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Special Feature:

Voting and Electoral Politics Across the Globe

Contributions by the UWJPS Editorial Team

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MISSION STATEMENT

The University of Washington Journal of Political Science is an undergraduate, student-led journal established in 2024. The mission of the UWJPS is to give students a place and opportunity to showcase their exceptional work. It is also the goal of the UWJPS to cultivate conversation and engagement with a variety of significant events and topics in the field of political science and beyond.

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Letter From the Editor

Dear reader,

We are excited to present the inaugural issue of the University of Washington Journal of Political Science (UWJPS), a student-run publication featuring exemplary scholarly research by undergraduate students in the field of Political Science. In founding this Journal, our aim is to provide a platform for undergraduate students to present their work to the student body, general public and to the broader political science community. It is my personal hope that our publication, which features a range of academic perspectives, increases fruitful discourse in the community, encourages the spread of ideas, and most importantly inspires curiosity and a desire to read, research and explore political science topics.

I would like to thank and congratulate the UWJPS team on their remarkable work. Since May of 2024, our team has worked tirelessly to build this publication from the ground up and produce this issue filled with impressive student work. Although there have been significant challenges along the way, the team has remained dedicated and steadfast in our goal to amplify undergraduate student research and ideas.

This issue comes at a time of great political and societal divisions, both on the national and international stage. From ongoing war, to the upcoming United States Presidential election in November, it is essential to remain open to discourse, and eager to exchange ideas. Research and the pursuit of knowledge is essential to both the fabric of society and the improvement of lives, which is why we are honored to put forward all the outstanding contributions included in this issue. We received an excellent array of submissions on a range of topics in the field and are grateful to every individual who contributed. The selected submissions exemplify the high quality work being produced by undergraduate students, all of which have undergone an extensive review by our editorial board, and faculty of University of Washington Political Science Department.

The UWJPS team would like to thank Professor Rachel Cichowski, Professor and Chair of Political Science, our faculty advisor who has provided us with invaluable guidance and knowledge throughout this process. We would also like to thank our Departmental Advisor Daniel Ayala Robles for his encouragement and advocacy every step of the way. The success of this publication is due, in large part, to their willingness to support this project.

All that being said, we are thrilled to share Volume I, Issue 1 of UWJPS with you and to showcase the formidable work of the University of Washington's undergraduate students in the Political Science Department.

Sincerely,

Zoe Stylianides
Founder and Editor-in-Chief

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Post-Conflict Elections: Lessons From The Past To Guide The Future

By Luke McFadden
Editor & Student of the UW
Political Science Department

The calendar year of 2024 has already seen a number of consequential elections around the world. The first coalition government in South Africa's history, a left-wing government in the United Kingdom for the first time in fourteen years, a shift to the right in the European Parliament, the historic election of Mexico's first female president, and of course, the looming U.S. election in November. These illustrations of democracy are also taking place at a time of conflict around the world. The war in Ukraine has been raging for over two years, Myanmar remains in a state of violent chaos, Sudan has been plunged into civil war, and the Israel-Hamas conflict continues to tear at the fabric of humanity. The two conflicts receiving the most international attention are in Ukraine and Israel, with leading policymakers increasingly wondering about the future of these countries when the conflict ends. Fortunately, there are many examples of post-conflict elections to glean lessons from. In post-conflict situations, the timing of elections can either catalyze the peace process or accelerate a backslide into conflict. Preparation for the management of post-conflict environments in these regions should begin now, and can be guided by the lessons learned from two notable cases: Angola and Cambodia. In a post-conflict setting, elections are an important step in recovery and pacification. In order for elections to be effective in these raw moments, former belligerents must be demobilized post-conflict and corruption must be rooted out of new institutions before elections can be conducted.

The Angolan Civil War broke out immediately after Portugal left Angola in 1975. At the time, the three main political factions in Angola were the Popular Movement for the Liberation of Angola (MPLA), the National Front for the Liberation of Angola (FNLA), and the National Union for the Total Independence of Angola (UNITA) ("Independence and Civil War"). The MPLA was guided by Marxist principles and was based in the capital city, Luanda. The FNLA was based in the northern part of the country and would eventually receive significant support from the United States. UNITA broke off from the FNLA and was backed by the largest ethnic group in Angola. Upon Portugal's departure from the country, these three groups were unable to form a governing coalition, which led into the civil war. Angola became a proxy field for the Cold War, with the United States, the Soviet Union, and Cuba finding ways to arm opposing sides. In 1985, the United States began funding UNITA, and in 1987, South Africa entered the war on behalf of the same group ("The Angola Crisis 1974–75"). In 1988, the fighting had turned into a stalemate which led to the signing of the New York Accords. These accords did not bring an end to the conflict, but they did end the period of foreign involvement in Angola. By this time, the struggle for power in Angola was between the MPLA and the UNITA. A number of factors, including a debilitating famine, incentivized the parties to sit down and come to an agreement (Knapp).

With the support of the United States, Portugal, and the Soviet Union, the UN led the negotiation of the Bicesse Accords to end the civil war. Components of the agreement included the creation of a national army, a new national government, and a multi-party political scene. With a fragile peace established, the first elections in Angola's history were scheduled for the fall of 1992 ("Peace Accords for Angola"). The election resulted in a victory for MPLA, but the results were contested by UNITA and Angola once again descended into Civil War. Persistent efforts at peace and the holding of what were considered free and fair elections failed to produce a peaceful democratic outcome in post-conflict Angola.

The first notable failure of the post-conflict and pre-election period was the lack of demobilization by both the UNITA and MPLA forces. The larger goal of the Bicesse Accords was to have a demobilization of UNITA and MPLA forces occurring parallel to the development of a national

army. In post-conflict settings, it is vital to transform combatants into civilians and the weapons of war into tools of democracy. There were just sixteen months between the signing of the accords and the scheduled elections. In those sixteen months, about 150,000 troops needed to be demobilized (Porto et al. 2003). There were a number of factors that contributed to the failure of demobilization efforts. The persistent lack of resources, whether it be financial support, nutrition, or housing, made the dual tasks of demobilization and army reconstruction nearly impossible. Throughout the post-conflict period, international actors and organizations were content with spending as little as possible in Angola (Fortna 2003). The second factor is similar to the fog of war. In this case, it was the fog of state building. In a post conflict environment, there is often no clear source of power, an array of conflicting interests, and uncertainty about intentions and a long-term vision. In this fog, both UNITA and MPLA leaders took advantage of issues like resource shortages to mask deliberate non-compliance with the Bicesse Accords. Just two days before the election, when full demobilization was due, just 65 percent of MPLA's forces and 26 percent of UNITA's forces had been demobilized (Fortna 2003). The existence of active military forces backing both of the key parties produced extremely dangerous conditions.

The overwhelming consensus was that the elections were free and fair, and they resulted in a victory for the MPLA. In response, UNITA activated their troops and Angola descended back into conflict (Knudsen et al. 2000). The central issue with the Bicesse Accords was not the goal. Holding free and fair elections after complete demobilization and the creation of a national army is a reasonable plan. Tragically, that plan was not followed. By allowing UNITA and the MPLA to have mobilized forces on election day, the election became about what was fought for on the battlefield instead of what the future of Angola would be.

The second important lesson that should be understood about post-conflict elections comes from Cambodia. The reign of the Khmer Rouge, which began in 1974, resulted in the death of millions of Cambodians and represented some of the darkest days any population has experienced. When the Khmer Rouge were overthrown by an invading Vietnamese force in 1979, Cambodia plunged into civil war. The war raged on until peace negotiations began in 1988. In 1991, the peace agreement was signed in Paris, which ushered an end to the civil war and invited UN forces to enter the country and prepare it for a democratic transition. The UN Transitional Authority in Cambodia (UNTAC) was the largest UN peacekeeping mission ever undertaken, and its mandate was to oversee the rehabilitation of Cambodia, followed by free and fair elections being held.

The operational success of Cambodia's 1993 elections cannot be denied. Prior to the election, 96 percent of the population had been registered to vote. On election day, 90 percent of those Cambodian voters went to the polls. Small-scale pre-election violence had occurred, as well as threats from the Khmer Rouge to harm those who participated in the democratic process. Despite that, Cambodian voters delivered a verdict in a free and fair election. No party gained the majority necessary to pass the new constitution, so the three largest parties entered into a coalition. In the immediate aftermath of the election, international observers hailed it as a shining success and a roadmap for successful UN peacemaking in the future (Ledgerwood 1994). However, the man who became Prime Minister through the election, Hun Sen, continued to be Prime Minister until 2023 ("Hun Sen"). During that time, Cambodia experienced democratic backsliding, and political violence. The supposedly ideal example of UN governance has not turned out that way, and the primary reason is that the UN acted in Cambodia as if they were building institutions on a blank slate. Decades of corruption and feuding were not addressed, and the political institutions created by UNTAC would not and could not last.

Cambodia has a long history of endemic corruption in its political culture. Cambodia's leader following independence in 1953, Norodom Sihanouk was widely viewed as a leader who engaged in classic corruption including the illicit trading of arms and goods for personal benefit. This corruption was documented in charges brought against Sihanouk in 1974 ("Corruption Charge Denied by Sihanouk"). This type of corruption is different from the corruption that took hold in Cambodia in the late 1970s and 1980s. Rather than Sihanouk's cronyism, the post-Khmer Rouge corruption reflects a patron-clientelism system (Un 2006). This form of corruption erodes the strength of institutions and prevents democracy from being established. Through

this system, influential government officials use their status and access to give benefits to those in their network while simultaneously protecting and enhancing their own position. As outlined by Kheang Un in 2006, the development of this kind of corruption prevents "young democracies from consolidating while eroding the quality of old ones" (Un 2006).

There were seven distinct components of UNTAC's mission in Cambodia. They included human rights, elections, military, civil administration, civilian police, repatriation, and rehabilitation. None of these seven components directly dealt with the corrupt practices that typified Cambodian politics prior to the UN's arrival ("United Nations Transitional Authority in Cambodia Background"). In order for democratic consolidation to occur, the implicit desired outcome of holding free and fair elections, the institutions of the state must be accountable vertically and horizontally. For $1.5 billion dollars, 15,900 military officers, 5,600 civilians and police officers, and hundreds of volunteers, UNTAC delivered a free and fair election in Cambodia (Findlay 1995). However, the complete failure to address existing issues within Cambodian political culture have not only frozen democratization in Cambodia, but it has also begun Cambodia's descent into full-scale authoritarianism. Additionally, by using the same electoral system as the one established in 1993, Cambodian officials continue to claim their system is democratic. While this may be true on paper, the reality on the ground is a highly corrupt bureaucracy, a dangerous place for political dissent, and non-competitive electoral cycles.

Post-conflict environments, often viewed as periods of transition, are extremely fragile and volatile. Elections, the engines of every democracy, are a necessary and important step in the transition from conflict to peace. As seen in Angola and Cambodia, elections have enormous consequences in such raw moments of humanity seen immediately after conflict. The tendency of international players to push for elections early in the post-conflict period should be viewed with caution. As displayed by the case of Angola in 1992, the complete demobilization of former belligerents is essential to ensuring the results of an election stay in the ballot box and off the battlefield. The UN's role in Cambodia is a reminder that no situation exists without historical context. Even in post-conflict periods lacking strong institutions, there was once a way government was run. No state building initiative can construct durable democratic institutions on a foundation of corruption. As policymakers begin to make plans for peace around the world, these lessons should be internalized to make sure that state building efforts are successful.

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What Will Your Vote be Worth?

By Theresa Miceli
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The close of the Supreme Court term in July of 2024 left few legal areas of inquiry untouched. Decisions reached every corner of American life from second amendment rights to bodily autonomy. However, the case regarding the motivation underlying congressional redistricting in South Carolina, *Alexander v. South Carolina Conference of the NAACP*, achieved particular notoriety due to the shocking implications of the final ruling. It was affirmed that maps drawn for party gains are not unconstitutional thus complicating future challenges to districting maps. Furthermore, Justice Samuel Alito wrote in the majority opinion that in order to prove redistricting was done with the intent to dilute votes on the basis of race, the petitioner must "disentangle race and politics". This begs the question of whether it is possible to do so. Although the request of the Court is possible in certain circumstances, both the current and historical context of the decision rewrites it as a decision enabling racial gerrymandering. It is the racial landscape of the United States in combination with recent voting trends that renders southern states particularly susceptible to this practice following this decision.

In the ruling *Thornburg v. Gingles* (1986), the Court outlines the criteria a case must meet to be considered racial gerrymandering. The criteria include the compactness and significance of the minority population, the group's political cohesiveness, and the ability of the majority party candidate to defeat that of the minority party. Common among the three criteria is the openly acknowledged relationship between race and partisanship. The criteria receives more clarification and yet increased ambiguity in *Shaw v. Reno* (1993) which affirmed that courts can consider intent. *Miller v. Johnson* (1995) added the requirement of proving that the main intention was diluting the racial minority's vote. Together, these cases create the precedent for hearing cases concerning racial gerrymandering. However, the 2024 decision develops a legal paradox to the precedent in which proving racial gerrymandering in the eyes of the Court becomes impossible. If a connection between race and politics is necessary to qualify as racial gerrymandering under the precedent prior to the 2024 ruling, then the two cannot be sufficiently disentangled. Additionally, the combination of *Shaw v. Reno* and *Miller v. Johnson* allows for there to be overlap between racial and partisan motivation while still keeping a map under scrutiny for racial gerrymandering, but the Court's newest stipulation requires separation. Thus even though the ruling does not directly overturn the existing precedent, it removes the ability of the courts to deem maps unconstitutional. This has the largest potential to undermine the votes of Black Americans in the south.

Systemic racism has and continues to shape the racial landscape of the U.S. past the state level, affecting local communities. The 2020 U.S. Census data reveals that southern states[1] are home to the largest African American populations in the country by comparison with no other contender. Exploring each of these states further, there are clear county clusters with higher concentrations of Black Americans (U.S. Census 2020). This comes as no surprise considering the historical prevalence of slavery in the region. However, even with the end of slavery as a formal institution over one hundred fifty years ago, a variety of outside factors contribute to this comparatively high density of Black Americans in southern states seen today. During the COVID-19 pandemic, Black Americans were found to face significantly more challenges in their efforts to relocate compared to other racial groups (Chakrabarti et al. 2021). This shows that mobility restrictions for African Americans is not an issue of the past. Such limitations are *currently* impacting the racial landscape of the United States and solidifying these clusters.

[1] Texas, Florida, Georgia, North Carolina, Maryland, Louisiana, Virginia, South Carolina, Alabama and Mississippi.

Beyond economic barriers that have historically limited the mobility of racial minorities, scholars have found that modern prejudices translate as subconscious racial preferences in how individuals choose neighborhoods (de Souza Briggs et al. 2006). In other words, those of a particular race or ethnicity typically opt to reside in neighborhoods with a greater presence of that same race or ethnicity. Therefore at the community level, which presents an even smaller unit than that of the district, observers can see that racial composition does not change drastically when it comes to the predominantly Black neighborhoods in the south. In this sense, it is challenging for Black Americans in the South to make decisions regarding their residence with the highest degree of freedom even within their own localities. This conclusion is especially important when analyzing the practice of gerrymandering which is known for carving out congressional districts in and around local communities, reaching past any existing county lines. Essentially, the largest Black American populations are not only heavily concentrated and pre-determined to an extent, but highly susceptible to ill-intentioned congressional maps drawn to dilute the votes of that racial group.

Per the decision of *Thornburg v. Gingles*, it is equally necessary to account for voting patterns of Black Americans in order to contextualize the recent ruling of the Court. According to a Pew Research study in the 2022 midterm elections, ninety-three percent of Black Americans voted for Democratic candidates (Harttig et al. 2023) and ninety-one percent voted for Democrats in the 2020 presidential election. Thus there is a large population of Black voters concentrated into neighborhoods that tend to vote for the same party. In the states where this occurs, race is directly correlated with partisanship and it is virtually impossible to separate the two when drawing a congressional map as the Court suggests. Drawing maps for party gains becomes synonymous with weakening the impact of Black voters. Furthermore, the previous evidence suggests that racial composition of local communities does not change rapidly over time. This presents the ideal target for racial gerrymandering, particularly because unfair maps will likely remain effective for the full ten years between each census. It is also crucial to note that every southern state with the exception of Virginia and Maryland has a Republican majority in the institutions responsible for drawing congressional districts (National Conference of State Legislatures 2024). By complicating future challenges to these maps to the point of impossibility, the Court has enabled perpetual Republican dominance in federal elections for the southern United States.

Between the contradictions of the 2024 ruling with the prior precedent and the current political climate as described, it is sufficient to say that there is grave opportunity for legally justifiable racial gerrymandering in the south. However, opposing views make two main arguments. The first maintains that the relationship between the two is not stagnant. Although Black voters are most likely to vote for Democratic candidates now, it would be wrong to assume that this will always be true. Afterall, most Black voters historically leaned towards the Republican party until the election of 1936 when the majority chose a Democratic presidential candidate for the first time (Apple Jr. 1996). Unfortunately, this argument overlooks the key to gerrymandering: geography. Even if it was possible to fully disentangle race and politics as concepts, that does not change where individuals choose to live or where outside forces push individuals to live as previously described. Communities in the south are the most likely to vote based on financial status (Hersh & Nall 2016) and Black voters have relatively similar median household incomes throughout the south (Census Bureau 2020). These trends reveal that within southern neighborhoods that have larger African American populations, individuals tend to vote for the same candidates and these results are independent from party affiliation.

The other common counterargument is that because race and politics as constructs are not inherently related, there must exist a way to separate the two and effectively perform the task that has been asked by the Court. If this were true, then the argument that Alito's majority opinion created a legal paradox would be void. While it may prove to be possible in theory, attempting to detach the two is an impractical exercise in legal philosophy. Realistically, law only exists within the context it was written. In this case, law exists in a nation where race and politics have an inextricable relationship as demonstrated by the political and racial composition of the south. Taking into account that civil rights for racial minorities has been a political issue since the founding of the modern government, it is unethical to

impose a legal framework that is based in theory ignorant of this background. About 84 percent of the public agrees that there is still work to be done on correcting institutionalized racial bias and over 50 percent agrees with paying more attention to the history of racism (Pew Research 2021). Despite overwhelming support, the ruling in *Alexander v. South Carolina State Conference of the NAACP* pays no thought to this history. Intead, it creates new obstacles to achieving equal protection of voting rights for racial minorities.

Overall, the legal paradox that the decision has produced will disproportionately affect redistricting in the southern United States and threatens to dilute the voice of Black Americans in federal elections. Doing so not only undermines democracy, but blatantly violates the equal protection clause under the Fourteenth Amendment. In the context of this nation, partisanship and race are tied together in a tight knot. Allowing congressional maps that are drawn for party gains is merely a guise for legal protection of racial gerrymandering.

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Bullets and Ballots: Exploring the Effects of Nearly Successful Assassination Attempts on General Election Performance in the United States

By Connor Swanson
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Recent events involving former president Donald Trump raise questions about the effects of political assassinations on election performance, specifically about the relationship between nearly successful attempts—an assassination attempt in which the target is injured but survives—on the victim's success in general elections in the United States. On July 13, 2024, Thomas Matthew Crooks shot Trump, who was giving a speech at a campaign rally in Butler, Pennsylvania. Several Republican officials have since claimed that a Trump victory in November is now likely if not inevitable due to the shooting (Beavers and Carney 2024). However, the electoral effects of nearly successful assassinations are largely unknown. Before Trump, Theodore Roosevelt and Ronald Reagan were the only two former or current presidents who were wounded in assassination attempts and survived while seeking reelection. This paper first seeks to explain how nearly successful assassination attempts affected Roosevelt and Reagan in the 1912 and 1984 elections, respectively. Then, any observable patterns from these examples will be applied to the events on July 13, 2024, and the 2024 election.

On October 14, 1912, John Schrank shot Roosevelt in the chest shortly before the former president and Progressive Party candidate delivered a speech in Milwaukee. Roosevelt denied his colleagues' demands to seek medical attention; he gave a 90-minute speech with a bullet lodged near his sternum (Baker 2024). Moreover, Roosevelt articulated his injury to the crowd and apologized for giving a relatively short address. The candidate and former president cemented his legacy of perseverance when he declared at the beginning of his speech, "[I]t takes more than that to kill a Bull Moose" (Baker 2024).

This nearly successful assassination attempt was insufficient for Roosevelt to win the 1912 election. Despite giving one of the best performances by a third-party candidate in a presidential election, Roosevelt lost to Woodrow Wilson by 347 electoral votes and 14.4 percent of the popular vote (American Presidency Project 2024). Roosevelt did, however, beat Republican candidate William Howard Taft by 80 electoral votes and 4.2 percent of the popular vote. His victory over Taft is significant in that the Republican Party chose to nominate Taft instead of Roosevelt, but this suggests little, if anything, about the effects of Roosevelt being shot on his performance. A potential indicator of such effects is public opinion polls before and after the assassination attempt, but scientific polling in presidential elections was virtually nonexistent until the 1936 election (Hillygus 2011).

Newspapers can offer a glimpse into public attitudes after the shooting. Although many newspapers at the time reported on Roosevelt being shot, much of the available reporting focused on Schrank, who was portrayed as a "madman" and "socialist" (Theodore Roosevelt Center 1912). Schrank being labeled a socialist may have alienated some Eugene Debs supporters and Socialist Party members, thus turning them to Roosevelt—the next most progressive candidate. However, the Socialist Party was favorable almost exclusively to a small portion of midwestern voters (Postell 2024). Moreover, this group of voters overwhelmingly elected Wilson, who ran on a radically different platform than Roosevelt (Postell 2024) (American Presidency Project 2024). Therefore, despite Roosevelt being shot one month prior to the 1912 election, the resulting benefits were likely minimal and certainly inconsequential to his performance. However, deriving more specific conclusions about the degree to which the assassination attempt helped Roosevelt requires more 1912 polling data than is available.

On March 30, 1981, John Hinckley shot President Ronald Reagan while he was leaving the Hilton Hotel in Washington, DC. Reagan was rushed to a nearby hospital immediately after observers noticed his wounds (Ronald Reagan Presidential Library and Museum). This nearly successful assassination attempt happened after Reagan beat Jimmy Carter in the 1980 election by 80.8 percent of the electoral vote and 9.7 percent of the popular vote (American Presidency Project, 2024). In 1984, the first presidential election after he was shot, Reagan won by greater margins than in his impressive performance in 1980 (American Presidency Project 2024).

Although Reagan won in 1984, the injuries he sustained in 1981 seem to have faded from the national conscience long before ballots were distributed. Reagan's approval rating in mid-March of 1981 reached 60 percent; after he was shot, his approval ratings rose to 68 percent in less than two months (Newport et al. 2004). However, the American public held overwhelmingly negative views of the economy, which was a salient issue throughout Reagan's first term. In a 1980 election day poll of Reagan voters, 40 percent of respondents said inflation and the economy were the most important influences on their candidate choice (Hibbs 1982). Unemployment rose sharply between the summer of 1980 and the fall of 1981 before peaking at 10.8 percent in the latter half of 1982, and another recession began after the spring of 1981 (Auxier 2010). Reagan's approval rating fell to 40 percent by the end of 1982, a midterm year during which Republicans lost 25 seats in the House (Newport et al. 2004). At the end of 1983, the healing economy and the rally effect from the invasion of Grenada helped boost his ratings above 50 percent (Newport et al. 2004). Reagan's rating stayed above 50 percent through the 1984 election, and he won in a landslide against the unpopular Walter Mondale (Newport et al. 2004).

Reagan's approval rating fluctuations between the 1981 shooting and the 1984 election suggest that timing and salient issues greatly influence whether a victim receives political benefits from a nearly successful assassination. The sympathy Reagan garnered after being shot was overshadowed by poor economic conditions, which roughly half of the US in 1981 believed to result from Reagan's economic policies (Auxier 2010). If he was shot closer to the general election like Roosevelt, the positive effects may have remained despite public opinion on Reagan's economic performance. The possibility remains that lingering sympathy after March 30 of his first year dampened public disdain for the economy, but this seems unlikely considering the saliency of economic issues throughout his first term.

