial variable from the transitions literature: the role of political pacts. As defined by O’Donnell and Schmitter, pacts are agreements among political actors that seek to define the rules of the political game and provide “mutual guarantees” during the uncertainty of a transition to democracy. By granting the military immunity from prosecution for past human rights violations, for instance, transitional pacts are thought to decrease the probability that elites will feel threatened by democracy and seek to topple the regime. In the most extreme form, the outgoing elite codifies certain institutional safeguards for itself by writing the constitution that the new democracy will inherit. How these autocratic constitutions affect the prospects of democratic survival is a question of extensive scope and relevance; in my dataset, approximately a third of all democracies born since 1789 – and over half of those born since 2000 – initially adopted and operated under constitutions written by the outgoing authoritarian elite.

While the literature has overwhelmingly claimed that safeguards for elite interests are essential in helping young democracies survive, I challenge this conventional wisdom and argue that autocratic constitutions create the conditions for another democratic breakdown. Using a split-population survival model that accounts for unobserved heterogeneity between transitional and consolidated democracies, I then show empirically that having an authoritarian constitution increases the risk that a fledgling democracy will revert to autocracy. Following Cheibub, Gandhi, and Vreeland, I adopt a “strictly procedural, minimalist view of democracy as…a regime in which those who govern are selected through contested elections,” rather than a substantive conception that measures government accountability, political rights, or civil liberties. Thus, an authoritarian reversal (or democratic breakdown) refers exclusively to the cessation of competitive elections.

The argument of my paper proceeds as follows. In Section I, I first clarify my argument by providing a minimalist definition of democratic consolidation, and I position myself in the literature by highlighting the economic and institutional factors widely hypothesized to affect democratic survival. In Section II, I then show that existing explanations have ignored the crucial role of political pacts in the transitions literature and offer three reasons why inherited autocratic constitutions, a particular type of political pact, should increase the risk of a democratic breakdown, contrary to the predictions of most scholarly research. A descriptive first look at the data in Section III suggests that democracies with holdover autocratic constitutions have shorter lifespans on average and are more likely to breakdown. In Section IV, I introduce the split-population survival model used by Svolik and explain why a statistical method taken from epidemiology is uniquely appropriate to studying democratic consolidation. I then present my core results in Section V and confirm that autocratic constitutions have a statistically significant effect on the hazard of authoritarian reversal in nascent democracies. Section VI concludes by discussing how
methods from the historical turn in democratization studies could strengthen our understanding of the causal mechanisms at work in my cross-national analysis.

SECTION I: LEADING EXPLANATIONS FOR DEMOCRATIC CONSOLIDATION

While the concept of democratic consolidation has been the focus of significant scholarly attention for decades, the literature continues to debate what consolidation is, how it can be measured or observed, and what causes it. In his review article, “What Is Democratic Consolidation?” Schedler sardonically comments that “nobody can be sure what [consolidation] means to others, but all maintain the illusion of speaking to one another in some comprehensible way.”4 Thus, a clear, precise definition of democratic consolidation is essential at the outset of this paper. After an extensive review of the literature, Svolik synthesizes a minimalist definition of consolidation, which is “hypothesized to occur when a large, durable, and statistically significant decline in the risk of democratic breakdowns occurs at a well-defined point during a democracy’s lifetime.”5 Consolidated democracies, in other words, are consistently at little to no risk of an authoritarian reversal. While this definition provides a concrete sense of what consolidation is, Svolik notes that “substantial disagreement persists about the exact causes or appropriate measures of democratic consolidation.”6 How do we know when a democracy has consolidated?

Svolik argues that the literature has generally pursued two approaches to determining whether a particular democracy is consolidated. Each, he argues, is significantly flawed, and he therefore employs an empirical model that does not require democracies to be classified as consolidated or transitional ex ante. On the one hand, the substantive approach “focuses on a set of outcomes that we should observe in a consolidated democracy,” such as “widespread acceptance of key democratic tenets among the public and the elites.”7 While Foa and Mounk have thus analyzed political participation and support for liberal democracy as an indicator of consolidation, other scholars have instead examined the strength of parties and party systems.8 As Svolik comments, the substantive approach suffers from “continuing disagreement about the outcomes that constitute its appropriate indicators” of consolidation.9 O’Donnell further argues that democratic consolidation may look different in developing democracies, such that “a fixation on highly formalized and complex organizations” may cause scholars to miss that new democracies have instead consolidated through informal institutions like clientelism.10 On the other hand, the prospective approach “primarily associates consolidation with the durability of democracy,” such that a democracy is classified as consolidated once it passes a particular threshold. For instance, Gasiorowski and Power argue that “breakdown is much less likely to occur after a democratic regime has endured for 12 years,” while Huntington argues that a democracy should be classified as consolidated only after it has survived two peaceful transitions of power through elections (the “two-turnover test”).11 The central problem with this prospective approach is that these thresholds can be arbitrary and are subject to dispute.12 The split-population survival model used in this paper (see Section IV) will avoid the pitfalls of both approaches, since it does not assume that we can empirically observe or determine whether particular democracies are consolidated. In other words, by using this empirical model, one does not have to adopt either flawed approach to measuring democratic consolidation.

Just as we can organize approaches to defining democratic consolidation into substantive and prospective camps, the immense literature on why democracies break down or survive largely emphasizes economic or institutional explanations. I first synthesize the leading arguments about how three economic factors (level of development, economic growth, and inequality) and two institutional variables (type of democratic executive and type of authoritarian legacy) may affect a democracy’s prospects of survival. I will later show how these explanations relate to my own thesis on the importance of inherited autocratic constitutions (Section II) and critically evaluate these dominant explanations using my empirical results (Section V). Certainly, the robust literature on democratization highlights many other variables thought to hinder democracy or facilitate its survival. Among other factors, scholars have variously cited a dispersed ethnic configuration,13 an international ideological context favorable to democracy,14 and extensive linkage to the West15 as supportive of democracy. Meanwhile, Islamic and Confucian culture,16 reliance on oil and mineral exports,17 and political polarization18 have been hypothesized to impede democratization. However, since my empirical section will replicate Svolik’s 2008 paper, I focus my
attention on the economic and institutional covariates he includes in his model.

To begin, the literature on “modernization theory” has highlighted the positive correlation between democracy and the level of economic development. In a seminal essay, S.M. Lipset argues that increasing wealth, industrialization, urbanization, and education changed political values and social conditions and were thus “related causally to the development of democracy.”

Most commentators have ascribed to Lipset the thesis that democracy is endogenous to development. Early critics of modernization theory include Gerschenkron, who argues that the economic development of “backward countries” would “differ fundamentally” from that of early developers and be more conducive to authoritarianism, and O’Donnell, who suggests that “bureaucratic-authoritarian” regimes in Latin America emerged because of, not despite, increasing development.

More recently, Przeworski and Limongi have refined the predictions of modernization theory by arguing that the level of economic development does not increase the probability of democratization but only decreases the risk of authoritarian reversals. In their own words, “modernization need not generate democracy but democracies survive in countries that are modern.”

Crucially, the authors argue that level of development should have a strong, positive impact on the likelihood of democratic consolidation, a hypothesis I will test in Section V.

While Przeworski and Limongi focus on GDP per capita as the economic covariate of importance, other authors have emphasized that economic growth is essential in explaining democratic breakdowns. In their study of recent democratic transitions, Haggard and Kaufman find that sustained low growth or economic recessions increase social polarization, cause social order to deteriorate, and consequently “increase the appeal of authoritarian solutions to the crisis.” In their survey of Latin American democracies, Diamond and Linz (1989) also highlight how poor economic performance contributes to regime breakdowns, a finding that Diamond (1999) confirms.

Using event history analysis, Gasiorowski similarly finds that recessionary crises “facilitated democratic breakdown” in the 1980s, though he adds nuance in noting that inflationary crises in the 1950s and 1970s “inhibited democratization.” Indeed, Geddes concludes that “virtually all transition specialists” believe that poor economic performance increases the likelihood of regime change, whether from democracy to autocracy or vice versa. However, several scholars have recently contested the notion that economic recessions and low levels of development make democracies more likely to experience a breakdown. In their study of twenty Latin American countries during the period 1945-2005, Mainwaring and Pérez-Liñán find that these economic covariates have no effect after controlling for policy radicalism and normative preference for democracy among key actors, while Lehoucq and Pérez-Liñán find that the establishment of open political competition, rather than robust economic growth or high GDP per capita, reduced the risk of military coups in twentieth century Latin America.

My model in Section V will provide an empirical test for whether recessions increase the probability of authoritarian reversal.

A final set of economic explanations for democratic fragility highlights the pivotal role of inequality. Most notably, Acemoglu and Robinson argue that “democracy may not consolidate because it is redistributive, and so gives the elite an incentive to mount a coup. Highly unequal societies are less likely to consolidate democracy.” The logic is, when inequality is high, the median voter in a democracy will prefer a higher tax rate to redistribute assets, such that elites stand more to gain from installing a dictatorship in which they can limit redistribution.

In addition to highlighting inequality as “a crucial determinant of political instability,” Acemoglu and Robinson’s model predicts that recessions should make coups more attractive for elites, since they lower the opportunity cost of economic turmoil. By contrast, when an economy is growing steadily, elites may consider a coup too costly, since political instability could derail economic growth. In an explanation that similarly highlights the role of distributive conflict, Carles Boix argues that “democracy prevails when either economic equality or capital mobility are high in a given country.” While Boix concurs that economic inequality makes democracy more threatening to elites, he highlights that high levels of capital mobility allow elites to “shift their assets abroad to escape the threat of high taxes” and make them less determined to prevent democratization.

In contrast to these economic explanations, Juan Linz has famously argued that all presidential systems have two institutional features that make them more vulnerable to democratic breakdown than their parliamentary counterparts. First, presidential democracies face a problem of “dual democratic legitimacy,” since the executive and legislature are
independently elected and can claim to represent the people. When executive-legislative conflict erupts, “there is no democratic principle to resolve it,” and the military may intervene to end the deadlock. Second, Linz argues that presidential regimes are more “rigid” because the president and congress are elected for fixed terms in office. While prime ministers can be more easily replaced through a vote of no confidence, even tremendously unpopular or inept presidents sometimes “cannot be substituted with someone able to compromise with the opposition when polarization has reached an intensity that threatens violence.”

Refining the original Linzian hypothesis, Mainwaring argues that “the combination of a multiparty system and presidentialism is especially inimical to stable democracy,” since it tends to increase executive or legislative deadlock, ideological polarization, and the difficulties of interparty coalition building. Mainwaring and Shugart develop the point that there is variation in the constitutional and institutional arrangements under presidentialism, and claim that Linz has “overstated the extent to which presidentialism is inherently flawed.” When institutions are carefully designed to limit the president’s legislative power, encourage party discipline, and mitigate extreme fragmentation in the party system, they argue presidentialism can enable democratic consolidation.

While I do not include data on these nuances of presidential systems, my model in Section V tests Linz’s original hypothesis and includes dummy variables denoting whether a democracy’s executive is presidential, parliamentary, or mixed.

Critiquing the Linzian thesis that democratic stability is endogenous to presidential institutions, Cheibub counters: “What kills democracies is not presidentialism but rather their military legacy.” Cheibub finds that “democracies that follow military dictatorships are 70% more likely to die than those that follow civilian dictatorships,” and he argues that presidential democracies were more likely to follow military dictatorships due to sheer “historical accident.” Because of this coincidental “military-presidential nexus,” Cheibub argues that presidential democracies “tend to exist in societies where democracies of any type are likely to be unstable.” Although Cheibub does not analyze the effect of inherited authoritarian constitutions, he contributes to this paper the core idea that a nascent democracy’s authoritarian legacy can significantly affect the probability of a breakdown. My model in Section V tests Cheibub’s thesis that a military authoritarian legacy, rather than presidentialism, increases the risk of democratic breakdown.

SECTION II: A REVISIONIST THESIS—THE ROLE OF INHERITED AUTOCRATIC CONSTITUTIONS

Building on forthcoming cutting-edge research from Albertus and Menaldo, I will argue that ceteris paribus democracies born with constitutions written by the outgoing authoritarian elite face a greater risk of breakdown during their early years. Albertus and Menaldo find that when authoritarian elites are in a position of strength relative to the opposition, they can frequently “impose a constitution under autocracy that persists after transition.” Through these autocratic constitutions, the outgoing elites can rig a democracy by setting rules of the game that will protect their own interests. For instance, economic elites can reduce the threat of redistribution under a new democracy by “over-representing the wealthy in political institutions, inducing gridlock, [and] imposing military veto power over policy and elite dominance over local politics.” Indeed, Albertus and Menaldo find that economic redistribution is greater by several measures when democracies “avoid adopting and operating under a constitution written by outgoing elites.” Similarly, Albertus and Menaldo show that holdover autocratic constitutions make it less likely that outgoing dictators will face severe punishment by granting guarantees of immunity and giving former elites effective veto power on certain issues. In their forthcoming book Flawed Since Conception, Albertus and Menaldo thus draw a parsimonious distinction between two forms of democracy: elite biased democracies, which inherit their constitution from the old authoritarian regime, and popular democracies, which create a new constitution after the authoritarian regime has fallen.

I will argue that holdover autocratic constitutions, in addition to reducing redistribution and preventing the punishment of dictators, increase the hazard of authoritarian reversals for fledgling democracies. This implication has not been explored in Albertus and Menaldo’s yet unpublished research. Instead, in Chapter 5 of their forthcoming book, the authors seek to “explain why some elite biased democracies with constitutions inherited from their authoritarian past discard those documents…whereas other democracies retain these charters.” While I examine whether elite biased democracies are more prone to authoritarian reversal, Albertus and Menaldo ask why certain elite
biased democracies move in the opposite direction, towards more inclusive and egalitarian institutions. Thus, for Albertus and Menaldo, the “key dependent variable...is the annulment or amendment of an autocratic constitution,” for my analysis, the outcome of interest is democratic breakdown.49

Integrating Albertus and Menaldo’s ideas into the literature on democratic consolidation, I argue that holdover autocratic constitutions are in fact a variety of “pact” that arises during democratic transitions. O’Donnell and Schmitter define a transitional pact as “an explicit, though not always publicly explicated or justified, agreement among a select set of actors which seeks to define (or, better, to redefine) rules governing the exercise of power on the basis of mutual guarantees for the ‘vital interests’ of those entering into it.”50 As the authors note, components of pacts “may eventually become the law of the land, being incorporated into constitutions and statutes.”51 Thus, my analysis classifies inherited autocratic constitutions as a uniquely durable and publicly explicated type of transitional pact. Since these constitutions overwhelmingly benefit the old elite, one might question whether they represent “mutual guarantees.” Certainly, autocratic constitutions take effect where outgoing elites wielded significant bargaining power relative to pro-democratic opponents during the transition, but the elite still promises to devolve power to democratically elected leaders provided that they abide by certain constraints.

In contrast to my thesis, the literature on political pacts has overwhelmingly emphasized how such agreements defuse the risk of authoritarian reversals. Starting with Rustow’s observation that there are “many roads to democracy,” this literature argues that “distinctive modes of regime transition” produce different types of regimes with varying levels of stability.52 Building on Rustow’s work in her study of Latin American democracies, Karl argues that democratic transitions that occur via political pacts should be uniquely stable. Because the outgoing authoritarian elite has imposed constraints (e.g., by drafting the new democratic constitution) to protect its prerogatives, these pacts “enhance initial survivability by limiting unpredictability.”53 By contrast, when mass forces take the upper hand over former authoritarian elites and refuse to forge a pact, “unrestricted contestation” results in “subversive opposition from unsuppressed traditional elites.”54

In their groundbreaking work on third-wave democracies, O’Donnell and Schmitter similarly highlight that transitions are periods of tremendous uncertainty, since the “rules of the political game” are not only “in constant flux” but also “usually arduously contested.”55 Although O’Donnell and Schmitter argue that pacts are not a “necessary feature” of successful transitions, the authors conclude that they are nonetheless “desirable” and “enhance the probability that the process will lead to a viable political democracy.”56 By guaranteeing the vital interests of particular groups and creating institutional procedures to resolve conflict without violent confrontation, pacts decrease the probability that elites will feel threatened by democracy and seek to topple the regime. Pacts, in other words, “move the polity toward democracy by undemocratic means.”57 Insofar as inherited autocratic constitutions may be thought of as a uniquely durable type of transitional pact, O’Donnell and Schmitter might predict that these constitutions will be especially effective at reducing uncertainty and stabilizing new democracies. In autocracies as well as democracies, pacts among elites have been identified as a factor promoting stability. In his study of Southeast Asia’s “authoritarian Leviathans,” for instance, Slater finds that elite “protection pacts” have been crucial to regime durability in countries like Singapore.58

Even Acemoglu and Robinson suggest that elite biased constitutions should facilitate democratic survival. While the authors focus on the economic determinants of democratic consolidation, they argue that constitutional limitations on taxation “may help democracy consolidate by reducing the fear of the rich that they will be heavily taxed.”59 Authoritarian reversals occur because “democracies cannot commit not to levy high taxes on the rich,” but elite biased institutions—if they are expected to be durable—provide a credible commitment to elites who might otherwise fear redistribution and stage a coup.60 Thus, in contrast to the predictions of this paper, Acemoglu and Robinson expect that elite biased democracies should be more likely to consolidate. Whereas these authors substantiate their claim with a game theory model in which two hypothetical players, the rich and poor, bargain over the tax rate, this paper will test whether elite biased constitution are in fact associated with increased democratic survival in a sample of 3,333 country-years from 99 countries.

While the scholarly literature has overwhelmingly argued that pacts should protect democracies, especially in their early years, I offer three reasons why an inherited autocratic constitution—a particular type of transitional pact—should increase the risk of an early
reversal. Section V will present empirical evidence that autocratic constitutions have a statistically significant effect on the hazard of authoritarian reversal in nascent democracies, and it is worth considering what causal mechanisms explain these quantitative results. First, the outgoing authoritarian elite frequently must maintain a credible threat of toppling democracy to ensure that politicians abide by the limitations of the autocratic constitution. For instance, in Turkey's 1982 Constitution, the military gave itself the duty to "watch over the Turkish motherland and the Turkish Republic" and invoked this clause to justify a "right to intervention in politics." Since the old authoritarian regime remains a credible alternative to democracy, an intervention (especially from the military) may occur as soon as the democratic regime becomes too polarized to function, experiences an economic crisis, or otherwise loses legitimacy.

Second, autocratic constitutions tend to institutionalize the autonomy of the military and empower other anti-democratic forces. Even when controlling for a running count of Militarized Interstate Disputes and International Wars, Albertus and Menaldo find that "[a] constitution inherited from a dictatorship increases the size of the military by 45 percent." Often, these elite biased constitutions exempt the military's budget and operations from civilian control, as in the case of Turkey's 1982 Constitution.

Finally, elite biased constitutions are, almost by definition, unpopular with the majority of voters in a democracy. They therefore tend to generate movements for constitutional annulment or amendment that may result in a re-imposition of authoritarian rule. For instance, Argentina's 1958 constitution banned the most popular political party (Juan Domingo Perón's Partido Justicialista). In what O'Donnell termed the "impossible game," the legal parties had to appeal tacitly for Perón's support to win elections, and the military, realizing that democracy would not be able to contain Peronist influence, quickly staged a coup in 1966.

Critics of my thesis might argue that even if democracies with autocratic constitutions are more likely to break down, a lurking third variable might explain both the imposition of an autocratic constitution and the authoritarian reversal. For instance, such constitutions might only be adopted when the outgoing authoritarian elite remains strong and cohesive on the eve of the transition. This strength, in turn, might carry over into the democratic period and allow the elite to carry out a coup. Alternatively, new democracies might only accept autocratic constitutions when the elite has the legitimacy to lead the transition process. When, on the other hand, an outgoing elite has been discredited after an economic recession or wartime defeat, it might be less able to both impose a constitution and present itself as a credible alternative to democracy later. Thus, the risk of democratic breakdown might not be endogenous to autocratic constitutions.

However, after controlling for various threats to causal inference, Albertus and Menaldo have found that such constitutions have a statistically significant effect on a variety of political outcomes, including redistribution, military spending, and punishment of former dictators. Thus, it seems fully plausible that elite biased institutions would influence the prospects of democratic survival. Ultimately, this question may be best answered with the new "historically minded approach" to the comparative study of democratization that Capoccia and Ziblatt developed to "solve enduring problems of causality and endogeneity that plague standard ahistorical approaches." This paper will focus on applying Svolik's split-population survival model to examine the effects of autocratic constitutions quantitatively and cross-nationally, but it thereby paves the way for qualitative case study research.

SECTION III: DESCRIPTIVE DATA ON DEMOCRATIC SPELLS

Before analyzing country-year data with the split-population survival model introduced in Section IV, I first analyze a dataset from Svolik that describes democratic spells. Each spell "begins in the year of a country's transition to democracy and ends in either the year of an authoritarian reversal, if one occurred, or in the last recorded year for that country, if no reversal occurred." Following Svolik, I observe 223 democratic spells in 147 countries during the period 1789-2008. Taking a descriptive look at the data on democratic spells is analytically useful for several reasons: it demonstrates the longevity of currently existing democracies, reveals trends in how often, when, and where elite biased democracies have emerged, and shows that inheriting an autocratic constitution seems to have an adverse effect on a democracy's survival.

To begin, it is worth noting that many present-day democracies are quite long lasting by historical standards. Of the 223 spells in the data, a slight majority (57 percent, or 128 democratic spells) represents
currently existing democracies, and as of 2008, a remarkable 124 of these 128 democracies had survived for over 12 years. Thus, fully 97 percent of today’s democracies would pass the twelve-year threshold that Gasiorowski and Power hypothesized as the point after which “the likelihood of breakdown declines substantially.” Moreover, 102 currently existing democracies (80 percent) have also survived longer than 16 years, the median duration of democratic spells in this data set; over a third (35 percent) have survived over 30 years; and an impressive 11 current democracies have resisted authoritarian reversal for over a century. While Diamond has recently argued that the global political system is facing a “democratic recession” and documented 25 democratic breakdowns between 2000 and 2014, these descriptive statistics provide reason to believe that democracies today are longer living (and thus more likely to be consolidated) than they have been historically.

This data on democratic spells also provides a useful perspective on how frequently democracies inherit autocratic constitutions and in what regions this phenomenon is most prevalent. Of the 223 democratic spells included in the data, 73 (33 percent) started with constitutions written during the previous authoritarian regime, while 150 (67 percent) did not. Thus, it is far from rare for an outgoing authoritarian elite to write a nascent democracy’s constitution. Perhaps most importantly, this phenomenon has been quite prevalent among recently born democracies. Of the 25 democratic transitions that occurred between 2000 and 2008, 14 new democracies (56 percent) adopted constitutions written under authoritarian rule. Throughout the period 1789-1999, only 59 of 198 new democracies (30 percent) inherited autocratic constitutions, and the 2000s had the highest percentage of elite biased transitions of any decade besides the 1930s. To understand the prospects and challenges facing many newly born democracies, it may be crucial to analyze empirically the consequences of inheriting an autocratic constitution.

Looking at regional variation in the data, I confirm Karl’s observation that such elite biased constitutions have played an outsized role in shaping Latin American politics: 34 of the 80 spells (43 percent) of elite biased democracy that Albertus and Menaldo identify occurred in the region. Remarkably, five countries in Latin America have experienced three or more bouts of elite biased democracy, a distinction that only one country outside the region (Thailand) has achieved. More importantly, the data rebuke the notion that political pacts are largely confined to European and Latin American cases, as Geddes prominently argues. While Bratton and van de Walle “find little evidence in Africa of elite pacts in which incumbent and opposition leaders meet behind the scenes” and contrast African cases with the pacted transitions of Europe and Latin America, Albertus and Menaldo find 18 instances of elite biased democracies in Sub-Saharan Africa, more than in Europe (15), South Asia (7), or any region besides Latin America. As this descriptive analysis shows, elite biased democracies are not evenly distributed across regions; therefore, some might object that my model in Section IV does not include dummy variables to control for region-specific effects. However, Svolik addresses this criticism and finds that region-specific factors did not have a statistically significant effect on democratic consolidation.

Taking a descriptive first look at the data on democratic survival, I find that the average life of democracies born with autocratic constitutions is not significantly longer than that of democracies born without them. In fact, popular democracies narrowly outperform their elite biased counterparts in terms of both the mean and the median duration of their democratic spells. For popular democracies, the median duration is 16.5 years and the mean duration is 25.9 years, while for elite biased democracies, their averages are 15.0 years and 21.2 years, respectively. Scholars who emphasize the importance of pacted transitions might argue the mean lifetime of elite biased democracies may be lower simply because, as noted previously, a historically large percentage of democracies born during the period 2000-2008 have adopted autocratic constitutions. These spells of elite biased democracy will naturally report a short lifespan, because the regimes have not had the time to prove their resilience. However, I would counter that elite biased and popular democracies were born at approximately equal rates (56 percent versus 44 percent) in the past decade, so there should be about equally many popular democracies born since 2000 that also drag down the mean for that category as well. The fact remains that democracies that do not inherit autocratic constitutions survive at least as long—if not longer—that those democracies that do.

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2 These five Latin American countries are Argentina (5 spells), Chile (3 spells), Guatemala (3 spells), Panama (3 spells), and Peru (5 spells).
Furthermore, elite biased democracies seem more susceptible on average to authoritarian reversals. Svolik’s dataset examines a total of 82 democratic breakdowns composed of 55 military coups d’état and 27 incumbent takeovers.73 As noted by Svolik, these two processes together account for 91 percent of authoritarian reversals in the period 1800-2008.74 Democratic breakdowns may also occur due to a civil war or a popular uprising, but Svolik argues that these two processes are “too rare to be included in a statistical analysis.”75 Of the 73 democracies that inherited authoritarian constitutions, 31 (42 percent) experienced a democratic breakdown via military coup or incumbent takeover; of the 150 democracies that wrote constitutions after the authoritarian regime had collapsed, only 51 (34 percent) reverted to autocracy. These descriptive statistics provide additional reasons to doubt that elite biased constitutions enhance democratic stability, since popular democracies seem slightly less likely to break down.

We might also ask whether autocratic constitutions help democracies survive during a particular stage of their lifespan. For instance, even if these constitutions impede democratic consolidation in the long run (i.e., the span of 20 to 30 years), they might nonetheless provide an important source of stability in the early years of a fledgling democracy. Means and medians might not reveal that autocratic constitutions are very effective at helping democracies live past age five, even if they are not as good at helping them deal with the challenges they will face at age fifteen. However, descriptive statistics reveal that popular democracies enjoy a moderate advantage over their elite biased counterparts at every stage of longevity: popular democracies are five percentage points more likely to live past age five (85 percent vs. 80 percent), five percentage points more likely to live past age fifteen (65 percent vs. 60 percent), and six percentage points more likely to live past age thirty (45 percent vs. 39 percent). Thus, a first look at the data suggests that elite biased constitutions, contrary to the conventional wisdom, do not make democracies more likely to survive at any stage of their lives.

SECTION IV: THE SPLIT-POPULATION MODEL AND COUNTRY-YEAR DATA

As Svolik argues, the central problem with most of the empirical literature on democratic transitions is that it “treats all existing democracies as a single group.”76 Instead, Svolik suggests that the population of existing democracies should be divided into transitional democracies, which “face a positive risk of an authoritarian reversal,” and consolidated democracies, which “face essentially no risk” of a breakdown.77 This distinction elucidates that currently existing democracies may survive due to “two distinct causal mechanisms.”78 Consolidated democracies (e.g., the UK in 2016) survive because consolidation, by definition, entails “a large, durable, and statistically significant decline in the risk of authoritarian reversals.”79 In contrast, “favorable circumstances” such as robust economic growth and a supportive international environment may be important in preventing a breakdown for transitional democracies (e.g., Honduras in 2016).80 Svolik is certainly not the first to argue that the risk of authoritarian reversal varies across groups within the larger population of democracies. For instance, Geddes argues that the relationship between economic development and democratic government is “nonlinear,” such that for a group of countries “above a certain level of development, the probability of democracy is close to 100%.”81 However, Svolik draws a parsimonious distinction between transitional and consolidated democracies, and he introduces an empirical model that accounts for unobserved heterogeneity within the population of existing democracies. Most importantly, Svolik’s model avoids the difficulty of having to determine ex ante which democracies are consolidated, but rather assumes that there is “unobservable heterogeneity” within the population.82

In order to analyze the survival distributions of democracies, Svolik builds on the cure rate models used in biostatics (or split-population models, as they are known in political science).83 As Maller and Zhou note, biostatisticians and epidemiologists have been using such models since 1949, since they allow that certain unobservable individuals in a population may be “immune to” or “cured of” [a] disease,” while the rest are susceptible.84 While it is clear that individuals who have died of a disease were not immune, one cannot determine whether surviving individuals have some unobservable immunity or whether they simply have not been exposed to the disease. By analogy, consolidated democracies are “immune” to authoritarian reversal, while transitional democracies are susceptible but may survive due to favorable circumstances. Democracies that “died” due to an authoritarian reversal must be transitional, so these observations are termed “uncensored.”85 However, existing democracies may be either consolidated or transitional, and are thus termed “right-censored”
observations. As democracies endure for longer and survive shocks like economic recessions, our confidence that a democracy is consolidated increases, but Svolik does not assume that we can observe ex ante whether consolidation has occurred.