Despite the important lessons learned from Roosevelt and Reagan, it is unclear whether the nearly successful assassination attempt on former President Trump will have any substantial effects on the outcome of the 2024 election; there are several key differences between the current political climate and those during 1912 and the early 1980s. Trump and some Republican officials have argued that Democratic officials, specifically Joe Biden, created a trend of violence by declaring Trump a threat to democracy (Tanfani and Eisler 2024). Some Republican lawmakers also baselessly accused Biden of orchestrating the assassination attempt on Trump (Beavers and Carney 2024). Such accusations against candidates in opposing parties were virtually nonexistent when Roosevelt and Reagan were shot.

Soon after the shooting, Trump's favorability rating increased to 40 percent in a poll conducted by ABC News and Ipsos; his favorability stayed in the low to mid-30 percent range for most of the period following his defeat in the 2020 election (Pereira, 2024). This is a substantial jump but, as with Reagan, the polls could continue to improve in Trump's favor for several months after the assassination attempt. However, the same poll finds that the public blames Trump at higher rates than Biden for the increased risk of political violence (Pereira 2024). It is uncertain whether voters will view this event with sympathy or as the logical conclusion of Trump's antidemocratic track record. However, the timing of the Trump shooting is undoubtedly better than Reagan's; Trump was shot just under 4 months prior to the election, whereas Reagan was shot over 3 years before his next general election. In 1981, Reagan retained his increased approval ratings from the end of March until May, but Republicans at the time did not proliferate claims about members of the opposition party being involved in his attack. These conspiracies could alienate independent voters and galvanize loyal Trump supporters. However, the key question—whether Trump's boost from the shooting remains during the 2024 election—is nearly

impossible to predict until more polls are conducted to measure the prominence of the shooting in the national memory in months closer to November. Moreover, additional polling must be conducted to determine whether the shooting will influence the degree to which voters elect a candidate based on candidates' positions on salient issues.

In sum, it is impossible to accurately determine whether and the extent to which the nearly successful assassination of Trump will affect his success in the upcoming general election. We know it is possible that Roosevelt received a small boost from alienated Socialist Party voters; we know Reagan received a temporary boost in public support after being shot. However, the limited data available from 1912 and several differences between the political environments in which each of the discussed Presidents operated renders most claims unreliable. Trump is still experiencing the positive effects of being shot, but it is too early to say whether this boost will be consequential in the 2024 election.

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Long Form Research

Who Can Get Away With What? How Ideological and Economic Factors Impact the Implementation of Humanitarian Sanctions

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Abstract

Economic sanctions as a means of pressuring nations to improve human rights protections or end human rights abuses has become an increasingly common practice in recent years. Although the efficacy of sanctions for humanitarian ends remains under heavy scrutiny, the United States Department of State continues to both implement new sanctions and enforce existing policies of this kind. However, there is a notable discrepancy between regimes accused of human rights abuses by non-governmental organizations and those receiving these types of sanctions. This research aims to unveil potential factors that may explain this gap. I theorize that while investment and trade may protect a country from economic sanctions in an effort to keep certain markets open, past or present adherence to communist ideology increases the likelihood of receiving sanctions on the grounds that communism remains a perceived threat. To test my theories, I identify a set of countries that are currently verified by third party organizations as human rights violators. At this point, I conduct multivariate regression analysis to observe the relationship of both economic interest and conflicting ideology and the presence of sanctions citing human rights violations. While I expect to find that while both factors contribute to the presence of sanctions as outlined, I also theorize that economic interest will have a greater influence. This study serves to identify specific influences on sanctions that will enrich future discourse on their implementation.

Introduction

Economic sanctions have long been used by the United States as a way to exert political pressure and mitigate threats to national security. On the heels of World War II, the active promotion of democracy and human rights internationally became one of these interests. It naturally follows that economic sanctions would be placed on countries with poor reputations for protecting human rights, but in reality the story is more complicated. Saudi Arabia, a country that not only enforces the criminalization of homosexuality but does so with the death penalty as an interpretation of Sharia law (Human Rights Watch 2023), does not currently bear any United States imposed sanctions. At the same time, sanctions against Ethiopia explicitly cite human rights abuses, notably gender-based violence, as a justification for the policy (Executive Order 14046). When compared, the two countries share similar patterns of sexual violence and attitudes towards the LGBTQ+ community, yet only one of them is economically punished. If the existence of such abuses was the only grounds for sanctions, we would see both countries under relatively equal scrutiny. From where does this discrepancy arise?

As the use of sanctions only increases, this discrepancy is incredibly important to identify because the majority of academic studies paint the practice as an ineffective method of achieving humanitarian goals. It is the most vulnerable populations that continue to suffer under these conditions and the United States still imposes them on over twenty countries (Rodriguez 2023). Understanding the largest underlying components of a humanitarian sanction decision is essential to restructuring the practice in a way that better accomplishes the establishment and protection of human rights globally. As long as they continue to be seen as a policy tool by the United States and similar geopolitically powerful nations, the *stated* goals of these policies remain out of reach. Identifying the

hidden goals opens the door for more targeted policies that create less humanitarian fallout.

In this paper, I aim to explore both factors that increase the likelihood of a nation receiving sanctions and factors that protect from these impositions. Based on trends I have witnessed, I theorize that extensive economic partnership and interest is a valuable defense against receiving sanctions regardless of alleged human rights violations while stronger adherence to communist ideology acts in the opposite fashion. For the case I have previously detailed, it is perhaps the oil reserves in Saudi Arabia that protect the nation from sanctions while Ethiopia's history of socialist regimes encourages them. While there are other factors to be accounted for, I believe those I have described played a larger role than what is disclosed. I will first describe the ongoing scholarly debate on the contributing factors to general economic sanctions, however there is a significant lack of literature attempting to theorize decisions on specifically humanitarian focused sanctions. After thoroughly detailing my theory and hypotheses, I will explain how I quantify my variables and the methodology I will employ to analyze the factors before exploring and analyzing my eventual findings.

Background

Sanctions are imposed at different levels and for different purposes. They can target specific individuals, corporations, or organizations. Regardless of their specific targets, they are a form of coercive diplomacy that is meant to punish a regime as a whole. The theory holds that preventing a regime from profiting off of trade will encourage them to comply with the will of the country or international organization that has instituted the policy. Since its creation, the United Nations has taken the liberty of imposing sanctions as a punishment for human rights violations, annexation of territory, terrorist actions, and other unprovoked attacks (European Council 2023). However, the story changes a bit when a single nation chooses to impose sanctions. While the UN is a self-proclaimed instrument of peace, individual nations have unique and distinct interests. The United States, like most nations, prioritizes the preservation of national security and the mitigation of threats against that concern (Department of State 2023). However, as a prominent member of the international community, it is necessary for the United States to align with the values of the United Nations and to incorporate their goals for economic sanctions into their own. Regardless, the United States places their own national security above other alliances or participation in the international community. This makes it crucial to analyze their decision making regarding sanctions, particularly when they stray from the international agenda, such as the case of Saudi Arabia.

Literature Review

The Department of State openly asserts several main factors that influence the decision to impose sanctions including national security threats, humanitarian concerns, and inflicting minimal negative economic impact. In the limited literature evaluating the accuracy of this language, many Scholars agree that this rhetoric is consistent in its application. However, what constitutes a substantial security threat and subsequently informs the decision to sanction is still up for debate. Although promoting human rights has been adopted as an official national interest, competing interests and threats that complicate the manifestation of this interest in the form of sanctions. The theories generally fit into four categories, three of which align with the language of the State Department and threats identified by the intelligence community. This includes the straightforward approach that severe human rights violations genuinely lead to more economic sanctions, but it also includes theories that focus on domestic economic stability, and the presence of illiberal regimes. The outlier of the leading theories is that sanctions are imposed or neglected for strategic reasons that do not generally have commonalities. Every decision is made on a case by case basis that has no common thread.

First and foremost is significant literature that demonstrates a strong correlation between the severity of human rights abuses and the presence of sanctions. These studies aim to reveal a link between global human rights abuses and national security of individual, typically high income nations. Regional studies in Latin America have shown that sincere consideration of human rights violations has greatly impacted the presence of sanctions to punish perpetrators of these abuses (Cingranelli and Pasquarello 1985; Poe 1994). Complicating these results by expanding globally and accounting for administration changes, Clair Apodaca similarly

found that generally, a worse record of human rights protection more often leads to countries being economically punished by the United States (1999). These works also acknowledge that records of human rights abuses are often perpetual and difficult cycles from which to escape. Essentially, these records have generated lasting suspicion and are still being critiqued similarly today.

Next there is an ongoing trend to frame economic stability as a national security concern and particularly access to oil and other energy sources. Disruptions in the importation of oil without proper remedies to account for the loss are a major security concern (Rand et. al 2009). Other scholars in the field of international security agree and expand further by acknowledging the U.S. military's dependence on the fuel source (Glaser 2013). These works fall within the framework of my argument on the effects of economic interest. The United States generally ensures sufficient trade with countries that harbor essential natural resources such as oil. Scholar Hennie Strydom widens the scope of the oil argument by arguing that sanctions are merely a method of achieving economic interests and financial security. By observing the sanctions placed on African countries, many of which are the home of precious metals, she concluded that the sanctions imposed by the international community are merely an effort to conduct "economic warfare" and attain dominance (Strydom 2001).

Other theories regarding the largest national security threats often highlight the existence of illiberal regimes that not only threaten U.S. national security, but the global democratic peace as a whole. Sanctions are thus a non-violent method of encouraging reform or even collapse of these regimes. This suggests that humanitarian sanctions are decently true to their intentions since illiberal regimes are typically more likely to commit human rights violations (Petman 1999). Due to the perception of communism as illiberal in the United States specifically, this theory aligns well with my own. The difference however is that by identifying *illiberal* regimes, non-communist fascist and authoritarian regimes also fall under those more likely to receive humanitarian sanctions. I qualified this theory to account for the lack of sanctions imposed on nations such as Saudi Arabia that I have previously discussed. Madeleine K. Albright however draws a more clear line between the perception of illiberal and post Cold War tensions that further confirms the potential of a link between adherence to communist ideology and the presence of humanitarian sanctions. Her argument rests on the American perception of socialist/communist as inherently illiberal (Albright 1995).

One theory that works outside the framework of State Department language suggests that sanctions are in the end applied on a case by case basis. The common thread is simply that there appears to be a strategic partnership between the United States and the country in question, but what constitutes a strategic partnership is unclear. Through this line of reasoning, each case of sanctions must be thoroughly analyzed individually considering that the details between instances are challenging to generalize (Askari et. al 2003). Many studies do not attempt to make these generalizations and categorize relationships with each country as positively strategic with a variety of ways to define strategic. This extremely broad and vague approach has however revealed a clear correlation between "strategic partnership" and the absence of sanctions (Cooper Drury 2001). Studies on aid sanctions are approached similarly. The difference is that aid sanctions can only be applied to countries currently receiving or requesting financial assistance as opposed to economic sanctions which could be applied to anyone at any time. Although the target nations differ slightly, the literature reveals a similar pattern. Strategic relationship, assessed on a case by case basis, is a strong defense against aid cuts (Nielson 2013). This scholarship is not in contradiction with my theories considering that economic factors are a significant aspect of global strategy. However, this literature trend reveals the difficulty and existing gap in the work done on answering the question as to why sanctions might be imposed. It is easy to generalize when conducting case studies, but it is difficult to isolate causes when observing all cases simultaneously.

Theory and Hypothesis

Any sanctions inherently limit the global economy and remove opportunities for the growth of national wealth. In other words, the country imposing sanctions incurs a portion of the economic penalties. Thus there is a natural incentive to be forgiving and hesitant when sanctioning a country in which there is already significant economic interest. This can be

defined as the combination of several indicators including depth of a trade partnership and magnitude of investment from both the U.S. government and private American-based corporations. Sanctioning such countries has an indisputable adverse impact on the home country's economy (Dastgerdi et al. 2018). It not only causes a poor return on investments made by businesses, but also on tax-payer funded initiatives which sparks political fallout. In the case of preexisting extensive trade and especially relationships that imply dependence on a natural resource, sanctions generate inflation for domestic consumers. Furthermore, sanctions have a significant negative effect on future relations even if the sanctioned regime is compliant. Elected officials require both public favor and the favor of powerful, wealthy corporations that fund future campaign efforts. Being responsible for a policy that disturbs either of these entities threatens their own political viability. It would then be reasonable to see a negative correlation between existing economic interest in a country and the presence of sanctions against them.

(H1): Countries in which the United States has more economic interest are less likely to receive sanctions.

(H1)(0): U.S. economic interest in a particular country does not affect the likelihood of that country receiving sanctions.

Variables and Data

For my purposes, I will develop an observable set of countries serving as my unit of analysis that have the potential to or are already criticized for human rights violations. To do so, I will use freedom indices provided by the non-governmental organization Freedom House. More specifically, this set will include any nation categorized as "not free", with a global freedom score of 35 or below out of 100. This index is based upon ratings of both political rights and civil liberties. In the framework of the United Nations language on human rights, the poor protection or sheer lack of either political rights or civil liberties reveals the presence of severe violations. Nearly every country has been accused of human rights by NGOs such as Human Rights Watch and Amnesty International, but the goal of using the freedom score is to identify countries that are consistent and severe human rights offenders that are more likely to spark conversations among U.S. leadership concerning whether or not they should receive sanctions in response to the abuses. The time frame of the research will utilize the most current data available as the goal is to create an accurate picture of the factors influencing the decision to impose sanctions as it stands today.

It is also relevant to explore any factors that may increase the likelihood of a regime receiving sanctions given that its human rights reputation is similar. Despite the end of the Cold War, residual ideological tensions remain between the United States and former USSR nations, particularly Russia. Even today, only about 36 percent of Americans have an even slightly positive view of socialism as a concept (Pew Research Center 2022). It is quite reasonable to infer from this statistic that countries with current or past histories of associating with communist ideology are still perceived as enemies. Aside from displays of military prowess, an alternative effective method to impair or make an example of an enemy is to threaten their economic prosperity. The financial dominance of the United States only makes this way of punishing adversaries more enticing. It is subsequently more instinctive to inflict sanctions upon countries adhering to a more marxist framework of government.

With these theories I have constructed the following hypotheses:

(H2): Countries with a stronger adherence to communist ideology are more likely to receive sanctions.

(H2)(0): Having a history of communist regimes does not increase the likelihood of receiving U.S. imposed sanctions.

There are two main independent variables that must be quantified: Economic interest and adherence to communist ideology. In order to determine the level of economic interest between the United States and Individual countries, I will develop a combination of trade flow statistics and direct foreign investment. Trade flow statistics from the United States Census Bureau are separated between imports and exports to show mutual partnership. All three datasets are in U.S. dollars and countries with the highest dollar value between imports, exports, and direct investment will indicate the highest level of economic interest. They are a numeric measure reporting the total price of imports and exports upon entry or exit. Investment is measured as a combination of raw dollars invested by private business and public government funded initiatives. Due to the wide range values in these measurements, I will consolidate them by taking the log and implementing the log values in the final model.

Measuring history or current influence of communist ideology will be a self gathered metric using the CIA World Factbook as the source of data. This study is interested in the U.S viewpoint thus it is more relevant to utilize a U.S. government produced resource that offers their perception of communist influence in each country. If a country is currently classified as being a communist state or regime, they will be assigned a "1". In the case that there is a mention of communist or socialist party takeover in a country's history but they are no longer in power, a scoring of "0.5" will be assigned. Lastly, if there is no mention of communism neither past nor present, a country will receive a "0".

The dependent variable in both hypotheses will manifest as a simple dichotomous measure that indicates whether or not there are sanctions against a country that cite human rights abuses as a justification for the policy. "0" will be used to indicate that no such sanctions exist with "1" representing the alternative. I will only be distributing a "1" to countries *currently* receiving sanctions as opposed to ever having received a sanction because my goal is to evaluate the most current state of sanction placement possible.

It will also be necessary to control for a variety of potential spurious factors that generally fall into two categories: demographic/geographical and violence/human rights-related. The former have a naturally more straightforward codification. Each country will be controlled for its region as determined by the United Nations. It will also be necessary to control for the dominant religion of the country due to surface observations that majority Muslim countries appear more frequently on the list of sanctioned nations. Thus it presents an intuitive alternative theory that must be accounted for. Both of these variables are nominal categorical measures that are well recorded and publicly available. As previously mentioned, the region categorizations will come straight from the UN while the religion data will be pulled from a Pew Research report on religious composition in 2020.

Violence and human rights-related factors will include the designation as a state-sponsor of terrorism, severity of human rights violations, and the existence of an ongoing civil war. For the sake of standardizing the way severe human rights abuses are defined in this paper, I will continue to use the Freedom House global freedom index to control for the extent of continuous violations. Although I have chosen only countries with a score of at most 35 on this index, there is still a large degree of variance within this range that it is necessary to control for. Additionally, since scholars theorize that sanctions are generally applied within the framework of national security, I will account for threat indicators. As stated, this will include state-sponsored terrorism and presence of civil war. Both factors imply elevated violence and instability which presents threats to national security. They will be coded separately as dichotomous variables with a "0" given for no civil and no state sponsor designation respectively. A "1" will represent the alternative. There are currently four countries that have been identified as state-sponsors of terrorism including Cuba, North Korea, Iran, and Syria (Bureau of Counterterrorism). To determine ongoing civil war, I will use the Global Conflict Tracker produced by the Council on Foreign Relations think tank who plays a key role in informing American foreign policy.

Methods

Due to the dependent variable being dichotomous, I run a multivariate logistic regression model. This allows me to observe the influence of independent and control variables holistically and develops a model that can be used to predict the odds of an event occuring which is the application of

humanitarian sanctions. It also enables comparison between the weight each factor carries in the likelihood of imposing sanctions. The unit of analysis constituting the observations for this model is a sovereign nation with only one case per country as the time frame is meant to be a snapshot of the current state of affairs. For countries that have received sanctions, the financial data is taken from the year prior to when the sanctions became in effect in an effort to ensure proper temporal proximity. After establishing this logistic model, I isolate and test the independent variables by holding all controls and independent variables not being tested as constant. This will ensure the ability to remove spurious factors that could be contributing to both the independent and dependent variables. To do so, I use R software to predict the likelihood of sanctions based on a variety of scenarios. Several of the controls are categorical variables including religion and region that I have coded as numerics so they can as well be kept constant in these predictions, but they are still coded as being unranked.

The cases themselves are largely derived from the data set itself with a small degree of variance. Only combinations of region and religion that are found in the data are tested as hypothetical scenarios. This is largely due to the continuity of these factors as they are extremely unlikely to change over time. However, the cases will cover all possible combinations of designations as a state sponsor of terrorism and presence of an ongoing civil war. Essentially, each combination of region and religion becomes four distinct cases to account for the combinations of these factors that can change more quickly in a shorter time frame. In other words, a predominantly Christian Latin American country will be tested as having neither state sponsor status nor an ongoing civil war, having either of the two, or having both. These cases are further broken down between the independent variables. All continuous numeric variables including the human rights index and the log of exports (when applicable) will be held to their means. The cases are then tested twice. Once in which the Communism Index varies and one that tests for benchmarks of economic interest based on the log of exports and imports.

This model will reveal which factors are statistically significant on the likelihood of receiving sanctions. It will therefore enable me to make accurate claims as to whether or not the discovered impact of economic interest and communism carry significance in the sanctions decision. If found statistically significant, the null hypothesis that these respective factors bear no weight can be rendered false. To ensure that no factors are mistakenly over accounted for, I will run a correlation matrix against all control variables. A correlation of 0.7 or higher will indicate that controlling for both of those variables separately is inflating their presence in the results.

In order to test the viability of this model with my compiled data, I will find McFadden's R squared value in which a coefficient greater than 0.4 will indicate that this model has significant predictive power. I will also run several logistic regression specific tests to verify the weight of each factor in the sanctions outcome. This includes the "Variable Importance" which will provide an estimate of the weight each factor carries in determining the likelihood of humanitarian sanctions.

Findings

Before evaluating the hypotheses based on the prediction tests, it is necessary to analyze the logistic model itself. McFadden's number, or "pseudo R squared ", was approximated as 0.47 indicating that the selected model was extremely well fit to the data considering that a value of 0.4 would have indicated adequate suitability. Further, the correlation matrix revealed an expected high correlation between the log of imports and the log of exports. Thus in an effort not to inflate the effects of variables, two logistic models were tested where one of these variables was removed. The model using the log of exports generated slightly more statistical significance and was ultimately used as the logistic model to estimate the sanctions predictions for the hypothetical cases.[2] With this model, four factors were found to be statistically significant including the communism index, ongoing civil war, designation as a state sponsor of terrorism, and log of exports.

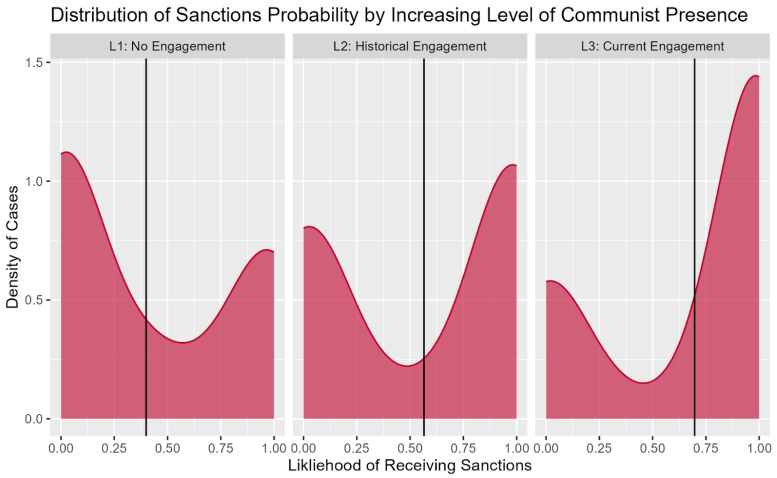
It may be noticed in Table 1 that measurements for "Christianity" and "Asia" are missing from the list of log odds ratios. Both religion and region are accounted for as unfactored

[2] Economic interest was reduced to being measured by the log of exports and the log of imports due to the incompleteness of direct investment data.

categorical variables. This is done to avoid any accidental ranking of these variables that would incorrectly place one religion or region above another. As a result, the log odds ratios presented in Table 1 are comparing the effect of each religion and region relative to the effect of Christianity and classification as an Asian country respectively. In other words, "Christianity" and "Asia" act as pseudo constants for their variables. These specific constants were not chosen for any particular reason. By coding the variables as unranked, any of the religions or regions could have been selected and the prediction model would have produced the same results.

Initial findings indicated that while the communism index does indeed have the predicted effect, the impact of economic interest has the exact opposite of what was originally theorized. Figure one displays a density of the cases tested as previously described in which the Communism Index varied between 0, 0.5, and 1. During these cases, the log of exports was held constant at the mean value. The results reveal that the average likelihood of receiving sanctions increases as the level of communism increases among the cases. The logistic regression model estimates the log odds ratio for the effect of the Communism Index on the outcome of sanctions as approximately 8.529. Additionally, this ratio is accompanied by a p-value of less than 0.1 which indicates that the factor is statistically significant with 90 percent certainty. Being positive and far from zero, this log odds ratio can be interpreted as the Communism index having a large effect on the likelihood of sanctions as it increases. Figure 1 visualizes this phenomenon by displaying a density plot of the hypothetical cases with varying levels separated by the indicated level of communist presence. The center line displays the mean likelihood across cases with the same level. As shown, the average chance of receiving sanctions with no historical or current implementation of communism is the lowest of the three with the odds being under 50 percent. Cases tested with identification as a current communist were on average found to have a nearly 75 percent chance of receiving sanctions. This evidence suggests that we can reject the null hypothesis that the level of communism has no effect on the implementation of U.S. sanctions.

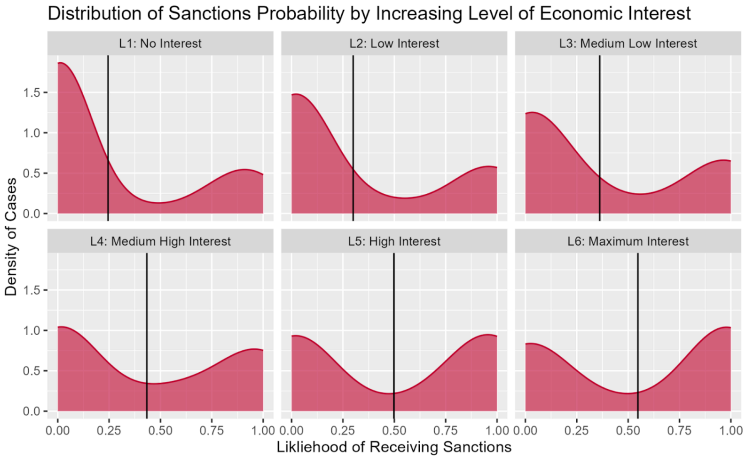
Figure 1:



As mentioned, the factor of economic interest was found to have an inverse impact than that which was predicted by the hypothesis. Using the same logistic regression model, the same same cases were tested with six levels of economic interest. Note that without a clear average for the communism index, the index was held to zero for these cases because it was the most common instance found in the data. Similar to region and religion, it is unlikely for this index to change quickly based on its coding strategy as previously outlined. The six benchmarks tested range from the lowest to the highest level of trade found within the data. For reference, this correlates to our non-existent trade with North Korea up to our level of trade with China.

Similar to the communism index, the log odds ratio was found to be statistically significant with a p value of less than 0.05 which indicates a confidence level of 95%. Thus we can reject the null hypothesis that economic interest has no effect on the likelihood of sanctions. However, the log odds ratio itself is positive and much closer to zero than the communism index ratio at approximately 0.585. The interpretation can be seen best through Figure 2 which displays the distribution of cases separated by tested level of economic interest. The center-line representing the mean of the sanction odds follows a similar pattern to the communism index in which the odds increase as the level of economic interest rises. The visual shows the average odds rising from about 25 percent with no economic interest to just over 50 percent at maximum economic interest.

Figure 2:



In observing these two sets of small multiples, attention is immediately drawn to the unexpected but consistent bimodal distribution of cases. To explore this phenomenon further, I first combined all hypothetical cases tested between the two prediction models. I then split the data between cases with sanctions odds less than 50 percent (referred to as the "lower" cases) and those with sanctions odds greater than or equal to 50 percent (referred to as the "upper" cases). The goal was to find commonalities within these groupings to discover if certain combinations of characteristics essentially sealed one's fate regarding the decision of sanctions. Observing these groups separately revealed more about the interaction of ongoing civil war and designation as a state sponsor of terrorism than was previously visible. Table 2 and Table 3 provides the summary statistics within each group respectively for these variables along with a combined statistical measure that determines whether a case has neither, one, or both of these variables coded as a "1".

The difference in means between the lower and upper cases partially explains the differences between the clusters of cases found in the bimodal distributions. The average presence of civil war in the lower cases sat around 0.404 while that of the upper cases was about 0.618. There is a similar difference in means for designation as a state sponsor of terrorism. The average among the lower cases is about 0.376 while the upper cases maintain an average of 0.652. The differences in means indicate that a majority of cases with sanctions less than 50 percent do not have an ongoing civil war or are identified as a state sponsor while the majority of those with odds greater than or equal to 50 percent do have an ongoing civil war or are state sponsors. The combined statistic also differs between the upper and lower cases. Cases where the sanctions were higher had a larger concentration of "1" and "2" for an average of 1.270. It is also significant that the first quartile for the upper cases is a "1" which implies that over 75 percent of cases whose sanctions were more than half have at least one of these variables present. On the other hand, the mean combined statistic for the lower cases is below 1 with 0.780. Therefore there is a higher concentration of cases in this group with no presence of either variable.

Conclusion

The findings indicate that while the communism index has the theorized effect on the likelihood of sanctions, the impact of economic interest contradicts the theory. There are two main intuitive explanations for why the latter is occurring. The first being the sheer amount of licensing available to circumvent sanctions. These licenses obtained through the Office of Foreign Assets Control enable American businesses to continue trading with companies and persons sanctioned by executive orders. Thus the economic impact of sanctions is less severe than if sanctions halted all aforementioned business. It naturally follows that *concern* over the economic impact during the decision making process diminishes knowing that there are methods of bypassing the effects. However, this line of reasoning does not explain why the increasing levels of economic interest are correlated with increased odds of receiving sanctions. This might be explained by the symbolic (and less tangible) nature of sanctions. The United States may be more likely to impose sanctions on a country with a large presence in the global market because it makes a larger statement when in reality, businesses in the U.S. and abroad do not feel the full extent of their intentions.

It is also necessary to note that in moving forward, the variance in the human rights index was not found to be statistically significant. As discussed, the log odds coefficient also did not indicate that a higher or lower human rights score would have a large impact on the chances of sanctions. This finding aligns with the motivating observation for

this paper of the wide discrepancy between countries accused of human rights violations and those sanctioned for them. With more studies revealing the negative humanitarian side effects of these sanctions, it is notable that the alleged human rights conscious motivations of these sanctions are in not presenting themselves as an influential factor in these discussions.

Returning to the Department of State's language, this research reveals that not all factors in a sanctions decision are weighted equally or made transparent. The effect of the communism index reveals a more discrete, and perhaps subconscious, ideological influence on the decision making process that is not outlined in DoS language. This prompts the need for further exploration of other potential hidden factors such as testing a wider variety of regime types, dominant ideologies, available natural resources, and additional demographic factors. Relating this study to factors that *are* officially published, the indicators related to national security were found to be relatively more influential than that of human rights. These indicators include the existence of an ongoing civil war and designation as a state sponsor of terrorism which both naturally inhibit a nation's stability and in turn become concerns of U.S. national security. Based on this study, one could argue that the inclusion of human rights consciousness in Dos language is virtually overshadowed by security concerns and could be characterized as a performative political action.

Considering the limited time frame of this study as a snapshot of the current environment producing humanitarian sanctions, there is room to expand this work with historical cases. I would recommend four year increments to align with presidential administrations taking into account that the imposition of sanctions is most often an executive action. As noted, the practice of humanitarian sanctions starkly increased starting in 1990 and would thus make an appropriate starting year for gathering historical data. Expanding the time frame of this study would enable observing the changing degree of influence among these factors over time.

Although it may never be possible to learn the full details of the Oval Office discussions on the possibility of imposing sanctions, this study aims to gain a better understanding of the key points involved in the decision. Whether an advocate for or against the practice, it is essential to grasp these points to effectively fight or support their implementation. Parties that may be interested in these results include, but are not limited to, American businesses, human rights organizations, and foreign interest groups.

Appendix

Table 1: Logistic Regression Coefficients

	Dependent variable:
	Likelihood of Receiving Sanctions
Communism Index	**8.529***
	(4.692)
Log of Exports	**0.585****
	(0.255)
Islam	-1.724
	(1.283)
Buddhism	9.580
	(3,966.237)
Unaffiliated	6.789
	(3,966.238)
Folk Religion	-11.151
	(7,633.863)
Africa	19.155
	(3,966.236)
Americas	19.323
	(3,966.236)

Eurasia	15.258
	(3,966.236)
Europe	1.320
	(7,633.862)
Middle East	14.342
	(3,966.236)
State Sponsor of Terrorism	**6.510****
	(3.075)
Ongoing Civil War	**5.423****
	(2.524)
Human Rights Index	-0.081
	(0.065)
Constant	-21.231
	(3,966.236)
Observations	56
Log Likelihood	-18.213
Akaike Inf. Crit.	66.427
Note:	*p<0.1; **p<0.05; ***p<0.01

Table 2: Summary Statistics for Cases with Sanctions Odds Less than 50%

Statistic	Number of Observations	Mean	Min	Max
State Sponsor of Terrorism	218	0.376	0	1
Civil War	218	0.404	0	1
Combined Civil War and State Sponsor	218	0.780	0	2

Table 3: Summary Statistics for Cases with Sanctions Odds Greater than or Equal to 50%

Statistic	Number of Observations	Mean	Min	Max
State Sponsor of Terrorism	178	0.652	0	1
Civil War	178	0.618	0	1
Combined Civil War and State Sponsor	178	1.270	0	2

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The Amended ADA and Persistence of Labor Disparities Among Disabled Americans: Lessons From Data, COVID-19, and the Philosophy of Disability

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Abstract

The Americans with Disabilities Act (ADA) is one of the most significant pieces of civil rights legislation in the United States, created with the purpose of reducing discrimination against and increasing opportunities for disabled Americans. This project asks whether the ADA, in its post-2008 amended state, has achieved one of its central goals of bettering labor outcomes and economic well-being for disabled Americans. To better understand and answer this question, I draw from studies on discrimination claims filed to the Equal Employment Opportunity Commission (EEOC) on the basis of disability, analyze some of the big picture limitations of disability anti-discrimination law in improving economic well-being of disabled individuals, and finally make an ethical argument drawing from the philosophy of disability literature to support calls for better anti-discrimination policies and practices. My research revealed significant and persisting economic and labor-related disparities between disabled and non-disabled Americans despite the ADA and ADAAA (Americans with Disabilities Amendment Act). As they currently stand, federal disability anti-discrimination laws do not adequately meet the threshold of justice that ought to be ethically required of them; something must change, whether it be the laws themselves or how they are enforced. Work itself must change too, which is the final argument made in this project.

Introduction

Shortly before the start of the COVID-19 pandemic, office worker Kathryn Wiltz repeatedly asked her employer to allow her to complete her work from home as an accommodation for her disability, an autoimmune disease causing pain and severe fatigue; her requests were denied (Casselman 2022). Wiltz's treatment suppresses her immune system, making her more vulnerable to viruses, and having the option of remote work would be significant in protecting her from infection. "Remote work and remote-work options are something that our community has been advocating for for decades, and it's a little frustrating that for decades corporate America was saying it's too complicated, we'll lose productivity, and now suddenly it's like, sure, let's do it," noted Charles-Edouard Catherine, the director of corporate and government relations for the National Organization on Disability (Casselman 2022). Ben Casselman covered these stories for the *New York Times* in 2022 to better understand how COVID-19 had changed things for disabled workers. The pandemic undoubtedly altered the American work landscape and substantially increased opportunities for people to work from home. This came as a great benefit for some disabled Americans; finally their pleas for more accessible and safe work environments were being answered. An issue however arises in the circumstances surrounding such an accessibility victory, why didn't it happen sooner?

This project asks whether the Americans with Disabilities Act (ADA), in its post-2008 amended state, has achieved one of its central goals of bettering labor outcomes and economic well-being

for disabled Americans. I will be drawing from studies on discrimination claims filed to the Equal Employment Opportunity Commission (EEOC) on the basis of disability, analyzing big picture limitations of disability anti-discrimination law in improving economic well-being of disabled individuals, and finally making an ethical argument drawing from the philosophy of disability literature to support calls for better anti-discrimination policies and practices.

COVID-19 and the introduction of remote work has opened a lot of doors for everyone – disabled people included – to work more flexible and accessible jobs. However disability rights advocates have been saying for years that having the option of remote work would be immensely beneficial in creating accessible workplaces. The ADA was made to create protections for Americans with disabilities from discrimination, but I argue it falls short on its goal, and COVID-19 made that clear. Using quantitative data as support, I will justify an ethical argument for a better ADA.

Background

The Americans with Disabilities Act consists of civil rights protections for disabled Americans including prohibitions against discrimination in employment within both private and government positions, as well as mandates for increased accessibility of public spaces and accommodations ("History of the ADA of 1990"). The Disability Rights Movement gained momentum following the Civil Rights Movement and the Women's Liberation Movement from preceding decades, and soon began to receive recognition for its mission. The National Council on Disability (NCD) was created in 1978 as an advisory council under the Department of Health, Education, and Welfare Rehabilitionation, with the purpose of representing the interests of disabled Americans ("NCD: Mission and History"). The NCD criticized pre-ADA federal policy regarding disability, claiming it "overemphasized disabled people's need for public assistance income support and underemphasized initiatives to secure self-sufficiency through equal opportunity" (Francis and Silvers 2017, 673). The NCD then called for legislation that was stronger at prohibiting discrimination against disabled people, and more akin to existing "laws prohibiting discrimination on the basis of race, color, sex, religion, or national origin" (Francis and Silvers 2017, 673). The first draft of the ADA was created by the NCD and introduced to Congress in 1988 ("NCD: Mission and History").

In 1990 the ADA was signed into law by President George H.W Bush. When the ADA was first signed into law, it was unclear whether it was intended to only be applicable to those with persisting physical or mental limitations, or if it was to apply broadly to anyone who may be victimized by disability discrimination (Francis and Silvers 2017, 674). This created some confusion about the purpose of the law and who exactly was qualified to make claims under it. In the late 1990s and early 2000s, the United States Supreme Court issued rulings on several cases claiming "plaintiffs were insufficiently handicapped to be classified as eligible for ADA protection" (Francis and Silvers 2017, 675). An example of one such case was *Sutton v. United Air Lines Inc.* (1999), in which twin sisters, the Suttons, were both denied positions with United on account of their uncorrected vision being 20/100; because their vision was correctable to 20/20, they were not considered disabled by the court under the ADA ("Sutton v. United"). These rulings were issued without regard to how damaging the discrimination faced by plaintiffs might have been, and set a sort of requirement that being "disabled enough" was key to gaining protection under the ADA.

Precedent set by the courts created an obvious problem: the ADA was created to eliminate discrimination against disabled Americans, but court interpretations were limiting who was actually able to claim discrimination, meaning that many disabled people being discriminated against could not make claims under the ADA. Congress recognized this paradox, and in the early 2000s began to draft amendments to the original act to create more concrete and precise protections for disabled Americans (Francis and Silvers 2017, 677). The Americans with Disabilities Act Amendment Act (ADAAA) was passed in 2008 to resolve the paradox created by the Supreme Court's too narrow interpretation of the ADA's definition of disability. Ultimately, the ADAAA sought to make it easier for disabled Americans to be protected under the law.

Disability Discrimination Claims to the Equal Employment Opportunity Commission Before and After the ADAAA

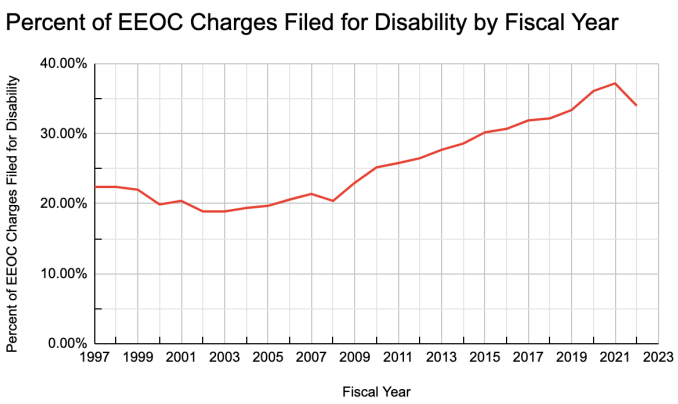
The Equal Employment Opportunity Commission was first established by Congress to enforce Title VII of the Civil Rights Act of 1964, which prohibited discrimination in employment on the basis of race, color, religion, sex, and national origin ("History of the EEOC"). When the ADA was enacted in 1990 the EEOC was deemed responsible for enforcing Title I, which prohibits employment discrimination against people with disabilities ("History of the ADA"). The following section begins with graphs on the percentage of discrimination charges made to the EEOC that are disability-related, the number of such cases, and how cases tended to have been resolved from 1997-2022. It is worth noting that often claims to the EEOC are filed for more than one type of discrimination; for example, a person might file a claim alleging discrimination on the basis of both disability and sex.

After a broad overview of how many EEOC discrimination claims tend to be disability-related, two different studies on how the ADAAA has possibly impacted discrimination against particular disabled populations will be presented. The purpose of using these studies is to uncover what, if any, impact the ADAAA has made in reported discrimination rates, and whether those differences are consistent across populations with different types of disabilities. Disability is not monolithic; by incorporating these studies I hope to reveal whether there are areas in which people with certain disabilities might have been more or less benefitted by the ADAAA.

Total EEOC Discrimination Charges Filed Between 1997 and 2022 Claiming Disability as a Factor

Figure 1 displays general trends in the percentage of EEOC discrimination charges mentioning disability between the years of 1997 and 2022. This time frame was selected to reflect any trends after the ADA but before the ADAAA, and after the ADAAA to recent years. Data is directly from the EEOC website ("Charge Statistics FY 1997-FY 2022").

Figure 1

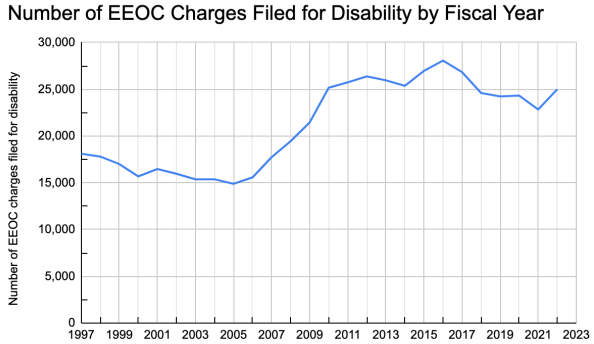


*(Compiled Data From EEOC "*Charge Statistics FY 1997-FY 2022*")*

The graph in *Figure 1* shows a relatively steady proportion of charges mentioning disability from 1997-2008, hovering around 20%. After 2008 however, the year the ADAAA passed, there is a steady increase up to 37.2% in 2021 ("Charge Statistics FY 1997-FY 2022"). The trend suggests that the enactment of the ADAAA might have had an impact on claims being made related to disability discrimination. I do not wish to conflate causation and correlation, but I do argue that there is strong reason to believe the ADAAA had something to do with this change in trend. The ADAAA expanded aspects of the definition of disability including what constitutes a "major life activity," what it means to be "substantially limited," and includes those who are "regarded as" being disabled ("ADAAA FAQ"). Because the definition increased the pool of people able to file disability discrimination claims, it would make sense for the share of charges to increase. It is not necessarily the case that greater shares of discrimination claims mean more discrimination is occurring, but could mean that the ADAAA increasing eligibility to make a claim led to increased shares of people making such claims.

Figure 2 displays trends in the number of EEOC charges made mentioning disability between 1997 and 2022. Data is again taken directly from the EEOC website ("Charge Statistics").

Figure 2



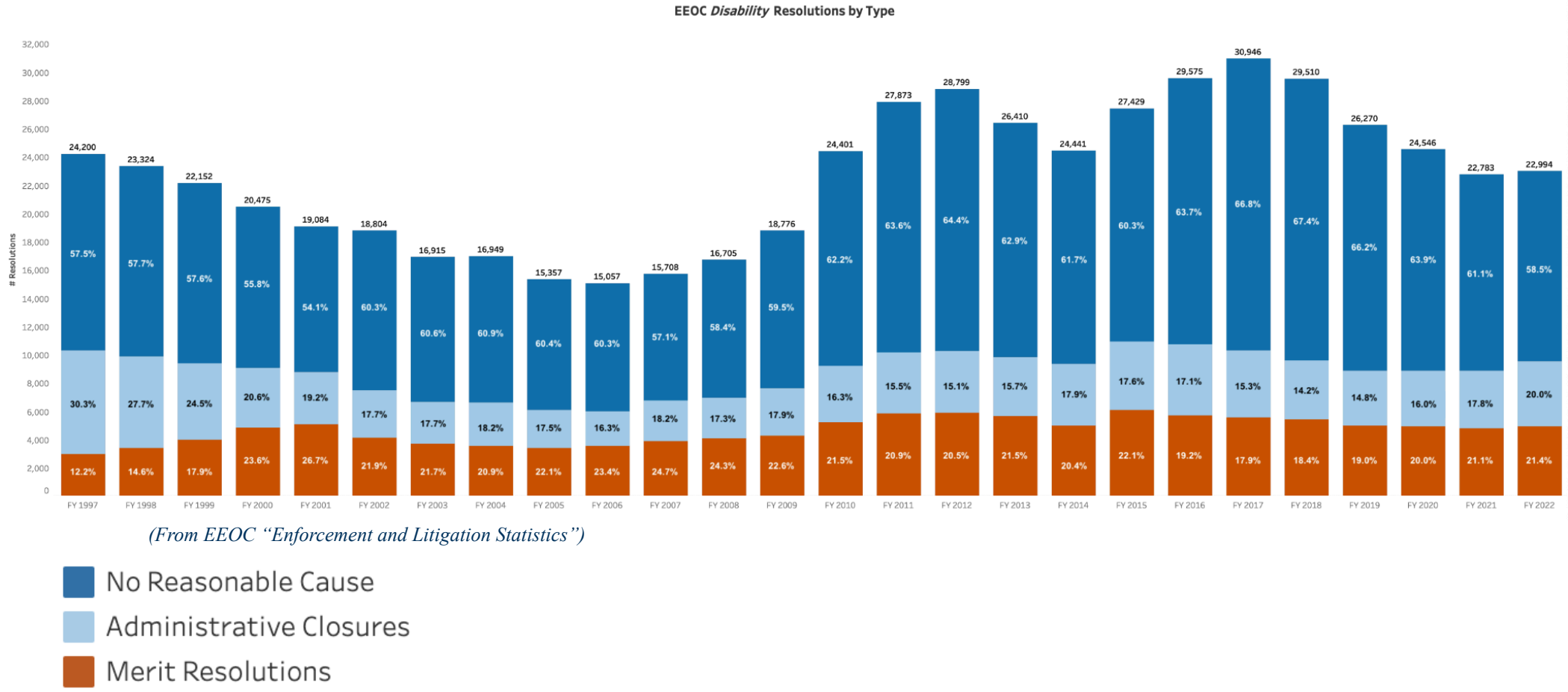
*(Compiled Data From EEOC "*Charge Statistics FY 1997-FY 2022*")*

Figure 2 shows a slight decline in the number of cases alleging disability discrimination

from 1997 to 2005. After 2005 however there is a steady and somewhat dramatic increase from roughly 15,000 cases in 2005 to roughly 25,000 cases in 2010. This increase does not coincide with the enactment of the ADAAA, and could suggest the legislation had little to do with such changes in the number of charges filed. The increase in claims might be the result of factors other than the influence of the ADA, and deserves further questioning. The first thing that comes to mind might be economic strains in the buildup to the Great Recession, which may have unfairly disadvantaged disabled workers to experience layoffs and/or pay cuts sooner than their non-disabled colleagues. Whatever the case may be, the trend in charges to the EEOC alleging disability discrimination warrants further investigation in another study.

Perhaps more indicative of any substantial change the ADAAA brought forth would be the ways in which EEOC charges were actually resolved, and whether charging parties were favored in resolutions. A final measure for the potential impact of the ADAAA on EEOC cases is presented in *Figure 3*. *Figure 3* uses EEOC data to show disability discrimination charges by resolution type reached from 1997-2022.

Figure 3



(From EEOC "Enforcement and Litigation Statistics")

The three types of resolutions displayed in the graph are No Reasonable Cause, Administrative Closures, and Merit Resolutions. In issuing No Reasonable Cause, "the EEOC makes no decision about the merits of claims alleged in the charge or of any other issues that could be construed as having been raised by the charge" ("Definitions of Terms"). Administrative Closure means a charge is closed "for administrative reasons without a determination based on the merits," this may include time restrictions, lack of employment relationship, and other reasons ("Definitions of Terms"). Finally, Merit Resolutions are charges in which "an outcome [is] favorable to the charging party" or has other meritorious features ("Definitions of Terms"). Merit Resolutions consist of "negotiated settlements, withdrawals with benefits, successful conciliations, and unsuccessful conciliations" ("Definitions of Terms").