To model the survival distribution of democracies, Svolik includes two distinct parameterizations: the Weibull and the log-logistic distributions. For these two-parameter distributions, Svolik denotes \( \lambda \) the “scale” parameter because it determines the rate at which reversals occur and \( \alpha \) the “shape” parameter because it determines the shape of the hazard rate. Each parameter is ultimately associated with a different model in Svolik’s estimation results. On the one hand, \( \lambda \) is the parameter in Svolik’s “reversal timing model” through which covariates “affect the timing of reversals in transitional democracies.” This reversal timing model determines the magnitude of the hazard rate, or the probability that a transitional democracy will revert to authoritarianism in a given year. It is helpful to clarify how one should interpret the sign of coefficients for covariates in the reversal timing model because Svolik uses an exponential link function to define \( \lambda \). A positive coefficient “implies an increase in the expected duration of democracy for positive changes in the values of the covariates,” while “a negative coefficient implies that a covariate accelerates the onset of an authoritarian reversal in transitional democracies.” On the other hand, \( \alpha \) is the parameter in Svolik’s “consolidation status model,” in which “covariates affect the probability that a democracy is consolidated rather than transitional.” The consolidation status model determines the shape of the hazard rate, which falls to around zero when a democracy consolidates. In this model, positive coefficients imply that “a democracy is more likely to be consolidated for larger values of the covariate.”

A limitation of this split-population survival model, as Svolik notes, is that it “cannot address the question [of] when democracies consolidate.” My research question, however, involves whether holdover autocratic constitutions influence democratic survival and not when the average democracy consolidates, so this limitation is not concerning. Furthermore, my results in Section V show that these autocratic inheritances do not affect the probability that a democracy is consolidated or transitional, so the question of when consolidation occurs is largely tangential to the focus of this paper.

For the split-population survival model, I use Svolik’s country-year data from 2008, rather than his data on democratic spells from 2014. While the former extends only until 2001, the latter runs up to 2008. Comparatively speaking, Svolik’s 2014 data covers a greater number of countries and spells. I note that it thus offers a better view of how new democracies have fared in its inclusion of recent democratic breakdowns, such as Thailand’s 2006 coup d’état. However, for the survival model employed in this paper, I needed country-year data, and the panel data in Svolik (2014) contained too many discontinuities to produce reliable log likelihood estimations. Thus, I rely on Svolik’s original data from 2008, even though the data is less current. Since my final data will only cover up to 2001, I must caveat that the predictions of my model may not explain more recent data from the “democratic recession” which, Diamond has argued, commenced in 2007. If as Diamond contends the international environment has become more conducive to authoritarianism since then, this confounding factor may present a challenge to the external validity of my results.

To compile the data set for my analysis, I merged country-year data from Svolik and Albertus and Menaldo. Svolik codes each year that a country was considered democratic and includes several economic and institutional variables by democracy-year. After dropping democracy-years for which observations were missing, I have complete data (i.e. no missing observations across covariates) for 3,333 country-years from 99 countries over the period 1848-2001. The data include 62 instances of authoritarian reversals. However, within these country-years, there were 156 years that Svolik coded as democratic but Albertus and Menaldo coded as authoritarian. For instance, Albertus and Menaldo code that Brazil returned to democracy in 1985 after the military dictatorship that seized power in 1964, while Svolik classifies Brazil as a democracy starting in 1979. This discrepancy presents a problem because Albertus and Menaldo only code the binary variable Democracy under Autocratic Constitution as 1 for years that a country is both considered a democracy and operating with a constitution created under dictatorship. In all cases, Svolik coded the years as democratic while Albertus and Menaldo coded the year as non-democratic.

In this project, meticulous data cleaning was highly important for the statistical results. (The specific coding procedures I used to clean the data are included in the Appendix.) In many years when a democratic reversal occurred (e.g., Chile 1973), Svolik coded the country-year as democratic, while...
Albertus and Menaldo considered it authoritarian. For 59 of the 62 reversals in this data set, Svolik coded the year of the reversal as democratic, while Albertus and Menaldo did not. Since Albertus and Menaldo did not code the year of the reversal as democratic, the variable Democracy under Autocratic Constitution was automatically coded 0 in that year. Thus, for many democracies with autocratic constitutions, the data showed that they survived for several years when the binary variable was coded 1 and then experienced an authoritarian reversal the same year that the variable switched to 0. The data seemed to show that democracies died the very instant they abandoned their authoritarian constitutions. Thus, before I cleaned the data to correct this discrepancy, the split Weibull, simple log-logistic, and split log-logistic models for reversal timing all showed that the coefficient for Democracy under Autocratic Constitution was large, positive, and statistically significant at the 1% level. This large, positive coefficient implied that having an authoritarian constitution significantly reduced the risk that a transitional democracy would break down. With the uncorrected data, in the split Weibull and split log-logistic models for reversal timing the autocratic constitution coefficient achieved an even higher level of statistical significance than lagged GDP growth, which Svolik found was the only factor to affect the hazard of reversals in transitional democracies. As the following analysis will show, the cleaned data tell a very different story, in which autocratic constitutions actually make transitional democracies more vulnerable to collapse.

In addition to the binary variable denoting whether a democracy was operating under an autocratic constitution in a given year, my model includes the two economic and two institutional covariates used by Svolik. The economic covariates are measures of GDP per capita and GDP growth compiled in Maddison's Historical Statistics for the period 1789-2001. Following Svolik, I do not include a measure of economic inequality, due to “the lack of reliable and comparable covariate data for the entire period.” The institutional covariates, in turn, include dummy variables for the type of democratic executive (Presidential, Parliamentary, or Mixed) and the type of authoritarian regime prior to the transition (Military, Civilian, or Monarchy). Countries that were not independent before democratization are coded as Not Independent. While these two covariates examine “one measure of the institutional characteristics of the democratic regime and one measure of the institutional characteristics of the authoritarian regime,” my additional variable identifies an institution—inherited autocratic constitutions—that is perhaps most relevant to democratic transitions in the short term because it ties the hands of the new democratic regime and entrenches the power of the outgoing authoritarian elite.

Section V: Estimation and Results

Having introduced the split-population survival model and my democracy-year data, I now present the three core results of this paper. Firstly, I examine the three parameterizations of Svolik's reversal timing model and find that having an autocratic holdover constitution is associated with a lower rate of survival for transitional democracies. Secondly, in the consolidation status model, however, I find that such constitutions do not affect the probability that a democracy is consolidated and thus present little obstacle in the long term to the regime's survival. Finally, I explain how my model revises our predictions of when we should expect the median transitional democracy to be at its most vulnerable and how high we should expect its maximum risk of reversal to be.

While scholars such as Karl have argued that constitutions written by the outgoing authoritarian elite may enhance stability in the early years after the transition, my statistical results suggest the opposite: in three iterations of Svolik's reversal timing model, having an autocratic constitution significantly increases the risk of authoritarian reversal for transitional democracies. In the split Weibull model for reversal timing, the coefficient for Democracy under Autocratic Constitution is negative and statistically significant at the 5% level. As Svolik notes, the negative coefficient implies that having an authoritarian constitution significantly increases the risk that a transitional democracy will break down. While Svolik found GDP growth was the only factor to affect the hazard of reversals in transitional democracies, my findings reveal that institutional covariates are significant as well. For the simple log-logistic parameterization, in which the model does not assume an unobserved heterogeneity between transitional and consolidated democracies, I again find that Democracy under Autocratic Constitution is negative and statistically significant at the 5% level. While Svolik finds that this split-population log-logistic model better estimates the probability density of survival time for democracies when compared to the actual empirical distribution, the simple log-logistic model nonetheless
provides additional reason to think that autocratic constitutions may help transitional democracies survive for longer. In the final, splitlog-
logistic model, which Svolik prefers because it provides the best fit for the empirical data of the three models, the coefficient for an autocratic constitution remains negative and is now significant at the 1% level. Thus, my added variable passes tests for statistical significance at the 5% level for all three parameterizations and has the greatest explanatory power in the model Svolik identifies as the best. Moreover, for this split log-logistic parameterization, the coefficient for an autocratic constitution is negative and larger in magnitude than it is for the other two parameterizations. Across all three parameterizations of the survival distribution, the reversal timing model provides strong evidence that autocratic constitutions are associated with early breakdowns in transitional democracies. While autocratic constitutions tend to make

democracies more vulnerable to breakdown during their transitional period, I consistently find that they do not affect the probability that a democracy is consolidated or not. In the split Weibull model, the coefficient for Democracy under Autocratic Constitution is negative but fails to achieve statistical significance even at the 10% level (p = .13), suggesting that such constitutions may have little or mixed effect on the prospects of consolidation. However, when including this new variable in the model, presidentialism no longer seems to have as strong an effect on democratic consolidation (relative to mixed systems) as Svolik hypothesized. In Svolik’s split Weibull model, the coefficient for presidentialism was negative and significant at the 5% level (p = .036).

### Table 1: Estimation Results for Models with Covariates

<table>
<thead>
<tr>
<th></th>
<th>Split Weibull</th>
<th>Simple Log-Logistic</th>
<th>Split Log-Logistic</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reversal Timing Model</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GDP per capita</td>
<td>0.124*</td>
<td>0.349***</td>
<td>0.109</td>
</tr>
<tr>
<td>GDP growth</td>
<td>0.044***</td>
<td>0.037***</td>
<td>0.053***</td>
</tr>
<tr>
<td>Parliamentary (vs. Mixed)</td>
<td>-0.318</td>
<td>-0.031</td>
<td>-0.333</td>
</tr>
<tr>
<td>Presidential (vs. Mixed)</td>
<td>0.437</td>
<td>0.035</td>
<td>0.441</td>
</tr>
<tr>
<td>Military (vs. Not Independent)</td>
<td>-0.214</td>
<td>-0.705**</td>
<td>-0.065</td>
</tr>
<tr>
<td>Civilian (vs. Not Independent)</td>
<td>0.010</td>
<td>-0.030</td>
<td>0.240</td>
</tr>
<tr>
<td>Monarchy (vs. Not Independent)</td>
<td>0.964**</td>
<td>-0.107</td>
<td>0.969*</td>
</tr>
<tr>
<td>Democracy under Autocratic Constitution</td>
<td>-0.422**</td>
<td>-0.474**</td>
<td>-0.519**</td>
</tr>
<tr>
<td>Intercept</td>
<td>2.670***</td>
<td>2.591***</td>
<td>2.271***</td>
</tr>
<tr>
<td>Shape parameter α</td>
<td>-0.397***</td>
<td>-0.501***</td>
<td>-0.729***</td>
</tr>
</tbody>
</table>

| **Consolidation Status Model** |               |                     |                   |
| GDP per capita         | 2.268***      | —                   | 2.389***          |
| GDP growth             | -0.099        | —                   | -0.088            |
| Parliamentary (vs. Mixed) | 1.878         | —                   | 1.921             |
| Presidential (vs. Mixed) | -10.306*      | —                   | -10.651*          |
| Military (vs. Not Independent) | -3.513**     | —                   | -3.563**          |
| Civilian (vs. Not Independent) | 0.235         | —                   | 0.311             |
| Monarchy (vs. Not Independent) | -16.259       | —                   | -15.865           |
| Democracy under Autocratic Constitution | -2.387       | —                   | -2.497            |
| Intercept              | -5.811**      | —                   | -6.189*           |

*Note: Significance levels are denoted * p < .1, ** p < .05, *** p < .01.
After adding an extra institutional covariate, the effect of presidentialism appears more ambiguous and is only significant at the 10% level ($p = .061$). However, when I compare presidentialism to parliamentarism (rather than to mixed systems) for the split Weibull model, the difference between the coefficients remains statistically significant at the 1% level, as Svolik found. Presidential institutions still significantly reduce the probability that a transitional democracy will consolidate, even if autocratic constitutions explain a small part of the effect. In the split log-logistic model for consolidation status, the coefficient for an autocratic constitution is again negative but not statistically significant ($p = .13$). With the inclusion of this institutional variable, presidentialism again is no longer significant at the 5% level relative to mixed systems, though presidentialism remains significant at the 1% level as compared to parliamentarism. Since the simple log-logistic model does not distinguish between transitional and consolidated democracies, it naturally does not generate coefficients for the consolidation status model. Ultimately, both parameterizations used in the consolidation status model reveal that autocratic constitutions do not present a significant barrier to consolidation for transitional democracies.

At first glance, these findings from the reversal timing and consolidation status models might seem paradoxical. How is it that an autocratic constitution increases the risk of reversal for a transitional democracy while it does not affect the probability that a democracy is consolidated? Recall that Svolik argues that we must “distinguish between democracies that survive because they are consolidated and those democracies that are not consolidated but survive because of some favorable circumstances.”$^{112}$ For instance, Svolik finds that high levels of GDP growth represent a favorable circumstance that can help a fledgling transitional democracy survive by lowering its hazard rate, but economic growth in a particular year does not significantly determine whether a democracy is consolidated.$^{113}$ Not having a holdover autocratic constitution, similarly, amounts to a favorable circumstance for nascent democracies and decreases the hazard rate during their transitional period. But for a democracy that has survived, say, 30 years, having an autocratic constitution does not make the regime any less likely to be consolidated.

After controlling for the role of autocratic constitutions, my empirical results confirm several key findings introduced in my review of the literature on democratic survival (Section I). To begin, I confirm Przeworski and Limongi’s thesis that high levels of GDP per capita increase the likelihood that a democracy is consolidated and faces no risk of authoritarian reversal.$^{114}$ Following Haggard and Kaufman, I find that economic recessions increase the hazard of reversal for transitional democracies, but poor economic performance does not affect the probability that a particular democracy is consolidated.$^{115}$ Due to data limitations noted above, I do not include a covariate for economic inequality, but Svolik finds that inequality likely does not have a significant effect by including a frailty term to control for unobservable risk factors.$^{116}$ Interestingly, Cheibub appears correct that a military authoritarian legacy hinders democratic consolidation, but presidentialism, as Linz argued, still exerts an independent, negative effect on democratic consolidation relative to parliamentarism.$^{117}$ While Mainwaring and Shugart emphasized that presidential institutions vary considerably and need not be considered “inherently flawed,” the data still suggest that presidentialism, as a general category, reduces the odds that a democracy is consolidated.$^{118}$

Finally, my results change our understanding of how high the hazard rate is for transitional democracies and when we should expect them to be at their most vulnerable. After modifying Svolik’s code to create a matrix that can accommodate my additional variable, I find that for median levels of all covariates, transitional democracies face the maximum hazard of authoritarian reversal at 7.2 years of age. Svolik’s model, which does not control for the institutions under which the new democracy operates, predicts that transitional democracies will face the highest risk of reversal a year and a half later, at 8.8 years of age. And as shown in Figure 1, Svolik predicts that the probability of an authoritarian reversal for a transitional democracy will reach its peak at close to .11 during a transitional democracy’s eighth year, while I find that this hazard rate peaks at close to .15 (see Figure 2 for comparison). In short, my model shows that Svolik understates the risk of early reversals in transitional democracies: he underestimates the maximum for the hazard rate, and the year in which a reversal is most likely comes sooner than Svolik expects.
SECTION V: CONCLUSION

Thus, my essay has challenged the conventional wisdom that political pacts—agreements designed to safeguard the vital interests of groups and reduce the unpredictability of a democratic transition—make transitional democracies less likely to break down. In fact, after using a sophisticated split-population survival model to account for unobservable heterogeneity among existing democracies, I find that having constitution written by the outgoing authoritarian elite, seemingly the most effective way possible to protect elite interests, is associated with an increased hazard of reversal for transitional democracies. Although my paper has addressed the concern that democratic breakdowns might not be endogenous to these autocratic constitutions, future research should test my ahistorical, cross-national findings with nuanced analysis of historical cases. While my paper has uncovered an important cross-national trend, it paints with a broad brush, and research drawing on the theoretical and methodological foundations of Capoccia and Ziblatt’s “historically minded approach” may better uncover the effects of autocratic constitutions. In particular, a historical approach would allow us to see more clearly the causal mechanisms through which such constitutions may increase the risk of democratic breakdown. Nonetheless, the findings in this paper provide an important challenge to the scholarly consensus and suggest that political pacts may be a curse, not a blessing, for fledgling democracies.

This paper opens an intriguing path for future research, since it raises the causal question of whether the autocratic birth or the autocratic design of constitutions is driving the empirical results. Albertus and Menaldo’s data codes a constitution as “autocratic” if it was “created under dictatorship,” but this autocratic birth does not necessarily mean that the constitution is institutionally rigged to unfairly favor the outgoing elite. Autocratic birth may itself exert a causal force, since a new democracy may lack legitimacy and be vulnerable to overthrow if its constitution has tainted origins, regardless of whether the document’s text establishes liberal democratic institutions. I have suggested, however, that the design of autocratic constitutions may significantly affect the prospects for democratic survival. That is, particular institutional arrangements common to autocratic constitutions around the globe may be strongly associated with an increased risk of democratic breakdowns, while alternative constitutional designs may support democratic survival. To assess the relative importance of autocratic birth versus autocratic design, historically minded research will be essential in determining which institutional features are thought to increase the likelihood of authoritarian reversal. Such historical research may benefit tremendously from within-country comparisons, since nations like Argentina and Thailand have experienced multiple spells of democracy under different autocratic constitutions. Holding the domestic political context roughly constant, certain institutional designs may allow democracy to survive for longer, while others may be more likely to yield constitutional crises. Such research may be invaluable in diagnosing which democracies globally are at risk of authoritarian reversals and why.

In a world that is increasingly concerned about rising authoritarianism and receding democracy, this paper highlights a common institutional factor—the inheritance of an autocratic constitution—that lurks
behind many cases of democratic backsliding. For instance, in his article on the current “democratic recession,” Diamond classifies Burundi, Georgia, Guinea-Bissau, Honduras, Kenya, Niger, Turkey, and Sri Lanka as among the cases of democratic breakdown during the period 2000-2014.\textsuperscript{121} Notably, Albertus and Menaldo code all of these countries as operating under autocratic constitutions at the time of their authoritarian reversal.\textsuperscript{122} While cross-national trends in democratic backsliding may seem chaotic, this paper offers the possibility that a common institutional variable can help explain regime changes in countries as distinct as Honduras, Niger, Turkey, and Sri Lanka.

APPENDIX: DATA CLEANING PROCEDURES

a. Cleaning Svolik’s (2014) Data on Democratic Spells

In the process of inspecting and cleaning the data from Svolik (2014), I manually input the year in which a democratic spell began for 68 spells. I noticed this gap in the data after I merged Svolik’s (2014) democracy data in spell format, which included 223 observations of democratic spells, with Svolik’s (2014) democracy data in country-year format with the parsimonious set of covariates, which included 4,084 country-year observations from 155 democratic spells. Thus, in the parsimonious country-year data, the data did not include the year in which the democratic spell started for 68 spells. I needed this data so that I could summarize descriptive data on when elite biased democracies were most likely to form. More importantly, in Table 5.1, Albertus and Menaldo (forthcoming) identify whether a spell of democracy began under an autocratic constitution by the year in which the democratic spell began.\textsuperscript{123} Thus, in order to identify reliably whether a spell adopted an autocratic constitution, I needed first to determine the year starting the spell. I manually input the gaps in the data by referring to data from 193 democratic spells during the period 1800-2001, as used in Svolik (2008). I used identified the country, duration of the spell, and spell identification number in Svolik (2008) to match cases for the data in Svolik (2014). This process was simple in all but a handful of cases, where Svolik (2014) coded that a democratic spell had begun after 2001.

b. Recreating Albertus and Menaldo’s Forthcoming Data on Autocratic Constitutions, 1800-2006

In Table 5.1 of their forthcoming book, Flawed Since Conception: Authoritarian Legacies under Democracy, Albertus and Menaldo identify all 80 democratic spells during the period 1800-2006 that began under an autocratic constitution. Since I did not have access to this data in STATA format, I manually identified which of Svolik’s 223 democratic spells had initially adopted an autocratic constitution. I coded the variable auth_const as 1 if the democratic spell inherited its constitution from outgoing authoritarian elites. Due to differences in how Svolik and Albertus and Menaldo define democracy, in my final data 73 spells, rather than 80, were coded as adopting an autocratic constitution.\textsuperscript{124}

c. Correcting for Different Definitions of Democracy

After merging data from Svolik with data from Albertus and Menaldo, I have complete data (i.e. no missing observations across covariates) for 2,736 country-years.\textsuperscript{125} However, within these country-years, there were 116 years that Svolik coded as democracy but Albertus and Menaldo coded as nondemocracy. For instance, Albertus and Menaldo code that Brazil returned to democracy in 1985 after the military dictatorship that seized power in 1964,\textsuperscript{126} while Svolik classifies Brazil as a democracy starting in 1979. This discrepancy presents a problem because Albertus and Menaldo only code the binary variable “Democracy under Autocratic Constitution” as 1 for years that a country is both considered a democracy and operating with a constitution created under dictatorship.\textsuperscript{127} In all cases, Svolik coded the year as democratic and Albertus and Menaldo coded the year as non-democratic. Thus, five coding rules obtain:

1. For cases at the beginning of a democratic spell (e.g., Brazil, 1979) where the constitution was later coded as authoritarian, Democracy under Autocratic Constitution is coded as 1.
2. For cases at the beginning of a democratic spell (no such examples occur) where the constitution was later not coded as authoritarian, Democracy under Autocratic Constitution is coded as 0.
3. For cases at the end of a democratic spell (e.g., Argentina, 1962) where the constitution was authoritarian, Democracy under Autocratic Constitution is coded as 1, unless Albertus and Menaldo note that the constitution was amended.\textsuperscript{128}
4. For cases at the end of a democratic spell (e.g., Cuba, 1952) where the constitution was previously not coded as authoritarian, Democracy under Autocratic Constitution is
coded as 0.

5. For cases in which Albertus and Menaldo do not code an entire spell that Svolik codes as democratic (namely, Haiti, 1994-99; Russia, 1993-2004; Belarus, 1991-96; Cote d’Ivoire 2000-01; Zambia 1991-2001; South Africa, 1994-2001; Namibia, 1990-2001; Lesotho, 1993-1999; Kyrgyzstan, 1992-2001; and Indonesia, 1955-57), those observations are not changed from 0.129

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INHERITED AUTOCRATIC CONSTITUTIONS AND THE PROSPECTS FOR DEMOCRATIC SURVIVAL


POLITICS OF A DEAD RELATION
DEBATING THE PHILOSOPHICAL FOUNDATIONS OF BLACK LIVES MATTER

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INTRODUCTION

Black Lives Matter, the most recent widespread social movement against racial oppression, calls directly for affirming black life and redefining how black life is understood and treated politically and socially in the United States. Black Lives Matter (BLM) and its reliance on an affirmation of life is the extension of a tradition of fighting racial oppression through movements grounded in the Henry Bergeson’s philosophy of Vitalism. Vitalist movements, however, operate in contradiction to analyses of black life, namely the theory of Afro-Pessimism, which would assert that black bodies operate from a position of social death and could never enjoy an affirmation of life. Between the interpretation of the ultimate political problem of black bodies offered by Afro-Pessimism and the Vitalist, self-affirming ideals of the Negritude Movement which informed subsequent social movements against racial oppression, I find an interesting contention between the political theory that speaks to how oppression functions contemporarily and the philosophy designed to combat the effects of said oppression. In this paper, I intend to show the continuation between the philosophical underpinnings of the Negritude Movement by highlighting the Vitalist underpinnings of the BLM movement. After defining the Vitalist roots of the BLM movement, I intend to analyze BLM’s continuation of the Vitalist tradition by putting BLM and its Vitalist philosophical foundation in direct conversation with the scholarship of Afro-Pessimism in order to explore to what extent a social movement that is historically and, philosophically optimistic and self-affirming can be useful for dealing with political issues that arise from a pessimistic, fatalist ontology, and analyzing whether or not if the pervasiveness of Afro-Pessimist theory suggests that the Vitalist tradition used to combat racial oppression needs restructuring in order to succeed.

LITERATURE REVIEW

Commonly accepted concepts about race support the view that racial differences are attributed to biological or genetic factors. However, there is no biological trait that designates race in our genetic code. Despite this fact, during the eighteenth century, after religious purists denounced the discriminatory nature of moral ideals used to uphold early forms of slavery, scientific studies emerged conceptualizing race as a biological hierarchy. The Enlightenment, for all its philosophical and scientific revolutions, also led to scientific developments that attempted to legitimize concepts of racial superiority based on race. The justification of beliefs about racial hierarchies with scientific principles, rather than moral ideals, made it possible to develop and defend systems of slavery that functioned on the basis of racial inferiority. It would be this system – bolstered by science and fortified in politics – that would carry over to the New World and become foundational in the formation of the United States.

An idealistic interpretation of United States history posits that the political framework of the nation was designed to promote equality and create an environment where social and political expression was free from persecution. Nevertheless, the erroneous, yet politically expedient, scientific justification of racial hierarchies allowed for this system of equality to exist without consideration of the diverse bodies that lived under its jurisdiction and subsequently gave rise to a consciously designed social structure rooted in exclusion. The social and political structure that resulted rationalized the existence of a just and equal citizenry living alongside an abused class of slaves.

The creation of this slave class introduced the question of what it meant to have a life in a sociopolitical sense in the United States. Slavery created a racial hierarchical system that classified and designated bodies as tools used for the purpose of political power
bodies serving purely as life forms. Theorist Jared Sexton delves into the question how the slave/citizen hierarchy affected the definitions and boundaries of what it meant to have social life in *The Social Life of Social Death: On Afro-Pessimism and Black Optimism*. In this article, Sexton offers a framework to help question the ontological story of the slave and what lasting effects this ontology has on the social position of black bodies, as they exist today.

Following the tradition of other like-minded scholars, Sexton contributed to the theory of Afro-Pessimism through this ontological investigation. This theory is pessimistic and fatalistic in nature and self-identifies as a radical school of thought. The scholarship offers a telling of black ontology that is characterized by detachment. In lieu of an optimistic theory of reconciliation, Afro-Pessimism instead asserts that the lack of an identity within the dominant social/political structure, aggravated by the inability to reconcile or recreate the concept of black life, leaves the black population in a position of social death. Academics generally agree that framing the key conflict between black beings and the system that governs their lives as an antagonistic story of ontological death is a far-reaching interpretation of black ontology. However, Afro-Pessimist scholars of the theory deem this interpretation necessary because it is considered the only conclusion that can be drawn from the regenerating cycle of violence against the black body and a system designed to specifically exclude black existence from political life. While Afro-Pessimism frames the central conflict between black existence and society as an irreconcilable, pessimistic conflict between social life and social death, historically, movements structured against racial oppression have functioned based on quite an opposite and more optimistic philosophy of life.

Following the collapse of colonialism and slavery, social movements against racial oppression focused on dismantling the scientific, social, and political structures that supported and perpetuated continued forms of subjugation. During the postcolonial era, after the fall of several European regimes in the West Indies, black writers, poets, scientists, and philosophers from French-speaking countries moved to France to obtain a traditional, Western education, that was not afforded on the Caribbean Islands. Even as educated black men, many noted scholars including Aime Cesaire, Leopold Senghor, and Leon Damas experienced and identified what they considered to be the central conflict afflicting Black populations post-slavery: the contradictory reality of the ‘free’ black man in a post-colonial society that had yet to accept black existence as equal and free. The literature and philosophy of this era explain how the post-colonial experience created a discord for the Black person attempting to identify as citizen while existing in skin that classified him as uncivilized and savage. In *Black Skin, White Masks*, Frantz Fanon, a student of Cesaire, expresses this contention writing,

“As I begin to recognize that the Negro is the symbol of sin, I catch myself hating the Negro. But then I recognize that I am a Negro. There are two ways out of this conflict. Either I ask others to pay no attention to my skin, or else I want them to be aware of it. I try then to find value for what is bad—since I have unthinkingly conceded that the black man is the color of evil.”