As *Figure 3* shows, non-meritorious resolutions (No Reasonable Cause and Administrative Closures) make up the majority of resolutions reached every year from 1997-2022. From 1997-2008, the average share of cases with meritorious resolutions was 21.2%; from 2009-2022 the average went down to 20.5%. I find this to be a curious change to follow such a massive amendment in civil rights legislation. Perhaps workers truly are being discriminated against less than before the ADAAA, and the EEOC is accurately determining that. This data could be a reflection of possible changes in American culture to become more accepting of others and less discriminatory on the basis of disability. Another factor worth considering is the structure of the EEOC itself, and whether the Commision has been given adequate resources to resolve cases of alleged discrimination.

Government funding for the EEOC has increased almost every year since its establishment in 1965 ("EEOC Budget and Staffing"). From 1989 to 1990 however, EEOC funding did not show a substantial increase despite the Commission's new responsibility to enforce the ADA; the budget increased by roughly 4.2 million dollars, which in comparison to other years is no more or less money than typical ("EEOC Budget and Staffing"). The same pattern is seen from 2008 to 2009 when the ADAAA was enacted; funding increased, but no more than it has increased in other years that did not include such substantial legislation ("EEOC Budget and Staffing").

The EEOC is limited in their resources, and the increases in the Commission's purview following the ADA and ADAAA were not obviously accompanied by significant budget increases. When deciding whether to pursue a discrimination case, the EEOC must take into account its limited resources and only pursue certain cases that may have a more substantial impact ("Litigation Procedures"). It would not be unreasonable therefore to presume that the lack of change in meritorious resolutions could be attributed to a lack of EEOC resources. The answer to this issue may then lie in budgeting and resource allocation.

Studies on Different Disabled Populations' Experiences of Workplace Discrimination Before and After the ADAAA

The ways in which the ADAAA might have impacted disabled workers cannot be looked at only through the broad scope of total reports to the EEOC alleging disability discrimination. Disability is an incredibly broad category of being, and people with different disabilities are undeniably susceptible to different forms of discrimination. The following sections intend to capture some of the differences in how the ADAAA might have impacted groups with different disabilities; this will be done through analysis and comparison of two different studies looking at changes in disability discrimination charges made to the EEOC before and after the 2008 ADA Amendments Act. Both studies use similar sets of data available from the EEOC and look at charges which allege employer discrimination on the basis of disability. There are 42 types of employment discrimination claims that can be made to the EEOC, both studies grouped these types of claims into related categories. The way these categories were created is not perfectly aligned between the two studies, but with the information available I have matched the groupings to their best fit counterparts.

I am using these studies to find any potential patterns that might emerge in specific types of discrimination claims either increasing or decreasing in certain categories following the ADAAA, and whether any patterns might be discernible overall. In looking at these studies, one would hope to see similar changes in discrimination allegations reflected across the different disabilities represented, which would indicate a more even impact of the law across diverse disabled populations. If changes were

similar across the board it could indicate that the legislation is impacting people of various disabilities in similar ways. If the data reveals changes to be different amongst the groups, that might suggest the ADAAA is impacting different disabled populations in different ways; this would then leave room for improvement in the way of making a more equitable anti-discrimination law that reflects the specific vulnerabilities of different disabled populations.

Workplace Discrimination for Persons With Hearing Loss

"Workplace Discrimination for persons with hearing loss: Before and after the 2008 ADA Amendments Act" by McMahon et al. was published in 2019 and looked at differences in discrimination rate changes for individuals with hearing loss compared to persons with other neurological or physical disabilities (General Disability, also called GENDIS) before and after the ADAAA. McMahon et al. used discrimination charge data from the EEOC as well as population statistics reported to the EEOC from 1992 through 2016. This study only assessed allegations under Title I of the ADA, and no other employment statutes.

McMahon et al. grouped the 16 most high volume EEOC discrimination codes into five categories: Firing + Constructive Discharge, Reasonable Accommodation, Hiring + Related, Harassment + Intimidation, and Terms/Conditions. The other 26 of the 42 codes were put into the category Other Small Issues, representing various less frequently cited codes. McMahon et al. used closed EEOC allegations from 1992-2008 as pre-ADAAA data and from 2009-2016 as post-ADAAA data. Data was taken for both GENDIS and hearing impaired populations (Hearing) for the purposes of comparing the two.

Findings

For firing and related allegations, neither GENDIS nor Hearing showed significant changes from pre to post-ADAAA; GENDIS did however experience higher proportions of firing-related allegations compared to Hearing (McMahon et al. 2020, 46). With regard to accommodation-related allegations, GENDIS saw a 1.6% increase and Hearing saw a 2.8% increase (McMahon et al. 2020, 46). In hiring-related allegations, GENDIS saw a 1.8% increase and Hearing saw a 3.4% decline (McMahon et al. 2020, 47). For charges related to harassment and intimidation, GENDIS saw a 1.8% increase and Hearing saw a 2.7% increase (McMahon et al. 2020, 47). Finally, with regard to Terms and Conditions of employment, GENDIS saw a 1.3% decrease and Hearing saw a 1.3% increase in allegations (McMahon et al. 2020, 47).

	Hearing	**GENDIS**
Firing + Constructive Discharge	-0.6%	-1.1%
Reasonable Accommodation	+2.8%	+1.6%
Hiring + Related	-3.4%	+1.8%
Harassment + Intimidation	+2.7%	+1.8%
Terms/Conditions	+1.3%	-1.3%
5 Major Issues Together	*+3.0%*	*+2.8%*

Workplace Discrimination for Persons With Visual Impairment

"Workplace Discrimination and Visual Impairment: A Comparison of Equal Employment Opportunity Commission Charges and Resolutions Under the Americans with Disabilities Act and Americans with Disabilities Amendments Act" by Victor et al. was published in 2017 and looked at discrimination charges filed to the EEOC under the code "BLNDVIS." This study looked at charges from 1992-2011 to determine if there were differences before and after the enactment of the ADAAA with

regard to discrimination charges made referencing visual impairment and/or blindness. In addition to looking into differences in the amount of charges made, Victor et al. also questioned whether there would be any differences in outcome resolutions, particularly how often outcomes would favor charging parties. Outcomes for *all* disability-related discrimination charges, and not just those for BLINDVIS, are displayed in *Figure 3*.

The EEOC codes regarding disability were grouped into three categories by Victor et al.: Job Acquisition, Job Satisfaction, and Job Retention. Job Acquisition includes hiring, reinstatement, training, etc. Job Satisfaction includes assignment, benefits, harassment, etc. Job Retention includes discharge, discipline, severance pay, etc. The time period of 1992-2008 represented the time before the ADAAA and 2009-2011 the time period after the ADAAA.

Findings

Charges related to job acquisition decreased by 8.6% compared to before the ADAAA (Victor et al. 2017, 479). Discrimination charges related to job satisfaction increased by 3.6% (Victor et al. 2017, 480). Charges related to job retention increased by 5% (Victor et al. 2017, 480).

Job Acquisition	-8.6%
Job Satisfaction	+3.6%
Job Retention	+5%

With regard to the second question of the study, whether the ADAAA would invoke a change in the types of resolutions reached for discrimination claims, this study found that little changed. Under the ADA 26.9% of resolutions were meritorious (favoring the charging party) and under the ADAAA 27.1% were meritorious, making for a 0.2% increase. These findings among BLINDVIS are similar to what was displayed in *Figure 3*, showing little change in rates of meritorious outcomes among individuals with vision loss, and charging parties in general.

EEOC Discrimination Charge Studies Together

To better compare the McMahon et al. and Victor et al. studies, I arranged the categories they separated discrimination codes into like sections. The categories between both studies do not entirely match up due to the differences in how the EEOC codes were organized by the researchers, but the following chart best displays categories that are most alike with *M* indicating findings from McMahon et al. and *V* indicating findings from Victor et al.

	Hearing	**GENDIS**	**BLINDVIS**
M Firing + Discharge	-0.6%	-1.1%	+5% *V* Job Retention
M Reasonable Accommodation	+2.8%	+1.6%	+3.6% *V* Job Satisfaction
M Hiring + Related	-3.4%	+1.8%	-8.6% *V* *Job Acquisition*
M Harassment + Intimidation	+2.7%	+1.8%	+3.6% *V* Job Satisfaction
M Terms/Conditions	+1.3%	-1.3%	+3.6% *V* Job Satisfaction

The chart above shows a few notable differences between the data sets with changes in discrimination claims not aligning across types of disability. *M* Firing + Discharge showed a reduction in claims for both Hearing and GENDIS, however *V* Job Retention showed an increase in claims for

BLINDVIS. *M* Hiring + Related showed a reduction in claims among Hearing, but an increase among GENDIS; *V* Job Acquisition showed reduction as well among BLINDVIS. *M* Terms/Conditions showed an increase in claims among Hearing and a decrease among GENDIS, and *V* Job Satisfaction showed an increase in claims among BLINDVIS.

Differences between Hearing and GENDIS in the McMahon et al. study might be explained by the particular needs of different groups based on their disability, or the perceptions of such disabilities. In Hiring + Related, people with hearing loss reported lower rates of discrimination post-ADAAA, whereas GENDIS reported higher rates of discrimination. What this data might indicate is that people with hearing loss experienced more benefit from the ADAAA in reducing hiring discrimination compared to GENDIS. McMahon et al. explain however that Hiring is consistently a greater issue for Hearing compared to GENDIS, with the former reporting Hiring discrimination in 12-16% of claims and the latter in 8-10% of claims (McMahon et al. 2020, 47). This gap could indicate that employers feel more compelled to hire GENDIS compared to Hearing, potentially on account of perceived accommodation cost. Accommodations for different disabilities no doubt come with different costs, and it might be easier for an employer to meet an accessibility requirement like having a ramp for a person with a mobility impairment, over a requirement such as hiring an interpreter for a deaf individual.

Terms/Conditions showed the opposite scenario as Hiring, Hearing reported an *increased* rate of discrimination and GENDIS a *decreased* rate. McMahon et al. uses a definition of terms and conditions of employment provided by the EEOC, which is the "denial or inequitable application of rules relating to general working conditions, job environment, or employment privileges which cannot be reduced to monetary value" (McMahon et al. 2020, 47). Populations with hearing loss then might be more susceptible to things such as unfavorable work assignments, unequal shifts, and restriction of resources.

Differences between BLINDVIS in the Victor et al. study and Hearing/GENDIS in the McMahon et al. study are more difficult to compare due to the slightly different groupings of codes in both studies. Differences could also be reflective of the different experiences of individuals with different disabilities, as shown in the McMahon et al. study alone. Two categories however showed increases in discrimination claims across Hearing, GENDIS, and BLINDVIS. *M* Reasonable Accommodation (matched with *V* Job Satisfaction) and *M* Harassment + Intimidation (also matched with *V* Job Satisfaction) both saw increases across the board for Hearing, GENDIS, and BLINDVIS, albeit to different extents. For both accommodation-related claims and harassment-related claims, Hearing and BLINDVIS saw a greater increase than GENDIS, suggesting that the specific disabilities these groups have make them more susceptible to such types of discrimination.

The findings of these studies demonstrate two things: first, different disabilities were impacted differently in each category with regard to direction and extent of change, and second, none of the groups show a particularly large change in reports of discrimination in any category. The fact that different disability groups report more or less discrimination in certain areas of employment is worth considering when it comes to making a better anti-discrimination law, as it shows there cannot be a one-size-fits-all approach to addressing disability discrimination. More importantly for this project however is the fact there is not really a large change in reports increasing or decreasing in any given category.

The findings of McMahon et al. and Victor et al. help add to the conversation on how effective the ADAAA actually was in terms of improving the well-being of disabled workers. Analysis of these studies alongside the broader EEOC data reveals that the diversity of experiences of disability make disability discrimination an issue not easily addressed. The idea of whether the ADA in its entirety has contributed to persisting economic disparities among disabled Americans, or if it just did not help to improve them is explored in the next section.

Big Picture Limitations of The ADA in Improving Economic Well-Being of Disabled Americans

"The Limitations of Disability Anti-Discrimination Legislation: Policymaking and the Economic Well-being of People with Disabilities" by Maroto and Pettinicchio is a study which sought to understand why attempts to create effective anti-discrimination laws have not reversed the trend

of declining economic well-being among disabled Americans. The study uses Current Population Survey (CPS) data from 1988-2012, as well as state-level predictors (Maroto and Pettinicchio 2014, 370). This study suggests a "complex relationship between legislative intent and policy outcomes," with regard to how economic outcomes have/have not changed for disabled Americans following the ADA and ADAAA (Maroto and Pettinicchio 2014, 370).

One of the purposes of the ADA was to address discrimination and unemployment among disabled Americans, however it failed to deal with labor market complexities, and reduce discriminatory attitudes in the workplace (Maroto and Pettinicchio 2014, 372-373). This perceived failure contributed to calls for amendments to the initial ADA, with advocates seeking a better solution to address the economic well-being of disabled Americans (Maroto and Pettinicchio 2014, 372-373). Central to the idea that the ADA actually harmed disabled workers in some aspects is the concept of unintended harm, which "revolves around the notion that rights-oriented policy can undermine the provision of public and private goods to persons with disabilities" (Maroto and Pettinicchio 2014, 375). Anti-discrimination legislation, like the ADA, can create a perceived (or real) burden placed on employers with regard to the costs of hiring and accommodating disabled workers. This perspective assumes that because of additional burdens created by the ADA in requiring accommodation, employers might be less inclined to hire disabled workers. Another factor potentially contributing to trends in economic status for disabled Americans is occupational segregation. Maroto and Pettinicchio explain that with occupational segregation, disabled people are more likely to be employed in lower-paying and lower-skilled jobs, which explains some persisting economic disparities; it is unclear whether the ADA has contributed to disparities, or whether it simply did not help to reduce them (Maroto and Pettinicchio 2014, 374).

Interpretation of the ADA by the courts raised additional concerns for economic outcomes. As mentioned earlier, Supreme Court cases interpreting the ADA had a substantial effect on who could make discrimination claims under the law. As Maroto and Pettinicchio explain, "individuals filing suit under the ADA are also required to prove that they have a disabling condition and demonstrate that their disability impairs performance in a 'major life activity'" (Maroto and Pettinicchio 2014, 378). This puts the ADA in a unique position compared to other types of anti-discrimination law intended to protect women and racial minorities, in that the ADA has a threshold for who is essentially "disabled enough" to make discrimination claims. Additionally, until the ADAAA, if a plaintiff could mitigate their disability with some kind of medical intervention, they were not considered disabled by the courts (Maroto and Pettinicchio 2014, 378).

Intricacies of court precedent, local legislation, and the lack of obvious economic improvement in the lives of disabled Americans led Maroto and Pettinicchio to analyze CPS data from 1988 through 2012 to gain a better picture of economic well-being. Their sample consisted of over 2 million observations restricted to working-age adults twenty-five to sixty-one years old; disabled and non-disabled populations are represented in the sample (Maroto and Pettinicchio 2014, 380). Controls were put in place for age, education, marital status, and presence of children, and variables of sex, race, Hispanic origin, and whether respondents received any government assistance income were also considered in the study (Maroto and Pettinicchio 2014, 385).

Maroto and Pettinicchio found that across all samples, roughly 23% of working-age adults with a disability were employed compared to 82% of working-age adults without a disability (Maroto and Pettinicchio 2014, 387). Since 1988, "the employment gap by disability status increased for the average person," and "accounting for individual characteristics, state differences, and the receipt of government assistance" decreased the gap but did not change the trend (Maroto and Pettinicchio 2014, 387). It is worth clarifying that the goal of an appropriate anti-discrimination law should not be to entirely eliminate the gap between employment rates of disabled vs non-disabled people, but rather to reduce it. Some disabled individuals might be unable to work under even the most accommodating of circumstances, in which case they should not be expected to obtain employment. Many other disabled individuals however are limited not by impairments, but by a lack of accommodating work environments.

The gap in average earnings between disabled and non-disabled Americans has remained

relatively consistent since 1988 though 2012, when the study's range ended (Maroto and Pettinicchio 2014, 387). In 2012, after controlling for government assistance and individual characteristics, disabled workers earned approximately 33% less than non-disabled workers, and had a 40% lower employment rate (Maroto and Pettinicchio 2014, 388-394). It was also found that states who, prior to the ADA, had enacted their own kinds of anti-discrimination law regarding disability saw better employment outcomes, alluding to the importance of such laws in improving economic well-being for disabled Americans (Maroto and Pettinicchio 2014, 395).

Maroto and Pettinichio's study revealed issues of employment rate and income disparities that have persisted since the ADA and ADAAA, and in some cases remained relatively unchanged. It is difficult to say however whether disparities would be worse in the absence of the ADA. The researchers also acknowledge that employment and income changes are the result of multiple factors, and it would be inappropriate to make broad conclusions about the exact role or influence of the ADA (Maroto and Pettinicchio 2014, 394). What is clear from this study though is that there has been no significant improvement in economic outcomes for disabled Americans since the enactment and subsequent amendments of the ADA. This raises suspicions as to how effective the law really is, and whether there is something missing from it that is holding it back from achieving more equitable economic outcomes for disabled Americans.

COVID-19 and The Rise of Remote Work

In 2020 the COVID-19 pandemic drastically changed the way the world worked. Social distancing and isolation measures required adaptations to the way businesses were run, and remote work began to dominate. Remote and hybrid work is still common today, even after social distancing requirements have been almost entirely lifted. COVID-19 opened up new ways to work, and this was of benefit not only to those avoiding the virus, but to anyone who might be advantaged by a more flexible work environment: people caring for children, those with difficult commutes, and of utmost importance to this project, disabled workers. Removing the requirement of an in-person office leveled the playing field for many, and serves as an example of how work can change to be better for disabled employees. This section will be focused on how the rise of remote work has changed things for disabled workers, and what can be learned about creating more accessible workplaces for the years to come.

"Leveling the Playing Field Through Remote Work" by Ameri and Kurtzberg

The article "Leveling the Playing Field Through Remote Work" by Mason Ameri and Terri R. Kurtzberg provides a business perspective on the rise of remote work following COVID-19. They begin their article with a brief reference to the fact that employers maintained for the most part that remote work was too cumbersome to allow prior to COVID-19, and that allowing such work for disabled workers could be seen as unfair to others (Ameri and Kurtzberg 2022). This relates to the concept of "undue burden" as it is written in Title III of the ADA, under which employers can justify a lack of accommodation if making such changes would incur excessive administrative or financial cost ("Undue Burden"). Once remote work became the only option however, things began to change, and the playing field was leveled. Disabled workers who might have benefited from a remote work environment in the first place no longer had to face usual hardships such as commuting with a mobility impairment, sharing an office as an immunocompromised person, or anything else that made typical in-person work difficult.

Another more overlooked advantage to remote work for disabled employees is a diminished likelihood of being subjected to harassment from other employees (Ameri and Kurtzberg 2022). People with visible disabilities are more susceptible to microaggressions and workplace harassment related to their disability when they are working in-person around other people, working remotely therefore can provide a safer and less distracting environment for these employees. In making their point about remote work helping to reduce harassment, Ameri and Kurtzberg referenced an article in Future Forum by Sheela Subramanian which found that "Black employees are more likely to request a continuance of working from home compared with white workers," partially because of reduced instances of microaggressions and harassment (Ameri and Kurtzberg 2022, and Subramanian 2021).

Remote and hybrid work options have the ability to improve flexibility for everyone from disabled workers, to parents, to employees more vulnerable to workplace harassment. COVID-19 has demonstrated that creating effective work-from-home measures is not only possible, but allows some people to thrive in ways they could not have before. This is not a matter of providing an unfair advantage for disabled workers, it is about equalizing opportunities for all workers. A truly equitable work environment lifts all people of all abilities, and that is something that may be better achieved through the pursuit of hybrid and remote work options.

Data on Remote/Hybrid Work

A 2023 article by Hilary Silver looked at recent trends in working from home. For a historic perspective, in 2000 approximately 3.2% of American workers worked from home according to census data (Silver 2023, 66). Jumping to 2021, the percentage of workers went up to 17.9% (Silver 2023, 66). As of July 2022, over 25% of the US labor force was working from home at least one day a week (Silver 2023, 67). Data from the BLS website shows that for the first three months of 2024 approximately 24.4% of disabled workers were working at least some days remotely, compared to 22.7% of non-disabled workers ("Telework").

According to the most recent news release on the topic from the Bureau of Labor Statistics, 2023 saw the highest recorded ratio of people with a disability who were employed since comparable data was first gathered in 2008 ("Disability: Labor Force Characteristics"). 22.5% of people with a disability were employed (including people who may not be of typical working age), a 1.2 percentage point jump from 2022 ("Disability: Labor Force Characteristics").

It is hard to say whether the pandemic and subsequent rise of remote work has contributed to slight increases in employment among disabled Americans. What does seem clear however is that so far in 2024 disabled workers are slightly more likely to report working some days remote than their non-disabled counterparts, and 2023 has shown the highest recorded ratio of disabled people employed on BLS record. The creation of accessible work environments logically would encourage employment of individuals with a diversity of abilities, and remote work is an adoption of more accessible practices for many. In the past employers may have resisted changes in the work environment for various reasons, but the ethical motivation for increasing accessibility ought to hold more sway in this argument. Listening to disabled workers and building accessible workplaces will require additional creativity and effort from employers, but these are the changes that must be made for justice to be achieved.

An Ethic of Disability and Labor

It has been demonstrated so far that in many respects, the ADAAA has by no means dramatically improved the well-being of disabled workers. Discrimination charges are still prevalent, resolutions are not favoring the charging parties any more than they were prior to the ADAAA, and disparities of income, employment, and opportunity still persist. These enduring issues require a better look at the ethical underpinnings of the ADA, and anti-discrimination law more broadly. The following section will explain how a better ADA will help more than just those with disabilities, or as Anita Silvers and Leslie Francis deem it, "an Americans with Disabilities Act for everyone."

"An Americans With Disabilities Act for Everyone, and for The Ages As Well" by Silvers and Francis

Silvers and Francis advance the idea that in order to be effective, disability anti-discrimination law must be focused on the concept of disability discrimination rather than that of disablement itself (Silvers and Francis 2017, 696). Prior to the ADAAA, courts focused on disablement itself when looking at cases of potential discrimination, creating a requirement of plaintiffs being "disabled enough" to make claims and ultimately ushering in the 2008 amendments. This is precisely the thinking that Silvers and Francis encourage divergence from. Recognition of disability discrimination as the core of anti-discrimination legislation ought to instead shape understanding of the ADA.

The initial proposal by the National Council on Disability explicitly sought that everyone, and not just those with vetted disabilities, be protected against discrimination (Silvers and Francis 2017, 695). The point here is that anyone might fall victim to discrimination on the basis of disability, and it is not

just those with visible or identifiable disabilities who are affected. Not everyone with impairments identifies as disabled, and certainly not everyone with a disability chooses to disclose that to their employers, but that does not make them immune to disability-based discrimination. Congress recognized the issue of who is and is not included under the ADA as interpreted by the courts, and in amending the law sought to increase protections for those being discriminated against on the basis of disability (Silvers and Francis 2017, 695-696).

There is still no consensus on who is considered disabled and who is not. Disability has a socially constructed aspect to it, which Silvers and Francis liken to social constructions of race and gender (Silvers and Francis 2017, 696). Considering that a definition of disability is so difficult to pinpoint, even impossible, it is irrational to have an anti-discrimination law with defined disablement as a precondition. The ADAAA attempted to solve this issue of definition, and in doing so it has opened opportunities for more people to file claims of disability discrimination (*Figure 3*), but the task of eliminating discrimination still remains and requires a better approach to justice.

Disability Justice as Distributive Justice

Distributive justice is concerned with the allocation of resources and burdens in a given society. Typical examples of distributive justice might be paying the same wages for the same hours worked, taxing the wealthy to help fund social programs for lower income individuals, and so on. In justice for disability and labor, distributive justice would mean disabled workers being owed the same level of accommodation and non-discrimination as their non-disabled peers. In his chapter on distributive justice in *Disability, Difference, Discrimination: Perspectives on Justice*, David Wasserman explains how distributive justice for people with disabilities is justice for all.

Consider the example given by Wasserman of two students struggling in math class; the first student has little talent for math and thus gets lower grades, the second student has dyscalculia and is met with tutoring, extra exam time, and other accommodations (Wasserman 1998, 158). Both of these students have the same issue: they struggle in math class. Only the second student receives accommodations however, because they meet a given threshold of disability and have a diagnosable reason for struggling with math. What good reason is there to accommodate only the second student and not the first? This is an issue of disability definition, who qualifies for help on the basis of disability and who does not, the same issue the courts were struggling with after the original ADA. While it is great that the student with dyscalculia is receiving the accommodations they need to be successful, it would clearly be beneficial for both students to have extra help in the first place.

Regardless of the presence of disability, accommodations help people succeed for countless reasons. During the height of COVID-19, remote work allowed workers to spend more time with their children, allowed flexibility for things like doctor's appointments, and shortened commute times. Accommodating disabled workers does not have to be an issue of who gets certain help and who doesn't, part of the solution ought to be focused on making workplaces more accessible in the first place.

Societal organization has much to do with the level to which a person is disabled. This is the view of the social model of disability: systemic exclusion, barriers, and attitudes contribute to the disabling of a person in combination with physical or mental impairment (Oliver 2013). When disadvantages faced by disabled people are ascribed to a deficit in internal resources, the injustice is naturalized; to rectify the inequity requires additional assistance or accommodation, which obscures the initial injustice of how social and physical structures are organized in the first place (Wasserman 1998, 173). Wasserman points to physical structures and social organization being a source of discrimination that is neutralized into a society (Wasserman 1998, 176). When aspects of society are created with only a narrow group of people in mind (those without much physical and mental variation), everyone who exists outside of that range will face reduced life opportunities (Wasserman 1998, 176). A similar case is made among feminists arguing that societies being structured for only one group, able-bodied males, constitutes discrimination against all other groups (Wasserman 1998, 178).

Silvers and Francis established that better defining who is and is not disabled does not solve the root of the issue, discrimination premised on the

assumption that someone is disabled or does not meet a standardized threshold of ability. Wasserman explained this in a similar vein in that disabled and non-disabled people might struggle in similar ways, and everyone has the chance to benefit from a society that is differently organized. To apply this to the workplace, everyone could be helped by more flexible work environments. The section of this paper on COVID-19 and its impact on remote work showed the continued presence of remote work among disabled and non-disabled people alike. Hybrid and remote work opportunities are one example of making accessibility built-in to a workplace. Of course, not every job can be remote or hybrid, which is why this is an issue of distributive justice. The issue at hand is deciding how much employers can *actually* afford to invest in employee accommodations with regard to financial and administrative limitations.

The concept of universal design, the social and physical design of spaces being as accessible as possible to the greatest variety of people as possible, is an ideal state for a workplace. Universal design is a good standard to aim for, but considering that resources are limited, principles of distributive justice need to be in play. In the workplace this could take the form of accessible work options being available for anyone whose occupation can allow it, regardless of disability. Making things more accessible from the start will increase access for all workers, and disabled workers would be especially benefited by no longer facing burdens of disclosing their disability and not having to go through processes of requesting accommodation that might alienate them. As mentioned earlier, societies being designed by and for only one narrow group of people treat all who diverge from that as outliers in need of accommodating. To establish access from the start helps to break down this norm.

Encouraging the usage of hybrid and remote work is a good example of distributive justice in action in the workplace, but it has obvious limitations. Not every job can be done remotely. There are going to be some jobs that explicitly require someone of a certain body type and level of ability, such as construction workers needing to be able to lift and carry materials, or truckers who must be physically able to drive. There are also many jobs that *don't* have inherent limitations on who may perform them, but limitations which are instead imposed by the physical structure and social organization that reigns supreme. This is exactly what COVID-19 taught us. Employers could not for many years seem to meet demands for remote and hybrid work options for disabled workers, but once the pandemic gave no other options, it was suddenly possible. Wasserman speaks of technological capacity and its ability to alter the modern human environment, pointing out that if there is a way to accommodate through technology and it is not being used, it is effectively choosing to disable certain people (Wasserman 1998, 183-184). Now that the world has the technology to allow remote and hybrid work, there ought to be an obligation to use it in situations where it is possible and realistic.

Conclusion

In my exploration of the topics presented in this project, I have uncovered areas in which current disability anti-discrimination law falls short on its goals for bettering labor and economic outcomes for disabled Americans. These findings make it evident that the ADA, as it currently stands, has not sufficiently improved outcomes for disabled Americans.

The first section of this project found that the increase in percentages of discrimination claims filed to the EEOC on the basis of disability roughly corresponded with the enactment of the ADAAA, suggesting the law was successful in widening the scope of people qualified to make discrimination claims. The number of disability discrimination charges by year did not show such a trend however, nor did the share of EEOC cases ruled in favor of charging parties show a change. Looking into the resources of the EEOC itself sheds some light on the data and makes one question whether the EEOC is being given adequate resources to enforce the ADA/ADAAA in addition to the Commission's other responsibilities. Increasing the capacity of the EEOC to rule on discrimination cases would be a logical step in improving the current state of disability anti-discrimination law, and one that ought to be explored further in a future project.

Looking more closely at how the ADAAA has changed things for workers with particular disabilities was the next task of this project. In examining the studies by McMahon et al. and Victor et al., it was revealed that discrimination rates in

particular categories did not change by a significant margin in any direction. Groups with certain disabilities were shown to be more or less impacted by changes in discrimination in different areas, sometimes showing changes in opposite directions (i.e. increases in one group vs decreases in another). The most valuable lesson from these studies is that disability anti-discrimination law is complicated partially because disability is complicated. To be disabled is an extremely broad category, and there is no one-size-fits-all method for reducing discrimination or increasing accessibility.

Significant economic disparities between disabled and non-disabled Americans have persisted despite the ADA and its amendments. As they currently stand, federal disability anti-discrimination laws do not adequately meet the threshold of justice that ought to be ethically required of them; something must change, whether it be the laws themselves or how they are enforced. Work itself must change too, which is the final argument I made in this project.

COVID-19 taught the United States that the way we do work can change. The development of more hybrid and remote work opportunities brought on by the pandemic showed that a more accessible future is possible. Such an accessible future will be to the benefit of everyone, as explained by Silvers and Francis. A more universally accessible work environment has the chance to help disabled and non-disabled workers alike; whether the typical design of a workplace is less than accommodating due to disability, or for some other reason, increasing opportunities through more universalized design is the best way to help everyone.

Deploying significant changes in the way work is done is a task of resource distribution, and the allocation of resources must be to those most in need of accommodation so that they may achieve the same level of access as those who do not need accommodation. This is of course a fine line. As I said earlier, disabled and non-disabled people alike might struggle in similar ways (consider again the student with dyscalculia and the student who is simply not good at math). A more universally accessible work environment will be for the benefit of all, but in cases where accommodations are limited due to financial or administrative constraints, disabled people should be prioritized as a matter of distributive justice.

It is not enough to simply say that accessibility must be increased and culture must change, concrete solutions need to be presented for making jobs more accessible in the first place. One possibility could be the creation of guidelines for employers on what the essential duties of a certain type of position are considered to be, and how accommodations might be implemented. This would need to be a collaborative effort between disabled workers/stakeholders, industry representatives, and the EEOC to ensure that any guidelines accurately represent the essential duties of a position versus what are simply preferences. Such guidelines would act as suggestions to employers on what positions have the potential to be made more accessible, that way when a disabled job candidate comes along, they would have something to point to suggesting that accommodations do not go against the essential features of a given position.

Detailed proposals on the specifics of improving workplaces and American work culture at large will be the task of future projects in this area. The ethical argument for increasing universal access and better prioritizing disabled workers' needs for accommodation through resource distribution must be maintained in any further disability anti-discrimination policies in order for such laws to be just. The ADA, in its amended state, has failed to meet such a threshold; anti-discrimination laws and their enforcement must change in order to achieve true justice for disabled worker.

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Short Form Student Research

Navigating the Dragon's Embrace: Germany against the Rise of China

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Introduction

China's meteoric rise to global superpower status marks a major shift in the international order. China's global economic and political activities have created an alternative to Western powers and institutions for developing countries. In the spring of 2020, the European Union (EU) declared China "a systemic rival," which prompted Germany to reassess its relationship with China (Barkin 2020). Additionally, an analysis of Germany and China's dynamics must take into account Germany's other international ties with the EU and the United States (US). Germany is a member of the EU and a stalwart ally of the US, making its relationship with China inextricably linked with the West's approach to China. In this balancing act, the choices made by Germany in the coming years will partly mold the West's relationship with China (Comm 2022). This paper assesses Germany's perspective on the rise of China, what policy actions they have made, and what policies should be explored in the future.

Context

Modern Sino-German relations have been driven by Germany's "Wandel durch Handel" (change through trade) approach. Beginning in the 1980s, "change through trade" is emphasized by the overarching belief that increasing trade with China would lead to its eventual embrace of Western values and norms; this belief was influenced by Cold War era ideologies about capitalism and communism. Germany, along with other Western democracies, eagerly embraced China's economic rise, viewing it as an opportunity for mutual benefit and global cooperation (Barkin 2020). However, time has shown this has not been the case; while China showcased a looser grip on its economy, embracing the free-market ideas albeit under a socialist planned economy, China still has yet to embrace Western norms of diplomacy and human rights. Furthermore, Germany's economic dependence on China has since compromised its ability to leverage itself against China to stand up for democratic values and human rights. German companies are ever eager to continue to do business in the Chinese markets and benefit from cheap Chinese labor. The collusion between Chinese and German companies sometimes pushes Germany to look the other way against ethical issues happening in China, issues that perpetuate a cycle of exploitation that would seem antithetical to the values Germany claims to profess. (Schmitz 2024).

Economic Implications

Although the rise of China has provided Germany with a surplus of economic opportunities, Germany is too heavily reliant on China in terms of their supply chain integration, technology collaboration, inward and outward investments, and their industry. First, regarding supply chains, Germany's dependence on China is exceptionally high for many essential products, resulting in imbalanced import shares. The import share for laptops is 80 percent, cellphones at 68 percent, textile goods at 69 percent, computer units at 62 percent, photographic elements, and LEDs at 61 percent, and printed circuit boards at 58 percent (Huld 2023). These high import shares highlight German vulnerability to supply disruptions. The second source of reliance is seen through Germany's current collaboration efforts with China in various technological and innovation initiatives, such as joint research projects and technology transfer. Germany's industry has found China's expertise in areas such as digitalization, renewable energy, and advanced manufacturing to be complementary to German engineering and machinery sectors, resulting in not only economic growth for both parties, but a reluctance to leave the large, opportunist market (Schmitz 2024).

It is this reluctance to leave the Chinese market that gives German manufacturers a complex ethical dilemma whether or not to listen to German policy's call to de-risk. On one hand, they can continue to increase relations with Chinese companies but ignore security threats that could undermine their economy. On the other hand, they can choose to sacrifice the scale of their economic profit and partnership with China and prioritize state security and longevity. Third, over the past few years, China has begun expanding its presence in the European market through investments in German firms and research. Further, despite Chancellor Schultz's calls for German companies to reduce economic activities in China, German direct investment in China reached near-record levels in the first half of 2023 at EUR 10.31 (Huld 2023). In fact, despite Germany's overall FDI outflows dropping from 104 million in the first half of 2022 to 63 billion euros in 2023, German FDI towards China increased from 11.6 percent of the total FDI to 16.3 percent (Huld 2023). As a result, their connection with China nevertheless increased, raising additional concerns that Germany is allowing China to invest too much into their economy, potentially interfering with German sovereignty.

Moreover, three sectors primarily dominate the German industry: automotive, mechanical engineering, and electrical. Volkswagen, Daimler, BMW, BASF, and Siemens, some of the most prominent German actors, have been actively intertwined with China's lucrative global market for the past couple of years. Many of these companies, like BASF, have been partners with China since 1885, representing not only the incentives of China's market but also their level of commitment to the relationship. There is a significant amount of disconnect between political rhetoric and entrepreneurial actions, as many of Germany's entrepreneurs choose to engage with China despite the heightened risk and suggestive government policies.

Further, China currently has the largest automotive market in the world and is an essential player in Germany's automotive industry. As a result, it is extremely difficult for German automotive businesses to de-risk from China since it ultimately compromises their growth potential, profit margins, and sales volume. In addition, due to China becoming a global leader in electric vehicle adoption and production, German actors such as Volkswagen, Daimler, and BMW have recognized their relations with China as an opportunity and thus become actively invested in the development and overall production of electric vehicles in China (Hufbauer 2023). Therefore, the industrial puzzle facing Germany is where to draw the line. Suppose they continue to grow this relationship for economic profit. In that case, it leaves Germany vulnerable to risks of political tensions or economic disputes between themselves, their allies, and China since any disruptions to trade relations or tariffs could significantly impact not only Germany's automotive, mechanical engineering, and electrical industry but disrupt their heavily reliant supply chain on China.

Security Implications

China's ever-expanding economic and political influence in the international system threatens Germany and the Western values and institutions it subscribes to. The rise of China threatens German security through cybersecurity threats, economic dependence, the worsening US-Sino relationship, the growing Sino-Russian relationship, and the Belt and Road Initiative (BRI). China's technological supremacy is a major security concern for Germany. China has been responsible for numerous cyber attacks in economic and academic settings to gain research and trade secrets pertaining to German corporations (The Federal Government 2023). Additionally, the expansion of Chinese telecommunication infrastructure, including 5G networks, may reduce the quality and confidentiality of telecommunication data (Anthony et al. 2020). Germany's asymmetric economic dependence on China puts Germany at risk. Germany's reliance on China to sustain its economy gives China unequal political and economic leverage in some sectors. Any disruption in China and Germany's economic relationship would harm Germany far more than China, further subordinating Germany (Kundnani & Stanzel 2015). Additionally, an escalation in tensions between the US and China over Taiwan threatens German security. Germany does not have the military capacity to support the US as a strategic ally, nor does it have the economic strength to rapidly reduce economic ties with China (Von Hein 2022). China's rise also impacts the security capabilities of Germany in regards to Russia.

Russia's launch of a war of aggression against Ukraine in 2022 poses a significant security threat to Germany and Germany's primary security alliance, the North Atlantic Treaty Organization (NATO). Weeks before Russia invaded Ukraine in February 2022, Russia and China signed a declaration to expand their economic and security bilateral relationship. In the joint statement, Chinese President Xi Jinping denounced any enlargement of NATO and called for new binding security guarantees for Europe (Jochheim 2023). Chinese foreign policy alignment with Russia threatens Germany. China can strengthen Russia strategically and economically, aiding Russia's success in Ukraine, and Chinese support for Russia makes any expansion of the war into other parts of Europe more likely and more costly for Germany (Bachulska 2023). Additionally, German efforts to weaken Russia through economic sanctions have generally failed, as China has stepped up as an economic partner in response (Bachulska 2023). China's support for Russia and its aggression worsens Germany's security and demonstrates China's disregard for the Western rules-based international system in which Germany thrives.

China's lack of liberal values and the expansion of Chinese global political power have profound security implications for Germany. China's BRI has used foreign direct investment (FDI) to exercise influence worldwide. The BRI has provided easy access to loans for infrastructure and development projects—providing an alternative to Western institutions for the developing world and shaping the world in its interests (Ulatowski 2022). The institutional alternative the BRI creates undermines Western hegemony and the rules-based international order that Germany succeeds in. Moreover, BRI projects in Europe challenge the power and authority of Germany and the EU. Several European states have participated in BRI infrastructure projects, increasing Chinese influence within Europe. Greece and Hungary have both been recipients of BRI funding and consequently have both acted out of concert with the EU and Germany in denouncing the Chinese government's human rights abuses against the Uyghurs (Brattberg & Soula 2018). Additionally, in 2022, Chancellor Olaf Scholz pushed through a deal that would make a Chinese shipping company, COSCO, a minority stakeholder in the Hamburg Port. Scholz advocated for the deal in hopes that it would stimulate the German economy to prevent an expected recession. Germany was criticized for this deal, as some feared that if China gained more control of the port, it could be weaponized in the event of a geopolitical conflict (Clark 2022). Overall, the rise of China has exposed technological, military, and economic vulnerabilities, and Chinese FDI projects undermine German power and security in Europe and around the world.

German Response

Germany's 2023 Strategy on China report defines China as a "partner, competitor and systemic rival" (The Federal Government 2023). Germany is addressing China's rise in economic and geopolitical power through policies focused on maintaining a diplomatic and economic relationship with China, while simultaneously reducing German economic risk, prioritizing the EU, and developing programs to assert Western values and institutions abroad. Germany is realistic about their economic reliance on China. In order to reduce risk, Germany is asking companies to diversify their supply chains/production bases, strengthen their intellectual property protection measures, and ensure compliance with local Chinese authorities. First, there has been an increase in encouragement for companies to diversify their supply chains by relying on multiple countries' components and materials so that there is an overall reduction in dependency on China for critical inputs (Sepp 2024). German policymakers have also taken measures to encourage the establishment of manufacturing facilities in alternate countries such as France and Belgium. This would reduce reliance on Chinese production, avoid rising labor costs, and avoid potential regulatory changes in the event of geopolitical instability (The Federal Government 2023). Additionally, in response to numerous concerns of intellectual property infringement regarding foreign companies operating in China, German firms have been further advised by policy to incorporate robust IP protection measures. These measures include legally registering patents, trademarks, and copyrights through legal channels in order to safeguard property rights, while also implementing secure data management systems to prevent access to proprietary technology (Karnitschnig 2020). Lastly, due to China's peculiar legal and regulatory systems, German policy has

advised companies engaging in foreign markets to remain positively compliant with Chinese regulations in order to avoid finicky penalties and product safety standards. Not only does this act as a layer of German risk management, but it also helps maintain the German Industry's global reputation.

Beyond de-risking in Chinese markets, Germany is also placing more emphasis on the EU in their China policy. Previous German policy towards China was heavily critiqued by other EU member-states for putting German economic interests above the interests of the EU. Current German policy signals a commitment to act more cohesively with the EU in order to protect internal markets from Chinese domination. Germany plans to spend 3.5 percent of German GDP on research and development of climate-friendly technology by 2025 to ensure their technological sovereignty (The Federal Government 2023). Additionally, Germany is developing investment screening legislation that would work in parallel with EU policies in order to regulate Chinese influence in Europe. Germany is also looking to diversify its raw materials suppliers to decrease dependency on China and diversify their suppliers and plans to incorporate EU members into these partnerships. (The Federal Government 2023). Additionally, Germany is utilizing the European External Action Service to work in concert with other EU member-states to coordinate China policy that condemns their human rights abuses and supports a rules-based international order (The Federal Government 2023).

Germany's policies on China emphasize a desire to maintain a diplomatic and economic relationship with China while also diversifying its involvement in the Indo-Pacific. The Indo-Pacific is becoming of important economic and strategic interest as almost 40 percent of the global GDP comes from the region (Ulatowski 2022). As German policy turns away from China, they expect to increase reliance on other Indo-Pacific states. Germany aims to develop economic and diplomatic relationships in the region to further increase German influence in the shaping of regional geopolitical dynamics towards a Western, rules-based system (Ulatowski 2022). However, Germany is cautious of provoking China while pursuing their interests in the Indo-Pacific. In order to remain in China's good graces, Germany seeks to increase diplomatic relations with China rather than have a purely economic relationship (Ulatowski 2022). Germany has a firm One-China policy, not recognizing Taiwan as an independent state, but does interact with Taiwan for trade and limited diplomatic activities. Additionally, Germany hopes to use diplomatic dialogue to pressure China to condemn Russia's actions in Ukraine. Overall, Germany's current policies to cope with the rise of China focus primarily on securing Germany's economic future by protecting European markets and diversifying trade and diplomatic relationships, particularly in the Indo-Pacific, to exert western influence in the developing world.

Critiques

At a glance, Germany's historical approach towards China is highlighted by a focus on economic ties and a reluctance to confront China on political issues. One of the most pressing issues in the Sino-German relationship is China's widespread human rights violations, which include but are not limited to the suppression of political dissent, crackdowns on civil liberties, and the persecution of minority groups, namely the Uighurs in Xinjiang and pro-democracy activists in Hong Kong. Germany claims to be a nation that upholds the values of democracy and human rights. However, it is difficult to maintain that position due to Germany's reluctance to confront China on these challenging issues. There is mounting evidence of abuse of the Uighur Muslims in Xinjiang that is ongoing and has been a pressing issue of international attention since 2017 (Comm 2022). Moreover, in 2023 48 percent of polled respondents claimed that they want Germany to prioritize human rights over economic gains (Rühlig & Turcsányi 2023). Germany should decrease its dependence on China in concert with diplomatic efforts to pressure China to address serious human rights abuses in China and the region. This would be domestically popular and uphold German values and institutions.

Furthermore, Taiwan has voiced disappointment with Germany's lack of support for its sovereignty and lack of solidarity among democratic nations in the face of Chinese coercion. Taiwanese officials have called on Germany to reassess its relationship with China and to prioritize democratic values over short-term economic gains (Quant 2024). Germany has thus

found itself under a "Taiwan Dilemma." Germany's status as a significant trading partner of China has put Germany in a diplomatic

balancing act between Eastern interests and Western interests (Von Hein 2022).

China has become a significant player in Germany's supply chain integration, so much so that it has become particularly risky for Germany to suddenly cut back on Chinese trade. The bottlenecks that currently exist are geopolitical rivalries that strain the relationship and the supply chain ramifications that would come with disruption (Huld 2023). Moreover, with the implications aforementioned in this paper, the disconnect between political rhetoric and entrepreneurial actions has been evident, showcasing that German companies continue to prioritize economic gains over the potential risks of continued Chinese dependence (The Federal Government 2023). Despite the German government's calls for companies to de-risk from China and diversify their economic patterns, little substantive policy has been created with clear incentives and punishment mechanisms. 2023 polling data found that 60 percent of Germans are willing to pay higher consumer prices to reduce reliance on Chinese goods, making actual de-risking publicly popular (Rühlig & Turcsányi 2023). Germany should pursue the development of a quality policy that holds German corporations accountable for the economic security of the State and incentivizes them to do so.

A final and ever-growing critique against Germany regarding its national security has recently been put into question due to the ongoing Russia-Ukraine War. As mentioned previously, China's alignment with Russia's actions has been evident in their joint renouncement of NATO expansion and endorsement of Russia's invasion of Ukraine (Bachulska 2023). These geopolitical conflicts threaten and undermine the security of the German State. Given the current challenges presented by China's Belt and Road Initiative, Germany and the European Union have failed to aid Ukraine militarily sufficiently and pressure Russia to end its aggression (Brattberg & Soula 2018). Germany must be more assertive in its military aid provision in Ukraine to prevent war from spreading further west toward NATO members. Additionally, the German sanctions on Russian oil and gas have not sufficiently hurt Russia and have increased domestic tensions in Germany (Driedger 2022). Germany should find other political and economic policies that place pressure on Russia that cannot be made up for by China or other actors. From an economic or geopolitical dimension, there are hegemonic tensions tugging at Germany, and Chancellor Olaf Scholz will need to find a way to position Germany for the future amidst the progressing geopolitical arena.