*Black Skin, White Masks* expresses a story of detachment and a conflict of identity, fairly similar to the issues of detachment found in the work of Afro-Pessimist scholar Jared Sexton. However, differing from most Afro-Pessimist theory, that finds no remediation for this conflict, in response to the issue of detachment between the black body and society, scholars in the legacy of Cesaire found a remedy to this conflict in the creation of the Negritude Movement—a philosophy designed to combat the aftereffects of racism and colonialism by advocating for a unified black identity. Understanding Negritude as a political movement compounded with its philosophical importance is essential to understanding the philosophical traditions that underscored social and political movements ranging from the black interpretation of Marxism to the Black Nationalist movements in the United States. The movement grounded itself in the concept of self-affirmation. It was designed to create a common history, heritage, and identity for Black people across the national lines that could mend the disjointed reality and cases of missing identity that existed post-slavery and post-colonialism.

To understand the ultimate goal of Negritude philosophy, it is necessary to understand the philosophical background of Negritude literature and subsequent political movements. Here, the scholarship of Donna Jones traces the connections between Negritude and Vitalist philosophy of Henri Bergson. In *The Racial Discourses of Life Philosophy: Negritude, Vitalism, and Modernity*, Jones illustrates how...
Bergson's Vitalist philosophies informed Cesaire and Senghor, influencing Negritude philosophies and concepts of life and racial unity, explaining that the Negritude Movement aimed to “reawaken a latent feeling of affinity for the common descent of all Africans who had long become separated into seemingly independent groups.”¹ The founders of the movement sought to unify black bodies by connecting them through a common ancestry and singular narrative of detachment and reconciliation. According to Cesaire and Senghor, if the black population could unite under this common identity and historical narrative, black population could then create a common culture, and mobilize this unified population to create a political and social change.

By tying the concepts of Vitalism and racial struggle, Jones highlights how the Vitalist underpinnings of Negritude were essential in redefining the concept of life from a black perspective. This reworking of the concept of life was essential in creating a new ontological foundation upon which black persons could affirm their lives and create larger and functional concepts of community.

In addition to its philosophical importance, Negritude also had very clear political aims, and it became influential in the development of black political thought. Jones, in her scholarship, goes on to clarify that the unity that Negritude advocated was “not in fact a product of blood or ancestral values but political opposition to colonial rule.”² By reaffirming that black existence and the black experience occupied a unique position in the political world, the philosophy of the Negritude Movement underscored the notion that the political struggles of the masses could not be conflated with the political struggles waged by black populations.³

The Negritude Movement created a strong political and philosophical tradition that still influences modern political struggles. Recently, political movements against racial oppression have attempted to shift the Vitalist energy of such movements from internal affirmation within the oppressed community to demands for an affirmation of life from society-at-large. Specifically, the Black Lives Matter movement (BLM) developed with the explicit aim to openly and unapologetically affirm all black life without qualification in response to an uptake in publicized instances of police brutality and killings of unarmed black men and women by police forces. The BLM movement sets forth this affirmation of life with the sole purpose of recognizing black life as an entity that can exist as both human and citizen. Emphasizing that black bodies exist essentially as social and political life demands that they receive the same political treatment and respect to human rights as all others. By using an affirmation of life as the guiding force to achieve political and social equality, BLM continues in the tradition of Negritude. However, it goes further than previous Vitalist movements, demanding of society what Afro-Pessimism would suggest is impossible: to shift the social position of black bodies in the United States from social death to social life.

THE VITALIST TRADITION

The foundation of the post-colonial Negritude Movement is specifically tied to the concept of Vitalism as defined by philosopher Henri Bergeson. Bergeson's interpretation of Vitalism, or élan vital, emerged from a resistance to the idea that life functioned and moved forward on a cyclical, mechanical model.⁴ In Bergeson's view, this mechanistic, dominant ideology of the time stripped life and nature of its creative properties and left no room the natural forces at play propelling life forward and keeping nature functioning as a system.⁵ The founders of Negritude philosophy borrowed from this ideology in forming their movement. Negritude philosophy asserted that as humans naturally capable of connecting to the forces of life and nature that pull natural systems together, all black bodies displaced through slavery could reunite by creating a common identity centered around a common 'soul.' As previously noted, Donna Jones in Racial Discourses of Life Philosophy defines the Vitalist aims of this movement, explaining that the founders of the Negritude grounded their social and political aims around the idea of a singular black identity, giving the detached black population a common ancestry as well as a common cause.

Politically, the Negritude Movement was essential in creating a means through which black identity could consolidate in order to form social movements in opposition to widespread oppression. The Vitalist tradition underpinning the movement was essential not only as a political philosophy, but also as a political tool that worked to solve the issue of displacement and create mobilizing unity among all black nationalities. The commonalities of African heritage emphasized in the Negritude Movement, as well as the commonality of struggle that was emphasized as the black people acknowledged the unilateral oppression faced globally, created a demand for the black community to advocate for identities, histories, and even nations that were
completely their own, in which their lives and identities could finally be realized and expressed. A strong affirmation of life is essential to this ideology. As a social movement that relied heavily on Vitalist tradition, Negritude, by definition, had to acknowledge the spirit and soul of the Black community and furthermore, give that spirit power and agency to affect change and determine its own life course. This philosophy created the foundation upon which subsequent movements, like the BLM movement, structured their own social and political aims and provided a blueprint for how the black community responds to moments of violence and crisis.

A LOVE LETTER TO BLACK PEOPLE: THE RISE OF BLACK LIVES MATTER

On February 26, 2012, a young man watching a basketball game with his father decided to go outside to buy a snack. Dressed in a black hooded sweatshirt and jeans, seventeen-year-old Trayvon Martin went to the 7-11 near his home and purchased a bag a Skittles and a drink before making his way home. Sitting nearby in a parked vehicle, unofficially acting as neighborhood patrol for the evening, was George Zimmerman. Zimmerman, a man with a recorded violent history, was armed. When he saw Martin walking home, he became suspicious and decided to call the local authorities. On the phone with a dispatcher he murmured, “This guy looks like he’s up to no good or he’s on drugs or something… And he’s a black male… Something’s wrong with him…These assholes, they always get away.” A few moments later, Zimmerman reported that the male in question was walking away. Zimmerman decided to follow Martin, going against the direct orders of the authorities on the phone. The two men eventually got into an altercation, the facts of which are heavily disputed. During this altercation, Trayvon Martin was shot and killed.

Initially, no charges were pressed. Zimmerman claimed self-defense, an excuse readily accepted by the Florida police department at the time. The black community, however, was incredulous and vocal in their dismay. As more facts became public, the death of Trayvon Martin played out a tragic, but familiar, story of how racial profiling led to the demise of a young black man. George Zimmerman was charged and tried for second-degree murder and manslaughter. On July 13, 2013, he was acquitted of all charges. While several major cities became sites for large-scale, multiday demonstrations of civil unrest, social media became a space for mourning. The general sentiment online was a mixture of confusion and despair. On Twitter and Facebook, users wondered openly what this case and its verdict meant for the lives of black men and women. How did this case speak to the value placed on the life of a young black man in the United States?

In the midst of the mourning, editorial writer Alicia Garza posted on Facebook what she describes as, “a love letter to black people.” The post read,

Original Facebook post, Alicia Garza, July 13, 2013

Inspired, Patrice Cullors, a friend of Garza’s, wrote a post in response, amending the Garza’s last three words to create a hashtag,

Original Facebook post by Patrice Cullors, July 13, 2013

The mourning online community found strength in these words and began to use the hashtag as a rallying cry. Opal Tometi, a friend of Garza and Cullors, saw the power behind the phrase and used her skill set as a community organizer to turn the hashtag into a movement.

Central to the narrative of BLM is a conversation and conflict about the concept of life. Garza describes using the phrase, “our lives matter,” as an affirmation of life, and the subsequent movement as described by Cullors was created not only address the abuses of black men and women by police forces, but also as an intervention designed to declare the importance of all black lives.

The action of affirming life as intervention directly follows the tradition of the Negritude Movement that emerged during the post-colonial era, which similarly used a call to life as a philosophical and political tool towards racial emancipation.

A LOVE THE VITALIST PRINCIPLES OF BLACK LIVES MATTER

The stated principles of the BLM Movement show
a clear continuation of grounding social movements against racial oppression in Vitalist principles and also show the concept of life-affirmation as a social and political goal. According to statements released by BLM, the movement defines itself as, “an ideological and political intervention in a world where Black lives are systematically and intentionally targeted for demise. It is an affirmation of Black folks’ contributions to this society, our humanity, and our resilience in the face of deadly oppression.”11 BLM’s guiding principles include concepts such as globalism, the creation of black villages, and the notion of being unapologetically black. These principles philosophically and politically perform the same functions as the principles of Negritude.

The concept of globalism acknowledges that the racial oppression of the black body exists in different forms throughout the world. While BLM is an organization and a movement founded in the United States, this principle recognizes oppressive structures that affect black bodies in different contexts in other nations. This principle is similar to the principles of the Negritude Movement in that it calls for creating unity rather than distinctions between these international contexts and aims to unify the international black community by acknowledging a common narrative and plight. Rather than having the distinct cases of racial oppression that exist in different nations be treated as singular cases, BLM calls for all of these social and political cases of racism to be understood, and thus treated, as one all-encompassing issue of racial oppression against the black body. Building on the idea of creating a common culture, the concept of creating black villages is defined by the organization as being, “committed to disrupting the Western-prescribed nuclear family structure requirement by supporting each other as extended families and ‘villages’ that collectively care for one another.” This principle follows the tradition of amplifying black culture in two distinct ways. It calls for the disruption of an aspect of Western culture and demands that aspect be replaced with a distinctive aspect of many African cultures. In doing so, it creates a common sense of culture and identity useful for unification and mobilization. This process of reunification and finding a common culture and identity connects directly to BLM’s core principle of being ‘unapologetically black.’ The call to stand unapologetically in black culture and identity reinforce the notion that black life does not need to be qualified by Western culture in order to exist and embody its own importance.

Keeping with the Vitalist tradition of the Negritude Movement, BLM uses similar principles to emphasize the autonomy of the black identity as its appealing and motivating force, and then strongly and unequivocally affirms black life in a way that creates a foundation upon which black individuals can use their agency to change their circumstances. Implementing the same tactics used during the Negritude Movement to unify previously colonized and physically displaced black communities, BLM uses concepts like globalization and black villages to detach black culture and identity from a Western context, and further aims to reconnect the black population with an aspect of their ancestral culture. In this common cultural context, the black population is then able to define itself separately from the racially oppressive definition of the black body present in Western culture, giving the black population a common position from which they can structure their resistance.

An important distinction between BLM and the Negritude Movement is the extent to which these vital forces exert agency inside the black community as opposed to extending them to function in society-at-large. Unlike Negritude, BLM calls for an affirmation of life, not only from black individuals, but also from the society that wages violent oppression against black bodies. Historically, the affirmation gained through adopting Bergeson’s Vitalist philosophy has functioned as a means of self-affirmation within the black community. The philosophy empowered and informed a social narrative that created commonality, unity, and even political motivation among black bodies. However, the philosophy as it functioned within Negritude, and subsequent Black Nationalist movements, demanded little, if any, affirmation from the society outside of the oppressed community. This is not to say that both Negritude and subsequent Black Nationalist and Pan-African movements did not advocate for dismantling structures that perpetuated violent oppression. Rather, I make this distinction to note that any demands to dismantle oppressive structures in society were components of the movement designed to create an environment in which the black identity could independently and peacefully exist and did not directly require Vitalist energy to function outside of the realm of self-affirmation. This differs from BLM’s aim to demand widespread affirmation of life from non-black actors. This outside affirmation is the political demand of the movement and its ultimate societal goal. The limits to
with the intention of dismantling structures of racial oppression. If social movements led by the black community are only informed by a philosophical tradition intended to self-affirm life, but not demand affirmation of life from society, can such movements actualize racial equality in the face continued violent oppression?

To answer this question, BLM deals directly with the issue of detachment that has allowed for the normalization of violence against the black body. In the original social media post that spurred the movement, BLM co-founder Patrice Cullors stated that, “Black bodies would no longer be sacrificed for the world’s enlightenment.” Designing a movement that prioritized the issue of life before the issue of violence suggests that the founders of BLM believed that solving the foundational conflict, in which violence is used as a maintenance tool, was the first and most important step to ending the oppression of black bodies. However, this call for an affirmation of life was met with a resistance that arguably exemplified the reasons Afro-Pessimism denies the possibility of structural, societal change.

When the BLM hashtag first become popular, demanding for society to affirm black life, an opposition emerged that refused to give black life its own distinction, creating the counter-narrative All Lives Matter. The All Lives Matter narrative functionally denied the existence of racial oppression and the existence of state-sponsored violence targeted specifically at the black community. In further opposition to BLM, the Blue Lives Matter narrative emerged and aimed to defend police forces and reinforce the need for their protection and wellbeing. Blue Lives Matter advocates overwhelmingly relied on understating or denying the existence of systemic bias within the police force that was leading to the deaths of unarmed black men and women.

When viewed through a pessimistic lens, this opposition exemplifies the difficulty or impossibility to have all of society accept and understand the black bodies as an entities of life deserving of citizenship that exists outside a system of violence and oppressive forces. Such opposition challenges and questions the practicality of a movement that attempts to seek an affirmation of life from a society dependent on the notion that black bodies cannot personify an equal definition of social life.

**QUESTIONING THE POSITION OF BLACK LIFE**

Afro-Pessimism deals directly with the question of life and how the black community can (or cannot) escape from a position of social death. In conversation with BLM, the Afro-Pessimist position is uniquely important in that it specifically addresses the creation and function of the definition of black existence in the United States that BLM, in message and function, is attempting to disrupt. BLM is designed to be an intervention into the commonly accepted and normalized concept of black life as an entity characterized by vulnerability and fatality. In contrast, Afro-Pessimism offers a means of discovering the ontological story of this normalized concept of black life and a pessimistic solution of sorts to the subsequent problem of oppression.

The Afro-Pessimist theory, as articulated by Jared Sexton in “The Social Life of Social Death: On Afro-Pessimism and Black Optimism,” explains the social position of Black existence by examining it through a complex framework. At the onset of his investigation into the question, Sexton teases out the essential inquires that call into question the definition of black life, asking,

“What is the nature of a human being whose human being is put into question radically and by definition, a human being whose being human raises the question of being human at all? Whose being is the generative force, historic occasion, and essential byproduct of the question of human being in general? How might it be thought that there exists a being about which the question of its particular being is the condition of possibility and the condition of possibility for any thought about being whatsoever?”

When deconstructed these questions highlight important contentions in black ontology, primarily, the disconnection between blackness and humanness. The question, “What is the nature of a human being … whose being human raises the question of being human at all,” suggests that there was a theoretical moment in history in which white society determined that Black bodies were not human entities to be considered or treated as such. If a definition of what it truly meant by Anglo standards to be human was created in this moment, then what is learned from examining the consequences of this defining moment, and how does this defining moment relate to how Black bodies are treated and seen today?

Afro-Pessimism offers the story of an irreconcilable conflict, arguing that within this inability
to define the nature, social position, and political power of black people lies a source of “repression [that] happens on the level of representation, which then infiltrates the unconscious of both the black and the white persons.” The argument goes on to assert that, “Since these structures are ontological, they cannot be resolved (there is no way of changing this unless the world as we know it comes an end).”

Afro-Pessimists see this antagonistic interpretation as the only conclusion that can be drawn from the regenerating cycle of violence against the black being, compounded with an ontological issue of misrepresentation. Aggravated by the inability to articulate the story and meaning of black lives, AfroPessimism accepts the lack of an identity within the reigning social/political structure and leaves the Black population in a position of social death. Not only are black bodies determined to be nonhuman entities, made object instead of subject, the plight of this oppressed class cannot be told through the language of the oppressor. This inability for the black person to articulate grievances and enumerate losses further diminishes the possibility of asserting power and participating in politics and society, assuming that there ever existed any power to assert.

An important aspect of the theory of Afro-Pessimism is the role that violence plays in upholding the central conflict between the black body and society. According to Afro-Pessimist theory, racial oppression functions as a foundational structure in society that is upheld through a system of permanent, cyclical violence. Violence thus functions as a means of solidifying the position of the black body in a state of social death. Politically, the violence that becomes a characteristic part of the black experience creates a narrative of black identity that removes the black population from a space of equal citizenry. The white citizen is not expected to be a victim of violence, especially state violence, the way it is characteristically expected of the black pseudo-citizen. This aspect of reality as it exists for the black population is one of many factors that reinforces the detachment between the black body and social life and allows for the foundation of this oppressive structure to remain intact.

Yet, some Afro-Pessimist thinkers like Sexton find merit in the idea of working to alleviate the pervasiveness of cyclical, systemic violence and other symptoms of racially oppressive structures. From an Afro-Pessimist perspective, while black life operates from a position of social death within the sociopolitical world that it cannot escape, there is a conceptualization of black life outside of this context this concept arguably simply does not matter in relation to the stronger oppressive forces that create the meaning through which black life practically functions. Sexton provides a defense of this position, arguing that Afro-Pessimism is more than just a call to accept oppression as a fact of life, but is in fact a call to understand a political structure designed to delude and detract from any conceptions of black life outside of its political function,

“What I take to be a certain aggression, or perhaps anxiety, in the deconstruction of the structure of vulnerability and the grammar of suffering that undergird Afro-Pessimism is not a sign of pathology in the moral register, but rather a matter of the apprehension of psychic—and political—reality in the properly psychoanalytic sense... The policing of black freedom, then, is aimed less at its dreaded prospect, apocalyptic rhetoric notwithstanding, than at its irreducible precedence. The logical and ontological priority of the unorthodox self-predicating activity of blackness... renders the law dependent upon what it polices... so long as we know that this pushing back is really a pushing forward. So you see, in this perverse sense, black social death is black social life.”

Therefore, in defense of black life, outside of the function it serves to society as the matter that defines social death, it is reasonable and functional to give black bodies leave from the symptoms of oppression. Even if ending the violent cycle is not a foreseeable goal, resistance is required out of respect for this abstract notion of life beyond the purely political.

A VITALIST SOLUTION TO A FATAL PROBLEM

Putting this theory directly in conversation with BLM, Afro-Pessimism would consider BLM’s call for a widespread affirmation of black life as an impractical and impossible goal for a social movement. Afro-Pessimism not only asserts that life is a social position black bodies can never fill, but also that our political and social structure requires that black bodies remain in a position of death. Given this unbreakable structure, some Afro-Pessimists even go on to say that a call for the affirmation of life is itself paradoxical. If life, as defined by western political standards, is considered being other-than-Black, the black body’s cry for life could be heard as a call, not to equality, but to be defined as something that denies and antagonizes their existence as black people. In Black Orpheus,
a literary analysis of Negritude poetry, Jean-Paul Sartre references this conflict within the Negritude Movement, essentially calling the movement’s aims self-destructive. In his analysis, Sartre noted,

"Negritude – with its past and future – is inserted into a universal history, it is no longer a state, nor even an existential attitude, it is a Becoming…

Previously the black man claimed his place in the sun in the name of ethnic qualities; now he establishes his right to life on his mission; and this mission like the proletariat’s, comes from his historic position… the Negro himself, we have said, creates a kind of antiracist racism. He wishes in no way to dominate the world: he desires the abolition of all kinds of ethnic privilege… Thus negritude is for destroying itself, it is a 'crossing to' not an 'arriving at,' a means and not an end.”

While Sartre’s analysis of Negritude and its aims is problematic in that it mischaracterizes the goal of the Negritude Movement ending racial distinctions rather than affirming black life, it does put Negritude in conversation with an arguably less dire level of pessimism and fatalism than the one present in Afro-Pessimist theory. In his analysis, Sartre hypothesized that the ultimate goal of a movement that calls for life in a structure in which life is only defined as white would in essence be a call to end all racial distinctions in a way would not affirm or accept black life as its own entity, but simply make black life the equal of all others by destroying all racial distinctions. Here, Sartre suggests that Negritude serves simply as a collective force upon which the black community could break the slave/citizen dynamic—realizing that black life was as deserving of equal treatment as others. This realization could then only lead to a political struggle, calling for the end of all racial distinctions by destroying racial hierarchies. Such a movement would destroy the means through which the black body is oppressed. As Sartre saw the call for ‘equal’ as an end to blackness as a racial distinction, the Afro-Pessimist thinkers would see BLM’s call to life as an end to the definition of life as it is understood, politically and socially. Whiteness, by definition, is everything the slave is not: free, in direct opposition to enslavement, full citizen, in direct opposition to a pseudo or second-class citizen. To ask for life is to ask for whiteness, a request which would essentially be the end of whiteness itself as it is defined, but also blackness as it is defined.

Afro-Pessimist theory takes this destructive conceptualization of the end goal a step further, asserting that the black being could never make itself the equal of white life. To demand equality in a system where the social structure is arguably not slave/citizen, but life/death would demand others to regulate themselves to a position of death or demand that the black being acquire a position of life. Either transition would logistically destroy the structure of society and civility as we have come to understand and live by it.

In Biko and the Problematic of Presence, Frank B. Wilderson III addresses the impossibility of building social movements based on such a structure, stating, “A movement cannot be built, let alone sustained on behalf of ‘nothing, absolutely nothing’ – a nonentity. What would the politics of a dead relation, a slave, look like? If an affirmation of life from society-at-large is deemed an impossible goal, is it then ineffective to structure a social movement against racial oppression from a Vitalist perspective? Is structuring a social movement that fails to address the nature of the fatal problem that perpetuates racial oppression a regressive tactic that will fail to bring an end to the central issue keeping black bodies oppressed?

POSSIBILITIES FOR RE-STRUCTURING THE MOVEMENT AGAINST RACIAL OPPRESSION

Putting this theory directly in conversation with BLM, social and political movements developed from Vitalist or Pessimistic perspectives will structure different movements with different aims and tactics. Because scholars of Afro-Pessimism believe that the central conflict between black populations and society is an irreconcilable one, the solution they offer for political recourse is not one that would aim at ending racism or racial oppression, a goal which the theory argues is impossible. A movement structured from a pessimistic perspective would instead aim to improve some of the aftereffects of systemic oppression in respect to the aforementioned notion of black life outside any political structure, accepting that such resistance may not solve the ontological issue but only alleviate the symptoms.

Both Afro-Pessimists and BLM activists would advocate for addressing the continued violence against black bodies, but for different reasons and to different ends. As previously mentioned, BLM sees the end of systemic violence as a means to the affirmation lack life and solidifying its place as both human and citizen. Afro-Pessimists would see addressing systemic violence as a means of alleviating the hardships black
bodies face, but an end of violence would not definitely lead to an end to racial oppression. From these perspectives, I suggest there are three possible means of structuring social movements dealing directly with the issue of social death and detachment that is defined as the central conflict of racial oppression.

The pessimistic perspective would construct a political movement aimed at addressing the policies and practices that contribute to the systemic violence experienced by black populations. A social movement, pessimists argue, would aim only to alleviate symptoms of oppression, rather than change the social and philosophical structure of oppression itself. According to the pessimistic perspective, the violence experienced by the black community occurs on a permanent and cyclical basis. Therefore, a movement would have to establish a permanent presence to combat these issues of violence as they arise, since there would be no conceivable end. Such a movement would not aim to change culture or racist opinions in society for the sake creating empathy, because it would again be impossible for someone in a position of life to empathize with a position of death. Any notions of widespread social change resulting from empathy from those in a position of social life or a redefining the concept of life would be deemed impossible and therefore not addressed as an aim of the movement.

The Vitalist perspective would form a primarily social movement that rejects the irreconcilability offered by Afro-Pessimism. Such a movement, like the BLM movement, would continue in its aim to deconstruct the narratives and systems that deny equal lives and equal experiences of citizenship to black bodies. This position would be grounded in the belief that framing the central conflict as a one without remedy only enables and perpetuates systems of violence and oppression. Although many factors of Vitalist movements allude to the existence of the conflict defined by Afro-Pessimist theory, to accept that this conflict has no remedy would destroy the central goal of a movement like BLM, which calls for more than an end to violence, but also calls for overall social change. Such a change would require the oppressive structures and actors in society to abandon their privilege and claim to “life,” as it is currently understood as the antithesis to blackness. This would call for a reworking of what it means to have social life and what life and citizenry looks like when it is not established in juxtaposition to death and varying forms of slavery and disadvantage.

A third option would argue for an amalgamation of the optimistic and pessimistic outlooks. This option would force scholars of both perspectives to concede their hypotheses about the capabilities of political and societal structures to eventually create change and the means through which such a goal could be accomplished. Accommodating both the optimistic and pessimistic theory would functionally destroy important tenants of both schools of thought. If these differing perspectives should offer anything to each other in terms of structuring an effective social movement, the conversation would have to be one of priority, that differs greatly from the previous arguments of superiority or preference of one method over the other.

Both Vitalist and fatalist perspectives on black life have direct answers to the how the structure of oppression must be dealt with, but seem to speak past each other when addressing the tools through which these forms of oppression are upheld. Here, I want to revisit the conversation of violence upon which the Afro-Pessimist and more optimistic, Vitalist perspectives almost agree because both perspectives understand the necessity and functionality of addressing excessive violence against black bodies.

When Afro-Pessimism speaks directly about the irreparable condition of social death, there is an emphasis placed on the tools through which this conflict is upheld.\textsuperscript{17} The normalization of excessive violence on the black body and the emphasis on how these mechanisms work to create a cycle of oppression from which black bodies cannot escape is defined as a central aspect of the conflict to which there is no resolution. From this perspective, where the system of cyclical violence and mistreatment of the black body are still normalized, it is impossible to have a conversation about a shift in the status of black life.

If the context in which black bodies are viewed takes place before the physical and political status of black life has functionally changed to give way to new meaning, there is no weight to the affirmation of life. Without first taking steps to dismantle the symptoms of oppression and change the physical and political realities of black existence, there can be no conversation about redefining the status of black life. Any renewed definition offered would have no meaning within a political structure that continued to function in the same manor that regenerated cycles of oppression. Ultimately, a pessimistic analysis of a movement calling for an affirmation from society-at-large would argue that such an affirmation could not occur, or, more importantly, would not have meaning.
without a functional reconstruction of black life. An intervention on a dominant narrative is useless unless the narrative has truly changed—simply affirming life is meaningless unless the statement is true, and simply reinforcing the statement does not in any functional manner make it true because it does not change the conditions of life as they exist.

Understanding the remedies offered by Afro-Pessimist and Vitalist thinkers less as competing ideologies and more as steps to be taken in succession, as a conversation of priority and feasibility, it is possible that prioritizing one perspective's solution could create a political landscape in which pessimism creates room for optimism. It is arguable whether a pessimistic perspective would agree that an end to violence (or at least a drastic decrease in the levels of excessive violence) is possible. However, if it were possible, dismantling (or definitively reducing) the symptoms of the oppressive political structure could create the only means through which the social changes offered by the more Vitalist perspective could have practical and functional meaning.

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Bibliography
THE STATE-CIVIL SOCIETY NEXUS IN PUTIN’S RUSSIA BETWEEN CONSENT AND COERCION

Grigory Khakimov, Tufts University (2016)

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ABSTRACT
The main question of this article is how Vladimir Putin’s state manages and controls Russian civil society. For research theory, this article applies Antonio Gramsci’s conception of “integral” or “dual” state, which combines institutional incorporation and co-optation of loyal civic groups with coercion (oppressive legislation and security forces) against those who do not consent with the regime. In terms of the state institutional incorporation of civil society, this research examines top-down civic intermediary and informal institutions such as the Public Chamber, the Presidential Council for Human Rights, and especially the All-Russia People’s Front. These civic organizations help Putin maintain his authoritarian equilibrium between state apparatus and society by imitating the bottom-up control over the state bureaucracy and partially substituting functions of weak formal institutions, including the State Duma and the United Russia ruling party. In terms of the state coercive practices vis-à-vis independent civic groups, this paper analyzes the implementation of the 2012 “foreign agents” law. This research reveals that, although independent NGOs are systematically persecuted and inspected by the police and the Russian Ministry of Justice, they find different ways to avoid the coercive legislation and even cooperate with the state.