Conclusion

As policymakers examine the intricate dynamic between Germany and the rise of China, one question remains large: How can Germany navigate its relationship with China while upholding its core values and national security and preserving its place within the Western world? The path moving forward for Germany regarding China is not entirely clear-cut; some costs and benefits will need to be considered. Germany's short-term economic benefits from dependence on China threaten the long term security of the State. Additionally, China's political and economic activities around the world undermine German and Western power and influence. Germany must proactively engage with its allies in the EU and US to address concerns about China, leveraging diplomatic pressure and economic pressure. Crucially, Germany will continue to uphold the core values of democracy and human rights. Germany must find policy options that protect its economic and political sovereignty and commit to a rules-based world order.

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Military Commissions and Civilian Control

An Examination of Civil-Military Relations through Huntingtonian and Janowitzean Lenses

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Introduction

Present-day military commissions in the U.S. are problematic for civil-military relations as they impede military effectiveness and erode civilian control. Military commissions are quasi-judicial forums convened and operated by the executive and legislative branches during or immediately after wartime when civil courts are inoperable or unsuitable (Silliman 2004; MacDonnell 2002). Civilian courts are allegedly ill-equipped to handle these cases due to their lack of military expertise, insufficient clearance for classified intelligence, and slower decision-making processes, all of which jeopardize military effectiveness (Schroeder 2002). In recent decades, however, commissions have been plagued with deficiencies and abuses (Cole 2013), while civilian courts have demonstrated their capacity to process cases dealing with international hijackers and terrorist networks that were presumed to be beyond their competence (Koh 2002). Since their revival under the Bush administration, commissions have even underperformed their civilian counterparts not only in providing fair and efficient trials (Shepard 2024) but also in securing convictions (Fisher 2003); from 2001 to 2009, civilian courts processed 145 cases relating to terrorism while military commissions prosecuted a mere three suspects (Human Rights Watch 2009). While data weakens the notion that civilian courts are any less capable than commissions, there remains a gap in the literature concerning the impact of military commissions on civilian control.

The motivating question this paper seeks to investigate is to what extent military commissions diminish civilian control over the military. The principle of civilian control is a core tenet of democratic governance that allows for the creation of a military capable enough to defend the nation yet not too powerful that it becomes insubordinate or threatens a coup d'état (Donnithorne 2013; Kemp & Hudlin 1992; Yarmolinsky 1974). However, striking this proper balance is the core dilemma of civil-military relations that both Huntingtonian and Janowitzean theories attempt to resolve in their contrasting prescriptions of civilian control (Burk 2002; Kümmel 2002; Feaver 1996). Therefore, this paper will analyze the impact of military commissions on civilian control using Huntington's framework of *objective control* and Janowitz's vision for a *constabulary force*.

This paper will unfold in three segments. First, this project will provide a detailed account of military commissions by differentiating them from the courts-martial before discussing their jurisprudence and evolving codes of conduct. Second, it will dissect commissions using Huntington's framework, focusing on the separation of civilian powers and the muddling of the civilian and military spheres. Third, it will deploy Janowitz's account to examine the distinction between wartime and peacetime, commissions' integration with and reflectiveness of civil society, and their political implications before concluding with a discussion.

Military Commissions

The Military Justice System is a labyrinth of various tribunals designed to function as separate legal forums to ensure operational effectiveness, efficiency, and discipline (Sherman 1973). Tribunals are fundamentally distinct from the civilian courts spelled out in Article III of the Constitution as they are extensions of the President and Congress rather than being a part of an independent judiciary (Battle 1942). The contemporary system is dominated by two principal tribunals: the courts-martial and military commissions, which, though often confused for one another, differ in their sources of authority,

purposes, and jurisdictions (MacDonnell 2002). While Congress has primary authority over the courts-martial (U.S Const. art. I, § 8), authority over commissions is *shared* between the President as the Commander in Chief (U.S Const. art. II, § 2) and Congress, which has the power to define and punish military-related behavior (U.S Const. art. I, § 8). The courts-martial enforces discipline and order over the uniformed personnel (Schlueter 1980), while commissions are broader in scope. Present-day commissions are convened in response to urgent responsibilities related to war (Everett 1960), which, as the Supreme Court affirms, encompass cases dealing with enemy combatants, law-of-war violations, belligerent inhabitants in an occupied territory, or the citizenry during an invasion or martial law (Friction 2007; Vagts 2007; Halleck 1911).

Military commissions initially operated under common law principles derived from the Constitution rather than being explicitly detailed in any particular statute. Since commissions were an abstract invention lacking any concrete boundaries, they became the designated forums for trying any military-related crimes not contained in the *Articles of War,* which were the written rules adopted in 1777 and enforced by the courts-martial to govern military affairs (Porter 1946). Commissions were first convened during the *Revolutionary War* to investigate enemy soldiers accused of aiding the British and during the *Mexican-American War* to prosecute obstructors of martial law in occupied territory. It was not until the *Civil War* that commissions were legitimized, being used to try an estimated 4,271 cases (Vagts 2007) ranging from guerrilla warfare to the punishing of Confederate soldiers (Green, 1948). However, the 1866 landmark decision *Ex parte Milligan* reduced their scope to having jurisdiction over American citizens when civilian courts were inoperable (Barry 2013).

Consequently, military commissions were not widely convened again until 1942, when they were used to convict German saboteurs who entered the U.S. surreptitiously. This was affirmed as constitutional in *Ex parte Quinn* since the President was the commander in chief and because, in 1916, Congress had recognized the power of the president to create such commissions (MacDonnell 2002). From 1944 to 1950, various commissions were convened to prosecute Nazi and Japanese officers for war crimes which were also solidified as constitutional in *In re Yamashita* (Prévost 1992).

Military commissions changed significantly in 1951 with the enactment of the *Uniform Code of Military Justice* that revised the *Articles of War* for the courts-martial and required commissions to adopt the principles of law and rules of evidence generally used in criminal cases in the U.S. district courts (Friction, 2007). Yet, the executive branch was still given extraordinary leeway. Not only did the UCMJ allow commissions to opt out of these requirements if they were deemed *impractical*, but the 1952 ruling *Madsen v. Kinsella* also held that congressional authorization was unnecessary for the President to convene commissions (Raymond 1953). While Congress could still regulate their conduct, both points were exploited by the Bush administration, who, by executive order and without a formal declaration of war, convened military commissions with diminished due process and rights protections to try over 660 detainees held at Guantanamo Bay (Steyn 2004; Katyal & Tribe 2002). The Supreme Court invalidated these commissions in the 2006 ruling *Hamdan v. Rumsfeld* since they failed to meet the basic standard of justice required by both U.S. and international law (Phillips 2006). In U.S. law, the Bush administration was unable to justify why it was impractical to use the civilian standards, while in international law, *Common Article 3* of the *Geneva Convention* affords all prisoners of war access to regularly constituted courts, which the justices found Bush's commissions to fall short.

The Court's curtailment of military commissions led to a boomerang effect; Congress enacted the *Military Commissions Act of 2006*, which circumvented the ruling. This legislation adjusted the nation's definition of a regularly constituted court to ensure that commissions would comply with the *Geneva Convention*. Even more problematic was the attempt to prevent detainees from filing writs of *habeas corpus* (Shepard 2024), which the Court in *Boumediene v. Bush* struck down as unconstitutional. Although the 2006 MCA did contain some minimal rights expansions, these provisions were vague and toothless (Beard 2007). With commissions' lackluster conviction rate and problematic track record, the Obama administration halted proceedings until Congress amended the *Military Commissions Act* in 2009 to expand the right to counsel, exclude statements obtained from

torture, and allow defendants to present their own evidence and cross-examine witnesses. Although these reforms were joined by other positive developments in the 2014 and 2018 *National Defense Authorization Acts* (Crook 2009), the current system still allows for hearsay and other pieces of evidence that are inadmissible in civilian courts, it fails to safeguard against self-incrimination by not informing detainees of their rights, and does not guarantee the right to a speedy trial (Shepard 2024). Thus, commissions currently operate under a hybrid system of law and justice that offers inferior trials to the accused.

Huntington: Objective Civilian Control

Military commissions are inherently incompatible with Huntington's framework of *objective civilian control* because they pit civilian groups against one another and blur the distinction between the civilian and military spheres. Dissenters to either contention would first point out that the U.S. Constitution, a document revered for enshrining the basic principle of civilian supremacy over the military (Boller Jr. 1954), can be reasonably interpreted to authorize the creation of such tribunals. Huntington would respond by first dispelling the cliché that the Constitution exemplifies proper civilian control; military commissions can only be derived from the Constitution because *subjective civilian control* is embedded into the document. Objective control provisions are absent because the framers could not anticipate the modern problem of civil-military relations since the Constitution was drafted before the emergence of the military profession when there was no need for a standing peacetime force. This explains why Articles II and III are primarily purposed to prevent certain civilian actors from wielding too much military authority rather than accumulating political power in the hands of the military establishment (Huntington 1956). While these principles might have been acceptable for the civil-military configuration at the nation's founding, they are now obsolete (Feaver et al. 2005).

Consequently, these obsolete subjective control measures undermine the very principle they were designed to uphold. By dividing power between the executive and legislative branches, civilian supremacy over commissions becomes contested. The executive branch views civilian control as presidential control, while the legislative branch views it as congressional control. Any shared authority over commissions in a system of separation of powers operates as a zero-sum game: any increase in power for one civilian group automatically comes at the expense of the other. Even if both branches share the same regulatory vision for military commissions, competing claims for authority inherently invite political competition in any separation of powers system (Beermann 2011). This shared power is also ambiguous; vague allocations of authority over commissions increase the likelihood that civilian branches of the government fight for control, thereby increasing the likelihood that military leaders are drawn into the political controversy. In this subjective structure, civilians' dueling authority over commissions will inevitably devolve into a slogan that masks competing interest groups' efforts to dominate the system. So long as civilian control is divided, there will be fierce competition, making it impossible for civilians to maximize their supremacy as a whole with respect to the military (Huntington 1981). Therefore, the constitutional basis for military commissions is intolerable since it relies upon a division of power, rendering objective control impossible (Nix 2012).

Military commissions are also inherently political, and they disrespect the natural division of labor. The natural division of labor between the military and the civilian spheres was violated during the Civil War and World War II, according to Huntington (Huntington 1956), wars which were coincidentally both marked by increased convenings of military commissions. Ignoring the distinction between the two spheres can encourage the military or the civilian to venture into a realm where they lack competence (Huntington 1981). Barring some advisory functions, the military must avoid any activities that deal with political decision-making (Schiff 1995). In essence, the civilian sets policy while the military executes policy. However, commissions do not respect these boundaries as they are riddled with political questions: who should be prosecuted, what charges should they be prosecuted on, who deserves a deal, and what level of punishment ought to be pursued. The numerous reforms have not resolved the dueling jurisdictions between the executive and legislative, nor have they solved any of these political questions left to military

officers. In essence, Huntington would scold both the framers and the reformers for handing the military an activity they lack competence in and for dividing power over the military among competing civilian groups.

Janowitz: Constabulary Force

Present-day military commissions are contradictory to a constabulary force as they distinguish wartime and peacetime, hinder meaningful integration with civilian society, and are unaware of their own political implications. To start, military commissions assume that cases relating to wartime require distinct legal forums. However, the complexities of modern warfare render this traditional distinction between wartime and peacetime outdated (Janowitz 1960). The nation's ascendancy as a hegemonic power was forged through constant involvement in military conflicts that blurred this distinction (Keohane 1991; Ikenberry 1989), while the advent of nuclear weapons increased the destructiveness of warfare, which made total war unthinkable. These complexities gave rise to *limited conflicts* in which war and peace are a continuum rather than a dichotomy (Betts 1977). For hegemonic powers like the U.S., Janowitz fears that these developments increase their susceptibility to engage in perpetual, limited, low-intensity conflicts (Travis 2020), which opens the door for commissions to exceed their role and militarize national security law. If the scope of commissions is tied to wartime and wartime has become an elastic concept, so too has the scope of commissions. Hence, military commissions are simply no longer conducive to these fundamental changes in warfare.

Military commissions also undermine the military's integration with and reflectiveness of civilian society. To be meaningfully integrated is to sincerely share and reflect the common values of civil society (Janowitz 1960). Yet, by design, military commissions function as alienated legal forums with distinctive rules and procedures that blatantly violate core principles of civilian due process (Shepard 2024). Janowitz is not oblivious that there are limits to the civilianization of the military insofar as they will need to retain some distinctive characteristics for combat effectiveness or readiness (Janowitz 1960). However, commissions do not meet this exception as civilian courts are proven to be just as capable of expeditiously processing such cases without impeding effectiveness or readiness. Commissions also fall short in reflecting civilian society demographically. The judges and members residing on the commission are selected from a pool of commissioned officers, which is problematic given that the demographic makeup of the U.S. military has come to poorly resemble the American public, which has only been exacerbated by the all-volunteer force. This means that individuals subject to commissions will be tried by a military jury that is not reflective of American society. Thus, commissions are problematic since they function as alienated tribunals that lack integration with civilian principles of law and justice and are not reflective of the public.

Commissions also lack the necessary expertise in dealing with the political and social ramifications of international law, as military commanders are often ill-equipped to deal with the pressures of international relations and diplomacy (Koskenniemi 2009). Modern conflicts are limited and thus have become much more political and predicated on deterrence; this suggests how commissions prosecute individuals can impact and potentially escalate the conflict. This is concerning given that the concept of escalation differs between the military and civil society (Betts 1977); commissions may be unable to gauge how prosecuting enemy soldiers could escalate a conflict or worsen tensions with another state. With the increase in the importance of deterrence, commissions would need to be meticulously reinvented to become more involved in diplomatic and political warfare. If military commissions would need to be fundamentally reformed in dispelling the wartime and peacetime distinction, becoming more integrated and reflective of civilian society, and developing a more political and diplomatic orientation in their proceedings, why not abolish them and enrich the civilian court system in this arena? Whether through abolition or extensive reform, commissions will be most effective when they are trained in diplomacy and in touch with the norms of international law, which will only be possible when they are integrated with civil society. Commissions representing the U.S. must reflect the public and its values.

Conclusion

Huntington and Janowitz both take issue

with present-day military commissions for different reasons. On one hand, the constitutional structure and purpose of commissions make them incompatible with Huntington's framework of objective control; by dividing power among competing civilian groups and by giving military commanders a responsibility that is inherently political, commissions make maximizing civilian supremacy as a whole over the military impossible and encourage the military to venture into a sphere that they lack competence. On the other hand, commissions are intolerable for Janowitz's conception of a constabulary force because, by design, they are alienated judicial forms used to try wartime cases differently than peacetime ones. Commissions do not reflect civilian principles of justice and due process, nor are they aware of their political and social implications. At the most rudimentary level, commissions are *too civilian* for Huntington and *not civilian enough* for Janowitz. While Janowitz would be more open to reforming commissions to restore civilian control than Huntington, who critiques their very existence, the scale of reforms needed to make commissions compatible with a constabulary force suggests that Janowitz would prefer simply giving this authority to civilian courts. Since civilian courts are shown to be just as capable of processing these cases without jeopardizing military effectiveness or readiness, both theories support the abolition of military commissions and transferring responsibility to civilian courts.

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The History of Economic Inequality in Texas

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Introduction

Texas is a large state located in the southern United States that is known for its diverse culture, vast landscapes, and strong economy. It stands as the second-largest state by both area and population, being home to over 30 million people and 3 of the 10 largest cities in the US. (U.S. Census Bureau). Texas has expanded into an urban and industrialized state since World War II. The Lone Star State is driven by the oil and gas, technology, agriculture, and manufacturing industries. The allure of Texas appeals to a diverse population, attracting over 390,000 new residents each year. Its average household income is $72,284, which is below the national average of $74,755 (U.S. Census Bureau). However, the cost of living and housing costs are 7 percent and 17 percent lower than national averages, respectively, making Texas a compelling destination. These factors helped to attract over 9 million people to Texas in the last 20 years (U.S. Census Bureau). Despite this influx, the state struggles with persistent poverty and income inequality; Texas has the 11th highest rate of poverty in the US (U.S. Census Bureau). This paper will analyze the influence that slavery and disparate access to education and healthcare had on the current levels of economic inequality in Texas.

Rise of Income Inequality in the Lone Star State

Two centuries ago, envisioning the Texas frontier as the economic powerhouse it is today would be a challenge. The transformation of the Texas economy began in the latter half of the 19th century when the cotton industry grew, railroads expanded, and large quantities of oil were being discovered. During early statehood, Texas's population had already grown to over 212,000 people, comprised of mostly white settlers, slaves, and a small number of freed African Americans (U.S. Census Bureau). Most immigrants came from southern states, bringing more slaves and expertise in cotton growing with them. In 10 years, cotton became the primary crop grown in Texas as production increased and the use of slavery expanded noticeably across counties. By 1859, cotton was a central feature of the Texas economy. Initially, railroads assisted cotton farmers in avoiding the power of port facility operators. However, the natural monopoly of railroads led to conflicts with farmers and ranchers over rates and regulations. In 1890, James Stephen Hogg became governor of Texas and fought for progressive reforms. Most notably, Hogg helped establish the Texas Railroad Commission and laws to regulate railroads, out-of-state corporations, and insurance companies (Humanities Texas). Texas was a hub for cotton cultivation until the 1920s; at this time cotton demand began a decades-long decline in response to the Great Depression, World War II, and the rise of other cotton production centers abroad (University of Texas Austin).

Around this same time, oil began to gain importance in the Texas economy. In 1901 a famous gusher in Spindletop blew oil 200 feet into the air, marking the beginning of the Texas oil boom. This period was a turning point in the Texas economy, characterized by rapid exploration and unprecedented wealth accumulation. The oil and gas industry helped diversify the Texas economy, which had been dominated by agriculture until this point. In fact, the origins of Texaco, Mobil, and Exxon are all linked to the discovery of oil at Spindletop ("Extra! Extra! Eyes of the World on Texas - Spindletop and the Texas Oil Boom"). Oil revenues fueled rapid population growth in cities like Houston, which emerged as the center of the Texas oil industry. But as oil began to dominate the Texas economy, evidence of income inequality emerged. The oil industry presented an opportunity for wealth to amass in the hands of a few powerful individuals referred to as, "The Big Four," while many Texans struggled to survive on low-wage jobs and in marginalized communities (Hurt 2008). This disparity in income distribution created a widening gap between the upper and working classes in Texas.

In the latter half of the 20th century, Texas sought to diversify its economy by growing its aerospace, manufacturing, retail, and technology industries. As Texas became home to the NASA facility, DELL Computer Corporation, and AT&T, disparities in income between urban and rural workers widened. The creation of the Organization of the Petroleum Exporting Countries (OPEC) in 1960 and the oil price increases in the early 1980s created another oil boom (OPEC). Investors, executives, and landowners generated immense income and wealth from the oil boom, but lower-level workers saw no improvements in their wages or standards of living. In fact, since the 1970s, income inequality in Texas has increased. The average income of the poorest 5 percent of families fell by $1,660 between the late 1970s and mid-1990s while the average income of the richest 5 percent of families increased by more than $19,120 during the same period (Center on Budget and Policy Priorities 1997). Similarly, Texas has reported a higher poverty rate than the US average every year since 1980 (Dietz 2008). As of 2022, while the US poverty rate was 11.5 percent, Texas reported a higher rate of 14 percent; this is the 11th highest poverty rate among all states in the US.

The Gini Coefficient measures inequality in a range from 0, meaning no inequality, to 1.0, which represents complete inequality. The Gini Coefficient compares the distribution of a population and its income to a perfectly equal distribution. The greater income inequality is, the higher the Gini Coefficient. In 1979, the US and Texas had coefficients of .41, but 20 years later the Gini Coefficient in Texas was .47 and .46 in the US (Gowder 2024). The Gini Coefficient has steadily increased from .47 to .48 in 2022 in Texas, while the US coefficient is currently .488 (U.S. Census Bureau). Looking at the data, it becomes clear that Texas struggles with economic inequality. Despite this, Texas has the second highest state GDP. Texas's $2.4 trillion economy is now the eighth-largest economy among nations in the world; it is larger than Russia, Canada, Italy, and more ("Top Texas Touts: Economy"). Thus, Texas is unique in that it is one of the most economically productive states, while also having the highest levels of poverty and income inequality in the US.

Slavery and Disparities in Generational Wealth

The impacts of slavery in Texas are seen today through current levels of economic inequality. As noted, the cotton industry significantly contributed to the state's early economic growth. However, the profitability of cotton plantations relied on the uncompensated labor of slaves who endured grueling working and living conditions. As the cotton industry grew, so did the accumulation of wealth in the hands of slave owners. Beginning even before the inception of the state of Texas, there existed a disparity in wealth and power between slave owners and enslaved people. Unfortunately, the impacts of racial injustice are still felt today ("Texas* - Countries - Office of the Historian").

The economic impacts of slavery persisted through generations and were exacerbated over time. The wealth of slaveholders was often passed down within families and communities. However, former slaves and their descendants were systematically deprived of the opportunity for generational wealth transfer. The discriminatory practices following slavery limited access to property ownership for Black Texans for generations. This is important because homeownership represents one of the most significant barriers to wealth accumulation and social mobility for Black Texans. According to recent data from the National Association of Realtors (NAR), the homeownership gap between white and Black home buyers is now the largest it has been in a decade (Texas State Affordable Housing Corporation). The NAR reported that, in Texas, 70 percent of White households currently own their home, compared to only 41 percent of Black households (Texas State Affordable Housing Corporation 2024). The disparities in homeownership rates highlight the lasting impact of historical injustices in Texas.

Post-Emancipation, barriers to economic advancement for Black Texans created further economic inequality. The implementation of Jim Crow laws and other discriminatory practices influenced opportunities for employment, housing, and access to financial resources. Today, institutionalized racism contributes to wealth gaps in the US that persist across racial and ethnic groups (Kochhar and Moslimani 2023). The difference in wealth between white and Black households is more than a staggering $223,300. While Texas's overall median household income closely resembles the national average, there are clear discrepancies across racial and ethnic lines. In 2021, the median household income for the white population in Texas was reported at $81,384 whereas the Black population

reported $49,767 (U.S. Census Bureau). Additionally, Black workers in Texas earn, on average, only 70 percent relative to white workers (U.S. Census Bureau). These statistics underscore how the effects of slavery have systematically disadvantaged Black communities in Texas, perpetuating generational wealth gaps and hindering economic opportunities.

Unequal Access to Education

The historically unequal access to education in Texas across races, ethnicities, and genders contributes to current levels of economic inequality in the state as well. Educational attainment—the highest level of education an individual has obtained—has become increasingly important to social mobility. Individuals who pursue higher education tend to have a better quality of life, live longer and healthier, and earn a higher wage. The benefits of earning a bachelor's degree are even greater; it is reported that these individuals have the lowest unemployment rates and earn $1.3 million more than those with only a high school diploma (U.S. Census Bureau). The unequal access to education among residents in Texas can be attributed to past discriminatory practices resulting in compounding harmful effects across generations (Understanding Houston).

Beginning in the early-mid 20th century, Texas employed discriminatory practices such as redlining to marginalize communities of color and limit access to quality education. Redlining maps were used by the federal government to legally prevent Black Americans from accessing homeownership. By restricting access to mortgages and housing loans, redlining effectively limited Black families to certain segregated neighborhoods. Redlined neighborhoods were often deprived of resources and investments, as seen by underfunded schools and substandard housing quality. The schools located in these neighborhoods had fewer opportunities than a well-funded school, with fewer advanced placement programs, extracurricular activities, libraries, and limited access to tutors. "The practice of redlining and other racist housing policies legally excluded Black families from receiving fair housing mortgages for over 30 years" (Understanding Houston). As a result, generations of Black families were deprived of the benefits associated with homeownership and at the same time, access to a quality education. In Texas today, 16 percent of the Hispanic population and 25 percent of the Black population have earned a bachelor's degree, compared to over 39 percent of the white population. The effects of historic systematic inequalities are seen through disparities in educational attainment in Texas today.

During the era of redlining, Texas also implemented a system of de facto segregation in schools for Hispanic children. Unlike African Americans, Hispanic people in Texas were not formally segregated by state laws, yet school segregation persisted for Hispanic children. One example is the Blackwell School in Marfa, Texas, which served as a Hispanic school for almost 50 years (Enck 2023). The students were taught to speak only in English and there was a strict policy of no Spanish speaking anywhere on the school campus. Today, the effects of de facto segregation are evident in the lower levels of educational attainment among the Hispanic Texan population compared to their white counterparts. Recent estimates show that 97 percent of white people under the age of 25 have a high school diploma in Texas but only 74 percent of Hispanic people under the age of 25 have obtained one (U.S. Census Bureau). This is significant because it also shows that less than 3 percent of the white population have less than a high school diploma, while 26 percent of the Hispanic population has received less than a high school diploma. Hispanic Texans are also more than twice as likely as white Texans to be living below the poverty level (U.S. Census Bureau). Overall, preventing access to quality education has had compounding generational effects on communities of color in Texas by limiting socioeconomic advancement and increasing economic inequality.

Unequal Access to Healthcare

One of the largest issues Texas faces in achieving equal access to healthcare is the disproportionately high rate of uninsured people. Health insurance is vital for accessing healthcare because it protects the user from unexpected medical costs and provides the financial ability to afford medical services, medications, and treatments (HealthCare.gov). To put it in perspective, Texas continually ranks as the state with the highest percentage of uninsured residents (Taylor-Ross 2023). The data shows that in 2022, a staggering 17 percent of the population was uninsured, which is an

estimated 4.9 million Texans. This rate is over twice as high as the national rate of 8 percent (U.S. Census Bureau). Despite comprising 9 percent of the overall US population, Texans account for 18 percent of the nation's uninsured populace (Taylor-Ross 2023). Additionally, “Texas children and youth (under 19) are more than twice as likely to be uninsured as US kids overall” (Taylor-Ross 2023). It is clear that Texas should prioritize reducing its uninsured population.

Furthermore, health insurance has a large impact on an individual’s financial stability and overall health. Access to healthcare is closely linked to socioeconomic status. Individuals with high incomes are more likely to access healthcare through private insurance or employer-sponsored health plans, whereas lower-income individuals may struggle to afford any coverage at all. This difference in access contributes to economic inequality by imposing financial barriers to essential healthcare services for those who need it most.

The unequal access to healthcare in Texas can be traced to long-standing historic barriers and policy decisions that perpetuate disparities, particularly for people of color. The demographics of Texas are one way to understand the differences in access to healthcare. The population of Texas is diverse and contains a large population of Hispanic and Black residents. As examined in this paper, people of color in Texas have encountered a history met with discriminatory practices that have impacted household income and resulted in limited access to healthcare and affordable health insurance. Current statistics highlight the extent of this disparity; the uninsured rate for white Texans was reported at 9 percent while 14.3 percent of Black Texans and 25.9 percent of Hispanic Texans are uninsured. It is important to note that Texas can significantly alleviate this issue by expanding Medicaid eligibility to cover a larger proportion of the working poor. However, lawmakers repeatedly reject these efforts (Bostwick 2023). Despite the Supreme Court’s 2012 ruling to strike down the Affordable Care Act provision that required Medicaid expansion, 40 states have opted to expand their programs (Jones 2013). But Texas was not one of these states. In fact, Texas removed hundreds of thousands of Texans from Medicaid in 2023 as part of the “unwinding” of pandemic-era Medicaid rules (Cover Texas Now 2023). Addressing disparities in health insurance coverage is essential to promoting economic equality and improving the overall well-being of residents in Texas.

Conclusion

To conclude, Texas is facing a time of substantial economic inequality rooted in historical injustices and systemic barriers to opportunity. Household income data reveals a sharp disparity: 3 percent of the total household income earned by the bottom 20 percent of households, while the top 20 percent earns 51 percent (U.S. Census Bureau). This concentration of income represents just how wide the economic divide is within the state. Additionally, the effects of slavery are present in historic disparities in income, homeownership, and wealth between Black and white communities. Systematic inequalities, spanning from slavery to Jim Crow laws, have created and perpetuated generational economic differences that impede the social mobility of Black Texans. Similarly, the legacy of redlining, discriminatory housing policies, and de facto segregation contributed to educational disparities and hindered economic prosperity for communities of color with the ramifications still being felt today. Unequal access to healthcare further exacerbates economic inequality as the high rates of uninsured people disproportionately affects marginalized communities, especially regarding health outcomes and economic stability. From the impacts of slavery to disparities in education and healthcare access, these challenges perpetuate differences in the accumulation of wealth, income, and well-being across communities in Texas.

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Justification, Effects, and Implications of the Deployment of Two Carrier Battle Groups During the 1995-96 Taiwan Strait Crisis

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Analyzing the 1995-96 Taiwan Strait crisis requires a brief summary of relevant background information. The political status of the self-governing island of Taiwan has been hotly contested since the end of the Chinese civil war in 1949. The victorious People's Republic of China (PRC), which controls the mainland to this day, maintains that eventual reunification is an internal matter of pacifying a renegade province. The US-aligned Republic of China (Taiwan) that controls the island disagrees but has withheld a formal declaration of independence so as to not cross a Chinese red line and provoke use of force. US diplomacy must tread cautiously between support for Taiwan on the one hand and honoring its 1979 declaration that the PRC is the "sole legal Government of China" (Green and Glaser 2023) on the other. The shift in official recognition from Taiwan to China has necessitated that the US only have unofficial relations with the island, lest it elicit Beijing's ire and precipitate a crisis.

This unofficial relationship between the US and Taiwan was challenged in May of 1995, provoking such a crisis. Taiwanese President Lee Teng-Hui sought a travel visa to attend a reunion at his alma mater Cornell University in the US, counter to long standing precedent against visits by Taiwanese officials. After initially informing the Chinese government that such a visa would not be granted, domestic politics forced the Clinton administration to reverse course and allow the visit. China was incensed, especially the People's Liberation Army (PLA), an influential faction within the ruling Chinese Communist Party (CCP). After Lee's visit in June, missile tests were declared a month later in response. Chinese naval exercises were held again in August, as a diplomatic back-and-forth failed to resolve what Beijing saw as a dangerous trend towards official recognition by the US and a declaration of independence in Taiwan. November saw the "largest and most complex amphibious manoeuvres ever undertaken in the Taiwan Strait." (The 1995–96 Taiwan Crisis, p. 43-51) (The US responded to these military exercises by sending navy ships through the strait in July 1995, and on December 19 "the U.S. aircraft carrier *Nimitz* passed through the Taiwan Strait, the first such transit by a U.S. aircraft carrier since the normalization of U.S.-China relations in 1979." (Ross 2000) It is contested whether the December passage of a carrier battle group was intended as a show of force, as it was not publicized at the time and official statements after the fact insisted it was done to avoid bad weather. After the Taiwanese media leaked this as proof of American support in January of 1996, China certainly viewed it as an implicit threat, regardless of the actual reason for its transit. (Moore 2007)

As the Taiwanese presidential election on March 23 approached, the Chinese government wanted to send a clear message that Lee's policy was unacceptable and coerce voters into ousting him and reducing pro-independence sentiment. Starting in February China began mobilizing forces in Fujian, the province directly across from Taiwan. In early March a series of military exercises involving missile launches and naval operations were announced, signals intended as coercive diplomacy at both the US and Taiwan. (Ross, p. 88) The scale of these drills was enormous, eating up "almost a quarter of its annual military budget for 1996 on a single military exercise" (Chen, p. 357) Missiles bracketed the island to calibrate the island for artillery fire and "were clearly intended to cut trade routes from Keelung in the north and Kaohsiung in the south. These two ports accounted for about 70 percent of Taiwan's commerce." (Elleman, p. 138) The US response to the February/March exercises and economic warfare against Taiwan was to send both the *Independence* carrier battle group and the *Nimitz,* which traveled all the way from the Persian Gulf. This was an

unmistakable display of US military might and was conducted without further complications, and Lee won reelection. Tensions normalized shortly thereafter, and a new status quo formed.

The decision US policymakers reached in March of 1996 to send two aircraft carrier battle groups to the vicinity of Taiwan merits further analysis, and sparks two key questions. Why did the US make this decision, and what did sending the carriers achieve? At first glance, the obvious reason the carriers were sent was to deter China from invading Taiwan and the result was an unambiguous success, since no invasion occurred. "The strategic rationale was much the same as in 1950: to neutralize this region so as to not allow a cross-strait invasion." (Elleman, 140) Given massive American military superiority at the time, the argument goes, deterrence was easily achieved and essential to preventing a war. China was given a clear signal that an attempt to change the status quo by force was unacceptable.

However, the case that the US sent the carriers with the intention of deterring an invasion is flawed, considering most scholars doubt that a Chinese invasion was genuinely on the table to begin with. Numerous diplomatic signals were sent by China to indicate that use of force against Taiwan was not planned. If this was the case, and US policymakers were aware that an invasion was not imminent, then there must have been another cause behind the decision. One such explanation that does not necessarily discount the possibility of deterring a real invasion was that it let the US demonstrate its resolve to Beijing and enhance its reputation as a loyal security partner with its allies in the region. I argue that this is most likely the primary way US policymakers perceived/justified their decision to send the *Nimitz* and *Independence* to Taiwan in March of 1996.

The public statement given by Defense Secretary William Perry justifying a second carrier being deployed to the region all the way from the Persian Gulf reads, "We do not believe China plans to attack Taiwan, nevertheless, we are increasing our naval presence in that region as a prudent, precautionary measure." (Knowlton 1996) Perry also stated that "[…] attacking Taiwan would be 'a dumbthing' for China to do, observing that it was not capable of launching an invasion of the island." resolve to defend the island. The presidential election (Ross, p. 108) Sending two carrier groups was a significant precaution to take given the assumption that an attack was not happening, implying they were sent for some other reason than pure deterrence. Given the official statements and a scholarly consensus that an invasion was unlikely, a reputational justification appears the most promising candidate. This explanation is supported by numerous additional voices. Scholar Robert Ross argued in a 2000 paper on the crisis that "The United States thus succeeded in maintaining its pre confrontation reputation, leaving the credibility of U.S. deterrence intact […] the United States used force to achieve reputational gains." (Ross, p. 112) Robert Suettinger states in his book *Beyond Tiananmen* that "The United States was deploying two CBGs [Carrier Battle Groups] to the region as a demonstration of the American commitment" (Suettinger, p. 257). Rhetoric such as 'demonstrating American commitment' is common in reputational reasoning. The US has historically initiated or continued its military actions at least in part for their perceived reputational value, indicating precedent for this type of reasoning. Further evidence comes from Winston Lord, who stated "[The US] had to have a demonstration beyond the rhetoric that we had been applying," and that while moving one carrier group into the region showed resolve, "it was not particularly dramatic. So we decided to deploy another […] which would really make our point." (Moore, p. 173) Use of terms such as "resolve" are further indication that a reputational calculation was made in the decision-making process. Ross goes on in his piece to state that "China had ignored U.S. warnings, and its missile tests challenged U.S. credibility." (Ross, p. 109) All of these statements taken together amount to a convincing picture that the US was primarily concerned with its reputation, credibility, and perceptions of its resolve rather than deterring an imminent attack when deploying the two carrier groups. This action was intended as a signal to allies in the region that the US would support them in times of crisis and to Beijing that it could not bully Taiwan without involving the US. While bolstering the US reputation for deterrence in the region may have been the goal, evidence for the success of this policy is difficult to measure. There is an extensive literature on reputational theory as it relates to deterrence, and the validity of a central premise that "[…] a reputation for resolve - the extent to which a state

will risk war to achieve its objectives - is critical to credibility" (Mercer, p. 1-2) has been called into question.

The case that there genuinely was an invasion plan successfully deterred by the United States is fascinating, difficult to verify, and merits further study. It was widely believed at the time that an invasion was not in China's rational interest, given the significant gap in military capabilities between them and the US. However, surprise is easiest for a state to achieve when a course of action is perceived as counter to their interests. (Mercer 2024) History has shown that states can be willing to go to war despite knowledge of their slim chance of success, as long as the status quo is sufficiently unbearable. (Sagan 1998) A surprise invasion masked by military exercises just as Taiwan's first democratic presidential election was ongoing would have been a nightmare. If the carriers legitimately prevented such an event, then this is certainly the most significant reason behind and most important result of their deployment. The evidence for such a scenario comes from a former senior intelligence officer of Taiwan named Jia-Jung Pang who uncovered details of a war plan from a turncoat PLA general named Liu Liankun. These details were then passed on to the US, which after verifying the intelligence sent the carriers, thus forcing China to "pivot from military invasion to military exercises." (Chen, p. 358) Liankun was indeed subsequently charged with spying and executed by China in 1999, (Lim 1999) and his status as a paid informant for Taiwan has been confirmed. (Tien-pin and Chin 2018)

Despite these details, even the paper that mentions this narrative acknowledges it as a challenge to the "conventional interpretation" (Chen, p. 358) of an attack being unplanned. In the process of research for this paper, no further reference to this sequence of events could be found. The overwhelming scholarly consensus is that China was engaging in coercive diplomacy to achieve policy objectives in Taiwan's elections and the US's Taiwan policy, not attempting to annex Taiwan. Additionally, repeated diplomatic signals were sent by China at the time assuring the US. "[…] following the March 7 missile launches, China, through various diplomatic channels (including Vice Foreign Minister Liu Huaqiu's discussions in Washington), had assured the United States that it did not intend to attack Taiwan." (Ross, p. 108) A formal declaration of independence by Taiwan being the broadly acknowledged condition for an invasion, (Ren 1997) it would be surprising for China to launch one with this red line uncrossed. The alleged scenario in which the US prevented a real invasion of Taiwan is unlikely, although possible.

I argue that the primary consequence of sending the carrier groups was a de facto end to Chinese perceptions of US strategic ambiguity and an acceleration of China's military buildup as a logical follow-on. If an invasion was neither planned, feasible, or prevented, and reputational gains are possible but unclear, the remaining salient effects are those that sending the carriers had on China itself. Beijing had clearly miscalculated US resolve, having repeated the 1955 Mao statement that US leaders "care more about Los Angeles than they do about Taiwan," (Elleman, p. 138) and appeared genuinely surprised by the demonstration. China is determined not to miscalculate again. The CCP leadership in Beijing, in addition to many Chinese citizens, were "angered, frustrated, and embarrassed" (Ross, p. 120) by the impunity the US enjoyed in projecting its power and influence so easily. In this context, a backlash was almost certain to occur. "Chinese policymakers must now assume that regardless of the source of a future crisis, including a formal Taiwan declaration of sovereign independence, the United States will almost certainly intervene militarily against Chinese use of force." (Ross, p. 119) Strategic ambiguity is only actually ambiguous if the actor one is attempting to keep guessing is sincerely uncertain about one's stance. While it is reasonable to question whether one incident single-handedly caused such an important shift in Chinese perceptions, it was at least a significant factor in this reassessment.

A belief that the US would certainly intervene in a future crisis would imply Chinese actions that take this into account. It therefore follows that the PLA would need to plan around defeating the US in addition to Taiwan in an invasion, intensifying military competition. Evidence suggests that China accelerated their military modernization and expansion plans in the aftermath of the crisis, supporting this conclusion. "U.S. policy has thus contributed to the development of a more capable and determined Chinese adversary." While true that China would almost certainly have sought greater military capability regardless of any one incident, it is

demonstrable that this specific crisis increased the urgency with which this goal was pursued. One could argue China's perception that the US would intervene could have shifted gradually back to belief in an ambiguous US response, but recent evidence suggests this has not happened. In a survey of 64 experts amid the August 2022 Taiwan Strait crisis, 100 percent agreed that "China expects the US military would deploy forces to defend Taiwan from an invasion." (China Power Team 2023) While factors other than the 1996 crisis may have led to the continuation of this belief up to at least 2022, sending the two carriers marks its beginning. Chinese reevaluation of US strategic priorities and the resultant acceleration in China's military buildup are the most important effects of the decision to send two carrier groups to defend Taiwan. Sending military signals purely for reputational reasons may incur more costs than benefits, and it would be prudent to limit future demonstrations to deterring an imminent attack.

Another lesson from this crisis is that engaging in hawkish demonstrations of US power increases the influence of the PLA, which has been described as "a crucial power broker in the PRC." (Chen 2022) Jiang Zemin's somewhat tenuous hold on party leadership at the time meant that he was "under increasing pressure to satisfy the military, which was much more bellicose than PRC political leaders on the Taiwan issue." (Chen 2022) However, given Xi Jinping's present iron grip on power and personal attachment to retaking Taiwan, it is possible he would not experience as much pressure as Jiang. Additionally, the CCP political leadership in general may no longer be comparatively dovish. Nevertheless, taking aggressive action unified the party around a common enemy and bolstered hawkish views within the PRC leadership. Given that the clout of the PLA and other hawks was a significant driver in the 1996 crisis, US policymakers may seek to avoid empowering them more than is necessary to maintain effective deterrence.

Another lesson from the decision to send the two carriers is the plain fact that such an option was available to US leaders, and that the military balance was lopsided enough that it was such an embarrassment to China. If the alleged scenario of a 1996 planned invasion prevented by US intervention is true, then possessing superior relative strength will be key to stopping future invasions. The costs of unnecessarily provoking China are certainly something for US policymakers to be cognizant of, but would almost certainly be considered acceptable if a real invasion was deterred. A wargaming study by the Center for Strategic and International Studies (CSIS) in 2023 found that in most simulated invasions of Taiwan in 2026, the US, Taiwan, and Japan prevented Chinese occupation of the island. "However, this defense came at high cost. The United States and its allies lost dozens of ships, hundreds of aircraft, and tens of thousands of servicemembers. Taiwan saw its economy devastated. Further, the high losses damaged the U.S. global position for many years." (Canican et al. 2023) Compared to a Brookings Institution wargaming project in 2000 which concluded a successful Chinese invasion was impossible even without US involvement, (O'Hanlon 2000) the CSIS study's conclusion that "The United States needs to strengthen deterrence immediately" (Canican et al. 2023) is important to recognize. China can no longer be deterred from attempting an invasion through military impracticality alone.

Maintaining a clear military advantage is, however, not the only component of successful deterrence. "'One more step and I shoot' can be a deterrent threat only if accompanied by the implicit assurance, 'And if you stop, I won't.'" (Glaser et al., p. 2) Ensuring that Beijing feels that an avenue to peaceful reunification remains open is a less acknowledged part of deterrence but no less crucial. In a 2007 survey of experts and former government officials about the 1996 crisis, *75* percent of Chinese respondents answered yes to the question "Did the United States oppose China–Taiwan reunification during the 1995–1996 period in your opinion, even under the best of circumstances (i.e., even if Taiwan were to agree, etc.)" (Moore, p. 178) while *100* percent of American respondents answered no. Closing this perceptual gap will be key to ensuring that China does not feel that it has no alternative to force. US policymakers must avoid reinforcing the broad Chinese perception that the US is opposed to unification under any circumstances if they wish to avoid a conflict. Actions such as sending multiple carrier battle groups without actionable intelligence of an imminent attack will strengthen this perception of US inflexibility rather than weaken it. Given that the US cannot rely in the near term on overwhelming military force alone to deter an invasion, the

necessity of using assurances in tandem with threats has increased in importance.

Perhaps the most essential lesson of the crisis is recognizing that sending the carriers would not have been discussed at all had the US not granted Lee a visa in May of 1995. After the republican wave in the 1994 midterms, domestic pressure coerced the Clinton administration's state department into its visa decision. After nearly unanimous votes in both houses on a nonbinding resolution to grant a visa, the threat of a binding resolution granting an even more provocative official visit for Lee was more than enough. (The 1995–96 Taiwan Crisis 1999) Ultimate responsibility for the crisis undoubtedly lies with Congress. Had the elected representatives forcing the Clinton administration into issuing the visa been fully informed of the potential consequences, perhaps the matter could have been handled differently. The recent August 2022 crisis was also sparked by what Beijing perceived as US meddling in 'internal Chinese affairs' with Speaker of the House Nancy Pelosi's visit to Taiwan. Regardless of the reasoning behind such actions and justness of resisting "bullying attempts by an autocratic one-party dictatorship […] of one of the first true Asian democracies," (Ellerman, p. 159) the US must be aware of the costs. The future of cross-strait relations and the chance of a future conflict depends on US decisions. US diplomacy must tread a careful balance.

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Justice in China: Farmer's Access to Legal Institutional Justice in Land Right Disputes

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As China has grown into its role from a developing country to a global leader, the world has watched as many policy and institutional shifts have occurred. In an attempt to build regime support and further establish legitimacy, the People's Republic of China (PRC) has continued to simultaneously build legal institutions and enact corresponding laws. Of note are laws that have extended property rights to citizens, specifically rural farmers. It is widely regarded that legal institutions and laws may help generate continued economic growth and or legal consciousness that help people view the regime as legitimate. Although, it is also possible that the PRC's efforts are an attempt to provide redress avenues to keep in the good graces of a majority (rural farmers) that may threaten to over take them. Despite the PRC's intentions behind constructing legal infrastructure, within this new system and the rights it offers, Chinese rural farmers have limited access to justice in land dispute cases. For the majority of rural people, access to justice is barred by information asymmetry, fiscal concerns that drive legal justice aside, and the inability of legal justice to prevail over socio-political norms when it comes to case outcomes.

Though farmers' land rights have been expanded since the late-20th century, the lack of implementation created by information asymmetry in legal processes limits access to institutional justice. Central to understanding how information asymmetry creates barriers to justice, one first must be familiar with what land rights in China entail. Unlike Western countries' understanding of land ownership, where land can be transacted and inherited, China's land ownership is contracted out to farmers for a set number of years. The most current law, the Land Management Law of 1998, allows farmers access to land for 30 years (Prosterman 2013, p. 217). Like other legal systems, Chinese farmers rights are formalized underneath these written contracts: written contracts guarantee rights to the farmer (promisee) and government (promisor), involved and remedies should it be disputed. Contracts are the fundamental basis by which courts determine if a breach of rights occurred and how it should be handled. Recognizing contractual importance in creating access to justice should disputes arise, the government strengthened documentation requirements related to farmers rights in 2002. Unfortunately, only "(32 percent) of farmers had the official documents made compulsory by the 2002 law while 41.2 percent had no documentation at all" (Vendryes 2010, p. 91). Without proper documentation , it is not uncommon for an individual's rights to be questioned or blatantly disregarded. In this way, the information asymmetry within the contractual process has allowed the government to side step farmers' rights.

Examples of the impacts of the information asymmetry created by document requirements versus the reality of document availability abound. In Jiangsu, in order to meet explicit evaluation targets village cadres aim to prevent uncultivated land by repossessing land from households that do not actively farm" (Brandt et al. 2017, p. 1042). Even though land remains uncultivated, the Land Management Law makes it clear that should the proper contracts be documented, the government is legally obligated to compensate farmers before repossessing their land, and, if disputes cannot be resolved through the people's government, the issue may be brought before a court to provide institutional justice (People's Republic of China Supreme People's Court 2004). Though some may argue that contracts provide the potential towards legal justice in these cases, it is important to note again that access to courts is stipulated upon the proper documentation. As previously described, this documentation is usually left incomplete. So, this means that even when a dispute arises, farmers are unable to take their grievance to court. Their access to justice is entirely reliant on the people's governments rather than legal

institutional justice. Though farmers have contracted rights to land under law, asymmetric handling of contractual information results in loopholes that create opportunities for the government to take advantage of farmers and limit their access to justice.