INTRODUCTION
During the last three years, Russia has become a very important player in the international arena. After the Euromaidan revolution in Kiev in 2014 that overthrew the pro-Russian government of Ukraine, Russia annexed Crimea and instigated military conflict in eastern Ukraine. In 2015, Russia began to participate in the conflict in Syria, supporting the Bashar Al Assad regime. In 2016, American intelligence agencies determined that Russia was responsible for cyberattacks targeted at swaying the U.S. presidential election. Such revival of Russia in the international sphere has encouraged some experts to talk about a New Cold War, comparing Putin’s Russia with the Soviet Union. iii The question of what kind of political system has been developed in Russia under Putin’s presidency is one of the most discussed topics among political analysts. Some experts draw parallels between Putinitm and classical dictatorships, including Stalinism and fascism. However, other scholars argue that, unlike totalitarian dictators of the past, Putin has created a hybrid political regime called “competitive” or “electoral” authoritarianism for its combination of democratic institutions with authoritarian practices. As a result of this hybridity, the democratic elements...
within the system have pathological forms, such as unfair and unfree elections, the coexistence of weak political parties and the dominant ruling United Russia party, a state-controlled and censored media, a rubber-stamping parliament (the State Duma), the conjunction of formal institutions and informal networks, and a combination of market economy with oligarchy. These democratic elements within the authoritarian rule allow the Kremlin to rotate and monitor the bureaucracy within the state apparatus and thereby avoid political conflicts within the system. At the same time, they legitimize the regime’s status quo both at domestic and international levels.

In this research, I analyze Russian civil society as a crucial democratic element of Putin’s hybrid authoritarianism. In particular, I apply Antonio Gramsci’s approach in order to explain the Kremlin’s dual policy towards civil society: the building of consent (hegemony) with loyal groups and the implementation of coercion (domination) against independent civic organizations. My research questions include: how does the regime manage, co-opt, and control civil society; what kind of civil institutions play the intermediary role between the state and society; how does the Kremlin apply coercive legislation vis-à-vis independent civic and human rights groups, and how do they survive under the state pressure? By discussing these questions, I will ultimately examine what the analysis of the state –civil society relations in contemporary Russia reveals about Putin’s rule.

THEORY AND METHODOLOGY

In this section, I review the different approaches to the state-civil society and their implementation in post-Soviet Russia. In particular, I emphasize the two theoretical perspectives for the analysis of relationship between the state and civil society – the “bottom-up” approach (also known as a liberal model) and the “top-down” model (also known as corporatist or statist approach). This review allows us to understand the theoretical and methodological significance of Antonio Gramsci’s framework and its possible connection with existing scholarship.

Russian Civil Society: Between Bottom-Up and Top-Down Models

In modern political science, scholars usually employ the liberal model or bottom-up approach, describing civil society as a mechanism of social empowerment separated from the state. The theoretical roots of the bottom-up approach can be found in John Locke’s liberal philosophy, which claims that civil society is the product of the social contract or mutual consent of citizens. The behavior of individuals in civil society is determined by the market economy and private property relations. According to Locke, the necessity of regulation and rationalization of economic life within civil society motivates citizens to establish the state and “make themselves members of some politic society” and form “civil government.” Since the government is formed by a collective will, people have the right to rebel against the authority and renew the social contract. Whereas Locke believes that the state is responsible for the common good while being separated from civil society, Jean-Jacques Rousseau emphasizes that the sovereign power “cannot go beyond the limits of the general covenants.”

For Rousseau, civil society, not the state, becomes the sovereign of the general will and thereby makes the laws and organizes bureaucratic institutions which subordinate the government to the public interests, not vice versa.

In his analysis of American democracy, Alexis de Tocqueville also employed the bottom-up approach to civil society. He pointed out the importance of the Americans’ associational life, which is based on the civic activity of clubs, churches, local communities, hospitals, schools, and other voluntary organizations. Tocqueville’s idea influenced contemporary American political scientist Robert Putnam to elaborate on the concept of “social capital,” which he defines as “features of social organization, such as trust, norms, and networks, that can improve the efficiency of society by facilitating coordinated actions.” From this argument, social capital is able to connect civil society with vertical and hierarchical state institutions through reciprocal horizontally organized civic networks such as interest groups and political parties. Following Locke and Rousseau, modern German philosopher Jürgen Habermas introduces the idea of the “public sphere” as “the sphere [where] private people come together as a public” in order to debate about general rules with public authorities. The public sphere

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vi This Locke’s economic perspective on civil society was developed by the philosophers of the Scottish Enlightenment, including Adam Ferguson, David Hume, and Adam Smith, who understood the essential element of civil society not in political relations, but in market economy with its pragmatism and rationalism. In the nineteenth century, Karl Marx also interpreted civil society in material sense as a field of contradiction between private property and wage-labor.
includes intermediary institutions, such as clubs, the press, and the market, which form public opinion and exist between civil society and the state.

Thus, in the bottom-up perspective, civil society can be understood via Larry Diamond’s definition as “the realm of organized social life that is open, voluntary, self-generating, at least partially self-supporting, autonomous from the state, and bound by a legal order set of shared rules.” From this point of view, civil society includes voluntary and self-organized associations, social capital, and the public sphere as mechanisms limiting the power of the state.

This bottom-up approach was primarily a research model used to study post-Soviet countries in the 1980-90s, a period of spreading optimism about possibilities of successful democratic transition. According to Vladimir Shlapentokh, the Lockean approach can be used for the understanding of late Soviet civil society, formed during Mikhail Gorbachev’s liberal reforms in 1987-1991 (the so-called glasnost and perestroika). As Shlapentokh argues, thousands of civil and human rights organizations, democracy, and national autonomy emerged at the end of the 1980s. Millions of ordinary people became political and civic activists, joining street meetings and demonstrations. However, after the collapse of the Soviet Union in 1991, Russian civil society was alienated from politics by the new rent-seeking elite and oligarchy, and in the 1990s, Russia plunged into the Hobbesian state of nature with its “jungle individualism” and war of every man against every man, rather than “enlightened individualism à la Locke.” As a result, although the number of non-government organizations (NGOs) grew dramatically from only 40 registered civic groups in 1987 to about 238,000 by the end of 1998, they did not influence political processes and could not play a mediating role between the state and citizens. According to 2014 data, although 430,000 non-profit organizations are officially registered in Russia, 60 percent of them are de facto inactive, which means that the number of operating NGOs is closer to 200,000.

Applying the bottom-up model, researchers highlight the weakness of civil society in post-Soviet Russia. For instance, Steven M. Fish explains why strong civil society did not emerge in Russia despite the political liberalization of the late 1980s. In contrast to Shlapentokh, Fish points out that in the Gorbachev period, there was a fragile and ephemeral “movement society” within which new independent organizations and social movements were not transformed to the institutionally organized and politically influential civil society. According to Fish, there were three main reasons for the underdevelopment of civil society in late Soviet and post-Soviet Russia: (1) the inconsistency of political reforms (e.g., the sudden and partial electoral openings of 1989 and 1990); (2) the incapability of state agencies under Gorbachev to respond to the demands of new civic organizations, support democratization from below, and refrain from exercising coercion without negotiations with civil groups; and (3) the communist economic relations that had created state monopoly on property, production, and redistribution outside of the social and worker control.

Marc M. Howard’s comparative research also stresses the weakness of post-Soviet civil society caused by the majority of the citizens’ disappointment with economic hardship caused by the collapse of the communist regime. Other factors that had weakened Russian civil society include the mistrust of former communist organizations caused by negative experience of obligatory participation, the reliance on friendship and informal networks due to increasing focus on people’s own individual lives rather than on the common good, monetary determination of social relations, new social inequalities, and changes in the workplace. Howard concludes that, for these reasons, post-communist civil societies in Russia and East Germany are weaker than those of post-authoritarian states of the “third wave” democratization in Latin America and southern Europe.

Thus, according to the bottom-up research, the Russian civil society in the 1990s was characterized as weak in terms of underdevelopment of social capital, public sphere, active political and civic associations, and self-organization. However, starting in the 2000s, some scholars began to point out a more complex structure of post-Soviet civil society. For instance, unlike Fish and Howard, Grzegorz Ekiert and Jan Kubik argue that post-communist civil societies were not built from scratch, and different types of the state-civil society relations were established in post-Soviet countries. For example, a pluralist civil society exists in Poland, whereas a corporatist society can be found in Hungary and Slovenia. According to these scholars, the claim that post-Soviet civil societies are chronically weak is not true. Instead, they assert that some of these countries have more spontaneous civil societies
rather than organized and institutionalized ones, and therefore, these societies are capable of mobilizing in extraordinary moments. The examples of such spontaneous movements include the so-called “color revolutions” of 2000-2005 that led to regime changes in Serbia, Georgia, Ukraine, and Kyrgyzstan.

Such spontaneous civil movements also took place in Putin's Russia. For instance, several studies of the 2011-2012 anti-government mass demonstrations in Moscow underscore that civil society under Russia's authoritarian regime has a potential for civic and political mobilization and does not lack social capital, trust, and democratic values. As Samuel A. Greene's research reveals, Russian society has a possibility for political mobilization, but its potential for self-organization is restricted by the amorphous and “deinstitutionalized” state that atomizes civic activity. This observation effectively proves Samuel Huntington's statement that “without strong political institutions, society lacks the means to define and to realize its common interests.” Such a situation creates a “political gap” between the state and society that eventually causes the collapse of the authoritarian regime. However, unlike the Soviet system where individual civic activity was completely suppressed and contrary to the 1990s when civil society did not have any connections with the state, the Putin regime has filled the “political gap” by hybrid or quasi-institutions mediating the relations between the state and society. In this regard, the top-down or statist model is an important theoretical perspective in examining the state-civil society relations in Putin's Russia.

Recent studies on civil society under new hybrid authoritarian regimes apply the top-down approach to demonstrate a more complex and nuanced picture of the state-civil society relations in different regions of the world, including post-Soviet countries, Latin America, East and South Asia, North Africa, and the Middle East. In contrast to traditional dictatorships, contemporary hybrid authoritarianism does not openly violate or suppress civil associations but adapt and imitate democratic state-society relations via a corporatist strategy. There are different mechanisms of corporatism, including the centralization of the registration process, the establishment of the so-called “government-organized NGOs” (GONGOs) or “quasi-governmental NGOs” (QUANGOs), the co-optation of existing NGOs into the state, and the creation of “umbrella” organizations for monitoring and controlling different NGOs. In addition to corporatism, some authoritarian systems also apply an exclusionary strategy based on the marginalization and inhibition of independent NGOs by legally limiting their activity and restricting their access to foreign funds.

The roots of the top-down model could be found in Thomas Hobbes's concept of civil society that is tightly connected with the state power. According to Hobbes, the social contract creates a state, the “Leviathan,” as the “mortal God,” not civil society as Locke and Rousseau argued. After that, the omnipotent and omnipresent state makes the emergence and development of civil society possible. The Hobbesian civil society needs the state and absolute sovereignty for its self-protection and prevention from possible return to the chaotic state of nature.

The top-down framework is also based on Hegel's theory of civil society (bürgerliche Gesellschaft) as “the system of needs” a pre-political unity organized by economic relations, which brings inequality, egoism, anarchy, and poverty. According to Hegel, the state is the highest, universal level of social and ethical unity of public life (state authority) and the sphere of private rights (family and civil society). The particular interests of individuals in civil society are subordinated to the state as “an external necessity” and “higher authority.” For Hegel, there are two logics of interconnection between the state and civil society: “the logic of state intervention into society and that of the generation of societal solidarity, collective identity, and public will within civil society itself.” While civil society consists of the estates, the system of needs, corporation, police, legal framework, and administration, the state includes the crown, the bureaucratic executive, and the estate assembly or legislature. These elements are institutions mediating between the universal state and civil society that reflect particular interests of individuals: the state intervenes into civil society via the police and corporations, whereas civil society penetrates the state via the estate assembly.

Hegel's dual theory had an important impact on Gramsci's concept of “integral” or “dual” state, which I utilize in this paper for the analysis of the state-civil society nexus in Putin's Russia.

Antonio Gramsci’s Approach and post-Soviet Transition in Russia.

Gramsci’s dual state theory combines hegemony
(consent) and domination (coercion). Hegemony is an “intellectual and moral leadership” obtained by public consent and realized through the mediating institutions of civil society or “hegemonic apparatuses” (churches, schools, and the press). Conversely, domination is exercised through the coercive organs of the state (oppressive legislation, the bureaucracy, and police forces) against those social groups who do not consent with the regime. The Gramscian state, therefore, is not Karl Marx’s “committee for managing the common affairs of the whole bourgeoisie.” It is also not Max Weber’s bureaucratic machine which has “the monopoly on the legitimated use of physical force within a given territory.” For Gramsci, the integral or dual state not only includes coercive and bureaucratic apparatus but also, like Hegel’s external and ethical state, expands on the realm of civil society. In addition to Hegel’s theory, in his explanation of the state duality, Gramsci also refers to Niccolò Machiavelli’s metaphor of the Centaur: his animal part represents force and coercion while human part symbolizes consent and hegemony.

In his notebooks written in a fascist prison between 1929 and 1935, Gramsci develops Machiavelli’s and Hegel’s concepts by introducing two types of the integral or dual states. One type is a democratic state where state interests match up with the interests of civil groups via “active” consent, just like in the bottom-up perspective developed by Locke and Rousseau. Such a state is created by ideological and political struggles for hegemony within civil society as it happened during the French and American Revolutions. On the contrary, the authoritarian dual state is established by “passive” or “tacit” consent via top-down coercive domination as well as ideological and institutional hegemony over civil society. According to Gramsci, this type of state emerges as a result of “passive revolution,” or “revolution from above.” Such revolution took place during the Risorgimento, a movement for unification in Italy, when political passivity of civil society did not lead to democratization and the ruling elite persuaded its narrow economic interests. As a result, the liberal elites were not able to complete democratic transition and create interclass hegemony. After the World War I, this process led to “a crisis of authority” or a “crisis of hegemony or general crisis of the State.” The vacuum of power was filled with Benito Mussolini’s fascism, which Gramsci defines as “reactionary Caesarism.”

This type of leadership establishes equilibrium of political forces rallying not only on domination (coercion) but also on a top-down hegemony or “passive” consent created between the ruling elite and society in order to preserve the status quo rather than democratically institutionalizing and reforming social relations.

This explanation of the Italian case allows Gramsci to theorize the state-civil society relations in general. Contrary to Marx, for whom civil society is a part of class relations and the economic base, Gramsci argues that both the state and civil society belong to a politico-ideological superstructure where the two mutually reinforce each other. Under different historical and political circumstances, either the state establishes top-down hegemony over civil society or civil society influences the state from the bottom up. Gramsci does not associate development of civil society solely with democracy. Instead, he admits that civil organizations can also be co-opted and controlled by the authoritarian regime, like Italian fascism, in order to solidify and legitimize its political power rather than support trends towards democratization.

Some scholars apply Gramsci’s concept of “passive revolution” to the post-Soviet transition in Russia. They emphasize that despite proclaiming democracy and freedom, Gorbachev and Yeltsin did not base their leadership on the nascent civil society of the late 1980s. Instead of transforming the active bottom-up civic support into democratic institutions, Yeltsin maximized his presidential power by excluding society from the politics after the Soviet breakdown in 1991. Once Boris Yeltsin and his supporters gained control of former Soviet institutions, they were no longer interested in building open political competition and increasing civic participation. The 1993 Constitution maximized Yeltsin’s presidential power and limited the parliamentary checks and balances of the whole bourgeoisie.


viii Some authors, for example, show that in interwar Italy and Germany the development of civil society did not lead to a democratic transition, but rather to the rise of fascism and Nazism. See: Dylan Riley, The Civic Foundations of Fascism in Europe: Italy, Spain, and Romania, 1870-1945 (Baltimore, MD: The Johns Hopkins University Press, 2010), pp. 23-71; Sheri Berman, “Civil Society and the Collapse of the Weimar Republic,” World Politics 49, no. 3 (1997), pp. 401-429.

balances. The majority of Russians were isolated from the process of privatization and market reforms that were conducted in the interest of a narrow group of former Soviet bureaucrats (apparatchiks) and newly appeared oligarchs. During the 1990s, the crisis of authority was caused by weak and fragile popular consent.

Like Mussolini in Italy during the 1920s, Vladimir Putin filled the power vacuum by imposing “passive” consensus both among elites and between state and society. Putin formed the political coalition on the basis of new ruling elite, the so-called “siloviki,” from his cronies affiliated with the former KGB, the Federal Security Service (FSB), and officials from St. Petersburg where Putin worked as a deputy mayor and the head of the Committee for External Relations at the beginning of the 1990s. The oligarchs who had real political influence on the Kremlin under Yeltsin lost their businesses and left the country, while loyal oligarchs saved their positions and became the organic part of the system.

This equilibrium of elites is consolidated by the so-called “power vertical,” which works as a telephone system managing the country by transforming signals from the Kremlin to the regional governors without accepting bottom-up initiatives. Terms of consensus between the state and society, Putin reestablished what he calls “civic agreement” or “solidarity” (grazhdanskoe soglasie) and “consolidation of society” (konsolidatsia obschestva) undermined in the chaotic 1990s. Under the ideological discourses of security, stability, and statehood, Putin established the social consensus among “losers” of the 1990s, those social groups (employers of the state bureaucracy, army, and police, some of the intelligentsia, pensioners, and civil servants) who were excluded from privatization and received no benefits as a result of economic reforms.

This consent was not possible without economic growth during Putin’s first two presidential terms (2000-2008). According to Gramsci, “though hegemony is ethical-political, it must also be economic, must necessarily be based on the decisive function exercised by the leading group in the decisive nucleus of economic activity.”\(^\text{x}\) In contrast to economic decline of the 1990s, Putin’s first presidential term has coincided with growing oil prices. While oil, Russia’s main export resource, cost about seventeen dollars per barrel during Yeltsin’s presidency, by 2002 oil prices had doubled, and by 2008 they reached $132.32 per barrel. As a result, Russia’s GDP per capita grew by 7 percent each year between 2004 and 2008 per year and wages increased by 400 percent.\(^\text{39}\) Relying on the polls conducted by the independent Levada Center, different researches demonstrate that the increase of Putin’s popularity could not have occurred without Russia’s economic growth in the 2000s.\(^\text{38}\) Putin’s unwritten social contract with the Russian people was based on the agreement of achieving socio-economic stability in return for increasing autocratic practices and contracted political rights.\(^\text{40}\) This social contract also includes “an informal pact of nonaggression” between the state and society, meaning that citizens remain politically quiescent and accept their powerlessness in the political system, whereas authorities dominate in the public and political sphere without interfering in citizens’ personal lives.\(^\text{41}\)

In the Gramscian perspective, Putin’s “reactionary Caesarism” continues the post-Soviet “passive revolution,” preventing any possible modernization and democratization in the country by establishing the equilibrium between consent and coercion toward civil society. As long as the unwritten social contract between the state and society was stable in the 2000s, the Kremlin relied on “passive” consent. However, when Putin’s approval rating plunged to a low of 63 percent after the mass protests against falsifications of the parliamentary elections results in winter of 2011-2012,\(^\text{42}\) the regime began to apply more coercion, cracking down the independent media and NGOs.

In the next part of this paper I explore the Kremlin institutional cooptation of civil society into the state power vertical by employing Gramsci’s conceptual framework for the analysis of the state-civil society relations in Putin’s Russia. In order to do so, I use qualitative analysis of the functions of state-organized civic mediating institutions, including the Civil Forum, the Public Chamber, the Presidential Council for Human Rights, and especially the All-Russia People’s Front. I explore the function of the Front which exists as an “umbrella group” for both government-organized nongovernmental organizations (GONGOs) and NGOs loyal to the Kremlin. The last part of the research emphasizes the

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legislative mechanisms, including the 2012 “foreign agents” law, by which the Putin regime exercises coercion against independent civic and human rights groups. I focus on the implementation of this law via the case study of three independent NGOs: the historical and human rights organization Memorial, the election monitoring group Golos, and the human rights group Agora. My analysis demonstrates how they apply different strategies to avoid coercive legislation and keep their autonomy from the state.

In this research, I examine primary source evidence from the official websites of both pro-Kremlin and independent civic organizations as well as Putin’s articles and speeches from the official website of the Russian President kremlin.ru. The paper also employs Russian newspapers, including Novaya Gazeta, Nezavisimaya Gazeta, Vedomosti, Lenta.ru, and Gazeta.ru in addition to an analysis of the recent Russian laws on NGOs regulation. For data, I use Amnesty International and Human Rights Watch reports as well as public opinion polls conducted by the Levada Center and the Public Opinion Foundation (Fond Obozhestvennoe Mnenie).

INSTITUTIONAL CO-OPTATION OF CIVIL SOCIETY INTO PUTIN’S POWER VERTICAL

In order to maintain the “passive” public consent, Putin established what Gramsci calls “hegemonic apparatuses,” which are mediating institutions between the state and society. As Alfred B. Evans notes, “Putin seeks a hegemonic rather than a monopolistic centralization of power.” In this hegemonic organization of power, there are civic groups and institutions that formally exist outside of the administrative apparatus but, at the same time, are informally incorporated to the state and support the Kremlin bureaucracy. The hegemonic nature of Putin’s power proves Gramsci’s idea that the sphere of the dual state lies outside the administrative and coercive apparatus and expands on the realm of civil society. At the same time, in Putin’s Russia, the mechanism of co-optation of civil society into the state was similar to what has been applied for the administrative apparatus.

It should be noted that Putin’s “power vertical” is a manually-operated administrative system, exploiting personal or informal networks and loyalty to Putin. Therefore, such a state apparatus does not need strong institutional mechanisms of governance; under Putin, all existing political institutions – including the State Duma, the Federation Council, governors, and elections – have been weakened while the presidential power and security services have become stronger. In order to control and diminish the role of existing formal or constitutional institutions, Putin created “substitutive informal institutions,” which function under the control of the Presidential Administration and are not regulated by the Russian Constitution. These “para-constitutional institutions” are formed and managed personally by Putin and exist in parallel with constitutional institutions. For example, in terms of security services, Putin set up substitutes, such as the Investigative Committee and the National Guard parallel with the existing Ministry of Internal Affairs (MVD), the Federal Security Service (formerly the KGB), and the Persecutor’s Office. In addition to regional governors, Putin appointed presidential representatives (polpredy) in seven federal districts that unite provinces and republics of the Russian Federation. The State Council, which unites the regional governors, also exists in parallel with the Federation Council. After the 2014 Ukrainian crisis and Russia’s annexation of Crimea, Putin’s personal role in decision-making process tremendously increased and other para-constitutional institutions, such as the Security Council and the Presidential Administration, also became more influential.

In this research, I argue that Putin applies the same strategy of informal substitutes for incorporating and coopting civil society. To this end, the Kremlin established civic mediating institutions such as the Public Chamber, the Presidential Council for Human Rights and Civil Society, and the All-Russia People’s Front. Their functions lie out of the state apparatus and are instead aimed at establishing the cooperation between the state and civil society. Therefore, under the authoritarian regime, these civic substitutes play the role of what Jennifer Gandhi and Adam Przeworski name “nominally democratic institutions” whose task is “to neutralize threats from larger groups within society and to solicit the cooperation of outsiders.” Such institutions are not just “window dressing,” imitating democratic processes and masking authoritarian features of the regime, but are established as a strategic choice with the purpose of incorporating opposition forces from civil society, and thereby lengthening the ruler’s tenure.

Taking the aforementioned institutional
conceptions into account, the next two sub-sections of this article analyze the Kremlin-sponsored civic mediating substitutes, including the Public Chamber, the Presidential Council for Human Rights, and the All-Russia People's Front. I show how these civic institutions help Putin create and maintain hegemony (consent) both within the state apparatus and in the realm of civil society.

The Civil Forum

While there was a “negligent state” vis-à-vis civil groups under the Yeltsin presidency (1991-1999), Putin created a “vigilant state” regarding civil society.\(^47\) Putin established what Gramsci calls top-down hegemony or “passive” consent with society via the top-down civic institutionalization and incorporated civil society into state interests. In 2000-2001, when he had just become the Russian president, Putin initiated a dialogue between the state officials and civil activists via personal meetings with representatives of NGOs. He went further in November 2001 by opening the Civil Forum (Grazhdanski forum) that involved 5000 civil activists and government officials from across the country.\(^48\) In his address to the Forum, Putin emphasized that “the biggest task... is to avoid the bureaucratization of initiatives and to establish the institutions and processes necessary to strengthen civil society.” Furthermore, Putin put forward a twofold goal for the Civil Forum: “to promote democratization and to engage civil society activities in the daunting task of tackling Russia’s serious social problems.”\(^49\)

In other words, Putin wanted to strengthen the weak civil society from above by putting it at the service of the state.

Since this moment, the Kremlin began to demonstrate “the dualistic attitude of the state toward civil society” by distinguishing two different civic groups. In the Kremlin’s perspective, on the one hand, there are the socially-oriented NGOs which provide welfare and social services for citizens and therefore should be legally and financially supported for their activity by the state.\(^50\) On the other hand, there are human rights groups which criticize the regime, protect its political opponents and civic activists, and usually have foreign funding. Therefore, such NGOs are understood by the Kremlin as independent agents who should be either co-opted into the state or dismantled.

As a result of such a distinction, human rights activists from organizations who participated in the Forum (Memorial Society, the Civil Dignity, the Committee of Soldiers’ Mothers, and the Moscow-Helsinki Group) became its main critics. They pointed out that the Civic Forum was meaningless public event. According to Liudmila Alexeeva, a leader of the Moscow-Helsinki Group, although the state authorities recognized the existence of civil society in Russia and wanted to connect with it, they had a plan to build civil society under bureaucratic top-down control.\(^51\) None of the human activists’ proposals were approved by the government after the Forum. It seemed that Putin’s first attempt to create a pro-state civic intermediary institution or “umbrella group” that could incorporate civil society into the state had failed.

The Public Chamber

The next effort took place in 2004, when Putin initiated the establishment of a new mediating institution, the Public Chamber (Obschestvennaya palata), with the goal of controlling civil initiatives and initiating greater cooperation between the state and civil society. The creation of the Chamber was caused by both internal threats of terrorism and external influence of the so-called “color revolutions” in the post-Soviet space. Such threats became all the more apparent when Chechen terrorists seized an elementary school in Beslan, North Ossetia on September 1, 2004, leaving 334 casualties, including 186 children. At the same time, external threats on the stability of the post-Soviet space also encouraged Putin to establish the Chamber. For example, in Georgia in 2003 and then in Ukraine in 2004, mass street protests, during which independent NGOs played important role, brought in new pro-Western leaders in both countries. These events demonstrated the possibility of democratic movements in post-Soviet states neighboring Russia and thereby threatened the Putin authoritarian regime.

On September 13, 2004, Putin called for the formation of the Public Chamber “as a platform for wide dialogue, where civic initiatives can be presented and discussed in detail.”\(^52\) Membership in the Chamber is based on the top-down model: forty-two members are chosen by the President; they in turn choose forty-two more from different Russian civil associations; then the eighty-four members altogether pick forty-two more from regional NGOs that add up

\(^{70}\)
to 126 members of the Chamber. The Public Chamber is formed every three years. In addition to the federal Chamber located in Moscow, the public chambers were created in almost every Russian region from the activists of civic associations loyal to regional authorities. In 2013, membership had increased from 126 to 168 people: forty members appointed by the Presidential decree, eighty-five representatives of regional public chambers, and forty-three activists of different NGOs.\textsuperscript{xi}

It should be noted that none of the independent human rights groups were chosen to the Chamber. In fact, many well-known human rights NGOs, including Memorial, For Human Rights, the Committee of Soldiers’ Mothers, and the Moscow-Helsinki Group, refused to participate in the Chamber. Some human rights activists explained that the establishment of the Public Chamber is “an attempt to create a dummy of a civil society” as part of Putin’s plan of reinforcing “the vertical chain of command,” which allot much more power to the officials chosen by the president.\textsuperscript{53}

According to the law on the Public Chamber signed by Putin in April 4, 2005, the main purposes of the Public Chamber are to collect grassroots initiatives, involve citizens and civic organizations into discussions about freedom of speech and human rights issues, carry out “public expertise” of the socially significant law drafts in the State Duma and regional ligatures, and control the state bureaucracy, including the Russian Federal Government and regional executives.\textsuperscript{54} Moreover, the Chamber has become the coordinator of the formation of public monitoring commissions since 2008, controlling human rights in places of detention. The Chamber also distributes presidential grants among civic groups. Although the state funds are distributed on the basis of comparative grants in practice, the Chamber gives a priority to “socially-oriented” and state-sponsored NGOs rather than independent human rights organizations. For instance, in 2013 and 2014, the patriotic and nationalist biker club “Night Wolves” (\textit{Nochnye volki}) won five grants totaling 21.5 million rubles (approximately $540,000) to carry out Christmas parties and stunt festivals as well as two additional presidential grants of 56 million rubles (approximately $935,000) in 2015.\textsuperscript{55} Other grantees include two patriotic groups – the military veterans’ organization called Combat Brotherhood (\textit{Boevoe bratstvo}) and the Anti-Maidan civic movement created after the 2014 Euromaidan anti-government protests in Kiev with a purpose to prevent a possible “colored revolution” in Russia.

Thus, according to James Richter, the Chamber as a “ministry of civil society” perfectly represents Putin’s view of civil society as “a coherent, ordered space where individuals assist the state in the interest of the whole.”\textsuperscript{56} From the Gramscian perspective, the Chamber implements the function of a hegemonic intermediary institution that assists the state apparatus in penetrating into civic society and monitoring it from above. It co-opts the Kremlin-organized and independent civil groups loyal to the state, keeping them outside of the political realm. As a substitutive informal institution, the Public Chamber’s purpose overlaps with the functions of formal institutions, such as the State Duma and the ruling United Russia party, both in collecting civil initiatives and in mimicking public control over state executive power.

The Presidential Council for Civil Society and Human Rights

In addition to the Public Chamber, Putin initiated the establishment of the Presidential Council for the Development of Civil Society and Human Rights on November 6, 2004. The Council was formed on the basis of the Presidential Committee on Human Rights created by Boris Yeltsin in 1993. Unlike the Public Chamber, the Council involves not only members of pro-Kremlin civic organizations but also heads and activists of independent civic and human rights groups that had refused any collaboration with the state after the Civil Forum in 2001. These independent NGOs include the Moscow-Helsinki Group (represented in the Council by Lyudmila Alekseeva), the historical and human rights society Memorial (Sergei Krivenko), the election monitoring Golos Association (Lilia Shibanova), the human rights organization Agora (Pavel Chikov), the Committee of Soldiers’ Mothers (Mara Polyakova), the Committee for Human Rights (Andrei Borschev), and the Liberal Mission Foundation (Evgeny Yasin).\textsuperscript{xii} The leaders of independent civic groups decided to join the Presidential Council hoping that this status and cooperation with the state would help them in their human rights activity. However, some activists were disappointed by the increasing authoritarian practices

\textsuperscript{xii} See the Presidential Council official website: http://president-sovet.ru/members/constitution/
under Putin's presidency and left the Council, defining it as a “window dressing” imitating the democratic process.  

According to the 2004 presidential decree, the Council was established “in order to improve state policy in the field of security and protection of the rights and freedoms of man and citizen as well as to promote the development of civil society institutions.” While the Public Chamber carries out the control over the activity of executive and legislative state apparatus, the Council only has the power to examine the drafts regulating civil rights and freedoms and give recommendations on human rights issues to Putin, the Presidential Administration, federal ministers, and security services. Both intermediary institutions provide officially sanctioned channels for collection of bottom-up initiatives and claims that can be taken into consideration by the Kremlin.

Whereas the Public Chamber incorporates pro-Kremlin civic groups, the Presidential Council paradoxically unites the human rights organizations that openly criticize the regime politics in some cases. Although such incorporation seems to disprove Gramsci’s thesis that the top-down consent, or cooperation with the state, is applied only for loyal groups, our analysis shows that the Council does not have any institutional power. Contrary to the incorporation of the Public Chamber into the administrative system (the State Duma, the federal government, and regional executive and legislative apparatuses), the Council imitates the state-civil society dialogue and thereby legitimizes the Putin regime as a democratic system. For example, according to the Levada Center poll, in 2015 the approval rating of the Council had increased to 3.17 points in the five-point scale among the all state institutions and even overtook the ratings of the Church (3.08) and political parties (2.95). This poll demonstrates that ordinary Russians perceive the Council not as a window dressing but as an influential civic institution. On the contrary, the Public Chamber is not included in the list of effective institutions: in 2014, according to the Levada Center, 53 percent of respondents knew about the Chamber’s existence and only 11 percent evaluated its activity as efficient and useful.

The All-Russia People’s Front (Obscherossiiskii narodnyi front)

Before the 2011 parliamentary and 2012 presidential elections, the United Russia ruling party experienced a sharp drop in approval rating from 51 percent in 2010 to 43 percent in 2011. The political opposition named United Russia as “the party of bureaucrats” or “the party of crooks and thieves.” Due to the declining popular support for United Russia, then-prime minister Putin established an additional civic mediating institution between the state and society, called the All-Russia People’s Front, in May 2011. He announced his decision at the United Russia Conference in Volgograd (former Stalingrad) on May 6, 2011, on the eve of the sixty-sixth anniversary of the Victory Day in the Great Patriotic War. According to Putin,

This form of consolidation among the various political forces [...] has been used and is still used in different countries at different times and by different political forces – the left, and what we have called the right-liberal, nationalist, patriotic. It is a tool for association of like-minded political forces. And I would really like [the consolidation of] United Russia, and some other political parties, trade unions, women’s organizations, youth groups, organizations, [...] including veterans of the Great Patriotic War and veterans of the war in Afghanistan. [I would like for] all the people, – united by common goals to strengthen our country, united by the idea for searching for the most appropriate solutions to the problems facing us, – [to act] in a single platform, let’s call it, say, the all-Russia People’s Front, because on the eve of May 9 and in Stalingrad, such rhetoric seems to me quite appropriate. The All-Russia People’s Front.

Under Soviet rhetoric of people’s unity against the common enemies, Putin called for the consolidation of his allies for a political purpose: victory in the upcoming parliamentary and presidential elections. According to Russian political expert Stanislav Belkovsky, Putin created the People’s Front in the image of the National Front of the German Democratic Republic (GDR), in which Putin served as a KGB officer in the 1980s. The National Front in GDR also consisted of the ruling party (Socialist Unity), as well as a few nominal opposition parties and many public organizations loyal to the government. In addition, Andrei Kolesnikov from the Carnegie Moscow Center finds direct parallels between Putin’s Front and Mussolini’s corporatist state, both of which sought to drive the whole of society into a corporation of professionals and civic activists loyal to the regime. At this point, both institutions represent a broad and “organic” national unity embracing different social groups “from the magnate of financial capital to the
last laborer." In the implementation of Putin's idea of the Front, Kolesnikov sees the principle enunciated by Il Duce in 1925: “Everything in the State, nothing outside and against the state.” This statement by Mussolini is consonant with the Hegelian idea of the ethical and external state, which, as has been shown above, made a significant impact on Gramsci’s conception of dual state.

Applying the corporatist strategy, Putin’s Front has united civil groups compliant with the regime. The Front organizations include the Union of Russian Women, the Federation of Independent Trade Unions, the Russian Union of Afghan Veterans, the Union of Pensioners of Russia, the interregional public organization of motorists “Freedom of Choice,” as well as youth movements, sport associations, and regional activists. Some members of the Public Chamber also have become coordinators of the Front programs. According to the Russian independent online newspaper Lenta.ru, 445 civic organizations joined the Front by June 1, 2011, less than a month after its establishment. Thus, the Front has become an institutional umbrella for many pro-Kremlin NGOs. This consolidation of civil groups under the state correlates with Putin's view on civil society as a patriotically united popular force helping the state in carrying out its social functions and maintain civic consent.

This top-down corporatist strategy increased Putin's political support before the 2011 Duma elections. As a result, about eighty deputies from the Front were elected. After the last elections in September 2016, the Front strengthened its positions in the State Duma; ninety activists became deputies. Although the Front candidates joined the United Russia parliamentary faction, not all of them became members of United Russia. Some of the Front activists were nominated for the elections from different pro-Kremlin parties, including Rodina, Just Russia, and Patriots of Russia. This non-party identity of the Front imitates party pluralism and civic representativeness in the Russian Parliament.

After the 2011-2012 parliamentary and presidential election, the Front transformed its function from Putin's campaigning organization to a “President's collective representative,” monitoring the implementation of the so-called “May Decrees.” Putin signed these decrees when he officially returned to his third presidential term on May 7, 2012. The decrees include instructions to the Russian Government to improve the socio-economic spheres (health service, education, science, housing and communal services), public administration, demographic and national policy, and the armed forces. The implementation of the decrees is planned to finish in 2020. In 2013, President Putin, then chairman of United Russia, became the leader of the Front, while Prime Minister Dmitry Medvedev assumed control of the party.

In order to monitor the implementation of the “May Decrees,” five working groups are organized within the Front central headquarters: “Society and Power: a Direct Dialogue,” “Education and Culture as a Basis of National Identity,” “Everyday Life Quality,” “Fair and Effective Economy,” and “Social Justice.” In addition to these groups, there are Front monitoring centers with specific policy areas: “For Fair Procurement,” “National Examination,” “For the Rights of Borrowers,” and the “Public Monitoring Centre for Ecology and Forest Protection.” Analogous to the Public Chamber, the Front offices were opened in all regions of the Russian Federation.

Although an informal institution, the Front assumes the functions of formal or constitutional institutions, such as federal ministers of the Russian Government, the regional governments, and the State Duma. Replicating the purposes of the other informal institution, the Public Chamber, the Front handles responsibilities including collection of legal and civic initiatives; public control over the state bureaucracy; protection from state corruption; and control over medical services; and management of ecological, housing, and communal problems. The Audit Department of the Presidential Administration receives and sends the government's reports on the implementation of presidential decrees to the Front. In turn, the Front activists analyze these reports in comparison with the real situation in Russian regions.

Working under the control of the Presidential Administration, the Front operates as a nominally democratic institution, neutralizing the threat from independent civil activists and political opposition. The popularity of the Front among Russian citizens significantly increased in 2015 reaching 60 percent.

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xiii The concept of the "ethical" state was developed in the interwar Italy by the Hegelian philosopher Benedetto Croce, whose ideas influenced both Gramsci and Mussolini. The difference between them is that for Gramsci the ideal ethical state is equal to a self-regulated society and should be created from civil society which expands its intellectual and cultural hegemony on the state and absorbs it. On the contrary, according to Mussolini, the fascist ethical state exists above society and "educates the citizens to civil virtue." See: Gramsci, Selections from the Prison Notebooks, p. 258

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In the eyes of Russians, the Front focuses on solving socially important issues rather than engaging in controversial political activity. While the Front plays the role of "safe opposition" to soften popular anger under the authorities, people do not see the necessity of any independent representatives in the state apparatus. Since the Front serves to counter the anti-corruption agenda of Putin's political opposition, including Alexey Navalny's Anti-Corruption Foundation, it becomes much more difficult for the opposition to criticize the regime and obtain popular support. Contrary to the opposition, the Front can act as both the controller of the bureaucracy and the civil organization loyal to the state power. In this sense, the Front is similar to the Committee of People's Control that existed in the Soviet Union and imitated a bottom-up control over the Soviet state apparatus.

Although the Front presents itself as a "popular movement" and non-party union of civil organizations, the Kremlin coordinates all of its activities. The Front sends all reports to the President's Control Department, which evaluates the information and transfers it to the Presidential Administration for final decisions. The coercive state apparatuses, including the Audit Chamber, the General Prosecutor's Office, the Federal Antimonopoly Service, and numerous other services, also checks the Front's information. Moreover, the Front leaders are personally connected with the state apparatus. The co-chairman of the Front's central headquarters is Alexander Brechalov who is also a secretary of the Public Chamber. Brechalov shares his chairmanship with two members of the State Duma (the United Russia faction) – film director Stanislav Govorukhin and journalist Olga Timofeeva. The other leaders include representatives of pro-Kremlin political parties (United Russia, Patriots of Russia, and Rodina), chairmen of influential trade unions, leaders of youth and veteran organizations, members of the Public Chamber, some state universities' provosts, and a few pro-Putin journalists. The selection of the Front leaders is held under the strict control of the Presidential Administration.

The Front's controlling demeanor creates a possibility for intra-elite conflict. On the one hand, there are ministers of the federal government and regional governors who are not interested in the Front's controlling practices, since the Front monitors the implementation of the presidential decrees by governors in the regions. Meanwhile, the Presidential Administration, interested in parallel control, is intent on supervising the Front activities.

Under Kremlin protection, the Front also monitors corruption within the state bureaucracy. The Front's project for fair procurement seeks to reduce wasteful and inefficient use of budget funds. With this project, the Front activists detect when any products or services are sold at unreasonably high prices. As of 2016, the activists have identified 600 suspicious purchases amounting to about 175 billion rubles. It was revealed that officials had spent anywhere between tens of millions to billions of rubles for luxurious cars, buildings, parties, air charters and their own public relations companies. As a result of the Front's investigations in 2014-2015, the governors of the Chelyabinsk, Volgograd, Bryansk, Novosibirsk and Sakhalin regions were accused of corruption, removed from office, and prosecuted. For example, the Front found out that the governor of Sakhalin, Alexander Khoroshavin, spent 850 million rubles of budget resources for repairs of government buildings and over 680 million rubles to create a favorable image of himself in the region. In January 2016, the top-manager of TransTelecom, a subsidiary of the state corporation Russian Railways, was fired because Front activists found that he had purchased a luxurious Mercedes-Benz S500 worth almost nine million rubles.

Such ostentatious bureaucratic "purges" seem to work for increasing Putin's legitimacy and authority in the eyes of the people. As the leader of the Front, Putin is perceived by the public as a zealous fighter against state corruption and a protector of the people's interests. In the Gramscian sense, these showy "fights" against corruption help Putin exercise hegemonic function by mobilizing public consent in favor of his personalistic power. As a mediating substitute between the state and society, the Front helps Putin to exploit a classical Russian archetype of the tsar as a supreme governor. In this sense, the Front conjures the possibility of average citizens bypassing the corrupt officials and directly reaching out to the tsar, who will accurately judge with justice and restore order. Indeed, the Front leaders have this opportunity to talk to Putin personally and inform him about the problems in the regions during periodical meetings and conferences. These meetings with Putin are always broadcasted by the state media. In the Gramscian perspective, Putin...
represents the Caesarist or patriarchal type of leader, who can solve any social issue since he exists above the law and formal institutions. Putin does not want to reform and democratize the existing political system; rather he wants to maintain his personal and direct connection with civil society groups via the People’s Front in order to legitimize the exercise of coercion against the corrupt bureaucrats who undermine the regime from within.

Following Gramsci’s conception, Adam Przeworski emphasizes that Putin’s “authoritarian equilibrium” keeps the balance between consent and coercion, by which “institutions function under the shadow of violence.” As Przeworski points out, Putin creates the Gramscian equilibrium not only to control the civil society that exists outside the state apparatus but also to gain autonomy from the state bureaucracy and repressive forces, including the Federal Security Service (the former KGB). Having popular support, Putin, as a KGB delegate in the Kremlin, is free from the influence of security services and bureaucratic apparatus. Thus, playing force and consent against each other, Putin increases his personal power and autonomy with regard to both the state apparatus and civil society. Therefore, the Front’s dual coercive and civic functions place Putin as the Front’s leader outside the state apparatus and reinforce his image not as a bureaucrat but as a “national leader” tightly connected with the Russian public.

STATE COERCION VIS-À-VIS CIVIL SOCIETY: THE LAW ON “FOREIGN AGENTS”

According to Gramsci, whereas consent can be established via institutional incorporation of compliant civil groups into the state, coercion “legally enforce[s] discipline on those groups who do not ‘consent’ either actively or passively.” In other words, coercion is applied when social consent cannot be achieved either ideologically or institutionally.

Putin’s popular support was undermined and hit 63 percent when he unexpectedly announced his plans to run for president a third time on September 24, 2011. In December 2011 and January 2012, mass street demonstrations broke out in Moscow’s Bolotnaya Square against the Duma fraud elections. Mass protests also occurred in the center of Moscow on May 6, 2012, the day before Putin’s inauguration. In the aftermath of these protests between 2012 and 2015, United Russia initiated a series of coercive laws against the public sphere and civil society. In particular, this new legislation included the Dima Yakovlev Law, ending adoption of Russian children by American citizens. The legal restrictions on meetings and demonstrations were tightened, allowing agents of the Federal Security Service to open fire on crowds. The State Duma also passed a law against LGBT propaganda and introduced legal regulations on bloggers and online media. The so-called “foreign agents” and “undesirable organizations” laws suppressed independent or foreign civil society groups. In this section, first I investigate the “foreign agents” law with specific attention to its controversial meaning. Then I analyze the ambiguous implementation of this law by examining three cases of independent human rights groups, including Memorial, Golos, and Agora.

The “Foreign Agents”: Who are they?

The so-called 2012 “foreign agent” law (officially Federal Law No 121-FZ “On Amendments to Legislative Acts of the Russian Federation regarding the Regulation of the Activities of Non-profit Organizations Performing the Functions of a Foreign Agent”) was signed by Putin and enacted on July 20, 2012 as an amendment to the 1996 Law on Non-Commercial Organizations (NKO). The 2012 amendment was initiated by Alexander Sidyakin, one of the “independent” Duma deputies elected in 2011 as members of the All-Russia People’s Front and the Front’s coordinator in the Volga Federal District in 2011-2013. He also introduced other coercive amendments restricting rights for public assembly and introducing criminal persecutions of protest participants. While Sidyakin as a civic activist for the Front was not associated with the ruling United Russia party, he introduced his proposal with the approval of the Presidential Administration, which wanted to protect the regime from politically active and
financially independent civic groups. According to Putin, “everything not directly related to politics should be excluded [from this law],” as the main purpose of the law “was to ensure that foreign organizations representing outside interests, not those of the Russian state, would not intervene in our domestic affairs.”

The law, however, gives vague definitions of “foreign agents” and “political activity” that can be applied to any civil organization and thereby opens possibilities for coercive state officials to abuse it.

According to Article 2, point 6 of Federal Law No 121-FZ, a “foreign agent” is defined as

any Russian non-commercial organization, which receives funding and other property from foreign states, their government structures, international and foreign organizations, citizens of foreign countries, people without citizenship, or their empowered representatives; or from Russian legal entities receiving funding or other property from sources indicated above (except for open joint-stock companies with state participation and their subsidiaries) […] and which is involved, including the interests of foreign sources, to political activities carried out in the territory of the Russian Federation.

The term “political activity” also has an ambiguous meaning. According to the law, non-profit organization, with the exception of political parties, is considered participating in political activities […] if, regardless of the goals and objectives set out in its founding documents, it is involved (including through financing) in organizing and conducting political activities in order to influence on the state decision-making process aimed at changing the state of their policies, as well as in shaping public opinion for the aforementioned purposes.

Thus, the new law requires NGOs to register as “foreign agents” if they receive funding from abroad and if they engage in “political activities.” In October 2012, the State Duma introduced a fine of between 10,000 and 30,000 rubles for officials and between 100,000 and 300,000 rubles for NGOs who have failed to register as “foreign agents.” Furthermore, according to the new amendments, the publishing or distribution of materials by NGOs in the media or on the Internet without the indication that this material is published by a “foreign agent” must be penalized for 100,000 to 300,000 rubles for individuals and 300,000 to 500,000 rubles for organizations.

The law requires additional reporting by organizations identified as “foreign agents,” which have to maintain separate records for expenditures of funds received from foreign sources. They must submit those records to the Tax Service and Ministry of Justice. These records include twice-yearly reports on their management team and their activities and quarterly expense reports (rather than annual reports required for other NGOs). The organizations also must conduct an annual audit.

The law empowers coercive authorities to carry out annual and unannounced inspections of “foreign agents” in the case of violations of this law or any other Russian law, or on suspicion of extremist activities.

The law on “foreign agents” is widely criticized by the representatives of independent human rights organizations and the Presidential Council for Human Rights. According to activists, by introducing the category of “foreign agents” to contemporary Russian legislation, the Putin regime conjures up memories of such Soviet terms as “spies,” “traitors,” and “fifth column,” increasing animosity within society. The label also has direct analogies to “enemies of the people” under Josef Stalin and “dissidents” in the Soviet Union of 1960-1980s. Therefore, the law creates a bad reputation and public mistrust for the organizations recognized as foreign agents.

Moreover, in May 2014 Putin gave the Ministry of Justice the power to add any organization to the list of foreign agents in accordance with the Ministry investigations even if the NGO refuses to register. Such extension of the coercive legislation gives the Ministry legal permission to conduct unplanned inspections of any non-profit group.

Disapproving with the “foreign agents” law, members of the Presidential Council for Human Rights are trying to introduce amendments to it. In particular, the Council disagrees with the definition of “foreign agents” and the vague category of “political activity” applied to NGOs. According to Mikhail Fedorov, a chairman of the Council, the human rights organization cannot be a “foreign agent” because it does not act on behalf of a foreign government and does not carry out the interests of another state or a foreign private fund. In October 2015, during his annual meeting with the Council, Vladimir Putin asked the Council and the Ministry of Justice to clarify the concept of “political activity.” According to Putin, “the rule prohibiting financial support of domestic political activities is implemented in the vast majority of foreign countries, [but] the very notion of political activity should not be blurred […] and should be uniformly understood.” This example of cooperation
paradoxically demonstrates Putin's attempt to continue dialogue with independent civic groups, even some of those identified and prosecuted as “foreign agents.” At the same time, in order to keep balance between the state and society, Putin instructed the Ministry of Justice to introduce its own amendments to the law.

Following Putin's permission, the Council for Human Rights introduced a new definition of political activity. According to the Council's proposal, "political activity of NGOs is their purposeful and systematic intervention in the interests of a foreign power in the activities of public authorities to develop and implement internal and external policies or obstructing such activities." The Council emphasized "purposeful and systematic intervention" rather than the broader “influence on the state decision-making process” presented in the original law. This elaboration concretizes political activity of NGOs only as their “participation in activities aimed at obtaining a specific result in the elections, a referendum, in the formation of election committees, referendum committees, and in the activities of political parties." From the Council's perspective, the current law not only denies the civil organizations' right to influence and control state politics but also does not help NGOs address social issues that cannot be solved without governmental assistance.

Despite the Council's proposal, in June 2016, Putin signed a new amendment, employing the Ministry of Justice's recommendations. As a result, the amendment identifies almost all forms of participation in public life as "political activity." The presidential support of the Ministry draft proves again that the Presidential Council does not affect state decisions and only imitates the state-civil society dialogue, democratically legitimizing the Putin regime.

Thus, the 2012 law on “foreign agents” created a boundary line between anti-state “politically active” and pro-state “socially oriented” civil organizations. This distinction is tightly connected with the Kremlin's ideological discourse based on the image of the internal and external enemy and the permanent situation of emergency. It helps the regime control civil society and manipulate public consent. According to Gramsci, the area of law lies between hegemony (consent) and domination (coercion), simultaneously applying coercion and producing particular moral and behavior standards. As Gramsci argues, law “exercises a collective pressure and obtains objective results in determining customs, ways of thinking and behaving, morals, and so on.” Therefore, legal restrictions of civil activities in Putin's Russia have not only coercive purposes but also ideological and pedagogical functions to “educate” civil society under a continuous threat of suppression.

Implementation of the “Foreign Agents” Law

The large-scale inspections of independent NGOs, sanctioned by the law on “foreign agents,” began in March 2013. These inspections were carried out by the prosecutor's office, the Ministry of Justice, the tax inspectorate, the immigration agency, and the Federal Security Service. As a result of these inspections, 215 of about 1500-2000 NGOs were identified as foreign agents because they were receiving foreign funding and were engaged in political activities. These NGOs included Memorial, the Moscow Helsinki Group, For Human Rights Movement, Golos, Agora, the Soldiers’ Mothers, the Levada Center, Citizens’ Watch, the Committee Against Torture, Social Verdict, Sakharov Center, and others. As of November 2015, the list of “foreign agents” included 101 NGOs, among which were not only "politically active" organizations, but also ecological, cultural, and scientific non-profit groups. By November 2016, 148 organizations have been included into the list of “foreign agents.” Only nineteen organizations successfully proved that they refused to receive foreign funding, and twenty-seven NGOs closed down when they were labeled as foreign agents. Among those who decided to close were prominent organizations such as the Moscow School of Civic Education and the Dynasty Foundation, both of which developed and supported various educational and research projects.

It is important to note that some independent civil organizations found different ways to avoid the new coercive legislation. Some groups appealed against the administrative sanctions and the “foreign agent” label in court while others bypassed legislation by changing the legal status of their organizations. Few NGOs did not want to continue their activity

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xiv In 2010 the Russian Government adopted the law on state funding for “socially oriented non-profit organizations” including to this category civic groups focusing on welfare assistance, activities in education, research, culture and arts, philanthropic activities to facilitate charity and volunteering, protection of environment, historical and cultural places, human rights and civil liberties, and prevention of socially dangerous behavior of citizens. According to the Russian Statistical Agency (Rosstat), the number of “socially-oriented NGOs” had reached 113,327 organizations in 2012. It means that roughly half of all active Russian NGOs can be classified in this category. See: Salamon, Benevolenski, and Jakobson, “Penetrating the Dual Relations of Government-Nonprofit Relations in Russia,” pp. 2196-2197.
and closed down their offices. Others opened a subsidiary abroad for the transferring of foreign funds or for seeking the possibility to register as commercial organizations. In this section, I analyze what strategies the independent civic groups, including Memorial, Agora, and Golos, employed to survive under the law and preserve their autonomy.

Memorial, a human rights and historical society, is one of the oldest civic organization in modern Russia. Officially established in the USSR in 1989, Memorial now has two structures. One is officially called the Russian Historical, Educational, and Human Rights Society Memorial or simply “Russian Memorial.” The second organization is International Historical, Educational, Charitable, and Human Rights Society Memorial, or the so-called “International Memorial.” Although both organizations are registered in Russia, International Memorial unites fifty-two organizations: forty-one in Russia, six in Ukraine, and the other five in Germany, Italy, France, Kazakhstan, and Latvia. Both Russian and International Memorials also carry out historical research, advocacy, and educational work.

In April 2013, members of the Prosecutor’s Office, Ministry of Justice, and the Federal Tax Service launched an inspection of Russian Memorial in order to find the sources of its financing. After the investigation, the Prosecutor’s Office issued an order for Russian Memorial to register as a foreign agent, but the organization refused the claim and decided to contest this decision in court. As a result of the trial, the Moscow Court recognized in May 2014 that the organization was engaged in political activities supported by foreign financing and ordered Memorial to register as a foreign agent. In October 2014, the Ministry of Justice appealed to the Russian Supreme Court with a claim to close down Memorial, but the Court rejected the Ministry’s claim.

As Russian Memorial refused the label of “foreign agent,” the Ministry of Justice continued to persecute and penalize the group. For example, in accordance with the law, the organization was fined 600,000 rubles in September 2015 for the publication of materials on its official website without marking them as “published by foreign agent.”

In October 2016, the second Memorial’s group, International Memorial, was officially recognized as a “foreign agent” by the Ministry of Justice. The main reasons for this decision were that International Memorial received foreign funding and actively participated in political activity by critiquing the “foreign agents” law, protesting against the involvement of Russian troops in the Ukrainian conflict, and openly discussing the murder of the leader of the democratic opposition Boris Nemtsov. According to Memorial’s lawyers, the Ministry of Justice’s accusation ignores the position of the Constitutional Court, which stated in 2014 that “in order to be treated as an organization performing the functions of a foreign agent, a nonprofit organization should be a Russian nonprofit organization, which means that international and foreign organizations, including their offices (branches) in the Russian Federation, may not be treated as organizations performing the functions of a foreign agent.” The International Memorial, as a foreign organization with its branch in Russia, perfectly satisfies the Constitutional Court’s statement. However, the Ministry of Justice wanted to crack down on Memorial for ignoring the Court’s authority. For instance, in December 2016, the organization was fined 300,000 rubles for its refusal to voluntarily register on a list of “organizations performing the functions of a foreign agent.”

The Memorial case shows that the organization has tried to bypass the existing “foreign agents” legislation and therefore has continued to contest the sanctions of the Ministry of Justice in court. At the same time, Memorial keeps some connections with the state. The civic group has its representative, Sergei Krivenko, in the Presidential Council for Human Rights and periodically receives presidential grants for its social programs. For example, in 2015, the organization received six million rubles for its refugee assistance project.