Alongside information problems, local governments' fiscal challenges push justice aside for profit. The largest contributor to local government fiscal challenges is the collection and distribution process of government revenue. Since the massive fiscal reform in 1994, all revenue has gone straight to the central government. From there, local governments are assigned budgets. Unfortunately, due to heavy provisionary mandates, their expenditure often well-exceeds their assigned budget. To account for this gap, local governments have employed a creative solution: selling agricultural land holdings for further development (Ma et al. 2022). Due to the legacies of the planned economy, governments are able to take farmers' land holdings for cheap, if anything at all, and sell them to be developed at high prices. One example of this happens "in [the] peri-urban industrializing county in Shandong [where] these disputes reflect the high value of land in non-agricultural uses which local governments readily exploit to generate fiscal revenue" (Whiting 2010, p. 583-584). Many rural people will then take to the courts to confront the government. According to Whiting, it is surprisingly because rural peoples believe the courts to be a "neutral third party arbitrator […] this is not to say that courts succeed in meeting these expectations" (Whiting 2010, p. 584). In fact, legal institutions seem to uphold the government's land-taking profit scheme. Bound by the limits of interpreting law as it is written, the courts inevitably become accomplices in upholding government biased laws, creating government biased outcomes.

In revising the Land Management Law, the government further strengthened the legal bias of courts by emphasizing "that rural urban land conversion can only be legally achieved through state requisition" (Qiao & Upham 2015, p. 2500). While optimists may point out that the success rate of favorable settlements for farmers range from 27 percent to 40 on the high end (Nathan 2003), this is an incomplete interpretation of the data. The same study clarifies that farmers' success in overturning government action for land disputes pales in comparison to the court's favorable treatment of the government. Farmers have a success rate of 15-21 percent as opposed to the government's 17-50 percent chance (Pei 1997). This is consistent with the idea that legal institutions uphold the government's land taking actions. Especially when courts are limited to interpreting biased laws that favor the government's motives. Courts are thus not the neutral bodies that farmers believe them to be and are unsuited to making objective decisions that may afford farmers better compensation and redress for their grievances. In other words, local governments' fiscal challenges drive farmers to the courts who interpret biased laws that uphold land-taking profit schemes, violate the rights of farmers, and generate government favored rulings.

Lastly, access to institutional justice is limited because of courts' adherence to socio-political norms instead of the law when administering case outcomes. As established earlier, courts within China's legal system act as accomplices to the government or rather an extension of the Party-State and their motives. This relationship is both shown through their actions, and the very organization of the Chinese government, where The Party heads governmental organs such as the courts. As a result the judiciary is controlled by political motivations which include the fear of social uprising. Under President Xi, a series of laws restricting civil and religious society have emerged to tame both foreign and domestic actors seen as threats that might mobilize the people against the Chinese government (Fu & Dirks 2022). Though these laws have a great impact on court proceedings, it is more relevant to look at Xi's motive behind enacting them to understand how ideas of social uprising may connect to farmers' land dispute cases. Though profit motives may result in biased laws and court rulings, sometimes the courts entirely ignore the law to execute the government's motives in matters of social justice. Indeed some "judges in the county court with jurisdiction over these farm communities seek to avoid volatile cases that may heighten community tensions and affect local political stability" (Whiting 2010, p. 575). Judges avoid cases by either wholly ignoring them or recommending mediation. In doing so this eliminates much of the potential social protest concerns over a contentious ruling. However, at the same time, these approaches limit farmers' avenues to pursue legal institutional justice. Indeed, it's been found that "mediation of abandoned land disputes

resulted in different allocation of resources than mandated in black letter law –allocations of resources that more closely accorded with community norms of distributive justice" (Whiting 2010, p. 583). While the law may not be perfect, it is important as a general principle to enforce what laws are written in a consistent manner. Only then will fair bargaining begin to be normalized (Kennedy 2013). Yet, in order to avoid the social mobilization that threatens to overcome the government, courts are forced to hand over judgment to other dispute resolution processes (i.e. mediation) that stunt the development of just bargaining and legal based outcomes. Others may point out that these outcomes may provide what seems to be fair, proper, and reasonable awards to farmers losing their land, but it is not done impartially nor in accordance with actual written law. Without the exercise of legal judgment, legal guarantee of farmers rights can further be degraded and the perpetuance of the vicious cycle of land "loss, fragmentation, and in some cases abandonment" may continue to occur as the power of the government lords overhead (Hong & Sun 2020, p. 2).

Furthermore, lack of adherence to the law has normalized corrupt behavior by rural people, undermining their own rights. This has gone so far as to make villagers participate in illegal activities like unauthorized land development and trespassing (Qiao & Upham 2015, p. 2505). Government motivation in promoting awards compliant to socio-political norms in order to quell uprising potential has created a dispute resolution system that is ignorant of the possibility of other legal awards. Though awards through mediation are likely to satisfy farmers, they may not be receiving the full extent of what their rights afford them. This compels them to only value their land as something with potential to develop, rather than other agricultural or personal uses. Regardless, it seems that by awarding farmers just enough to satisfy social demands for resolution, the courts avoid imposing resolutions based on written law, limiting farmers' access to legal institutional justice, and the possibility of proper compensation per their contracts.

To conclude, the rural population of China's access to justice is limited by contractual information asymmetry, local governments' fiscal concerns, and adherence to socio-political norms when directing case outcomes. Between reliance on other dispute resolution processes to avoid particular legal topics and surface level compensation to avoid public uproar, farmers' access to legal institutional justice and best case outcomes has become extremely limited. In summary, though farmers may appear to have access to institutions that provide justice within China, for the majority of rural communities, this access is barred or limited in some fashion through information asymmetry, fiscal concerns, or courts adherence to socio-political norms.

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The Expansion of Rights and Freedoms by Constitutional Courts

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In 1803, the Supreme Court of the United States ruled that it had the power of judicial review, to declare laws unconstitutional and thus invalid. In the two hundred years since, constitutional courts around the world have risen to prominence in the political consciousness. Over time, various factors have led to the "domination of nonjudicial negotiating or decision-making arenas by quasi-judicial (legalistic) procedures" in politics (Tate and Vallinder 1995). So prolific in the implementation of policy are these constitutional courts that some have even gone so far as to claim, "If it is moral philosophers we want as rulers, we should seek out moral philosophers, not lawyers, for appointment to the Court" (Graglia 1994, p. 126).

It is no secret that such an expansion of the courts' power has occurred and there is no contention that many of these courts, especially the Supreme Court of the United States, have ruled on the rights and freedoms of their nation's citizens. However, in considering the evidence, I assert that constitutional courts, in applying judicial discretion and the values of the liberal democracies in which they find themselves, ultimately trend towards the expansion of these rights and freedoms, rather than the restrictions, considering cases such as *Baker v. Carr* in the U.S. as well as abortion rights in South Korea and Germany, and even the French ban on face coverings in public.

Beginning in the United States, one can see a strong historical trend of expanding the rights of the people. No clearer is this than in the historic Warren court of 1953 to 1969. Chief Justice Earl Warren himself named *Baker v. Carr* as the most important case of his tenure, over *Brown v. Board of Education*, *Miranda v. Arizona*, and *Gideon v. Wainwright* (Lechtenberg 2016). In *Baker v. Carr*, the Supreme Court held that congressional redistricting cases were justiciable, creating the one man, one vote rule to enforce redistricting every ten years with the census. Before this, in Tennessee, a rural voter had 23 times more voting power than an urban voter – in this case, as Lechtenberg (2016) says, "a small minority was choking the majority." Ultimately, despite the contentious nature of the case, the ruling expanded the rights of the people by securing equal representation and equal voting rights in the national legislature.

This is only a small part of the greater trend in which the rights of the people are expanded and the channels of democracy are opened. Some examples include *Brown*, *Miranda*, and *Gideon* themselves, which respectively ended racial segregation of schools, required that criminal defendants be informed of their rights, and enforced the positive right to a lawyer for indigents, but also famous rights-expanding cases like *Tinker v. Des Moines*, which protected the freedom of speech for students (American Bar Association). Cases especially involving the 14th amendment equal protection clause, such as *Obergefell v. Hodges*, which protected same sex marriage, are also among civil rights successes (Oyez). Again and again, the Supreme Court has used its judicial discretion to establish and protect civil rights and civil liberties. This is the "moral philosophy" that Professor Graglia discusses – an ultimate use of expanding judicial power to expand rights and freedoms as well.

The easy objection to make to this argument would be the counterexamples of cases in which the Supreme Court has upheld or reinforced the state's restrictions of American rights. In the Washington Post, author Shahrukh Khan cites the 'anti-canon' of Supreme Court history – *Dredd Scott v. Sanford*, in which the citizenship of African Americans was denied, *Plessy v. Ferguson*, which upheld the 'separate but equal' doctrine of racial segregation, and *Korematsu v. The United States*, which permitted the continued internment of Japanese Americans (Khan 2019). Of course, there is no shortage of cases to cite in counterpoint, because the Supreme Court

has indeed not only expanded freedoms in its long history. However, the ultimate trend is towards expansion. All of these cases were overturned, in time. The "progressive lens" with which Khan says the public views the Supreme Court's history is a product of a progressive arc. No matter how much it may backslide or how many cases seem "so strikingly wrong" in hindsight, there is a visible, gradual trend towards securing the rights and freedoms of the American people.

This progressive arc is not a trend limited to the United States. As the New York Times reports, the South Korean Constitutional Court ruled an abortion ban unconstitutional in 2019, following a long history in which the ban was seldom enforced and sometimes even contradicted by state pressure to limit population growth (Choe 2019). Choe reports that, in 2017 alone, "49,700 abortions took place," 94 percent of which were illegally performed (Choe 2019). This ruling overturned an earlier verdict from the same court that held the ban as constitutional, indicating a shift in judicial policy over time. With the support of many liberal and progressive social and political actors and activists, this is easily interpreted as a trend towards expanding the rights of South Korean citizens, particularly women, in the Constitutional arena.

Even in countries where rights seem to be restricted by Constitutional courts, a deeper look can reveal a much more nuanced perspective. Germany, for example, contrasted South Korea with its own 1975 ruling overturning abortion rights to protect "the right to life of fetus" (Sang 2008, p. 76). Still, however, the ruling was modified in 1993, "freeing the pregnant woman seeking and procuring an abortion during the first twelve weeks of pregnancy from being penalized by the government" (Sang 2008, p. 95-96), in a decision that Sang Kyung Lee of the Research Institute of Asian Women at Sookmyung Women's University compares to *Roe v. Wade* and similar cases in the United States for the way they "weigh and balance interests of two irreconcilable positions between pro-choice and pro-life" (Sang 2008, p. 96). Just as in the U.S. and South Korea, Germany's past decisions may have been restrictive by many metrics, but when future decisions revisited the initial framework, the creep towards expanding civil rights and liberties is unmistakable.

In France, when the Constitutional Council upheld 2010 legislation banning face coverings in the name of "immaterial public order" (Fredette 2015, p. 587), despite "in-depth qualitative interviews" indicating that face coverings were not forced on Muslim French women and did not, except in the case of discrimination, impair a "socially active and public life" (Fredette 2015, p. 588), there was strong dissent and opposition even within those same legal and jurisprudential systems and lenses. From the beginning, the Council of State, which serves as the legal advising body of the government, warned that the ban was on "legally very fragile" ground (Fredette 2015, p. 587). As Jennifer Fredette notes in *Law & Social Inquiry*, French legal expert Maurice Hauriou once argued that public order was not concerned with moral order (Fredette 2015, p. 589), and further contention over the decision's implications for individual rights has led to what Fredette calls "a growing rift in French legal culture" (Fredette 2015, p. 591). The same patterns emerge of judicial dissent in the legal field and culture which challenge the status quo of rights infringement and push for the protection of individual rights by the Constitutional court.

This trend shows consistency across Constitutional traditions in liberal democracies over three continents in a myriad of political rights issues. Ultimately, under the judicial discretion of the Supreme Court of the United States, the South Korean Constitutional Court, and the German Federal Constitutional Court, rights have been protected and expanded within the context of a liberal democratic political culture. Even when the courts are used to legitimize the deprivation of certain rights by the state, such as those courts in their history and the French Constitutional Council in 2010, there is valid jurisprudence in contesting their rulings and, eventually, as in the dark history of *Dredd Scott*, *Plessy*, and *Korematsu* in the United States, that contestation can provide the foundations for later rulings to overturn that precedent, completing the arc towards rulings which protect and expand rights in the end.

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Invading Iraq: A Study of US Military Dominance

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The US invasion of Iraq is considered a major foreign policy failure in today's political climate. The decision to invade Iraq has factored into political credibility arguments since just months after the war, and was used by politicians of all levels, including then Senator Barack Obama, as a spot in the United States history that demonstrated immorality (Associated Press 2015). Even Senator Josh Hawley, widely considered one of the Senate's most conservative voices today, voted to repeal the act that allowed US military forces to enter Iraq twenty one years ago (U.S. Senate Records 2023). So then, if it is so transparently obvious that the violence committed in Iraq was unjustified, why did it occur? The Bush Administration claimed that weapons of mass destruction (WMDs) were present in Iraq, but after further investigation that was proven to be an extrapolation that was justified with subpar intelligence (Zunes 2009). Why then, did the US choose to invade? Furthermore, what reasoning did US leaders use to motivate their actions, and how was that reasoning communicated to Iraqi citizens? This paper seeks to answer that question using political theory derived from Stathis Kalyvas and Jason Lyall. In this paper, I argue that indiscriminate killing of Iraqi civilians during the 2003 invasion of Iraq was used to drive Iraqi citizens away from resistance movements in favor of the US invasion force, and prove to them that promises of rebel protection were not credible in the face of the dominant US military.

The Iraq War can be split into two segments; the initial month-long invasion from March 20th - May 1st 2003, and the following US occupation that lasted until 2011. This paper will focus on the initial invasion, and will hone in on US tactics used to repress Iraqi people in order to establish the puppet government that ended in 2011. The war began as a response to growing concerns in the United States over WMDs in the Middle East. In particular, the Bush administration cited Saddam Hussien, the Iraqi president, as a potential threat, claiming that he was building a WMD arsenal and harboring al-Qaeda forces. The Bush Administration, using information that had been doctored in order to fit a conservative political agenda, claimed to congress and to the American people that WMDs were being stockpiled in Iraq, and the threat to US security justified a military invasion (Munslow and O'Dempsey 2009).

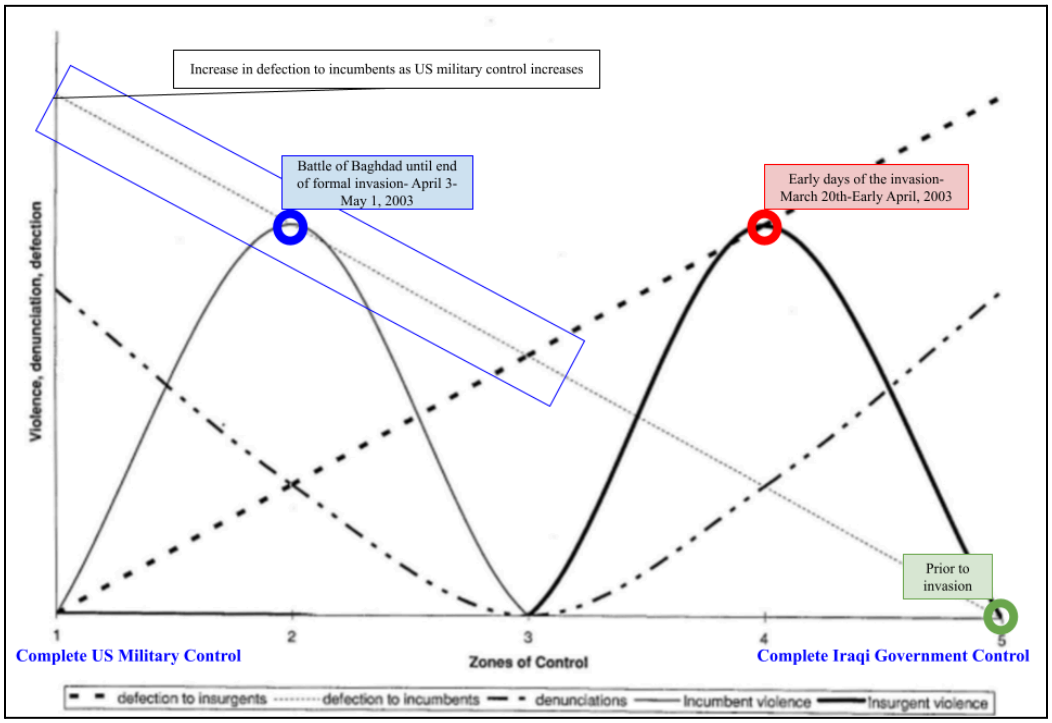
The US invaded Iraq on March 20th, 2003, and continued their military conquest until they had toppled the Iraqi government in Baghdad on April 9th, 2003 (Munslow and O'Dempsey 2009). This takeover is at its core, a traditional interstate war, per Stathis Kalyvas. However, it can also be understood as an irregular war, where one power (The US military) had considerably more strength and resources than their opponents (the Iraqi government led by Saddam Hussein) (Kalyvas 2019). In the years that followed the initial invasion, the US continued an occupation of Iraq and attempted to install a government that they one day could hand over to the Iraqi people. As information came out regarding the falsification of the WMD threat, pressure mounted for the US to pull out of Iraq. Finally, on December 15, 2011, President Barack Obama declared that the military occupation of Iraq had ended.

The US used indiscriminate violence as a tactic to scare civilians onto their side, then used selective violence to uproot specific military targets within Iraq. The initial invasion of Iraq consisted of a series of targeted bombings, according to US Air Force Records, set to various locations where Saddam Hussein was believed to be hiding (Air Force Historical Support 2003). These attacks incurred collateral damage in the form of soldiers and civilians believed to be 'harboring' the Iraqi president. An independent study by a group of researchers from the University of Washington, Johns Hopkins University, Simon Fraser University and Mustansiriya University found that, in total, over 400,000 Iraqi deaths were caused by direct attack or infrastructure destruction by the US military, with an average of 1000 excess deaths per week from 2003-2004 due to direct

military violence (Hagopian et al. 2013). This excess violence cannot be explained using traditional principles of collateral damage, and can more accurately be categorized as widespread indiscriminate killing. It is a strategy of demonstration of force, showing Iraq that punishment for continued resistance would be widespread civilian death and destruction of infrastructure.

While the US military holds that their intelligence provided them with calculated targets, they did not possess information that led to the capture of Saddam Hussien until December, 2003, over 6 months after the beginning of the invasion (USAICoE Command History Office 2013). Therefore, they chose to engage in indiscriminate violence until they could build an arsenal of information and control, using aerial bombings instead of targeted ground attacks (Air Force Historical Support 2003). Once they were able to consolidate control, they could be more selective with their targets, and the violence against civilians decreased. This is characteristic of Kalyvas' models, which dictate that when control is disputed but favors one party, violence will be highest. Figure 1, adapted from Kalyvas, illustrates this visually.

FIGURE 1
Adapted from Kalyvas, 2019



Violence was highest when the US began the takeover (Iraqi government had power) and remained high as the US continued to gain information and take control of the Iraqi government. Violence only subsided when full US control was gained.

The US military adopted another strategy to topple the Iraqi government, which involved eradicating the entirety of the elite political class. The US proceeded with *Operation Iraqi Freedom*, which killed all major leaders in the Iraqi political class and outlawed the Ba'ath Party (the ruling political party in Iraq) (Barak, 2007). Over 15,000 former officials, many of whom were not direct military leaders, were barred from holding office as the US set up a puppet government. As a result, the Iraqi public lived in fear

of the US military, understanding that public outcry would result in being barred from government or, at worst, killed. This is characteristic of models of irregular warfare, where one side (the US) possesses a military advantage, and the other side (Iraq) possesses civilian support but a weaker military (Kalyvas 2019). Repression by the US can be understood as a calculated attempt to overpower Iraqi civilian support and incite civilian surrender and defection to the US military.

Kalyvas posits that indiscriminate violence, especially on the scale that the US used in its invasion of Iraq, is counterproductive and irrational (Kalyvas 2006). In order to understand the logic used by US military and political actors, Kalyvas' theory needs to be paired with additional scholarship. Jason Lyall provides a different explanation, hinging on the idea of violence as a means to prove to civilians that siding with the opposing force is unsafe. Lyall argues that if a military actor can overpower an insurgent force, indiscriminate violence can be used to demonstrate dominance and coerce civilians that are looking for the side that will provide them the most safety (2009). The US military routinely overpowered the forces of the Iraqi military. Publications from the Council on Foreign Relations report that the Iraqi military was small, and, "the majority of the weapons were outdated" (Otterman 2005). Iraqi soldiers, hindered by their inferior weaponry and military intelligence, surrendered and defected in the face of the threat of the United States, demonstrating that they would be incapable of protecting the civilians from the threat of takeover. Before the decisive battle of Baghdad, the Army University Press reports, "Hussein feared a military coup as much as he feared a U.S. attack, so he organized hybrid groups of regular army and paramilitary organizations to ensure his control" (Army University Press). Not only did the civilians of Iraq turn against Hussein, but threats from his own soldiers defection became so strong he had to rely on paramilitaries to fill in the gaps. Finally, the US military claims, the hearts and minds of the Iraqis had been won. The US disunity effort had worked. By demonstrating to Iraqi citizens that their government would not and could not protect them, the US military was able to seize Baghdad and topple the Iraqi government.

The US government frequently made the argument that their efforts were designed to liberate Iraq from an abusive military dictator. President George W. Bush stated in the 2002 State of the Union address that the Iraqi regime, "has already used poison gas to murder thousands of its own citizens -- leaving the bodies of mothers huddled over their dead children" (Bush 2002). If this was the case, the US argued, then Iraqi citizens would feel relieved by the incursion of the US military. They claimed that Iraqi citizens were not coerced to abandon the Iraqi cause by violence, but rather by the idea of liberation. However, US military tactics sent a clear signal. During the Gulf War, a conflict that occurred on Iraqi soil only 12 years prior to the invasion of Iraq, reports appeared in the Washington Post and the New York Times that the US military buried Iraqi soldiers alive if they refused to defect from their cause (Sloyan 1991) (Schmitt 1991). While the US government never confirmed these claims, it set a clear precedent to future Iraqi soldiers. The penalty for not defecting was a slow and brutal death. This is in line with Lyall's theory; scare tactics and military dominance are used to garner civilian support.

The US military continues the rhetoric that their victory was due to, "the campaign's strategic restraint on the use of force," and soldiers were, "bound by law and military ethics to establish rules of engagement that minimize noncombatant deaths and wanton destruction" (Army University Press). Furthermore, they argue that, "68 percent of weapons employed were precision guided munitions," during the initial invasion, and were not indiscriminate (Air Force Historical Support 2003). However, this rhetoric may also be a strategic choice to preserve the invasion's legitimacy on the world stage. While the US has not ratified the Rome Statute, making it a non-member of the International Criminal Court, it holds prominent status as a member of the UN Security Council, and may fear what is outlined as 'Social Deterrence' by scholars Hyeran Jo and Beth A. Simmons (2016). UN press releases from directly after the invasion underscored that the war violated international law (UN Security Council Meetings Coverage 2003). The US may have feared condemnation on a world stage, and because of this, they augmented the rhetoric to be a story of restraint in the face of large-scale threat. They argued that while civilian deaths did occur, they were in line with domestic military calculations regarding collateral damage. This allowed them to justify their actions to the international community, even as *Jus In Bello* principles were clearly violated.

While it is technically possible that the US military did everything it could to minimize deaths, the available evidence seems to prove the contrary. The US government, spearheaded by President Bush, overinflated the threat posed by Iraq in the first place, then acted in an overinflated way to quickly secure victory. They killed over 400,000 civilians in the name of complete governmental takeover of a country that was of little legitimate security interest to the United States. Furthermore, they used indiscriminate violence as a tactic to scare civilians into defecting from their cause, demonstrating to the people of Iraq that their own army could not save them. They used cruel tactics condemned by the international community, and faced no repercussions due to doctored rhetoric and non-compliance with the ICC. This is not a new story, but it is an important one. If patterns like this are identified, they can more quickly be stopped in the future. More civilians could keep their lives, more people could remain safe.

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