In contrast to Memorial, which continues to defend its existence in Russian court, Agora, a human rights organization, was liquidated by the court decision in 2016. Agora was registered in Kazan (Tatarstan) in 2005, and since then grew to become a human rights organization on a federal scale, bringing together thirty-five lawyers in forty regions to provide free legal aid and legal education. The Agora lawyers gave free legal aid to detainees at the street protests, journalists, and political activists. They defended the protestors detained during the above-mentioned mass demonstration on the Bolotnaya Square. The Agora represented the victim’s side in the lawsuit on the
murder of lawyer Stanislav Markelov and journalist Anastasia Baburova as well as in the case of beating journalist Oleg Kashin. Recently the Agora lawyers defended Oleg Sentsov, a Ukrainian film producer who was accused of terrorism in Crimea.xix

In 2014, the organization was put on the Ministry of Justice’s list of “foreign agents.” According to officials, Agora was engaged in political activities in the form of “public events” and “shaping public opinion,” receiving funding from foreign foundations such as the National Endowment for Democracy (NED), Freedom House, and the MacArthur Foundation.xx Facing this difficulty, the Agora activists did not want to work under the “foreign agent” label and stopped their activities. Instead of officially closing the NGO, they opened another legal entity, the International Human Rights Group Agora, which was not registered in Russia and thereby did not need to follow the Russian “foreign agents” law.112

On February 10, 2016, the Supreme Court of Tatarstan ordered the liquidation of the Human Rights Association Agora at the suit from the Ministry of Justice. As a result of an inspection conducted by the Ministry of Justice in September 2015, officials accused Agora of irregular general meetings, failure to audit its financial activity, overly simplified financial statements, and publication of nineteen materials on the Internet without stating that they were issued by a “foreign agent.” In addition, Agora activists were accused of refusing to register as a foreign agent and continuing to engage in political activity.113

The Agora case set the first precedent for liquidating an NGO in Russia. Nevertheless, the group activists found a way to skirt the “foreign agent” law by changing their legal status and registering the organization as an international human rights group abroad to avoid the Russian legislation. At the same time, Agora still maintains links with the state. For instance, the chief of the group, Pavel Chikov, still holds his membership at the Presidential Council for Human Rights, and the organization has received presidential grants in 2013 and 2014.

Golos, an election monitoring association, displays a different example of survival of an independent NGO under coercive pressure of the “foreign agents” law. Established in 2000, Golos became a prominent independent election watchdog in Russia with its activists observing elections on various levels – from local and regional to central, including parliamentary and presidential elections. From 2008 to 2010, Golos worked with leading Russian experts on the creation of the new Electoral Code of Russia. In 2011 and 2012 activists from the group revealed numerous violations during the Duma and the presidential election.xxi

The state crackdown on Golos began between February and April of 2013, when the Federal Tax Service carried out inspections of the group’s headquarters in Moscow and its branches in Samara, Chelyabinsk, and Novosibirsk. During these inspections, many Golos activists were summoned as witnesses to a “tax crime.”114 The inspection team that consisted of officers from the Center for Combating Extremism found that the organization received funding from the National Endowment for Democracy. As a result, the Ministry of Justice included Golos on the list of foreign agents. The Ministry also recognized the Sakharov Prize of 7,700 Euros, which the group won in 2012, as foreign funding and the draft of the Electoral Code of Russia as a political activity. When the Golos activists refused to register as “foreign agents,” the Ministry of Justice suspended the association’s activity for six months and fined them 300,000 rubles for rejecting the new law.115

In order to avoid the prosecution, Golos activists changed the legal status of the organization, transforming it from an “association” into a “movement for the voters’ rights” with the same name. This allowed them to justify the refusal to register as a foreign agent. In September 2014, the Moscow City Court questioned the judicial acts against the association and its executive director. Subsequently, the Ministry of Justice returned the fines while the “foreign agent” status remained in force.116 This status allowed the Ministry of Justice to continue itspressive actions against Golos: in April 2016, as a result of new inspections conducted by the Ministry officials and Roskomnadzor (the Federal Surveillance Service for Mass Media and Communications), Golos was fined 1.7 million rubles. The court accused the organization of publishing of materials on the Internet without marking them as “published by a foreign agent.” According to Grigory Melkonyants, co-chairman of

xix See Agora’s official website: http://en.agora.legal/
xx According to the 2015 law, these NGOs along with few other international civic groups were blacklisted by prosecutors as “undesirable” organizations, as they pose a threat to constitutional order, defense capacity, and security of the Russian Federation. See: “Russia begins blacklisting ‘undesirable’ organizations,” Amnesty International, July 28, 2015. https://www.amnesty.org/en/latest/news/2015/07/russia-begins-blacklisting-undesirable-organizations/
xxi See Golos’s official website: http://www.golosinfo.org/ru/about
Golos, since the organization has no ability to pay the fine, the penalty will be doubled, which will inevitably lead to the destruction of the organization.117 As a result, in July 2016, Golos was liquidated by the court's decision. It happened right before the Duma elections which took place in September 2016 and during which Golos planned to monitor the polling stations. However, despite the destruction of its institutional and regional structure, Golos continues its activity as a social movement.

The Golos case shows the paradoxical combination of crackdown and cooperation with the state. For instance, in 2014 and 2015 Golos received two presidential grants for the implementation of its project “Time for Fair Elections.” Moreover, like Sergei Krivenko of Memorial and Pavel Chikov of Agora, Lilia Shibanova, a Golos chairwoman, became a member of the Presidential Council for Civil Society and Human Rights.xxii

From the Gramscian perspective, our case-study demonstrates that the state applies the consent-coercion dual politics vis-à-vis independent civic groups. On the one hand, the law gives unlimited power for the coercive state apparatus (including the Ministry of Justice, the Federal Tax Service, Roscomnadzor, the prosecutor's office, and the courts) to conduct inspections of any non-profit groups carrying out political activity and receiving foreign funding. By doing this, the Kremlin systematically and consistently squeezes the independent organizations out of legal and political space. However, in response to such crackdowns, some NGOs refuse to voluntarily register as foreign agents and try to avoid the state's oppressive measures against them. At the same time, the state tries to co-opt these NGOs by providing presidential grants and institutionalizing them into the top-down mediatary substitute, the Presidential Council for Human Rights. Such representation gives these organizations the opportunity to use available space in order to defend their autonomy and continue their activity. In turn, the Russian leadership seems to pursue two main objectives. It replaces the foreign funding of these organizations with domestic ones in order to break their international links. At the same time, the Kremlin initiates dialogue with these civic groups and thereby legitimizes the regime's authoritarian practices.

xxii See members of the Presidential Soviet here: http://www.president-sovet.ru/members/constitution/

CONCLUSION

This research demonstrates how Gramsci's conception of a dual state, which combines consent (hegemony) and coercion (domination), allows us to analyze a more nuanced picture of the state-civil society relations in Putin's Russia. The Gramscian perspective reveals that Putin's dual state is not a classic form of dictatorship or authoritarianism but rather a hybrid political system with weak and ineffective bureaucratic institutions. Formed as a result of the unfinished post-Soviet democratic transition, or “passive revolution,” Putinism does not resolve the “organic crisis” of the 1990s with its corruption, oligarchy, lawlessness, and de-politicization of citizens. Putinism appears from the top down as a “reactionary Caesarism,” a personalist leadership that preserves its status quo without democratizing the political process. During Putin's presidency, the “political gap” of the 1990s was filled by hybrid or quasi-institutions, imitating democratic procedures and mediating the relations between the state and civil society.

These mediating institutions, including the Public Chamber and the All-Russia People's Front, have the purpose of incorporating civic groups into the power vertical and providing the opportunity for the state to penetrate into the realm of civil society. A close analysis of the People's Front displays how this “popular movement” and Putin’s “collective representative” combines different mediating functions. Operating as an “umbrella group,” the Front incorporates pro-Kremlin civic associations and “socially oriented” NGOs into the state. As a “nominally democratic institution,” the Front imitates bottom-up social activity (public control over the state bureaucracy, participation in the election) and thereby excludes independent civic groups and non-systemic opposition from politics. Playing the role of a para-constitutional institution by existing outside of legal restrictions of the Russian Constitution, the Front legitimizes Putin's personal power, allowing him to manually regulate intra-elite conflicts. As a substitute, or “informal substitutive institution,” the Front exists in parallel with weak political institutions (the State Duma, United Russia, and federal ministries) and carries out part of their functions (law initiatives, control over the implementation of presidential decrees, and participation in electoral process at the federal and regional levels). Finally, the Front gives Putin the role of an arbiter who maintains
authoritarian equilibrium between the state apparatus and civil society.

On the other hand, as my research reveals, the Kremlin applies coercive practices vis-à-vis grassroots civic groups which do not consent with the regime and have a potential to threaten its legitimacy. However, Putin’s hybrid regime does not reflect the Soviet authoritarian model of full state domination over independent NGOs through the direct monitoring of their internal workings. Instead, Putin’s Russia exercises coercion (domination) in order to restrict the financial independence of these civic groups and to isolate them from political activity. By implementing the “foreign agents” law, the regime not only tries to suppress the independent civic organizations but also creates their negative public image of “traitors,” “spies,” and “fifth column.” This image of the internal enemy matches up with the anti-liberal and anti-Western discourses propagated by the Kremlin-controlled media. Moreover, as my case study of Memorial, Agora, and Golos illuminates, the government also institutionalizes and incorporates these NGOs into the state. Such politics creates the paradoxical situation where, on the one hand, the grassroots civic groups are prosecuted by the state coercive apparatus, but on the other hand, they have representation in the Presidential Council for Human Rights and periodically receive presidential grants.

This duality gives independent NGOs an opportunity for autonomous maneuvering and thereby opens the door for possible contention with the state. Gramsci defines this process as a “war of position,” or gradual resistance of civil society to the state hegemony. Some elements of the “war of position” can be seen in form of the civic resistance to the state crackdowns legalized by the “foreign agents” law. As has been shown, Memorial continuously contests the sanctions by Ministry of Justice in the courts, while Agora, even before its legal liquidation, registered abroad and worked as an international human rights organization. Golos changed its legal status from “association” to “social movement.”

My analysis also reveals the existing tensions and potential conflicts not only between independent associations and the state but also between the Kremlin-organized informal civic substitutes or nominally democratic institutions (the Public Chamber and the All-Russia People’s Front) and formal or constitutional institutions (the federal and regional state bureaucracy). For instance, the Front’s anti-corruption monitoring activity may cause intrasystemic conflicts between the Front’s coordinators in the Presidential Administration and bureaucratic agents, including federal ministers, United Russia functionaries, heads of state corporations, and regional governors. This observation seems to prove Gandhi and Przeworski’s argument that the nominally democratic institutions in modern authoritarian regimes not only legitimize autocrats’ power but can generate threats to the regime by making policy concessions and distributing spoils. Therefore, as long as Vladimir Putin is able to maintain the equilibrium of consent and coercion both within the bureaucratic apparatus and between the state and civil society, the possible transformation of the political system cannot be initiated either by the elites from above or by civic groups from below.

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FROM CANADA

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ABSTRACT
Adding to the current body of research on the social meaning of remittances within la-
bour diaspora, this research studies Filipino live-in caregiver mothers (FLCMs) in Mon-
treal, Canada. This paper concludes that remittances act as a fee to maintain mem-
bership and as a symbolic medium of building intimacies among mothers and children,
reaffirming the roles remittances play within familial and cultural norms of FLCMs. Re-
mittances remind mothers of their membership to their family in the Philippines, fuel-
ing their sacrifices and reinforcing their responsibility towards their children. The find-
ings suggest the need for imparting financial literacy to migrants and their families as one
of the sustainable ways to combat socioeconomic inequality. This inquiry is especially
insightful given the salience of contemporary political trends of global labor migration.

INTRODUCTION
Having lived in the Philippines during my childhood years, I became conscious of the
struggles and challenges that the Filipino diaspora community faced, particularly those of the
Filipino live-in caregiver mothers (FLCM) in Canada. The FLCMs work in high demand, reproductive work
such as being caregivers for senior citizens or nannies for children. Canada enacted the Live-In Caregiver
Program (LCP) in 1992 as a solution to the shortage of women working in the reproductive sector.

Since 2014, modifications to the program have
given caregivers a choice to fulfill their aspirations of residing on their on. The recent changes also ended
the direct pathways for applying for permanent residency. New caregivers and caregivers currently under
the program can obtain permanent residency if they offer childcare or if they have high medical needs.\textsuperscript{1,2}
Important prerequisites for these programs include a minimum of two years of Canadian work experience
as a home childcare provider, registered nurse, registered psychiatric nurse, licensed practical nurse, nurse
aide, orderly, patient service associate, home support worker, or other similar occupation with a work per-
mit. Workers are accepted to this pathway only if they have completed a one-year Canadian post-secondary
credential or equivalent foreign credential.\textsuperscript{3} The aging population has created a persistent demand for labor
in the reproductive sector. Like other immigrants who work abroad, FLCMs immigrate for better economic
opportunity, upward social mobility, and, to some ex-
tent, political and social freedom that they seldom ex-
perience in corrupt states.

However, these groups of women face structural
constraints in their everyday life.\textsuperscript{4} The literature as-
sumes that women who work abroad obtain rewarding jobs and accrue enough capital through remittances,
which are money earned or acquired by non-nationals that are transferred back to their country of origin, to
eventually build a house or start a business in their home country through remittances.\textsuperscript{5} Remittances are
also assumed to disrupt customary gender norms.\textsuperscript{6}
Sending money while sacrificing physical intimacy may even make a woman seem like a good mother.
For the immediate and the extended family, working abroad helps to accrue status, pride, and respect through remittances. Yet, all these benefits come with daily consequences. Economic constraints come with financial pressure from the country of origin to remit. Socially, remittances mediate family separation, yet they do not fully solve family challenges such as a broken conjugal relation or family separation. Remittances also offer a tool to resist and reclaim pre-migration social status of having a stable job and source of income; however, migrants still face precarious legal status, and the FLCM, have become, what this paper will refer to as, victimized labour diaspora.

The paper argues that FLCMs are a victimized labour diaspora who prioritize their family through remittances even when constantly oppressed, marginalized, and discriminated. Migrants send remittances to their families in their home countries, and this financial inflow contributes to the phenomenon of international capital flows. FLCMs' victimization directly challenges the assumption that the prominence of women in migration and labour participation brings equity and empowerment.

This paper views remittances as strategy for coping with the victimization and the economic, social, and political structural constraints that FLCMs face while living and working abroad. Coping strategies are defined in psychology as behavioral and psychological conscious efforts of an individual to master, tolerate, reduce, or minimize stressful events. Resistance or the act of defying social scripts is linked to James Scott's weapons of the weak in which subgroups or lower classes (i.e., peasants) of a given society resist the inequalities they experience. Scott states that the peasants he studied resisted informally by gossiping, by petty theft, and by reducing efforts at work against the unfairness and inequality. He argues that they engage in everyday resistance, and hence, they do not consent to the dominance of the patron over them. This theory does not undermine formal resistance like the formation of lobby organizations. It reinforces that resistance is a conscious effort to deal with unchangeable structural constraints and structural victimization that groups experience in their everyday life. While the examples may appear more like pettiness and laziness, Scott argues that informal resistance is more accessible to peasants and, in this case, to the domestic workers who may not have a time to collectively organize or form a union. Through informal resistance, domestic workers avoid directly confronting and challenging the status quo.

This paper emphasizes the role remittances can play in the life of FLCMs and the problems these migrant women encounter in sending money to their family. By remitting money back to the Philippines, migrants feel like they reclaim their pre-migration social standing; however, remitting abroad is psychologically and physically burdening because migrants need to work two or three jobs to meet the expectations of constant remittance. Remitting becomes the fee migrants pay to maintain their membership in their countries of origin. It is also a symbolic medium of building intimate ties between the migrant mothers and their children. FLCMs are a victimized labour diaspora because remittances become an obligation and make mothers feel like they are trapped in a cycle of social scripts.

Conventionally, under the New Economics of Labour Migration (NELM), migration is a household strategy for the purpose of income diversification. It is based on a rational choice and cost-and-benefit calculation of migration. When a worker migrates abroad, he or she takes part of an implicit contract with his or her household. This contract entails that remittances will be sent back home.

This research redirects attention away from dominant micro-economic benefits of remittances and towards the migrants as the remitters. The literature on remittance studies has been focused on its effects on countries of origin. Migrants are conceptualized as "shadow households." Migrant mothers in particular perform this role of shadow households because they are expected by their families in the receiving country to care and to mother from afar. Migrant mothers shadow or oversee their household from afar. The transnational and labor diaspora senders in their host countries have been overlooked and neglected, and their characteristics and remittance processes have been under-researched.

Another form of resistance that supposedly fits the genuine resistance criteria of Scott is the creation of formal civil society organizations (CSOs) that function as advocacy groups. Tungohan's research explains that Filipino Live-In Caregivers try to negotiate their victimhood using political actions and mobilization as their Coping Strategy to Victimization (CSV). Yet, current CSOs for Filipino nannies and domestic workers in Canada lack coordination and program-
matic goals, agendas, and strategies. For example, the National Alliance of Philippine Women in British Columbia, Ontario, and Quebec, the Migrant Workers Family Centre in Hamilton, the Migrante Canada, the Immigrant Workers Centre in Montreal, Caregiver Action Centre in Toronto PINAY in Montreal, and the Migrante International all lobby for policy change in favour of better treatment and working conditions of LCPs. Some of these associations are experts in awareness campaigns while others have a greater bargaining ability with the provincial and federal governments, but they often lack collective political action, cohesion, and unity. These advocacy groups provide a place of belonging and raise consciousness on migration issues. They also provide free or cheap legal aid, paralegal, counselling, and immigration consultancy services to domestic workers. However, a lack of funding, resources, and manpower have hindered their efficient resistance.

**RESEARCH DESIGN**

The Three-dimensional human well-being approach or simply the 3D-HWB, conceived by the Economic and Social Research Council’s (ESRC’s) Well-being in Developing Countries or WeD network and the Oxford Poverty & Human Development Initiative (OPHI) from their five-year multi-country research in 2007, is crucial to the methodology and the theoretical argument of this study. This approach is chosen because it incorporates the subjective dimension of well-being, defined as the meanings people give to the goals they achieved. McGregor defines the approach as the interplay between “the resources that a person is able to command; what they are able to achieve with those resources and what needs and goals they are able to meet; the meaning that they give to the goals they achieve and the process in which they engage.” It focuses beyond the incomes and narrow human development indicators such as the Human Development Index (HDI) by considering three dynamics among interacting dimensions (3Ds): material well-being, subjective well-being, and relational well-being. It gives importance to the perceptions, experiences, and relationships of individuals. Research by Gough, McGregor, White, Sumner, and Wright summarizes the 3D-HWBs in the following way: the objective dimension deals with practical welfare and standards of living, the relational dimension refers to the individual’s personal and social relations, and the subjective dimension concerns values, perceptions, and experience.

The subject level of analysis uses social processes as a setting to analyse the discourse and scripts, which institutional agencies have propagated, the migrants use. The subject level of analysis acknowledges women’s dislocation, and Parreñas believes that, perspectives of migrants are to be considered through this lens. Wheedon clearly defines this notion as “the conscious and unconscious thoughts and emotions of the individual, her sense of self, and her ways of understanding her relations to the world.” In the context of Filipina domestic workers, these self-evaluative thoughts include the perception of being racialized women, low-wage workers, or college/university educated women from the Philippines. The subject level of analysis also enables a researcher to analyze the intersection of race, class, gender, sexuality, and nationhood that affirms the multiplicity of the self.

The subject level of analysis allows for further understanding of the twofold reality of migration: one consists of the formation of the self while the other is the resistance to dislocation. These new insights are significant given that, as Parreñas recognizes, the average Filipina domestic worker views her migration process based on the justifications of her dislocation rather than on the global structural constraints such as patriarchy and global capitalism. Parreñas claims that dislocations are the defining characteristics of the FLCM experience. In The Kitchen Spoon’s Handle by Ruth Gamburd, this concept of social meanings and symbolic meanings are significant in analysing Nae-aeagama women’s migration experience.

**LITERATURE REVIEW**

Theories of International Migration

Theories of international migration studies often neglect the role of the state that produces and shapes the process through immigration policies and institutionalized bureaucracy related to migration. For instance, Neoclassical Economics explains that developed countries attract migrants because they offer a positive net return to the individual migrants in a rational cost and benefit calculation. Yet, this macroeconomic theory does not directly account for different state actors. The New Economics of Migration is a rational choice theory that acknowledges migration as a household strategy of maximizing income for exiting a poverty trap. Alternatively, Segmented Labour Mar-
ket theory explains the migration process by focusing on the pull factors that the permanent labor demand of modern industrial societies has created. These pull factors essentially translate to the need for low wage workers, but this theory includes the states only when migration recruitment programs are mentioned.

An additional set of theories focuses on a set of structural factors, albeit to varying degrees. Articulated in the 1950s, world systems theory explains the migration process as a result of unequal political and economic structures of the developed (core) and the developing or underdeveloped countries (i.e., periphery and semi-periphery). Followers of world systems theory believe that migration is neither an individual decision nor a household strategy but a response to the product of the structural outcome of market expansion. Here, the state is integrated only when it deals with market expansion, political power, or other capitalist interests of the government. Conversely, the social capital theory explains structural links such as the memberships gained from networks and social institutions both in countries of origin and destination. Lastly, the theory of cumulative causation explains the personal, social, and economic changes that migration brings to an individual and her community.27 Here the role of states is left behind or only deals with receiving countries.

Overseas Filipino Workers and the Role of the State

This section aims to trace the emergence of Filipino labour diaspora by relying on historical analysis to understand the role of the state in fostering emigration from the Philippines. Milton Esman defines diaspora as “a minority ethnic group of migrant origin, which maintains sentimental or material links with its land of origin.”28 Diaspora studies in the 1980s and 1990s surfaced as a sociological approach to account for international migration and assimilation. Diasporas are believed to not have assimilated into their host country and consciously share a collective memory because they formed an imagined community as overseas Filipino workers. James Clifford adds that diasporas maintain links to their homeland with the desire for eventual return nurtured by a shared and an imagined community.29

During the American occupation of the Philippines, Filipino immigration to the United States of America became the locus of international migration in the country. Filipinos immigrated to the United States through two pathways: as low-skilled, cheap agricultural labourers and through skilled training programs like the pensionado programs, which experienced minimal intervention from the Philippine government.30 It allowed private actors and recruitment agencies to facilitate the migration of Filipinos to the United States. For example, the Hawaiian Sugar Planters’ Association recruited Filipino low-skilled, cheap labourers who worked as houseboys, chauffeurs, and hotel workers in Hawaii and the U.S. West Coast from 1910 to 1930.31 The Filipino elite in the Philippines became the ward of the U.S. colonial apparatus, gaining roles and ranks in the civil service and in government institutions. They sent their sons to American universities through the pensionado program to be educated in the American Western tradition and spread the principles of the “American Dream” upon returning to their home country. The migrants were supposed to come home and uphold the liberal ideals of life, liberty, and the pursuit of happiness in the Philippines. The college educated nursing professionals also immigrated to the United States to be trained in American institutions under the U.S. Exchange Visitor program of 1948. The American rulers framed this broad migration process as a form of benevolent assimilation, which aimed to assimilate foreign people into a new culture as an act of benevolence.32 This colonial legacy of the U.S on the immigration structure in the Philippines became the backbone of the present-day immigration.

Robyn Rodriguez argues that the Philippines, under the 1946 regime of Ferdinand Marcos, officially became a labor broker that facilitated exports of migrants around the world. It began when Marcos implemented a neoliberal policy of Export-Oriented Industrialization.33 This was heavily promoted by the IMF and the IBRD/World Bank to solve the balance of payments deficit and the unemployment in the country. Under his administration, he institutionalized his labor export policy known as the “warm body export” with the Presidential Decree 442 that formed the Overseas Employment Development Board (OEDB), the Bureau of Employment Services (BES), and the National Seaman’s Board (NSB). These agencies served as promoters, regulators, and supervisors of private recruitment and placement agencies.34 The government created these pragmatic institutions and the emigration process as an economic stabilization strategy. Forced remittances essentially commodified
cheap, low-skilled temporary laborers by enforcing a rhetoric that sending money back to the Philippines is part of the migrants’ obligation to their family and the country. Furthermore, state agencies and bureaucracy institutionalized state migration offices to control the flow of migrants. Sending remittances to the Philippines became mandatory in 1983. Through the end of the 1980s, Philippines became even more reliant on foreign loans from the International Monetary Fund. Structural Adjustment Programs, meaning privatization of state-owned corporations and deregulation of the market, were implemented to reduce the country’s fiscal imbalances. Former President Ferdinand Marcos ordered an Executive Order mandating that all Filipinos living and working abroad send remittances to the Philippines through the Philippine banking system. These accumulated remittances helped to pay the total foreign debt of $42.8 billion that the Philippines accrued under Marcos’s dictatorship. In 1982, all the existing migration agencies were consolidated into one agency now called the Philippine Overseas Employment Administration (POEA).

The POEA is a highly centralized and institutionalized state bureaucracy that promotes and manages Filipino labour migrants in two distinct ways. The manpower companies appealed to the hardworking Filipinos. These companies marketed them as viable solutions to labour shortages in developed countries from 1978 to the mid-1990s. The POEA humanized the labour migration industry by creating the Overseas Workers Welfare Administration (OWWA) but continued to commodify them as the state actively “sold” this marketing strategy of hardworking workers to the rest of developed countries in their bilateral agreements. Thus, Rodriguez argues that all Filipino Overseas Workers are commodified labourers of the Philippine state.

Rhetoric of OFWs as New National Heroes

Following Robyn Rodriguez’s conception of the Philippines’ immigration policy as labor brokerage, the Philippine state targets prospective migrants and migrant returnees, since the state views labour migration as not only a diaspora strategy but also as a development strategy. Even before leaving the Philippines, an individual who decides to become a migrant worker is trained to think and act like a migrant. The worker must attend pre-departure migrant training, where the state reminds individuals of their obligations to remit, and briefs migrants on the receiving country’s applicable laws and jurisdictions. From the state’s active participation to craft OFWs’ national membership, and patriotic adherence, emerges migrant citizenship. A migrant’s first duty as a Filipino citizen is to send remittances.

To expand on this, this section will highlight the evolving discourse on the Filipino migrant, with a focus on the balikbayan (nation returnee), the bagong bayani (new heroes), and the “heroes’ welcome.” This section will outline how the government invested heavily in a new governmentality.

The balikbayan (nation returnee) program started in 1973 under the Marcos regime. It encouraged Filipino permanent residents and expatriates who went to United States to study under the Exchange Visitor Program and the pensionado program, through special privileges for those who returned to their home country. For example, they were allowed to bring tax-free balikbayan boxes full of goods, and they could purchase land and invest in the Philippines. This special allowance disseminated the clear class division between the well-off expatriates, the land-owning elites of pensionado programs, and the rural poor.

In 1998 under President Cory Aquino, the debates on bagong bayani (new heroes) became the prevalent discourse. The discourse acknowledged the sacrifices, suffering, blood, and sweat of the OFWs. It also explicitly informed the population of OFWs’ roles as agents of national development, since remittances promoted economic growth. Rituals and activities such as the “Month of Overseas Filipinos,” and the “Migrant Heroes Week,” began to be nationally celebrated. Under former president Gloria Macapagal-Arroyo, this “new heroes” discourse extended to a new type of migrants, Overseas Filipino Investors (OFIs). The OFI program encouraged well-off residences, or citizens of receiving countries, to maintain their ties to the Philippines as investors through foreign direct investment or by owning businesses in the Philippines.

Key to Prasse’s rebranding of the penitentiary was Presently, when most OFWs return in December to celebrate Christmas, the government hosts a “heroes’ welcome” at the Ninoy Aquino International Airport, a ceremony that began during the presidency of Fidel Ramos in 1993. The evolving discourse surrounding the Filipino remitter indicates the high degree to which the government has propagated a specific conception of migrant citizenship. Specifically, it expects...
OFWs to perform their duties by sending remittances, returning during their vacations, and investing their money in the Philippines.

The latest POEA statistics from 2013 estimates 10,238,614 OFWs around the world. On average, 3,400 Filipinos leave the Ninoy Aquino International Airport every day to become OFWs. These figures average to over one million OFWs per year, in relation to the country’s 2010 population of 92.34 million. These figures endow the Philippines with the largest global diaspora after Mexico.

Canada’s Immigration Policy: A Solution to Labour Shortages

Canada’s immigration policy has favored employing overseas workers to fill labour shortages, as opposed to closing the borders to immigrant workers. In the 1960s, its immigration policy focused on a selection process based on correcting occupational imbalances according to a points system, with the goal of meeting short-term labor market needs. The Live-In Caregiver Program used to be distinct from the Temporary Foreign Workers program because live-in caregivers could apply directly for permanent residency after twenty-four months of continuously working with the same employer. Now, they can be classified as Temporary Foreign Workers because, after their twenty-four-month quota, they can apply to another pathway of health professions. Although elaborate, the attempts of both the Temporary Foreign Workers and Live-In Caregiver workers programs were hindered due to labor market discrimination and a lack of credential recognition. Canada enacted the Live-In Caregiver Program in 1992 to solve the shortage of women working in the reproductive sector, which includes caring for children, the elderly, the disabled, and the sick. Women could conditionally immigrate to Canada by working continuously as Live-in caregivers for twenty-four months.

The Market: Gender-Remittance-Development Nexus

The global market commodifies the Filipino women who migrate primarily to send money home. Intersectionality among gender, remittances, and development is significant here because an examination solely of gender cannot fully account for the inequalities that remittances try to resolve. Migration in the Philippines is gendered because patterns of migration are shaped by, and rooted in, gender roles. Per the conventional narrative, live-in caregiver mothers from the Philippines migrate as social agents through their own will. They have decided with their households to use migration for better employment opportunities. They send money back to the home country to better their families’ menial conditions. With respect to remittances, women are supposedly better at remitting, less corrupt, and more altruistic than their male counterparts. Thus, Filipino women who work abroad play an important role in the development process.

METHODS

While interdisciplinary, this paper employs a primarily anthropological method of ethnographic research. The words and the worldview or understanding of migrants interviewed are taken to reflect reality. This approach gives migrant women voices in the literature of gender migration, but interviewees’ experiences may not fully reflect all women’s labor migration experiences. Fourteen Filipino live-in caregiver mothers were chosen to participate in this research. Seven were individually interviewed, and seven other individuals completed a questionnaire due to conflict with scheduling and the time constraint of the research study. All participants send regular remittances to their households in the Philippines to support their children and entire extended families. They came to Canada under the LCP and have been working in Montreal as live-in caregivers for an average of 4 to 5 years.

This study is explorative in nature. Thus, the applicability of informants’ responses to all other LCP workers is barely considered. Each section of the analysis will follow one informant, whose personal story echoes that of others. Survey questions and qualitative one-on-one in-depth interviews were conducted for this research. Semi-formal and individual interviews were chosen to allow informants to contribute questions, and to ensure an open-ended flow during the interview. The interview topics centered on notions of live-in caregiver shared identities, motherhood, obligation, responsibility, sacrifices, the motivation for migration, reasons for remitting, structural constraints, and personal victimization experiences. These survey questions and interviews were analyzed using the human well-being approach, the victimized labor diaspora notion, and a discourse analysis approach.
ANALYSIS
Shared Structural Victimization: Shared Mentality and Reality
Filipino Live-In Caregiver mothers (FLCM) are recruited to work in Montreal because of their personality and character. They are docile, accepting, and unthreatening. From the onset of their migration process, FLCMs are stereotyped as perfect caregiver migrants. For example, FLCMs are described as hard-working, caring, loving, and patient, all positive attributes. These stereotypes, however, diminish these women’s individuality by placing them in a group. They are viewed as one of the live-in caregivers. All of the fourteen women interviewed perceived themselves as caregivers. They embodied the stereotypes given to them in a cause and effect relationships.

Remittances affect women’s social construction of identity by following the rhetoric of sacrifices and responsibility. FLCMs work hard to obtain money, which they remit back to the Philippines, perhaps so that their families can eventually emigrate to Canada. Working in Canada as domestic workers, however, means that migrant women must endure prolonged separation from their families. They are placed into precarious legal status and experience downward social mobility. Remittances help these migrant women to momentarily break this cycle of structural victimization. By sending money back to the Philippines, they feel able to maintain their membership to their families and build their sense of intimacy.

When asked why they initially migrated to Canada, FLCMs provided answers that point to even-more-reduced individuality. This shows that migration is a rational household strategy, as opposed to an individualistic, self-seeking strategy. Ligaya states that she migrated to Canada for the possibility of affording to send her three children to school. Her occupation as a nanny is a household strategy for her children to have a better future through their education. The sacrifice of working abroad and being physically away from immediate family for their families’ benefit drives them to endure the average four years of separation as live-in caregivers. Sacrifice also means a financial obligation to extended family. When asked why they chose Canada as a place to work, most respondents said that Canada offers a better life for their family. This obligation to give a better life to their children is one of their duties.

Remittances as CSV: Familial and Cultural Reaffirmation
Maintaining Membership
The need for familial reaffirmation is a priority to my informants. They do this by sending remittances to their extended family in the Philippines. I interviewed Malaya Santos, a forty-five-year-old mother who left her 16-year-old child in the Philippines for Israel in 1993. She cleaned houses and nursed babies for fifteen years until she decided to migrate to Canada in 2000. In Canada, she works as a caregiver. When I asked her to compare living in Israel and here in Canada, she described:

In Israel, I was much happier. There was no tax so my remittances were bigger. Here in Canada, life is very redundant. I go to work in a house, then go back to work in my house. I do the same thing five days a week. The only benefits of being here are that I get to be with my family. In Israel, I could not apply for an immigrant status, which I did here in Canada. But, I am content here with my family because we are finally together.

Her story demonstrates the physical desire to maintain membership and remain with her family. While being a caregiver in Canada, Malaya has been with two employers. Her first employer abused her physically and emotionally to the extent that she did not pay her for working five consecutive weeks as child caretaker of three children. Her employer manipulated Malaya by issuing bouncing checks on three occasions and decided to dismiss without valid reason. Malaya decided to report her employer to the Minister of Labour and the case has been under investigation at the time of this article redaction.

When asked how remittances may assist her extended family since her family permanently lives in Canada now, she replies:

I send money to my mom when there are family emergencies. These include hospital bill payments for my mother, (abusol) financial alms and offerings for the funeral of a relative who have passed away, for the reconstruction of houses of my titos and titas (aunts and uncles), and for special occasions like birthdays. I am glad when I helped out because all the struggles here are worth it. Sometimes my help comes from a sense of pity to my family. Nakakaawa naman sila or I pity them. I feel obliged to give something... What would others [my neighbours] say if I do not send money? In the end, it comes out of love, so it is all good.
Malaya’s story reflects the embedded importance of maintaining membership and belonging to the external family. Through remittances, she signals her presence to her relatives in need, and she becomes a valuable member of her family as they seek her in times of emergency. This means that she is no longer defined by her experience of victimization, rather her identity lies on her altruistic behaviour and her obligation as members of her extended family to send remittances to them. This obligation also becomes a source of tension between her and her extended family because they have unrealistic expectations of her ability to send money. For instance, left-behind families expect to receive allowances for daily expenditures and other household spending for education and healthcare purposes. However, migrant workers are faced with the reality that they also need to adjust their budget and spending according to their receiving country’s standard of living. This obligation to remit is overwhelming and burdening for migrants.

Sacrifices and Responsibility

Here, the story of Marilag Reyes, who has been working as a live-in caregiver for four consecutive years in Canada, demonstrates FLCMs’ feeling of sacrifice and responsibility. She is thirty-six years of age and earned a Bachelor of Science in Business Administration in General Management in the Philippines. She migrated directly to Canada because she had a pre-arranged contract of employment. Daily serving two adults and two children, she cleans the house, cooks, babysits, and does the laundry. She currently works 40 to 45 hours each week while she remains a live-out employee. Her weekly salary is $353.10, and she pays $337 for her room in an apartment with fellow caregivers. Despite the financial constraint, she feels the need to send money to pay for the tuition of her three children because the sacrifice for them reaffirms her motherhood and her adherence to Filipino cultural expectations and norms. Remittances enable this transnational maintenance of value. For Marilag, sending money to the Philippines is a positive and practical experience because without remittances, she would not be able to send her children to private school. Thus, sending remittances empowers her to assert her role as a mother from afar, even if sending money demands her sacrifices. In this way, remittances have become a mode of informal resistance. Remittances enable migrant mothers to maintain and build their intimate ties to their children. They help migrant mothers retain their membership within their extended families because sending money shows that they still care about their relatives. While remittances preserve the gender norm of women as the caretakers and overseers of children’s education, FLCMs choose to remain domestic workers and caregivers because they are able to fulfill their obligations and responsibilities as FLCMs.

CONCLUSION

This research expands on the existing understanding of remittances as a coping strategy against household shocks or unpredictable events. Further, this research adds that remittances act as a coping strategy to victimization. Remittances affect the social construction of identity through a rhetoric of sacrifice responsibility, and membership that reaffirms OFWs’ familial and cultural values and norms. Thus, the social meaning of remittances, or what it means to be part of the Filipino labor diaspora, remains to live for others in service to one’s family. This author has intended to disturb the invisibility of the victimized Filipino labor diaspora in Canada. This paper raises questions about how much agency remittances give women. To what extent does sending money benefit migrants’ sense of transnational belonging? Can this ordinary activity of migrants really have political and social meaning? Or are remittances simply part of the migrants’ household strategy while working abroad? These questions that require more in-depth research and analysis than comparison to this paper’s research scope.

APPENDIX

Interview Questions

Part 1: Experience as a transnational mother

- How many child(ren) do you have? How are they doing?
- How are your children in the Philippines?
- What does being mother from afar (transnational mothering) mean to you?

Part 2: Female labour migrants, Live-In Caregiver Program. Experience as part of a Labor Diaspora

Tell me about your experience of being a live in caregiver, domestic worker. 
Probes: Ask them to relate experiences since living in Canada (i.e. did it affect family member, friend, ex-
tended family, spouse, family relation)
- How do you feel about working here in Canada? Did you work in other country as domestic worker? If so, how is it different or similar?
- What do you like here in Canada?
- How much do you earn/hours or per 2 weeks?
- How many hours do you work every week?
- Did you experience any difficulty? (psychological and verbal abuse, isolation, depression, lack of friends, lack of community, etc)
- How did you cope to this?

Part 3: Remittances
- Do you send money to your relatives, close, extended and family back to the Philippines?
- Why do you do so?
- How often do you send money to your family every week?
- What does it mean for you to do this?
- Who encourages you to send money?
- If you lose your job today and you only have a little money on your saving, would you still send money to your family at home?
- Do you know what they do with the money you send?
- Do they tell you how, where and in what situation does your family spend your remittance back home?
- Do you have special projects, plan or investment that requires you to send money regularly?
- Who is in charge of the money you send back home?
- How important are remittances, or being able to send money to the Philippines, to you?

Part 4: Family: Sacrifices, Obligation and Responsibility
- Tell me about your own family when you were single in the Philippines?
- Are your parents still alive?
- Who takes care of them?
- Who provides for them financially?
- Do you help them? And how?
- Do you maintain your ties with them? How? How often?
- How many are you in your family?
- Are you married?
- What does your husband do in the Philippines/what is his occupation?
- Who takes care of your child/children in the Philippines?
- Who provides for your family back home? How? Why?
- Do you maintain your ties with them? How? How often?
- What do they do with the money you send them?
- How do they spend it?
- How does your family deal with you being separated with them?
- How long have you been away with your family?
- Do you go back home to visit them?
- What does your children ask when they call you?
- How do you stay connected/intimate to your children?

Survey Results
Out of seven respondents:

<table>
<thead>
<tr>
<th>Age</th>
<th>25-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respondents</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>1</td>
</tr>
</tbody>
</table>

All respondents are college and university graduates with degrees ranging from a B.A., B.Sc., and B.M.S. (management degree).

Push Factors

<table>
<thead>
<tr>
<th>Reason</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic difficulties in the Philippines</td>
<td>6</td>
</tr>
<tr>
<td>Change of environment, new lifestyle, ability to meet other nationalities, etc.</td>
<td>3</td>
</tr>
<tr>
<td>Lack of opportunity, jobs, or upward mobility in the Philippines</td>
<td>3</td>
</tr>
<tr>
<td>Inaccessibility to healthcare and other services, not having access to free or affordable healthcare system in the Philippines</td>
<td>2</td>
</tr>
</tbody>
</table>

Pull Factors

<table>
<thead>
<tr>
<th>Reason</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>For children</td>
<td>7</td>
</tr>
<tr>
<td>To financially support family</td>
<td>7</td>
</tr>
<tr>
<td>Access to education, healthcare, and other social services</td>
<td>6</td>
</tr>
<tr>
<td>Relatives in Canada</td>
<td>3</td>
</tr>
<tr>
<td>Less crime</td>
<td>2</td>
</tr>
<tr>
<td>Diversity</td>
<td>1</td>
</tr>
<tr>
<td>Comfortable life</td>
<td>1</td>
</tr>
</tbody>
</table>
Entry to Canada
Direct entry through sponsorship: 6
Permanent resident: 1
(All came directly from Philippines; one is already a Canadian citizen, three have permanent residencies and three have applied for permanent residency.)

Nature of Domestic Work

<table>
<thead>
<tr>
<th>Task</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooking</td>
<td>7</td>
</tr>
<tr>
<td>Menu preparation (breakfast, lunch, and dinner)</td>
<td>7</td>
</tr>
<tr>
<td>Cleaning</td>
<td>6</td>
</tr>
<tr>
<td>Laundry</td>
<td>4</td>
</tr>
<tr>
<td>Babysitting</td>
<td>3</td>
</tr>
</tbody>
</table>

Recommendations to LCP and Fellow Filipinos Under the Program

These quotes from respondents are from the interview portion.

- "More socialization and [to get more] involved with the Canadian cultures"
- "By not spending beyond [the caregiver’s] means"
- "Learn to speak French"
- "Study"
- "Be optimistic"
- "Support or social group available/accessible online to newcomers so that it would lessen the loneliness of women being far away from their families"

Works Cited

2. Ibid., p. 192.
10. Ibid.
11. Ibid., p. 137.
17. Ibid., p. 81.
32. Ibid.
33. Ibid., p. 442; p. 12.

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Benevolent Assimilation: The American Conquest of the Philippines, 1899-1903, Stuart Creighton Miller, (Yale University Press, 1982).


All names are pseudonym to protect the identity of the informant except for the expert informant.


INTRODUCTION

The United States is one of only six UN member states that has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Almost forty years after becoming a signatory to the convention, the U.S. is still not legally bound by CEDAW because Congress has not ratified the treaty. There are two main components that distinguish the U.S. in its relationship to UN conventions: first, the U.S. is notoriously hesitant to ratify conventions after becoming a signatory; secondly, the U.S. uses the rules of the UN treaty system to ensure it will not have to change its laws to comply with international law even after ratification. While the rules of the UN treaty system exist in order for states to be able to ratify documents even when they oppose certain sections, many states, especially the U.S., use these rules to avoid almost all accountability. The U.S. has signed and then ratified other significant human rights treaties such as the Convention Against Torture, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights, but it has not ratified CEDAW, a pivotal human rights document. In studying women’s rights from a U.S. perspective, this lack of ratification is a significant and internationally condemned gap in the U.S.’ protection of human rights.

While CEDAW has been written about substantially as an international treaty, and U.S. reluctance to ratify international law is common knowledge, CEDAW has not been examined closely in relation to U.S. exceptionalism, nor have researchers explored the specific reasons for which the U.S. has not ratified the convention. Additionally, domestic debates on women’s rights and especially reproductive rights have been significant and divisive in recent political memory but have not been fully integrated into the conversation around the U.S.’ relationship to CEDAW. In this paper, I examine what factors were involved in the U.S.’ failure to ratify CEDAW by comparing attempts to ratify the treaty and by following the political conversation around each attempt at ratifying the treaty. This methodology allows me to deduce a changing relationship between the U.S. and CEDAW through the shifting importance of exceptionalist attitudes and the restriction of reproductive rights.

I will first examine relevant literature before elaborating on the history and content of CEDAW and outlining my hypotheses and methodology. I will proceed with a comparative analysis of CEDAW documents before outlining my conclusions and their implications.
HISTORY OF CEDAW

In order to understand fully the context of CEDAW and its path to potential ratification by the United States, a history of the treaty and its path through Congress is key. CEDAW was adopted by the UN General Assembly in 1979, opened for signature and ratification in 1980, and entered into force on September 3rd, 1981, thirty days after the twentieth state entered its instrument of ratification. CEDAW is considered somewhat of an international bill of rights for women and creates a binding set of protections for women's rights modeled after the broad, non-binding support offered by the Universal Declaration of Human Rights. Between the Universal Declaration of Human Rights and the adoption of CEDAW, the UN adopted several other documents affirming the rights of women and building up to the creation of CEDAW, such as the Convention on the Political Rights of Women, but none were as comprehensive and well-known as CEDAW.

CEDAW’s Content

The CEDAW treaty affirms women's rights and the principle of equality by acknowledging the current state of gender inequality, outlining steps and issue areas for improvement, and calling on states to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.” The convention addresses typical human rights issues around civil and political rights, but it also addresses reproductive rights and the gendered impact of cultural norms, stating that “discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries.”

In order to effectively address the issue of discrimination, the Convention begins by defining the term in Article 1:

For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

After establishing this definition, the convention goes on to articulate the states’ obligations to protect women’s legal rights, such as ensuring equality under all laws and constitutions, allowing women full participation in public and political processes, and creating standards to ensure practices and institutions are not discriminatory. The convention advocates for affirmative action to accelerate equality and emphasizes the need to address and overcome social and cultural patterns that perpetuate stereotypical gender roles and the inferiority of women. It also addresses current gender inequality in the fields of education, employment, and economic and social life, outlining specific areas where improvement needs to occur and what protections need to be guaranteed to make a policy non-discriminatory towards women. It addresses the need for non-discriminatory health care and specifically calls for service provision during pregnancy and in the postnatal period, indicating that when necessary these services should be free. It outlines clearly that women in rural areas require special protection and also that the legal rights of women extend to their equality within the institution of marriage. Lastly, the treaty creates the Committee on the Elimination of Discrimination Against Women to monitor implementation of these policies and to remind state parties of the responsibilities they hold under CEDAW.

CEDAW in the U.S. Congress

The Senate Foreign Relations Committee is the committee with jurisdiction over CEDAW and other similar international treaties. When President Carter signed CEDAW in 1980, it was passed to the Foreign Relations Committee, which did not take action on the treaty until fourteen years later. In 1994 the committee held a hearing on CEDAW, voted to recommend the treaty to the Senate at large, and synthesized its findings and recommendations into an executive report. The intent was for the Senate to then debate CEDAW on the floor and eventually vote on it; however, no action was taken to continue this process before the end of the 103rd Congress in 1994. This inaction meant that CEDAW was relegated back to the Foreign Relations Committee, where it remained until 2002, when the Committee, under the chairmanship of Joe Biden,
held another set of hearings, voted to recommend the passage of CEDAW, and wrote a second executive report on the matter. Again, the Senate did not act upon the treaty after it had been voted out of committee, and it was relegated back to the committee at the end of the 107th Congress in 2002. Until today, the Senate Foreign Relations Committee has failed to initiate the process again and the CEDAW treaty has yet to be brought to the floor of the Senate despite renewed support by the Obama administration and calls for action on CEDAW.5

LITERATURE REVIEW

In examining the literature relevant to this paper, I will be addressing two major sub-literatures on U.S. exceptionalism in the international human rights regime and on U.S. women’s health and reproductive policies. An understanding of these literatures will help to determine their significance to the CEDAW debate and where these two conversations intersect.

U.S. Exceptionalism

The literature on U.S. exceptionalism deals both with the U.S.’ hesitance to subject itself to international oversight on issues of human rights and the fact that the U.S. may still be subject to this oversight even if it does not explicitly ratify international agreements. Rosemary Foot examines U.S. exceptionalism in the context of perceived U.S. power and values, addressing the country’s role as both an advocate and outlier in the international human rights regime. She writes that “perceptions of specialness encourage US administrations, when deemed necessary, to exempt themselves from the rules that others are expected to follow.”6 She also addresses exceptionalism in the context of war, especially the Bush administration’s war on terror, pointing out the effectiveness of the war metaphor in justifying U.S. behavior and its exceptionalist stance on torture. In addition, Foot discusses how exceptionalism has led to a decreased ability on the part of the U.S. to claim a moral high ground on human rights issues. Yet, paradoxically, the United States still views itself as a protector of rights. This inconsistency leaves Foot to question if the U.S. can ever really regain the moral high ground it once held in the international regime.7 This sentiment is a common thread in the U.S. exceptionalism literature, with many scholars pointing out the paradoxical role of the U.S. as an enforcer and avoider of international human rights law and standards.

Another author who relies on this point heavily to make his case is Michael Ignatieff, who coins the term “exemptionalism” as a more accurate depiction of the U.S.’ exceptionalist approach to human rights law.8 He outlines U.S. exceptionalism/exemptionalism as having three main components: reservation, non-ratification and non-compliance.9 Ignatieff outlines the double standards he sees in the U.S.’ role as a leader and outlier in the human rights regime, discusses the U.S. Constitution and the First Amendment, considers the lack of social and economic guarantees in the Constitution, and notes impact the U.S.’ approach to international human rights law.10

Louis Henkin builds off Ignatieff’s work by addressing constitutional conflicts along with the three components of reservation, non-ratification and non-compliance. Henkin addresses the main reasons for reservations to be issued: content conflicting with the Constitution, content requiring a change in U.S. laws or practices, the need for the U.S. to subject itself to the jurisdiction of the International Criminal Court, issuing a federalism clause, and declaring treaties non-self-executing.11 Henkin critiques these approaches, stating that they undermine the intent of the U.S. Constitution. Clauses such as non-self ratification or the federalism “serve no legal purpose… another sign that the United States is resistant to international human rights agreements.”12 This comment mirrors his earlier assertion that the U.S. is “seeking the benefits of participation in the convention (e.g., having a U.S. national sit on the Human Rights Committee established pursuant to the Covenant) without assuming any obligations or burdens.”13 Henkin expands on constitutional conflicts and non-self execution in a discussion on the Bricker Amendment, a piece of legislation which failed in its attempt to require all treaties to be automatically non-self executing but created a political climate in which this became the eventual norm, leading to a U.S. human rights regime which largely remains unaffected by international law.14

While Henkin focuses on the U.S. Constitution and the effects ratification could have on U.S. law through self-execution, other authors focus on reservations as the main way in which the U.S. executes its exceptionalism. Fenwick, Ferreira and Ferreira-Snyman, and Craven all address reservations as tools to avoid certain treaty obligations, outlining reasons for their use and logistics of when and how countries
are able to issue reservations. However, Craven also offers a critical perspective on reservations and exceptionalism by questioning the validity of exceptionalism in a context of global norms. A large component of this discussion is the question of whether these treaties are reciprocal or whether they generate a more universalist application. More specifically, Craven questions if a nation that has not signed a treaty can be held accountable because the wide acceptance of the treaty indicates an understanding of the treaty's contents as global norms.

While much of the literature discusses exceptionalism through a broad lens—in the context of the war on terror and through the U.S.' exceptionalist stance on torture—some authors directly connect CEDAW to exceptionalism. Even though work on the war on terror is not explicitly linked to most of the content of CEDAW, the examples of exceptionalism illustrated through it apply broadly to avoidance of human rights law. Lisa Baldez, who is one of these authors, discusses CEDAW and how the rhetoric of pro-CEDAW discussions has shifted from outlining the benefits of CEDAW for U.S. women to a focus on the benefits that the U.S.' subscription to international human rights law could bring for women in the international community. Decreasing its exceptionalist approach would enable the U.S. to more forcefully, and less hypocritically, champion women's rights abroad. This notion connects strongly to the U.S. exceptionalism scholars who critiqued the U.S.' dual stance as an enforcer and outlier in the international regime. However, Baldez also treads outside the sphere of exceptionalism and discusses the implications of CEDAW on abortion and this topic's significance for anti-CEDAW proponents, a topic that will be discussed further in later sections of this paper. William Schulz also draws connections between exceptionalism and women's rights, using first the standard example of the war on terror to establish the bounds of exceptionalism but then critiquing the U.S.' lack of progress on CEDAW and linking it directly to U.S. exceptionalism.

The literature on exceptionalism focuses heavily on security related examples and theoretical approaches, with little reference directly to CEDAW and women's rights. However, the characterizations of exceptionalism to UN treaties generally show clearly how CEDAW's non-ratification by the U.S. could be impacted by exceptionalism.

U.S. Women's Health & Reproductive Policy

This paper will also examine debates around policy on women's health, reproduction and abortion. The specific focus will be on policy addressing contraception and abortion and an individual's ability to access family planning services. The term health is a useful umbrella term in this case because women's health is often used as a euphemism for reproductive and contraceptive policy, in a way that men's health does not serve as a reference to specific sub-categories of health. However, in these discussions the health care services most frequently debated, including in the context of CEDAW, are contraceptives and abortion. While much of CEDAW compares women's rights outcomes with those of men, contraception and abortion are almost always discussed in the context of women's health.

Especially relevant to the understanding of women's reproduction and abortion in the CEDAW context is the relevance of domestic conversations on foreign policy. Pine and Fischler link the U.S.' attitudes on abortion and family planning to the U.S.' role in the international community, providing an interesting link to the practice of U.S. exceptionalism. The U.S. is the "single largest country donor of funds for population/family planning programmes in developing countries," showing an international commitment to values not promoted in the same ways domestically. This commitment is especially relevant because in the U.S. services are much more accessible to those able to pay for them, a caveat which means poor women lose out on reliable reproductive care and family planning and domestic inequality increases. However, while the U.S. funds family planning abroad, none of this funding may be used to perform or promote abortions, a regulation which has severely limited the ability of abortion providers to function internationally. This rule, referred to as the Gag Rule but officially named the Mexico City Policy, and is discussed more in depth by Crane and Dusenberry. The Gag Rule disallows U.S. funding for organizations that use any funding “to perform abortions in cases other than rape, incest, or a threat to the life of the woman; provide counseling and referral for abortion; or lobby to make abortion legal or more available in their country.” This rule is one example of how U.S. attitudes on abortion and contraception are able to have an international impact. This international significance is
often brought up in debates of CEDAW as a reason for why the US needs to ratify the document, not just for its own benefit but because of the positive effects it could have internationally.

This paper seeks to understand U.S. attitudes on reproduction and abortion, but its primary aim is to contextualize them within CEDAW and foreign policy, since domestic debates on these topics are significantly studied. While the partisan nature of the debates domestically impacts the reception of CEDAW, the undermining of human rights standards for reproductive and abortion rights by the U.S. is extremely relevant in the international context.

CASE OVERVIEW

While CEDAW has been discussed widely in Washington and beyond since the United States became a signatory to the convention, it has only twice seriously been considered for ratification. These two instances thus provided me with an opportunity to examine how the conversation around CEDAW shifted between 1994 and 2002. The 1994 Executive Report on CEDAW included four reservations, four understandings and two declarations to CEDAW, under which the Foreign Relations Committee determined the treaty ready for U.S. ratification.

A reservation is a “statement purporting to exclude or modify the legal effect of a treaty provision with regard to the declarant.” A state issues a reservation when it does not want to comply with the legal standard set out in a section of the treaty, in this case instances in which the United States is not willing to legally comply with CEDAW. Understandings and declarations are similar to reservations—they affirm an interpretation or underscore a certain part of the treaty’s language and clarify the assumptions under which the state is ratifying the treaty. The four reservations issued concerned privacy, combat positions in the military, the principle of comparable worth and paid maternity leave; the understandings covered federalism, freedom of speech, free health care and abortion; and the declarations addressed the idea of non-self-execution and the jurisdiction of the International Court of Justice.

The 2002 executive report on CEDAW by the Senate Foreign Relations Committee came after another hearing on the treaty and a vote to recommend CEDAW for ratification by the Senate. The report maintained a structure nearly identical to that of the 1994 report, issuing reservations, declarations, and understandings on the same topics with only one addition: an understanding on the reach of the CEDAW committee, which was established as an oversight body by the treaty.

Both cases occurred while the Chair of the Senate Foreign Relations Committee was a white, male Democrat. However, in 1994 the President was a Democrat, while in 2002 he was a Republican. While there is some differentiation in the context of the cases, the most important piece of context is that, despite differing circumstances, the Senate at large did not discuss or vote on CEDAW in either case.

HYPOTHESES AND METHODS

In my examination of CEDAW I posed one central question: what were the factors involved in the U.S.’ failure to ratify CEDAW? This question is exploratory, and it helped to identify relevant conversations around women’s rights in the U.S. and in the international human rights regime that have prevented CEDAW from passing through the U.S. Congress in its current form. By examining the conversation around attempts to ratify CEDAW, I was able to identify which elements of CEDAW were considered controversial in the discussion and recommendation of the treaty, and where conflict may have prevented further action on the treaty. Finding these points of conflict shed light on whether or not the U.S.’ failure to ratify CEDAW was one that sprang out of genuine disagreement with the contents of the treaty, or if the ratification may have been stalled by other political or diplomatic factors.

In this examination I identified three main hypotheses:

1. U.S. exceptionalism and the U.S.’ fear of international oversight were significant, preventative factors in the CEDAW ratification debates.
2. Stances on abortion and reproductive rights were significant, preventative factors in the CEDAW ratification debates.
3. U.S. exceptionalism was more preventative when CEDAW was first introduced, while reproduction and abortion stances are more preventative now.

The literature, along with a general knowledge of partisan points of conflict in the US, allowed me to predict areas of women’s rights that are particularly controversial in the U.S. political system. Women’s health is one such area, with significant partisan divides and
high social tension, and I predicted this policy area to be a significant factor in the failure to ratify CEDAW. I predicted that abortion and reproductive care would be widely discussed and that CEDAW would be seen to not allow enough restriction of abortion and reproductive rights for the contemporary U.S. socio-political mindset.

In addition, the United States’ past behavior in the international human rights regime and a wide literature on U.S. exceptionalism led me to predict that U.S. exceptionalism would be another significant factor in the debate around ratification of CEDAW. I predicted that topics such as independence from international oversight and refusal to be subjected to the jurisdiction of international courts would likely be involved in this discussion. While I predicted that objections made to the content of CEDAW would center on women’s health reproductive rights in conflict with U.S. domestic political norms, these objections would likely be coupled with objections to international oversight.

I also predicted that while at the introduction of CEDAW there was more fear about international oversight, this fear has decreased, and that there has been a rise in concerns that CEDAW would prevent regulation of women’s health and reproductive rights. This prediction was based on factors such as the rise of the conservative right, growing international cooperation, and contemporary good-will towards the United Nations. My hypothesis was also informed by popular political and media conversations on women’s rights today, and the fact that the United States is signing onto other international documents, such as the 2015 Paris Climate Agreement, indicating decreasing exceptionalist attitudes.

In order to test my three hypotheses, I implemented a case study approach: I examined the 1994 and 2002 executive reports written by the Senate Foreign Relations committee when they recommended CEDAW for ratification. The executive reports were similar in structure but varied significantly in language and, depending on the section, also varied in content. I used the two cases to analyze the conversation over a period of time, while also getting a better understanding of the key issues at play. The 1994 case materials were much shorter and covered only the reservations, understandings, and declarations issued by the committee; I thus focused on this section in the 2002 report as well. I compared and contrasted each reservation, understanding, and declaration from 1994 to the corresponding one from 2002 in order to find differences in language and attitude between the cases. I chose to go topic by topic instead of considering the documents at large because the changes vary substantially across sub-sections of the reports: some are similar across time, and some are entirely different. My comparison and subsequent analysis of the cases was qualitative and explorative, allowing me to identify trends and themes with relatively few materials.

One of the main barriers to executing the investigation I envisioned was the inaccessibility of documents from the 1994 case. I had access to the 2002 executive report, minority and additional views on the report, and transcripts from the hearings that preceded the writing of the report and vote by the committee. The 1994 case documents were much harder to obtain; I had access only to the text of the executive report, without any supplemental views. Even after speaking with a representative from the Senate Foreign Relations Committee, I was unable to access the minority views and transcripts from the hearings. Thus, I have built my case comparison around the main bodies of the executive reports, but utilized the additional and minority opinions from 2002 to supplement my understanding of the case. I did so with the knowledge that the information from the 2002 minority opinion will not contribute to proving or disproving my third hypothesis, as I will not be able to accurately judge a change over time without the 1994 minority report.

COMPARATIVE CASES

In order to understand how barriers to ratification and issues of importance in the CEDAW conversation may have shifted, the following section examines the language of each reservation, understanding, and declaration issued by the two reports to compare and contrast their content, intent, and significance. I will begin by comparing the alone-standing sections of the report not explicitly connected to reproduction and abortion, and whose main focus is not a marker of exceptionalism.

Reservation 1, Privacy

The first reservation issued in both executive reports was designed to affirm and protect the right to privacy as established by the U.S. Constitution. The 1994 report stated this commitment in much broader
terms than the 2002 report, saying that, “individual privacy and freedom from governmental interference in private conduct are also recognized among the fundamental values of our free and democratic society,” while the later report simply stated that the convention attempted to “reach into areas that are not regulated by the federal government.”24,25 In addition, the 1994 report stated that the right to privacy might be violated by language in articles two, three, and five of the convention, while the 2002 report also added article one, which originally defined the term “discrimination against women” for the rest of the convention. Where the 1994 report made grand statements about the incompatibility of the CEDAW provisions with fundamental U.S. rights, the 2002 report drew comparisons to other U.S. legislation that did not have private reach, and used much more temperate language in describing the right to privacy. Thus, the 1994 report was more in line with exceptionalist methods because it placed human rights in opposition to fundamental U.S. values, while the 2002 report provided specific legal reasons for the U.S.’ inability to comply with CEDAW. The issue of privacy is associated with the government’s ability to dictate action by individual citizens, which comes into question in the next reservation on women in combat.

Reservation 2, Women in Combat

While the privacy argument seeks to uphold the rights of individuals to be free, or relatively free, from government intervention, the topic of women in combat seeks to dictate and restrict the behavior of certain individuals for the apparent benefit of society. The reservation on women in the military and particularly women in combat positions was the second reservation in both the 1994 and 2002 versions of the CEDAW executive report. The two versions of the reservation were fairly similar; both stated that the United States would not accept “an obligation under the Convention.”26 The 2002 report was more straightforward, saying that this non-obligation referred to placing women in “all combat positions,” while the 1994 version seemed more restrictive but less direct by avoiding the obligation to place women in “all military units and positions which may require engagement in direct combat.”27,28 Between 1994 and 2002, I saw a shift as the committee differentiated between the potential to engage in direct combat and “routine engagement in direct combat,” therefore affirming more freedoms for women in the military in 2002 despite the simultaneous affirmation that the U.S. would not be held accountable to this under CEDAW.29 By admitting to higher compliance even though it reaffirmed that the U.S. has no obligations to comply, the 2002 report was less in line with U.S. exceptionalism. The issue of women in the military and in combat positions is not only about individual rights and privacy, but is also strongly integrated into a conversation on equity of opportunity.

Reservation 3, Comparable Worth

Comparable worth is also centered on equity; while the U.S has mostly affirmed equal pay, it has not affirmed equitable pay for women. The issues of comparable worth and equal pay are addressed in the third reservation in both reports, which did not change substantially from 1994 to 2002. Both versions begin by expressing that the U.S. protects women’s right to equal pay for equal work, and conclude by stating that, despite this, the U.S. would not take on an obligation to enact the doctrine of comparable worth. While the 2002 report went into more detail on how equal pay was, and was not, protected by U.S. law, both reports provided some level of detail, and the statements on comparable worth remained the same from 1994 and 2002. Thus, while equity of access to the military seemed to be improving in the previous reservation, equity in pay remained unmoved.

Reservation 4, Paid Maternity Leave

While issues of equity, in particular elevating women’s rights to standards men have been enjoying for a long time, are central to CEDAW, the reservation addressing maternity leave illustrates a different rights-based approach. Parental leave is under-protected for both genders, and while having high and equitable access to parental leave is a valuable goal, CEDAW seeks specifically to elevate women’s right to maternal leave due to women’s specific physical and social need in this area. Reservation 4, on maternity leave, was more substantial in the 2002 report but communicated the same bottom line in both years. The reports highlighted that while the U.S. provided maternity leave in “many employment situations,” it would not be obliged to introduce paid maternity leave or leave with “comparable social benefits without loss of former employment, seniority or social allowances.”30,31 However, the 2002 report went into much
more detail than the 1994 report, explaining further that current measures did not require paid leave but provided for leave under certain circumstances and mentioned specific laws that determined this. Again, there was more of an effort in the 2002 report to show that the U.S. was in partial compliance with the principles of CEDAW, and thus had a less exceptionalist attitude than in the 1994 report. Access to parental leave is less explicitly tied to the conversation of equity, and it is interesting to see a decrease in exceptionalism in this reservation, which seeks less to compare women's to men's access than the previous sections and is more focused on direct equity-related conversations.

Understanding 2, Freedom of Speech

While equitable access and experiences tie together many of the reservations’ rights-based approaches, the second understanding in both reports—focused on protections of freedom of speech, expression, and association—is more similar to privacy in that it focuses on a pillar of U.S. constitutional thought and less on conversations around equity. The 1994 report referred to infringements on freedom of speech, expression, and association that might occur under Articles five, seven, eight, and thirteen of CEDAW, while the 2002 report only referred to potential conflicts under Articles five and seven. Article five covers the elimination of discrimination and stereotyping through social and cultural patterns, including acknowledging a shared responsibility for child rearing. Article seven covers women’s political participation and participation in non-governmental bodies addressing political and public life. These two articles were still pointed out as potential conflicts with the right to privacy in 2002 while Articles eight and thirteen were not. Article eight addresses women’s role in international organizations and in representing their countries internationally, while Article thirteen addresses women’s rights to participate in economics and social life. It includes obtaining loans and receiving family benefits, as well as participating in sports and recreational activities.

The 2002 report did not specify why two articles previously seen as conflicts were no longer mentioned in the report or how this change was determined. However, the 1994 report did not specify why the articles cited would endanger freedom of speech, the 1994 report stated that Articles five and seven would require regulation of private conduct that is out of the government’s reach. The shift from 1994 to 2002 indicates that the Foreign Relations Committee accepted that the U.S. holds more responsibility and has greater ability than was indicated in 1994 to comply with CEDAW while still taking on no obligation to restrict freedom of speech, expression, and association as protected by the U.S. Constitution. This again ties freedom of speech more closely to privacy in its treatment by the committee as a constitutional priority versus an issue of equity to be evaluated within a rights-based approach.

Understanding 5, CEDAW Committee

Understanding 5 was the only reservation, understanding, or declaration that was only found in one of the two reports. It also takes a different approach than the previous sections, focusing on the administrative aspects of CEDAW rather than the rights-based approach, in terms of both equity and constitutionality, that other sections employ. Although the 2002 report issued this understanding on the CEDAW Committee, the 1994 report did not. The understanding was designed to affirm that state parties are under no obligation to implement changes proposed or recommended by the CEDAW Committee. The addition of this understanding to the 2002 report is in line with the benchmark of U.S. exceptionalism identified by the literature, and is an escalation in exceptionalism. The 2002 report did not specify why two articles previously seen as conflicts were no longer mentioned in the report or how this change was determined. However, while the 1994 report did not specify why the articles cited would endanger freedom of speech, the 1994 report stated that Articles five and seven would require regulation of private conduct that is out of the government’s reach. The shift from 1994 to 2002 indicates that the Foreign Relations Committee accepted that the U.S. holds more responsibility and has greater ability than was indicated in 1994 to comply with CEDAW while still taking on no obligation to restrict freedom of speech, expression, and association as protected by the U.S. Constitution. This again ties freedom of speech more closely to privacy in its treatment by the committee as a constitutional priority versus an issue of equity to be evaluated within a rights-based approach.

This understanding is the last I will examine that addresses an individual topic area, as the rest of the sections either fall under the umbrella of health
and reproduction, or address specific markers of exceptionalism. In these more thematically-independent sections, I largely saw a connecting thread of equity and constitutionality, which illustrated the different lenses through which the United States perceives and addresses the rights that CEDAW enforces. The more thematically-independent sections of the executive reports span a wide range of topics in the area of discrimination against women and make up six of the eleven total sections. While the topics are not clearly linked, the committee's changing exceptionalist approach to the various topics deepened my understanding of how the committee expresses exceptionalism. Of these six sections, four feature higher levels of exceptionalism in 1994, one features higher levels of exceptionalism in 2002, and the last features constant levels of exceptionalism.

Having examined these sections and the themes that connect them, I will move on to examine the three sections of the executive report that specifically address a marker of exceptionalism as outlined in the literature. While all of the sections are demonstrations of exceptionalism, the literature outlines specific key features of exceptionalism that the U.S. relies on to avoid oversight or compliance, and there are three sections in the reports whose main focus is to outline and solidify one of these features of exceptionalism.

Understanding 1, Federalism

The first of these features is the concept of federalism. The first understanding in both reports addressed the federalist structure of the U.S. government. While the 2002 report went into a bit more detail, both affirm that the U.S. would only comply with CEDAW as far as the reach of the federal government allowed. The federalism clause is highlighted by the literature as a marker of exceptionalism, and both reports made clear that the implementation of CEDAW in the U.S. was limited by the federal government’s reach. Federalism is cited by the literature as a key marker of U.S. exceptionalism, and it is seen as a central component of the report in this understanding.

Declaration 1, Non-Self-Execution

The first declaration issued by both reports pertained to the idea of non-self-execution, which, like federalism, is a marker of exceptionalism. The 1994 report left non-self-execution undefined, but claimed that the contents of the treaty would be non-self-executing. The 2002 report went into further detail on what this meant for the treaty’s contents. Non-self-execution is one of the main markers of U.S. exceptionalism identified by the literature; it allows the United States to avoid responsibility and culpability in the human rights regime. Non-self-execution means that, when a treaty is ratified, there are no automatic changes in domestic law to include the contents of the treaty. Instead, all treaty guarantees must pass through the legislative process like all other laws, and the changes can therefore be blocked. The explanation of non-self-execution in the 2002 report included reassurance that contemporary U.S. law already provided extensive protection and means by which discrimination could be prevented. The 2002 report’s argument was that non-self-execution would not actually prevent the U.S. from complying with CEDAW, a less explicitly exceptionalist stance than the 1994 report, a document which made no such assurances. Both federalism and non-self-execution regulate the extent to which the content of CEDAW could be enforced through the U.S.’ system of laws.

Declaration 2, Dispute Settlement

The dispute settlement declaration is the last section explicitly addressing a marker of exceptionalism. This declaration served in both cases to affirm that the United States did not see itself as under the automatic jurisdiction of the International Court of Justice but that jurisdiction would be determined on a case-by-case basis, a right given to state parties under Article 29(2) of CEDAW. Again, the refusal to be subjected to jurisdiction of international law is a trademark feature of U.S. exceptionalism. However, there was no significant shift in this stance between 1994 and 2002. Unlike federalism and non-self-execution, the dispute settlement declaration does not focus on the reach of U.S. law, but instead the ability of the U.S. to avoid being tried under international laws.

All three sections further a specific type of exceptionalist behavior. Therefore, they are dually expressing exceptionalism, as issuing reservations, understandings and declarations is also a marker of exceptionalism. Of these three sections two displayed constant levels of exceptionalism and one showed higher levels in 1994, while all addressed similar notions about the extent and reach of the law, both U.S. and international. The remaining sections in both
reports are those dealing specifically with issues of health, reproduction, and abortion.

Understanding 3, Free Health Care
The conversation around health, reproduction, and abortion fits more into the theme of equity seen in the earlier, thematically independent sections than it fits into the legal theme in the exceptionalism sections. Even though the reports do not discuss the equivalent men’s health care, it is implicit that family planning is seen as only a women’s health care issue in these sections, thus drawing the comparison between men and women’s rights’ outcomes instead of contextualizing in legal frameworks. Understanding 3 serves to clarify the provisions of health care, especially family planning services, as outlined in Article 12 of the convention. The understanding clarified specifically that it is up to state parties to determine which services are necessary, that no specific services are mandated, and that states are also in control of determining when it is necessary for a service to be provided free of charge. The phrasing of the two understandings is very similar and the 2002 report does not show a less exceptionalist attitude than the 1994 report. However, the 2002 report provides additional insight by explicitly mentioning contraceptive devices, indicating that the concern of being required to provide contraceptive care, potentially free of charge, was a motivation for the inclusion of this understanding. As this understanding outlines an unwillingness to provide free contraceptive care, it is unsurprising that the report also discusses its stance on abortion.

Understanding 4, Abortion
The 2002 report quoted directly from the 1994 report in this understanding, reaffirming that “nothing in this convention shall be construed to reflect or create any right to abortion and in no case should abortion be promoted as a method of family planning.” While this sentence was the entirety of the 1994 understanding, the 2002 understanding connected the provision of abortion back to the third understanding, a section which determined that state parties were in control of choosing which health care services they had to provide. It also noted that the understanding “reflects the plain meaning of the text of the treaty, which does contain the word abortion.”

This assertion is inaccurate and misrepresentative since CEDAW does not actually contain the word abortion. In fact, while the convention is interpreted by some (especially U.S. Republicans) as permitting and promoting abortion, it has been widely declared ‘abortion-neutral’ by the international community, including the U.S. State Department. While the reports seem to be equally exceptionalist, the discussion of abortion in the 2002 report seems to have been more polarized because of this false claim. As seen with the previous section in which contraceptive care was exempt, this section does not rely on a legal framework to address abortion. However, it also does not have as much contextualization within conversations on equity as other sections do.

These two understandings—addressing reproduction or abortion—demonstrate constant levels of exceptionalism from 1994 to 2002. This constancy indicates that the assumption I have been working under, that reproductive care and abortion are not separate conversations, is correct.

ANALYSIS
In order to understand the shift in conversation on the ratification of CEDAW, I offer more insight into the difference between the two executive reports before utilizing the detailed comparison conducted in the previous section to comment on exceptionalism and women’s reproduction.

The most noticeable difference between the 1994 and 2002 reports is the length and depth of the documents. The 2002 report was much longer and more in-depth, as shown in almost every comparison in the last section. Two reasons for this could be that the executive reports have become longer overall, for which I was unable to find supporting or contradictory evidence, or that the 2002 report was more emphasized by the Senate Foreign Relations Committee than the 1994 report. In addition, the 2002 report did more than merely outline reservations, understandings, and declarations than the 1994 report did. The 2002 report also included some background on the convention, an elaboration on the committee’s views, and some smaller pieces, such as various summaries and explanations of the treaty’s progression through Congress. In addition, multiple minority and additional views voicing some committee members’ dissent of the pro-ratification vote supplemented the 1994 report. Thus, there was more context with which to interpret the 2002 report than there was for the 1994 report. Through additional research and contact with
the Senate Foreign Relations Committee, I was able to ascertain that minority and additional views also exist for the 1994 report; however I was unable to obtain a copy of these views to supplement my documents for the case.

Exceptionalism

From reading the two reports and identifying the topics of their reservations, understandings, and declarations, it is clear that the U.S. is engaging in exceptionalist behavior on a variety of topics. As the literature predicts, the Committee’s reports demonstrate an exceptionalistic approach in their resistance to mandatory changes in U.S. law, their avoidance of responsibility through claims of federalism, and their evasion of oversight by international courts. My first hypothesis, which predicted that U.S. exceptionalism determine which section from the two reports showed more signs of U.S. exceptionalism or, alternatively, if the levels of exceptionalism have remained the same over time, as illustrated in Table 1.

As shown in Table 1, the comparison of reservations, understandings, and declarations yielded an interesting pattern of exceptionalist emphasis. A greater level of exceptionalism was categorized as a greater deviation from CEDAW while an effort to show higher levels of compliance was deemed as less exceptionalistic. Out of eleven possible sections, five were more exceptionalist in 1994, five stayed about the same and one, the only section found in just the 2002 report, demonstrated some heightening of exceptionalism in the 2002 report. Overall, this exhibits that from 1994 to 2002 the committee developed a less exceptionalist stance on CEDAW; they showed

Table 1: Estimation Results for Models with Covariates

<table>
<thead>
<tr>
<th>Reservation 1: Privacy</th>
<th>1994: Greater Exceptionalism</th>
<th>2002: Greater Exceptionalism</th>
<th>Constant Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reservation 2: Women in combat</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Reservation 3: Comparable worth</td>
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<td></td>
<td></td>
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<tr>
<td>Reservation 4: Maternity leave</td>
<td></td>
<td></td>
<td>X</td>
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<tr>
<td>Understanding 1: Federalism</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Understanding 2: Freedom of speech</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Understanding 3: Free health care</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Understanding 4: Abortion</td>
<td></td>
<td></td>
<td>X</td>
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<tr>
<td>Understanding 5: CEDAW Committee</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Declaration 1: Non-self execution</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Declaration 2: Dispute settlement</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Total</td>
<td>5</td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>

and fear of international oversight would play a significant role in the CEDAW debate, is confirmed by both reports’ focus on reservations, understandings, and declarations as means through which the United States could eschew responsibility in case of ratification.

While the side-by-side comparison of the overlapping sections of the two reports (the reservations, understandings, and declarations issued) gave insight into how the committee’s views on the specific issues changed over time, it was more useful in allowing me to track the exceptionalism of the committee’s approach. By comparing the language of the reservations, understandings, and declarations, I was able to much more effort to demonstrate compliance or partial compliance.

However, there is one important distinction to be made here. I have considered a demonstrated effort by the committee to show U.S. compliance or partial compliance as a sign that the U.S. is adopting less exceptionalist attitudes. This does not account for the possibility that the committee may have demonstrated compliance and partial compliance in order to more easily carve out exceptionalist rules for itself without facing backlash. An investigation of this possibility would require more information on the committee’s deliberation and motivation than I had access to in writing this paper.
Putting aside this concern and taking the language of the executive reports at face value, I conclude that, while about half of the executive report remained constant in its levels of exceptionalism, the 2002 report largely presented less exceptionalist reservations, understandings, and declarations. This finding supports part of the third hypothesis I set out for this investigation, that U.S. exceptionalism has declined and the focus on women’s health has increased since 1994. Decreasing exceptionalism is especially significant because it allows for an inference about the U.S.’ changing relationship to the international human rights regime and the international community. While from this research I am unable to state what the reasons for this change is, it could indicate that the U.S. is attempting to be more open to international cooperation, or alternatively, that it wants to regain its reputation as an international leader on human rights.

A key understanding in this ongoing debate is that while I found a trend of decreasing exceptionalism between 1994 and 2002, this decline does not mean that the 2002 attempt was not exceptionalist. The 2002 attempt demonstrated many key markers of exceptionalism, such as the federalism, non-self execution, and International Court of Justice clauses, but demonstrated higher levels of compliance through nuanced language. The trend I observed is interesting and telling on some levels but not nearly large enough to indicate that the U.S. is reversing its exceptionalist approach to UN treaties.

Understandings 3, Free Health Care

The analysis above addresses the relative decline in exceptionalist language in the Senate Foreign Relations Committee reports from 1994 to 2002, indicating that the U.S. government was more willing to comply with CEDAW in 2002. This section seeks to determine the role of women’s health and reproduction on the Foreign Relations stance on CEDAW, addressing my second and third hypotheses that reproduction and abortion were key issues in the ratification debate and that their significance in the debate has increased since the first ratification attempt in 1994.

In Table 1, I showed that five sections of the executive reports remained relatively constant in levels of exceptionalist language. Of these five, two were traditional markers of exceptionalism—the federalism clause and the rejection of International Court of Justice jurisdiction—and two concerned women’s health—reproduction and abortion. These sections signify that although the committee was generally willing to comply or show compliance with a higher percentage of CEDAW in 2002 than it was in 1994, women’s health, reproduction, and abortion were key exceptions to the trend. This is a first indicator that reproduction and abortion were more central to CEDAW opposition in 2002 as the committee retained a more exceptionalist outlook on this area than on many others.

The language changes in understandings three and four indicate that the committee was more concerned with maintaining the U.S.’ ability to regulate women’s reproduction. This goal is evidenced by the 2002 version’s emphasis on the freedom of state parties to determine which services are “appropriate” and “necessary” as well as the specific mention of contraceptive devices as an example of a service that the U.S. does not see as being mandated by the convention. In addition, the committee’s false claim that CEDAW contains the word abortion draws attention to this section of the 2002 report and its treatment of abortion as a component of CEDAW. In the U.S. political context, claiming that the convention was pro-abortion, or even that it was not explicitly anti-abortion, is an inflammatory statement that could significantly impact anti-abortion politicians’ stance on the convention. Unfortunately, without more information on the process of writing the report, it is impossible to say at this point if the inclusion of this statement was a research error, a simple typing mistake, or if it was intended to influence opinion on CEDAW. Nevertheless, it is clear from the changing language in the executive reports that the committee was actively considering the U.S.’ ability to regulate and restrict women’s reproduction when writing the report.

This conclusion is supported by the minority and additional views from 2002, which allowed me more insight into the context of the 2002 case. The minority view and three additional views, written by a total of seven male Republican members of the committee, indicated that abortion was a significant point of contention during the 2002 discussion of CEDAW. Two of the additional views did not mention abortion, and instead critiqued the practice of allowing customary international law to hold sway in U.S. courts, and the potential oversight of the CEDAW committee. However, the third additional view and the minority view, co-written by all seven Senators, features discussions
of abortion in the context of CEDAW. The minority view listed the provision of “abortion on demand” as one of several topics that garnered heavy debate and stated that the committee’s provisions did not sufficiently address the concerns of the minority.38 While this shows that abortion was an issue of contention for the minority, the first additional views, written by Senators Helms, Brownback, and Enzi, pushed the issue of abortion much further. The Senators dedicated an entire page to the issue of abortion and their concerns that CEDAW would further the pro-abortion agenda despite its reputation as an abortion neutral treaty, stating that the, “ratification of CEDAW will help lawyers and other pro-abortion advocates reach the goal of enshrining unrestricted access to abortion in the United States.”33 The minority and additional views clearly demonstrate the majority’s concern that CEDAW’s ratification would lead to less U.S. control over its domestic priorities, including the inability to restrict abortion as it sees fit.

While these supplemental views clarified the polarizing nature of abortion in the 2002 CEDAW debate—namely, that reproduction and abortion were highly contentious and prompted strong opposition to CEDAW—I cannot claim that my third hypothesis is correct. Without access to supplemental views from 1994, I cannot determine if these attitudes in 2002 were an escalation from 1994, rather than a continuing opposition. Thus, while I can say that exceptionalism decreased from the 1994 case to the 2002 case, I can only claim the importance of reproduction and abortion to the 2002 case without drawing conclusions on the trend over time.

CONCLUSION

CEDAW is one of the core treaties of the international human rights regime, thus it gave me an interesting and relevant opportunity to study U.S. exceptionalism in action. Still unratified today, the fact that CEDAW has only been subjected to two ratification attempts in the Senate made it easy for me to compare the 1994 and 2002 attempts and understand how attitudes towards the treaty have changed over time. Future research on this topic would be beneficial, especially work that elucidates the motivations of the committee in writing the executive reports, draws from a wider array of source material, and incorporates first-hand accounts from senators involved in the process. Scholars should continue to observe how any potential future attempts at ratification approach the topics of exceptionalism, reproduction, and abortion.

This paper offers some conclusions on the changing attitudes towards CEDAW based on the executive reports from the Senate Foreign Relations Committee from 1994 and 2002. Namely, in 2002 as compared to 1994, the Committee adopted language that demonstrated lower levels of U.S. exceptionalism in almost half of the sections of the reports. While hallmarks of exceptionalist behavior remained, the overall demonstrated compliance with CEDAW rose. Additionally, exceptionalist attitudes about women’s health, reproduction, and abortion did not decrease, and oppositions to specific types of reproductive care were made clearer in the 2002 report. While the language of the 2002 report suggested a greater focus on reproduction and abortion in 2002, the missing 1994 minority views prevent me from making a strong claim.

The two cases utilized in this study, the ratification attempts from 1994 and 2002, ended in the same result: non-ratification of CEDAW by the United States. As this investigation looks only at the debates on CEDAW in the Senate Foreign Relations Committee, it is only a micro view of the phenomenon at large, and therefore it is possible that the changes in attitudes on exceptionalism and reproduction in this case are more indicative of the microcosm of the committee than the U.S.’ viewpoints at large. However, the information gained in this investigation is significant to help predict future action on CEDAW, especially because the Senate it is a highly influential microcosm whose reasoning can also be extrapolated onto the U.S.’ broader interaction with the international human rights regime or onto other ratification disputes. In addition, U.S. views on reproduction and abortion impact foreign policy and funding, and thus have a significant effect on international rights outcomes in this area. Since the topic of reproduction and abortion is so broad in scope, a much larger investigation is needed to understand how the U.S.’ non-ratification of CEDAW is affecting rights outcomes in other countries, especially regarding reproduction and abortion.

By first identifying a decline in exceptionalism over time in this case, further research can be done to examine if this phenomenon is also true in other cases’ ratification debates or for the U.S.’ attitudes more generally. In addition, the nuances of seeing decreasing exceptionalism generally but a firmer stance on the traditional markers of exceptionalism need to
be investigated to see if the U.S.’ stance on issues like federalism, non-self execution, and dispute settlement is changing at all, or if there is the potential to abandon these markers of exceptionalism. In regard to reproduction and abortion, my findings indicate that the U.S.’ rigid opposition to reproductive freedom is counter to the overall decreasing trend in exceptionalism, which raises questions on if the U.S.’ progress in becoming more open to international human rights law will be prevented by its stances on reproduction. Reproduction and abortion are some of the most polarizing issues in U.S. politics today, and their effect on foreign policy and the U.S.’ involvement in international human rights bodies has been significant. It is important to understand on a larger level how reproduction and abortion interact with exceptionalism to form the U.S.’ stance on treaties such as CEDAW.

My research has granted insight into the role of exceptionalism and the polarization of reproductive health within the CEDAW debate, and allowed me to tie together these two conversations, which are discussions that have not been linked very much in the literature so far. Further research could help us in better understanding if the U.S. is becoming more open to subscribing to international human rights standards and if this is limited by its unwillingness to loosen its restrictions on reproduction and abortion.

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